

LOCAL GOVERNMENT INTERFUND LOANS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Knotwell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions allowing local governments to authorize interfund loans.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the terms and conditions of an interfund loan to be in writing;
- ▶ requires an interfund loan to be approved by ordinance or resolution in a public meeting;
- ▶ places restrictions on the interest rate;
- ▶ places restrictions on the length of the loan;
- ▶ requires notice and a public hearing with an exception to the requirements;
- ▶ provides an exemption from the requirements if the aggregate amount of interfund loans from any one fund for a fiscal year is less than \$10,000; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **10-5-120**, as enacted by Laws of Utah 1983, Chapter 34
- 29 **10-6-132**, as enacted by Laws of Utah 1979, Chapter 26
- 30 **17-36-30**, as enacted by Laws of Utah 1975, Chapter 22
- 31 **17B-1-626**, as renumbered and amended by Laws of Utah 2007, Chapter 329

32 ENACTS:

33 **10-5-102.5**, Utah Code Annotated 1953



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **10-5-102.5** is enacted to read:

37 **10-5-102.5. Definitions.**

38 As used in this chapter:

39 (1) "Fund" is as defined by generally accepted accounting principles as reflected in the
40 Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah
41 State Auditor.

42 (2) "Fund balance" is as defined by generally accepted accounting principles as
43 reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office
44 of the Utah State Auditor.

45 (3) (a) "Interfund loan" means a loan of cash from one fund to another, subject to
46 future repayment.

47 (b) "Interfund loan" does not mean:

48 (i) an expenditure or a use of:

49 (A) retained earnings; or

50 (B) a fund balance of a lending fund; or

51 (ii) revenue to a borrowing fund.

52 (4) "Retained earnings" is as defined by generally accepted accounting principles as
53 reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office
54 of the Utah State Auditor.

55 Section 2. Section **10-5-120** is amended to read:

56 **10-5-120. Loans between funds -- Bonds purchased by funds.**

57 (1) Subject to this section, restrictions imposed by bond ordinance, [statute,] or other
58 controlling regulations, the town council may [(+)]:

59 (a) subject to the restrictions in Section 53-2a-605, authorize an interfund [loans] loan
60 from one fund to another [at such interest rates and upon such repayment terms and conditions
61 as it may prescribe,]; and [(2)]

62 (b) with available cash in any fund, purchase or otherwise acquire for investment an
63 unmatured [bonds] bond of the town or of any fund of the town.

64 (2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms
65 and conditions of the loan, including the:

66 (a) effective date of the loan;

67 (b) name of the fund loaning the money;

68 (c) name of the fund receiving the money;

69 (d) amount of the loan;

70 (e) subject to Subsection (3), term of and repayment schedule for the loan;

71 (f) subject to Subsection (4), interest rate of the loan;

72 (g) method of calculating interest applicable to the loan;

73 (h) procedures for:

74 (i) applying interest to the loan; and

75 (ii) paying interest on the loan; and

76 (i) other terms and conditions the town council determines applicable.

77 (3) The term and repayment schedule specified under Subsection (2)(e) may not exceed
78 10 years.

79 (4) (a) In determining the interest rate of the loan specified under Subsection (2)(f), the
80 town council shall apply an interest rate that reflects the rate of potential gain had the funds
81 been deposited or invested in a comparable investment.

82 (b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under
83 Subsection (2)(f):

84 (i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less
85 than the rate offered by the Public Treasurers' Investment Fund that was created for public
86 funds transferred to the state treasurer in accordance with Section 51-7-5; or

87 (ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be
88 less than the greater of the rate offered by:

89 (A) the Public Treasurers' Investment Fund that was created for public funds

90 transferred to the state treasurer in accordance with Section 51-7-5; or

91 (B) a United States Treasury note of a comparable term.

92 (5) (a) For an interfund loan under Subsection (1)(a), the town council shall:

93 (i) hold a public hearing;

94 (ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the
95 proposed terms and conditions of the interfund loan under Subsection (2);

96 (iii) provide notice of the public hearing in the same manner as required under
97 Subsection 10-5-108(2) as if the hearing were a budget hearing; and

98 (iv) authorize the interfund loan by ordinance or resolution in a public meeting.

99 (b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the
100 interfund loan is included in an original budget or in a subsequent budget amendment
101 previously approved by the town council for the current fiscal year.

