

1 **STATE INFRASTRUCTURE BANK AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brady Brammer**

5 Senate Sponsor: Kirk A. Cullimore

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Transportation Code pertaining to the use of State
10 Infrastructure Bank revenue for transportation or publicly owned infrastructure projects.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines the term "publicly owned infrastructure project" as it pertains to the use of
- 14 State Infrastructure Bank funds;
- 15 ▶ amends provisions related to the use of State Infrastructure Bank funds for
- 16 transportation and publicly owned infrastructure projects; and
- 17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 72-2-201, as last amended by Laws of Utah 2020, Chapter 366

25 72-2-202, as last amended by Laws of Utah 2019, Chapter 479

26 72-2-204, as last amended by Laws of Utah 2020, Chapter 366

27 72-2-206, as renumbered and amended by Laws of Utah 1998, Chapter 270

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

30 Section 1. Section **72-2-201** is amended to read:

31 **72-2-201. Definitions.**

32 As used in this part:

33 (1) "Fund" means the State Infrastructure Bank Fund created under Section **72-2-202**.

34 (2) "Infrastructure assistance" means any use of fund money, except an infrastructure
35 loan, to provide financial assistance for transportation projects or publicly owned infrastructure
36 projects, including:

37 (a) capital reserves and other security for bond or debt instrument financing; or

38 (b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by
39 a public entity to finance transportation projects.

40 (3) "Infrastructure loan" means a loan of fund money to finance a transportation project
41 or publicly owned infrastructure project.

42 (4) "Public entity" means a state agency, county, municipality, local district, special
43 service district, an intergovernmental entity organized under state law, or the military
44 installation development authority created in Section **63H-1-201**.

45 (5) "Publicly owned infrastructure project" means a project to improve sewer or water
46 infrastructure that is owned by a public entity.

47 [~~5~~] (6) "Transportation project":

48 (a) means a project:

49 (i) to improve a state or local highway;

50 (ii) to improve a public transportation facility or nonmotorized transportation facility;

51 (iii) to construct or improve parking facilities; or

52 (iv) that is subject to a transportation reinvestment zone agreement pursuant to Section
53 **11-13-227** if the state is party to the agreement;

54 (b) includes the costs of acquisition, construction, reconstruction, rehabilitation,
55 equipping, and fixturing; and

- 56 (c) may only include a project if the project is part of:
- 57 (i) the statewide long range plan;
- 58 (ii) a regional transportation plan of the area metropolitan planning organization if a
- 59 metropolitan planning organization exists for the area; or
- 60 (iii) a local government general plan or economic development initiative.

61 Section 2. Section **72-2-202** is amended to read:

62 **72-2-202. State Infrastructure Bank Fund -- Creation -- Use of money.**

63 (1) There is created a revolving loan fund entitled the State Infrastructure Bank Fund.

64 (2) (a) The fund consists of money generated from the following revenue sources:

- 65 (i) appropriations made to the fund by the Legislature;
- 66 (ii) federal money and grants that are deposited in the fund;
- 67 (iii) money transferred to the fund by the commission from other money available to

68 the department;

- 69 (iv) state grants that are deposited in the fund;
- 70 (v) contributions or grants from any other private or public sources for deposit into the
- 71 fund; and

72 (vi) subject to Subsection (2)(b), all money collected from repayments of fund money

73 used for infrastructure loans or infrastructure assistance.

74 (b) When a loan from the fund is repaid, the department may request and the

75 Legislature may transfer from the fund to the source from which the money originated an

76 amount equal to the repaid loan.

77 (3) (a) The fund shall earn interest.

78 (b) All interest earned on fund money shall be deposited into the fund.

79 (4) Money in the fund shall be used by the department, as prioritized by the

80 commission, only to:

- 81 (a) provide infrastructure loans or infrastructure assistance; and
- 82 (b) pay the department for the costs of administering the fund, providing infrastructure

83 loans or infrastructure assistance, monitoring transportation projects and publicly owned
84 infrastructure projects, and obtaining repayments of infrastructure loans or infrastructure
85 assistance.

86 (5) (a) The department may establish separate accounts in the fund for infrastructure
87 loans, infrastructure assistance, administrative and operating expenses, or any other purpose to
88 implement this part.

89 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
90 department may make rules governing how the fund and its accounts may be held by an escrow
91 agent.

92 (6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter
93 7, State Money Management Act, and the earnings from the investments shall be credited to the
94 fund.

95 Section 3. Section **72-2-204** is amended to read:

96 **72-2-204. Loan program procedures -- Repayment.**

97 (1) A public entity may obtain an infrastructure loan from the department, upon
98 approval by the commission, by entering into a loan contract with the department secured by
99 legally issued bonds, notes, or other evidence of indebtedness validly issued under state law,
100 including pledging all or any portion of a revenue source controlled by the public entity to the
101 repayment of the loan.

102 (2) A loan or assistance from the fund shall bear interest at a rate not to exceed .5%
103 above bond market interest rates available to the state.

104 (3) A loan shall be repaid no later than 15 years from the date the department issues the
105 loan to the borrower, with repayment commencing no later than:

106 (a) when the project is completed; or

107 (b) in the case of a highway project, when the facility has opened to traffic.

108 (4) The public entity shall repay the infrastructure loan in accordance with the loan
109 contract from any of the following sources:

110 (a) transportation project or publicly owned infrastructure project revenues, including
111 special assessment revenues;

112 (b) general funds of the public entity;

113 (c) money withheld under Subsection (7); or

114 (d) any other legally available revenues.

115 (5) An infrastructure loan contract with a public entity may provide that a portion of
116 the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the
117 loan.

118 (6) Before obtaining an infrastructure loan, a county or municipality shall:

119 (a) publish its intention to obtain an infrastructure loan at least once in accordance with
120 the publication of notice requirements under Section 11-14-316; and

121 (b) adopt an ordinance or resolution authorizing the infrastructure loan.

122 (7) (a) If a public entity fails to comply with the terms of its infrastructure loan
123 contract, the department may seek any legal or equitable remedy to obtain compliance or
124 payment of damages.

125 (b) If a public entity fails to make infrastructure loan payments when due, the state
126 shall, at the request of the department, withhold an amount of money due to the public entity
127 and deposit the withheld money in the fund to pay the amounts due under the contract.

128 (c) The department may elect when to request the withholding of money under this
129 Subsection (7).

130 (8) All loan contracts, bonds, notes, or other evidence of indebtedness securing the
131 loan contracts shall be held, collected, and accounted for in accordance with Section
132 63B-1b-202.

133 Section 4. Section 72-2-206 is amended to read:

134 **72-2-206. Department authority to contract.**

135 The department may, upon approval of the commission:

136 (1) make all contracts, execute all instruments, and do all things necessary or

137 convenient to provide financial assistance for transportation projects or publicly owned
138 infrastructure projects in accordance with this chapter; and
139 (2) enter into and perform the contracts and agreements with entities concerning the
140 planning, construction, lease, or other acquisition, installation, or financing of transportation
141 projects or publicly owned infrastructure projects.