

HB0082S01 compared with HB0082

~~deleted text~~ shows text that was in HB0082 but was deleted in HB0082S01.

inserted text shows text that was not in HB0082 but was inserted into HB0082S01.

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Representative Jeffrey D. Stenquist proposes the following substitute bill:

STATE DEBT REVIEW COMMISSION

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeffrey D. Stenquist

Senate Sponsor: ~~_____~~ Jerry W. Stevenson

LONG TITLE

General Description:

This bill enacts and modifies provisions related to the State Debt Review Commission.

Highlighted Provisions:

This bill:

- ▶ creates the State Debt Review Commission;
- ▶ requires the State Building Ownership Authority and the State Bonding Commission to submit an annual report to the State Debt Review Commission on obligations and outstanding bonds;
- ▶ requires a loan entity to submit information on a revolving loan fund for review to the State Debt Review Commission;
- ▶ directs the State Debt Review Commission to review the lending activities of a loan entity;

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- ▶ prohibits a bonding political subdivision from issuing a bond unless the State Debt Review Commission has first approved the bond;
- ▶ enacts language clarifying that a bonding political subdivision bond approved by the State Debt Review Commission is not an obligation of the state or an act that lends the state's credit;
- ▶ requires the State Debt Review Commission to provide training and information on debt management, lending and borrowing best practices, and compliance to certain entities;
- ▶ prohibits a bonding political subdivision from entering a public-private partnership unless the State Debt Review Commission has first approved the public-private partnership;
- ▶ requires the ~~{State Debt Review Commission}~~ state treasurer, with assistance from the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst, to submit an annual debt affordability report to the State Debt Review Commission and the Revenue and Taxation Interim Committee; and
- ▶ makes other conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-58-701, as enacted by Laws of Utah 2018, Chapter 179

11-59-202, as last amended by Laws of Utah 2020, Chapter 354

17B-2a-808.1, as last amended by Laws of Utah 2021, Chapter 239

63B-1-305, as renumbered and amended by Laws of Utah 2003, Chapter 86

63B-1a-102, as enacted by Laws of Utah 2003, Chapter 2

63H-1-601, as last amended by Laws of Utah 2011, Chapter 234

63N-13-306, as enacted by Laws of Utah 2020, Chapter 446

ENACTS:

63J-10-101, Utah Code Annotated 1953

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63J-10-201, Utah Code Annotated 1953

63J-10-202, Utah Code Annotated 1953

63J-10-203, Utah Code Annotated 1953

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

Section 1. Section **11-58-701** is amended to read:

11-58-701. Resolution authorizing issuance of port authority bonds --

Characteristics of bonds.

(1) The authority may not issue bonds under this part unless the board first:

(a) adopts a resolution authorizing [~~their~~] issuance[~~:-~~] of the bonds; and

(b) receives approval from the State Debt Review Commission created in Section

63J-10-201.

(2) (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

(a) in a newspaper having general circulation in the authority's boundaries; and

(b) as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of the resolution or proceeding;

(b) any bonds that may be authorized by the resolution or proceeding; or

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(c) any provisions made for the security and payment of the bonds.

(6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

Section 2. Section **11-59-202** is amended to read:

11-59-202. Authority powers.

(1) The authority may:

~~[(1)]~~ (a) as provided in this chapter, plan, manage, and implement the development of the point of the mountain state land, including the ongoing operation of facilities on the point of the mountain state land;

~~[(2)]~~ (b) undertake, or engage a consultant to undertake, any study, effort, or activity the board considers appropriate to assist or inform the board about any aspect of the proposed development of the point of the mountain state land, including the best development model and financial projections relevant to the authority's efforts to fulfill its duties and responsibilities under this section and Section 11-59-203;

~~[(3)]~~ (c) sue and be sued;

~~[(4)]~~ (d) enter into contracts generally;

~~[(5)]~~ (e) buy, obtain an option upon, or otherwise acquire any interest in real or personal property, as necessary to accomplish the duties and responsibilities of the authority, including an interest in real property, apart from point of the mountain state land, or personal property, outside point of the mountain state land, for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

~~[(6)]~~ (f) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

~~[(7)]~~ (g) enter into a lease agreement on real or personal property, either as lessee or lessor;

~~[(8)]~~ (h) provide for the development of the point of the mountain state land under one

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or more contracts;

~~[(9)]~~ (i) exercise powers and perform functions under a contract, as authorized in the contract;

~~[(10)]~~ (j) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

~~[(11)]~~ (k) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

~~[(12)]~~ (l) subject to Subsection (2), issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

~~[(13)]~~ (m) hire employees, including contract employees, in addition to or in place of staff provided under Section 11-59-304;

~~[(14)]~~ (n) transact other business and exercise all other powers provided for in this chapter;

~~[(15)]~~ (o) enter into a development agreement with a developer of some or all of the point of the mountain state land;

~~[(16)]~~ (p) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

~~[(17)]~~ (q) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

~~[(18)]~~ (r) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land; and

~~[(19)]~~ (s) enter into an agreement with the federal government or an agency of the federal government, as the board considers necessary or advisable, to enable or assist the authority to exercise its powers or fulfill its duties and responsibilities under this chapter.