102 (6) Subsections (2) through (5) do not apply to an interfund loan if the aggregate
103 amount of interfund loans from any one fund of a town for a fiscal year is less than \$10,000.

104 Section 3. Section **10-6-132** is amended to read:

105 **10-6-132. Loans by one fund to another -- Acquiring bonds for investment.**

106 (1) Subject to ~~this section~~, restrictions imposed by bond ordinance, [statute] or other
107 controlling regulations, the governing body of a city may ~~[(1)]~~;

108 (a) subject to the restrictions in Section 53-2a-605, authorize ~~an~~ interfund [~~loans~~] ~~loan~~
109 from one fund to another [~~at such interest rates and upon such repayment terms and conditions~~
110 as it may prescribe,]; and ~~[(2)]~~

111 (b) with available cash in any fund, purchase or otherwise acquire for investment ~~an~~
112 unmatured [~~bonds~~] ~~bond~~ of the city or of any fund of the city.

113 (2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms
114 and conditions of the loan, including the:

115 (a) effective date of the loan;

116 (b) name of the fund loaning the money;

117 (c) name of the fund receiving the money;

118 (d) amount of the loan;

119 (e) subject to Subsection (3), term of and repayment schedule for the loan;

120 (f) subject to Subsection (4), interest rate of the loan;

- 121 (g) method of calculating interest applicable to the loan;
122 (h) procedures for:
123 (i) applying interest to the loan; and
124 (ii) paying interest on the loan; and
125 (i) other terms and conditions the governing body determines applicable.
126 (3) The term and repayment schedule specified under Subsection (2)(e) may not exceed
127 10 years.
128 (4) (a) In determining the interest rate of the loan specified under Subsection (2)(f), the
129 governing body shall apply an interest rate that reflects the rate of potential gain had the funds
130 been deposited or invested in a comparable investment.
131 (b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under
132 Subsection (2)(f):
133 (i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less
134 than the rate offered by the Public Treasurers' Investment Fund that was created for public
135 funds transferred to the state treasurer in accordance with Section [51-7-5](#); or
136 (ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be
137 less than the greater of the rate offered by:
138 (A) the Public Treasurers' Investment Fund that was created for public funds
139 transferred to the state treasurer in accordance with Section [51-7-5](#); or
140 (B) a United States Treasury note of a comparable term.
141 (5) (a) For an interfund loan under Subsection (1)(a), the governing body shall:
142 (i) hold a public hearing;
143 (ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the
144 proposed terms and conditions of the interfund loan under Subsection (2);
145 (iii) provide notice of the public hearing in the same manner as required under Section
146 [10-6-113](#) as if the hearing were a budget hearing; and
147 (iv) authorize the interfund loan by ordinance or resolution in a public meeting.
148 (b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the
149 interfund loan is included in an original budget or in a subsequent budget amendment
150 previously approved by the governing body for the current fiscal year.
151 (6) Subsections (2) through (5) do not apply to an interfund loan if the aggregate

152 amount of interfund loans from any one fund of a city for a fiscal year is less than \$10,000.

153 Section 4. Section **17-36-30** is amended to read:

154 **17-36-30. Interfund loans -- Acquisition of issued unmatured bonds.**

155 ~~[The]~~ (1) Subject to this section, restrictions imposed by bond covenants, or other
156 controlling regulations, the governing body may ~~[(+)]~~:

157 (a) subject to the restrictions in Section ~~53-2a-605~~, authorize an interfund ~~[loans]~~ loan
158 from one fund to another ~~[at such interest rates and subject to such terms for repayment as it~~
159 ~~may prescribe]~~; and ~~[may (2)]~~

160 (b) with available cash in any fund, purchase or otherwise acquire for investment[;
161 issued] an unmatured ~~[bonds]~~ bond of the county or of any county fund.

162 (2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms
163 and conditions of the loan, including the:

164 (a) effective date of the loan;

165 (b) name of the fund loaning the money;

166 (c) name of the fund receiving the money;

167 (d) amount of the loan;

168 (e) subject to Subsection (3), term of and repayment schedule for the loan;

169 (f) subject to Subsection (4), interest rate of the loan;

170 (g) method of calculating interest applicable to the loan;

171 (h) procedures for:

172 (i) applying interest to the loan; and

173 (ii) paying interest on the loan; and

174 (i) other terms and conditions the governing body determines applicable.

