

Senator Daniel Hemmert proposes the following substitute bill:

PUBLIC-PRIVATE PARTNERSHIPS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel Hemmert

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions relating to public-private partnerships.

Highlighted Provisions:

This bill:

▶ requires the Governor's Office of Economic Development to engage a person to act as a facilitator for public-private partnerships in the state; and

▶ provides for requirements for a facilitator under a contract with the Governor's Office of Economic Development.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63N-13-301, Utah Code Annotated 1953

63N-13-302, Utah Code Annotated 1953

63N-13-303, Utah Code Annotated 1953

63N-13-304, Utah Code Annotated 1953



26 [63N-13-305](#), Utah Code Annotated 1953
27 [63N-13-306](#), Utah Code Annotated 1953



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

30 Section 1. Section **63N-13-301** is enacted to read:

31 **Part 3. Facilitating Public-Private Partnerships Act**

32 **63N-13-301. Title.**

33 This part is known as the "Facilitating Public-Private Partnerships Act."

34 Section 2. Section **63N-13-302** is enacted to read:

35 **63N-13-302. Definitions.**

36 As used in this part:

37 (1) "Facilitator" means a person engaged by the office to perform the functions and
38 responsibilities described in Section [63N-13-304](#).

39 (2) "Government entity" means:

40 (a) the state or any department, division, agency, or other instrumentality of the state;

41 or

42 (b) a political subdivision of the state.

43 (3) "Public-private partnership" means an arrangement or agreement between a
44 government entity and one or more private persons to fund and provide for a public need
45 through the development or operation of a public project in which the private person or persons
46 share with the government entity the responsibility or risk of developing, owning, maintaining,
47 financing, or operating the project.

48 Section 3. Section **63N-13-303** is enacted to read:

49 **63N-13-303. Contract with facilitator.**

50 (1) Within legislative appropriations, the office shall enter into a contract with a person
51 to act as a facilitator.

52 (2) The office shall use a request for proposals process under Title 63G, Chapter 6a,
53 Utah Procurement Code, to select a qualified person to act as facilitator.

54 (3) The term of a contract under Subsection (1) may not exceed three years.

55 Section 4. Section **63N-13-304** is enacted to read:

56 **63N-13-304. Contract requirements for a facilitator.**

57 In a contract under Section 63N-13-303, the office shall require a facilitator to:
58 (1) be a single point of contact and information on public-private partnerships in the
59 state for:

60 (a) government entities exploring the possibility of filling a public need through a
61 public-private partnership; and

62 (b) private persons exploring investment opportunities in a public project in the state
63 through a public-private partnership;

64 (2) work actively throughout the state to identify government entities that may have an
65 interest in seeking to fill a public need through a public-private partnership;

66 (3) work actively to identify private persons who may have an interest in investment
67 opportunities in public projects in the state through a public-private partnership;

68 (4) facilitate the matching of government entities seeking to fill a public need through a
69 public-private partnership with private persons seeking investment opportunities in public
70 projects through a public-private partnership;

71 (5) facilitate and assist with the establishment of public-private partnerships for
72 government entities who request the facilitator's assistance in establishing a public-private
73 partnership; and

74 (6) make recommendations for the Legislature to consider at the 2021 legislative
75 general session relating to public-private partnerships:

76 (a) to enhance the statutory framework for the establishment of public-private
77 partnerships for public infrastructure projects; and

78 (b) with the goal of moving the state to the forefront throughout the country in the area
79 of private participation in public infrastructure development.

80 Section 5. Section 63N-13-305 is enacted to read:

81 **63N-13-305. Office oversight over contract performance of facilitator.**

82 The office shall monitor and oversee a facilitator's performance under a contract under
83 Section 63N-13-303 to ensure that the facilitator is fulfilling the requirements of Section
84 63N-13-304.

85 Section 6. Section 63N-13-306 is enacted to read:

86 **63N-13-306. Limits on application of this part.**

87 Nothing in this part:

88 (1) requires a government entity to use the facilitator to explore the possibility of filling
89 a public need through a public-private partnership; or
90 (2) limits the ability of a government entity to directly:
91 (a) solicit a public-private partnership; or
92 (b) respond to a private person exploring an investment opportunity in a public project
93 through a public-private partnership.