(2) The authority may not issue bonds under this part unless the board first receives

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approval from the State Debt Review Commission created in Section 63J-10-201.

Section 3. Section **17B-2a-808.1** is amended to read:

17B-2a-808.1. Large public transit district board of trustees powers and duties --

Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a large public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each large public transit district shall:

(a) hold public meetings and receive public comment;

(b) ensure that the policies, procedures, and management practices established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) subject to Subsection (8), create and approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory council;

(d) approve any interlocal agreement with a local jurisdiction;

(e) in consultation with the local advisory council, approve contracts and overall property acquisitions and dispositions for transit-oriented development;

(f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory council:

(i) develop and approve a strategic plan for development and operations on at least a four-year basis; and

(ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;

(g) annually report the public transit district's long-term financial plan to the State Bonding Commission;

(h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the Infrastructure and General Government Appropriations Subcommittee;

(i) annually report to the Transportation Interim Committee the public transit district's efforts to engage in public-private partnerships for public transit services;

(j) hire, set salaries, and develop performance targets and evaluations for:

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- (i) the executive director; and
- (ii) all chief level officers;
- (k) supervise and regulate each transit facility that the public transit district owns and operates, including:
 - (i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and
 - (ii) make and enforce rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;
- (l) subject to Subsection (4), control the investment of all funds assigned to the district for investment, including funds:
 - (i) held as part of a district's retirement system; and
 - (ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;
 - (m) in consultation with the local advisory council created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;
 - (n) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;
 - (o) (i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;
 - (ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:
 - (A) the result of district operations during the preceding fiscal year;
 - (B) an accounting of the expenditures of all local sales and use tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;
 - (C) the district's financial status on the final day of the fiscal year; and
 - (D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and
 - (iii) supply copies of the report under Subsection (2)(o)(ii) to the general public upon

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request;

(p) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;

(q) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory council created in Section 17B-2a-808.2, to be the most critical to the success of the organization;

(r) together with the local advisory council created in Section 17B-2a-808.2, hear audit reports for audits conducted in accordance with Subsection (2)(o);

(s) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

(i) how negotiations occurred;

(ii) the rationale for providing a reduced fare; and

(iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

(t) in consultation with the local advisory council, develop and approve other board policies, ordinances, and bylaws; and

(u) review and approve any:

(i) contract or expense exceeding \$200,000; or

(ii) proposed change order to an existing contract if the change order:

(A) increases the total contract value to \$200,000 or more;

(B) increases a contract of or expense of \$200,000 or more by 15% or more; or

(C) has a total change order value of \$200,000 or more.

(3) A board of trustees of a large public transit district may:

(a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the

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provisions of this part; and

(ii) necessary for:

(A) the governance and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the executive director or other officer or deputy as the board

prescribes;

(c) in consultation with the local advisory council created in Section 17B-2a-808.2:

(i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(n).

(4) For a large public transit district in existence as of May 8, 2018, on or before September 30, 2019, the board of trustees of a large public transit district shall present a report to the Transportation Interim Committee regarding retirement benefits of the district, including:

(a) the feasibility of becoming a participating employer and having retirement benefits of eligible employees and officials covered in applicable systems and plans administered under Title 49, Utah State Retirement and Insurance Benefit Act;

(b) any legal or contractual restrictions on any employees that are party to a collectively bargained retirement plan; and

(c) a comparison of retirement plans offered by the large public transit district and similarly situated public employees, including the costs of each plan and the value of the benefit offered.

(5) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the [~~State Bonding Commission created in Section~~

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~~63B-1-201~~] State Debt Review Commission created in Section 63J-10-201.

(6) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(7) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.

(b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.

(c) Each ordinance adopted by a large public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

(8) (a) For a large public transit district in existence on May 8, 2018, for the budget for calendar year 2019, the board in place on May 8, 2018, shall create the tentative annual budget.