175 (3) The term and repayment schedule specified under Subsection (2)(e) may not exceed
176 10 years.

177 (4) (a) In determining the interest rate of the loan specified under Subsection (2)(f), the
178 governing body shall apply an interest rate that reflects the rate of potential gain had the funds
179 been deposited or invested in a comparable investment.

180 (b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under
181 Subsection (2)(f):

182 (i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less

183 than the rate offered by the Public Treasurers' Investment Fund that was created for public
 184 funds transferred to the state treasurer in accordance with Section 51-7-5; or

185 (ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be
 186 less than the greater of the rate offered by:

187 (A) the Public Treasurers' Investment Fund that was created for public funds
 188 transferred to the state treasurer in accordance with Section 51-7-5; or

189 (B) a United States Treasury note of a comparable term.

190 (5) (a) For an interfund loan under Subsection (1)(a), the governing body shall:

191 (i) hold a public hearing;

192 (ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the
 193 proposed terms and conditions of the interfund loan under Subsection (2);

194 (iii) provide notice of the public hearing in the same manner as required under Section
 195 17-36-12 as if the hearing were a budget hearing; and

196 (iv) authorize the interfund loan by ordinance or resolution in a public meeting.

197 (b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the
 198 interfund loan is included in an original budget or in a subsequent budget amendment
 199 previously approved by the governing body for the current fiscal year.

200 (6) Subsections (2) through (5) do not apply to an interfund loan if the aggregate
 201 amount of interfund loans from any one fund of a county for a fiscal year is less than \$10,000.

202 Section 5. Section **17B-1-626** is amended to read:

203 **17B-1-626. Loans by one fund to another.**

204 (1) Subject to this section, restrictions imposed by bond covenants, [statute,]
 205 restrictions in Section 53-2a-605, or other controlling regulations, the board of trustees of a
 206 local district may authorize an interfund [loans] loan from one fund to another [at interest rates,
 207 repayment terms, and conditions prescribed by the board of trustees].

208 (2) An interfund loan under Subsection (1) shall be in writing and specify the terms
 209 and conditions of the loan, including the:

210 (a) effective date of the loan;

211 (b) name of the fund loaning the money;

212 (c) name of the fund receiving the money;

213 (d) amount of the loan;

214 (e) subject to Subsection (3), term of and repayment schedule for the loan;
215 (f) subject to Subsection (4), interest rate of the loan;
216 (g) method of calculating interest applicable to the loan;
217 (h) procedures for:
218 (i) applying interest to the loan; and
219 (ii) paying interest on the loan; and
220 (i) other terms and conditions the board of trustees determines applicable.
221 (3) The term and repayment schedule specified under Subsection (2)(e) may not exceed
222 10 years.
223 (4) (a) In determining the interest rate of the loan specified under Subsection (2)(f), the
224 board of trustees shall apply an interest rate that reflects the rate of potential gain had the funds
225 been deposited or invested in a comparable investment.
226 (b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under
227 Subsection (2)(f):
228 (i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less
229 than the rate offered by the Public Treasurers' Investment Fund that was created for public
230 funds transferred to the state treasurer in accordance with Section [51-7-5](#); or
231 (ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be
232 less than the greater of the rate offered by:
233 (A) the Public Treasurers' Investment Fund that was created for public funds
234 transferred to the state treasurer in accordance with Section [51-7-5](#); or
235 (B) a United States Treasury note of a comparable term.
236 (5) (a) For an interfund loan under Subsection (1), the board of trustees shall:
237 (i) hold a public hearing;
238 (ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the
239 proposed terms and conditions of the interfund loan under Subsection (2);
240 (iii) provide notice of the public hearing in the same manner as required under Section
241 [17B-1-609](#) as if the hearing were a budget hearing; and
242 (iv) authorize the interfund loan by resolution in a public meeting.
243 (b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the
244 interfund loan is included in an original budget or in a subsequent budget amendment

245 previously approved by the board of trustees for the current fiscal year.

246 (6) Subsections (2) through (5) do not apply to an interfund loan if the aggregate
247 amount of interfund loans from any one fund of a local district for a fiscal year is less than
248 \$10,000.

Legislative Review Note
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Office of Legislative Research and General Counsel