

Senator Daniel Hemmert proposes the following substitute bill:

PUBLIC-PRIVATE PARTNERSHIPS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel Hemmert

House Sponsor: Joel Ferry

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;
- ▶ provides for requirements for a facilitator under a contract with the Governor's Office of Economic Development; and
- ▶ provides a repeal date for the provisions relating to a facilitator.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483

ENACTS:



- 26 [63N-13-301](#), Utah Code Annotated 1953
- 27 [63N-13-302](#), Utah Code Annotated 1953
- 28 [63N-13-303](#), Utah Code Annotated 1953
- 29 [63N-13-304](#), Utah Code Annotated 1953
- 30 [63N-13-305](#), Utah Code Annotated 1953
- 31 [63N-13-306](#), Utah Code Annotated 1953



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

34 Section 1. Section [63I-2-263](#) is amended to read:

35 **[63I-2-263](#). Repeal dates, Title [63A](#) to Title [63N](#).**

36 (1) On July 1, 2020:

37 (a) Subsection [63A-1-203](#)(5)(a)(i) is repealed; and

38 (b) in Subsection [63A-1-203](#)(5)(a)(ii), the language that states "appointed on or after
39 May 8, 2018," is repealed.

40 (2) Sections [63C-4a-307](#) and [63C-4a-309](#) are repealed January 1, 2020.

41 (3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is
42 repealed July 1, 2020.

43 (4) The following sections regarding the World War II Memorial Commission are
44 repealed on July 1, 2020:

45 (a) Section [63G-1-801](#);

46 (b) Section [63G-1-802](#);

47 (c) Section [63G-1-803](#); and

48 (d) Section [63G-1-804](#).

49 (5) In relation to the State Fair Park Committee, on January 1, 2021:

50 (a) Section [63H-6-104.5](#) is repealed; and

51 (b) Subsections [63H-6-104](#)(8) and (9) are repealed.

52 (6) Section [63H-7a-303](#) is repealed on July 1, 2022.

53 (7) In relation to the Employability to Careers Program Board, on July 1, 2022:

54 (a) Subsection [63J-1-602.1](#)(52) is repealed;

55 (b) Subsection [63J-4-301](#)(1)(h), related to the review of data and metrics, is repealed;

56 and

- 57 (c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.
- 58 (8) Section [63J-4-708](#) is repealed January 1, 2023.
- 59 (9) Title 63N, Chapter 13, Part 3, Facilitating Public-Private Partnerships Act, is
- 60 repealed January 1, 2024.

61 Section 2. Section **63N-13-301** is enacted to read:

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

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

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

65 Section 3. Section **63N-13-302** is enacted to read:

66 **63N-13-302. Definitions.**

67 As used in this part:

68 (1) "Facilitator" means a person engaged by the office to perform the functions and

69 responsibilities described in Section [63N-13-304](#).

70 (2) "Government entity" means:

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

72 or

73 (b) a political subdivision of the state.

74 (3) "Public-private partnership" means an arrangement or agreement between a

75 government entity and one or more private persons to fund and provide for a public need

76 through the development or operation of a public project in which the private person or persons

77 share with the government entity the responsibility or risk of developing, owning, maintaining,

78 financing, or operating the project.

79 Section 4. Section **63N-13-303** is enacted to read:

80 **63N-13-303. Contract with facilitator.**

81 (1) Within legislative appropriations, the office shall enter into a contract with a

82 nonprofit entity or government entity to act as a facilitator.

83 (2) The office shall use a request for proposals process under Title 63G, Chapter 6a,

84 Utah Procurement Code, to select a qualified person to act as facilitator.

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

86 (4) The office shall ensure that the contract with the facilitator includes a

87 conflict-of-interest provision prohibiting the facilitator, or a principal, officer, or employee of

88 the facilitator, from receiving a direct or indirect financial benefit from any public-private
89 partnership that results from the facilitator's work under the contract.

90 Section 5. Section **63N-13-304** is enacted to read:

91 **63N-13-304. Contract requirements for a facilitator.**

92 In a contract under Section 63N-13-303, the office shall require a facilitator to:

93 (1) be a single point of contact and information on public-private partnerships in the
94 state for:

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

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

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

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

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

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

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

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

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

115 Section 6. Section **63N-13-305** is enacted to read:

116 **63N-13-305. Office oversight over contract performance of facilitator.**

117 The office shall monitor and oversee a facilitator's performance under a contract under
118 Section 63N-13-303 to ensure that the facilitator is fulfilling the requirements of Section

119 [63N-13-304.](#)

120 Section 7. Section **63N-13-306** is enacted to read:

121 **63N-13-306. Limits on application of this part.**

122 Nothing in this part:

123 (1) requires a government entity to use the facilitator to explore the possibility of filling
124 a public need through a public-private partnership; or

125 (2) limits the ability of a government entity to directly:

126 (a) solicit a public-private partnership; or

127 (b) respond to a private person exploring an investment opportunity in a public project
128 through a public-private partnership.