(b) The budget described in Subsection (8)(a) shall include setting the salary of each of the members of the board of trustees that will assume control on or before November 1, 2018, which salary may not exceed \$150,000, plus additional retirement and other standard benefits, as set by the local advisory council as described in Section 17B-2a-808.2.

(c) For a large public transit district in existence on May 8, 2018, the board of trustees that assumes control of the large public transit district on or before November 2, 2018, shall approve the calendar year 2019 budget on or before December 31, 2018.

Section 4. Section **63B-1-305** is amended to read:

63B-1-305. Powers and duties of authority.

(1) The authority shall have perpetual succession as a body politic and corporate.

(2) The authority may:

(a) sue and to be sued in its own name;

(b) have, and alter at will, an official seal;

(c) contract with experts, advisers, consultants, and agents for needed services;

(d) with the prior approval of the Legislature, borrow money and issue obligations, including refunding obligations;

(e) receive and accept aid or contributions from any source, including the United States or this state, in the form of money, property, labor, or other things of value to be held, used and applied to carry out the purposes of this part, subject to the conditions upon which this aid and

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contributions are made, for any purpose consistent with this part;

(f) enter into agreements with any department, agency or instrumentality of the United States or this state, financial institutions, or contractors for the purpose of leasing, maintaining, and operating any facility;

(g) to the extent permitted under its contract with the holders of its obligations, consent to any modification relating to rate of interest, time and payment of any installment of principal or interest, security or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which it is a party;

(h) pledge revenues from any facility to secure the payment of obligations relating to that facility, including interest on obligations, and to redeem those obligations;

(i) cause to be executed mortgages, trust deeds, indentures, pledge agreements, assignments, security agreements, and financing statements encumbering property acquired, or constructed under this part;

(j) own, lease, operate, and encumber facilities acquired or constructed under this chapter by it or the division;

(k) exercise the power of eminent domain;

(l) rent or lease any facility in whole or in part to any state body; and

(m) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this part.

(3) (a) The authority shall submit an annual written report of the authority's proceedings to the State Debt Review Commission created in Section 63J-10-201.

(b) The report shall include:

(i) a description of any outstanding money borrowed and obligations issued by the authority, including loan amounts, terms, and security;

(ii) facilities funded by the actions of the authority; and

(iii) an explanation of why the financing terms and obligations used for a facility are appropriate and in the best interest of the state.

Section 5. Section **63B-1a-102** is amended to read:

63B-1a-102. Commission responsibilities -- Manner of issuance -- Plan of financing -- Registration -- Signatures -- Replacement -- Reporting.

(1) The commission may determine by resolution:

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- (a) the manner in which bonds issued under this chapter may be authorized, sold, and issued;
 - (b) to issue bonds in one or more series;
 - (c) the amounts, dates, interest rates, including a variable rate or rates, and maturity dates of the bonds;
 - (d) the manner of sale, including public or private sale;
 - (e) the terms and conditions of sale, including price, whether at, below, or above face value;
 - (f) the denominations, registration, exchange, form, including book-entry only, manner of execution, manner of authentication, place and medium of purchase, redemption terms, and tender rights of the bonds; and
 - (g) other provisions and details that it considers appropriate.
- (2) The commission may, by resolution, adopt a plan of financing, which may include terms and conditions of arrangements entered into by the commission on behalf of the state with financial and other institutions for bond insurance, letters of credit, standby bond purchase agreements, reimbursement agreements, and remarketing, indexing, and tender agent agreements relating to the bonds, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the commission.
- (3) The commission may provide for the services and payment for the services of one or more financial institutions or other entities, persons, or nominees, within or outside the state, for the authentication, registration, transfer, including record, bookkeeping, or book-entry functions, exchange, and payment of the bonds.
- (4) The commission may provide for the calculation and payment to the United States of whatever amounts are necessary to comply with the Internal Revenue Code.
- (5) (a) The commission shall, by resolution, authorize a public official to sign the bonds.
- (b) That signature may be a facsimile signature of that official that is imprinted, engraved, stamped, or otherwise placed on the bonds.
- (c) If all signatures of public officials on the bonds are facsimile signatures, the commission shall provide for a manual authenticating signature on the bonds by or on behalf of a designated authentication agent.

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(d) If a public official ceases to hold office before delivery of the bonds signed by that official, the signature or facsimile signature of the public official is nevertheless valid for all purposes.

(6) The commission may cause a facsimile of the state seal to be imprinted, engraved, stamped, or otherwise placed on the bonds.

(7) The commission shall provide an annual report of its proceedings to the governor to include in his budget for as long as any bonds issued under this chapter remain outstanding.

(8) (a) The commission shall submit an annual written report of the commission's proceedings to the State Debt Review Commission created in Section 63J-10-201.

(b) (i) The report shall include a description of any outstanding bonds issued by the authority, including loan amounts, terms, and security; and

(ii) an explanation of why the loan amounts and terms are appropriate for the project and in the best interest of the state.

Section 6. Section **63H-1-601** is amended to read:

63H-1-601. Resolution authorizing issuance of authority bonds -- Characteristics of bonds.

(1) The authority may not issue bonds under this part unless the authority board first:

(a) adopts a resolution authorizing [their] issuance[-] of the bonds; and

(b) receives approval from the State Debt Review Commission created in Section 63J-10-201.

(2) (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the

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board may provide for the publication of the resolution:

- (a) in a newspaper having general circulation in the authority's boundaries; and
- (b) as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

- (a) the legality of the resolution or proceeding;
- (b) any bonds that may be authorized by the resolution or proceeding; or
- (c) any provisions made for the security and payment of the bonds.

(6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

Section 7. Section **63J-10-101** is enacted to read:

CHAPTER 10. STATE DEBT REVIEW COMMISSION

Part 1. General Provisions

63J-10-101. Definitions.

As used in this chapter:

(1) "Authority" means the same as that term is defined in Section 63B-1-303.

(2) "Bond" means the same as that term is defined in Section 63B-1-101.

(3) "Bonding political subdivision" means:

(a) a large public transit district as defined in Section 17B-2a-802;

(b) the Utah Inland Port Authority, created in Section 11-58-201;

(c) the Military Installation Development Authority, created in Section 63H-1-201; or

(d) the Point of the Mountain State Land Authority, created in Section 11-59-201.

(4) "Commission" means the State Debt Review Commission created in Section 63J-10-201.

(5) "Loan entity" means the board, person, unit, or agency with legal responsibility for making a loan from a revolving loan fund.

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(6) "Obligation" means the same as that term is defined in Section 63B-1-303.

(7) "Public-private partnership" means the same as that term is defined in Section 63N-13-302.

~~(7)~~(8) "Revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank Trust Fund, created in Section 19-6-409;

(j) the School Building Revolving Account, created in Section 53F-9-206;

(k) the State Infrastructure Bank Fund, created in Section 72-2-202;

(l) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;

(m) the Navajo Revitalization Fund, created in Section 35A-8-1704;

(n) the Energy Efficiency Fund, created in Section 11-45-201;

(o) the Brownfields Fund, created in Section 19-8-120;

(p) the following enterprise revolving loan funds created in Section 63A-3-402:

(i) the inland port infrastructure revolving loan fund;

(ii) the point of the mountain infrastructure revolving loan fund; or

(iii) the military development infrastructure revolving loan fund; and

(q) any other revolving loan fund created in statute, including a fund listed in Section 63A-3-205, from which a loan entity is authorized to make a loan.

Section 8. Section **63J-10-201** is enacted to read:

Part 2. State Debt Review Commission

63J-10-201. State Debt Review Commission.

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- (1) There is created the State Debt Review Commission.
- (2) The commission shall:
 - (a) as described in this chapter, approve, review, and monitor the borrowing and lending practices and activities of the state and other entities; and
 - (b) exercise the powers and perform other duties prescribed for the commission by statute.
- (3) The commission shall consist of:
 - (a) seven voting members as follows:
 - (i) the state treasurer;
 - (ii) the state auditor or the auditor's designee;
 - (iii) the attorney general or the attorney general's designee;
 - (iv) the director of the Office of the Legislative Fiscal Analyst or the director's designee;
 - (v) the director of the Division of Finance or the director's designee;
 - (vi) the director of the Governor's Office of Planning and Budget or the director's designee; and
 - (vii) an individual with a background in debt management, finance, or other similar expertise who is:
 - (A) after consultation with the state treasurer, appointed by the governor; and
 - (B) confirmed by the Senate; and
 - (b) the state's financial advisor described in Section 67-4-16, who is a nonvoting member.
- (4) (a) The position described in Subsection (3)(a)(vii) is for a term of four years.
 - (b) When the position described in Subsection (3)(a)(vii) is vacant for any reason, the governor shall appoint the replacement, with confirmation of the Senate, for the remainder of the unexpired term.
- (5) The state treasurer shall serve as chair of the commission.
- (6) A majority of the commission members constitute a quorum and may act on behalf of the commission.
- (7) The commission shall meet as necessary to effectively conduct the commission's business and duties as prescribed by statute.

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(8) (a) A commission member may not receive compensation or benefits for the commission member's service.

(b) A commission member may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(9) The state treasurer's office shall provide staff support to facilitate the function of the commission and record commission action and recommendations.

(10) The commission shall comply with the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

Section 9. Section **63J-10-202** is enacted to read:

63J-10-202. Powers and duties.

(1) The commission shall annually review a report provided in accordance with Section 63B-1-305 or 63B-1a-102.

(2) (a) A loan entity shall no later than January 1 of each year submit information on each revolving loan fund from which the loan entity made a loan in the previous **fiscal** year, including information identifying new and ongoing loan recipients, the terms of each loan, loan repayment, and any other information regarding a revolving loan fund requested by the commission.

(b) The commission ~~shall~~ **may** annually review:

(i) each loan entity for compliance with state law authorizing and regulating the revolving loan fund, including, as applicable, Title 11, Chapter 14, Local Government Bonding Act;

(ii) each loan entity's revolving loan fund policies and practices, including policies and practices for approving and setting the terms of a loan; and

(iii) each borrower of funds from a revolving loan fund for accurate and timely reporting by the borrower to the appropriate debt repository.

(3) (a) The commission shall review and may approve a bond before a bonding political subdivision may issue a bond.

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(b) The commission may not approve issuance of a bond described in Subsection (3)(a) unless:

(i) the execution and terms of the bond comply with state law; and

(ii) the commission determines the bond is in the best interest of the bonding political subdivision.

(c) If, after review, the commission approves a bond described in Subsection (3)(a), the bonding political subdivision:

(i) may not change before issuing the bond the terms of the bond that were reviewed by the commission if the change is outside the approved parameters and intended purposes; and

(ii) is under no obligation to issue the bond.

(d) A member of the commission who approves a bond describe in Subsection (3)(a) is not liable personally on the bond.

(e) The review and approval of a bond by the commission under Subsection (3)(a):

(i) is not an obligation of the state; and

(ii) is not an act that:

(A) lends the state's credit; or

(B) constitutes indebtedness within the meaning of any constitutional or statutory debt limitation.

(4) The commission shall provide training and other information on debt management, lending and borrowing best practices, and compliance with state law to the authority, an independent political subdivision, and a loan entity.

(5) (a) The commission shall review and may approve a public-private partnership before a bonding political subdivision may enter into an arrangement or agreement creating a public-private partnership.

(b) If, after review, the commission approves a public-private partnership described in Subsection (5)(a), the bonding political subdivision:

(i) may not change the terms of the public-private partnership arrangement or agreement if the change is outside the approved parameters and intended purposes; and

(ii) is under no obligation to enter into the public-private partnership.

Section 10. Section **63J-10-203** is enacted to read:

63J-10-203. Debt affordability report.

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(1) No later than November 1 each year, the ~~commission~~state treasurer, with assistance from the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst, shall prepare and submit a debt affordability report to the commission and the Revenue and Taxation Interim Committee.

(2) The debt affordability report shall include:

(a) the amount of tax-supported debt that, during the next fiscal year and annually for the following nine fiscal years:

(i) will be outstanding; and

(ii) has been authorized but is not yet issued;

(b) a projected schedule of affordable, state tax-supported debt authorizations for the next fiscal year;

(c) projected debt-service requirements during the next fiscal year and annually for the following nine fiscal years based upon:

(i) existing outstanding debt;

(ii) previously authorized but unissued debt; and

(iii) projected bond authorizations;

(d) the criteria that recognized bond rating agencies use to judge the quality of issues of bonds issued by the state; and

(e) any other information that is relevant to:

(i) the state's ability to meet its projected debt service requirements ~~for the next two fiscal years~~;

(ii) the ability of the state to support additional debt service ~~in the upcoming fiscal year~~;

(iii) the interest rate to be borne by, the credit rating on, or any other factor affecting the marketability of state bonds; and

(iv) the effect of authorizing new tax-supported debt on each of the considerations described in this Subsection (2).

Section 11. Section 63N-13-306 is amended to read:

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

(1) Nothing in this part:

~~(1)~~ (a) requires a government entity to use the facilitator to explore the possibility of

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filling a public need through a public-private partnership; or

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

~~(a)~~ (i) solicit a public-private partnership; or

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

(2) Notwithstanding Subsection (1)(b), a bonding political subdivision, as defined in Section 63J-10-101, may not enter into a public-private partnership unless the bonding political subdivision first receives approval from the State Debt Review Commission in accordance with Section 63J-10-202.