

## **AGENDA**

### **FREE MARKET PROTECTION AND PRIVATIZATION BOARD**

*Thursday, April 14, 2016, 2:00 PM*  
Room 25 House Building  
State Capitol Complex  
Salt Lake City, Utah

1. Call to Order
2. Public Input (10 minutes)
  - a. Persons may make statements or comments for up to two minutes each on matters pertinent to the board.
3. Board Business/Minutes
  - a. Minutes from January 14, 2016
4. Commercial Activities Inventory
  - a. Workforce Services – Community Impact Bank
  - b. State Loan Programs
5. Review Privatization of an Activity
6. Review Issues Concerning Agency Competition with the Private Sector
7. Other/Adjourn

Future meetings:

Privatization Board – Thursday, June 9, 2016, 2:00 PM, Room 25 House Building

**Meeting Packet Contents**

<u>Page</u>	<u>Item</u>	<u>Source</u>
3	Minutes from January 14, 2016 Board meeting	GOMB
<u>Additional Items</u>		<u>Source</u>
	State Loan Programs (to be handed out at the meeting)	GOMB

**Minutes of the  
Free Market Protection and Privatization Board**  
Thursday, January 14, 2016 - 2:00 p.m.  
Room 30, House Building  
State Capitol Complex

**Members present:**

Kimberley Jones (Chair), Sen. Howard Stephenson, Dean Drew, Manuel Torres, Al Manbeian, Bob Myrick, Russell Anderson, Rick Jones, Jacquie Nielsen, Steve Fairbanks, Shawn Milne

**Members absent:**

Sen. Karen Mayne, Rep. Johnny Anderson, Travis Dimick, Randy Park, LeGrand Bitter

**Staff present:**

Cliff Strachan, Governor's Office of Management and Budget (GOMB)

Note: Additional information including related materials provided at the meeting and an audio recording of the meeting can be found at the Utah Public Meeting Notice Website (<http://www.utah.gov/pmn>). Information about the Privatization Board can be found at <http://gomb.utah.gov/operational-excellence/privatization-board/>.

**1. Welcome and Introductions**

Kimberley Jones called the meeting to order..

Sen. Karen Mayne, Rep. Johnny Anderson, Travis Dimick, Randy Park, and LeGrand Bitter were excused.

**2. Public Comment (10 minutes)**

**3. Board Business/Minutes**

- a. **Minutes from August 13, 2015**
- b. **Minutes from December 10, 2015**

*Motion:* Dean Drew moved to approve the minutes of the August 13 and December 10, 2015 meetings.  
CARRIED

- c. **Annual Report**

Cliff Strachan gave an overview of the draft report to be considered and answered any questions pertaining to it, including recommendations made within it.

Sen. Stephenson talked about another possible information technology issue that might be reviewed.

*Motion:* Rick Jones moved to approve and issue the annual report. CARRIED

d. **Planning for 2016**

The board considered meeting dates and times for the next year. [Dates and times are listed at the end of these minutes.]

The board perused a list of state agencies and discussed possible studies for 2016. The board settled on the following priorities for 2016:

1. Marketing the board's evaluation program to agencies
2. A review of state lending programs
3. A review of Governor's offices
4. A review of Human Services
5. A review of Workforce Services
6. A review of State Labs

*Motion:* Sen. Stephenson moved to recommend to the legislature the removal of "statutory exemptions" for institutions of higher education, the Schools and Institutional Trust Land Administration and others the legislature deems fit. CARRIED

*Motion:* Shawn Milne moved to include the foregoing motion in the annual report. CARRIED

The board also wants to include in its process the invitation to legislative staff and the chairs of legislative committees overseeing a particular agency.

4. **Commercial Activities Inventory (CAI)**

5. **Review Privatization of an Activity**

a. **DAS - Division of Fleet Operations**

Jeff Mottishaw, Director of Fleet Operations, updated the board on the division's efforts toward privatization. He noted that the multi-agency pilot has been in place since March. The pilot replaces 63 fleet vehicles with an on site Enterprise Car Rental station. Feedback is positive with costs a little higher at \$0.38/mile versus \$0.36/mile. Additional but more difficult cost savings are in employee time previously used for refueling and cleaning the autos and in lower fixed costs.

A second pilot is under consideration with a multistage RFP to cover a range of fleet services. Agency is hopeful this too will be a positive benefit for the state.

The board requested an update at end of the year.

6. **Review Issues Concerning Agency Competition with the Private Sector**

7. **Other Business/Adjourn**

Staff noted that several board member terms will be expiring in June and will be reaching out to determine reappointments.

Sen. Stephenson commended the board members for their efforts, noting that the Reason Foundation sees the board's responsibilities as unique around the country.

Chair Kim Jones expressed gratitude for the method the board has put in place and the results to date.

Staff noted the Competition Review Advisory Committee will meet January 28 at 2:00 PM.

*Motion:* Al Manbeian moved to adjourn. CARRIED

This year's meeting schedule is as follows:

April 14, 2016

June 9, 2016

September 8, 2016

November 10, 2016

January 12, 2017

All times are 2:00 PM to 4:00 PM

**Utah Code sections and other legal authority that authorize the state to lend money**

1. UDOT is authorized to issue “infrastructure” and other loans. Utah Code Ann. § 72-2-204; § 72-10-305
  2. Water Resources Division are is authorized to make loans for water-related projects. Utah Code Ann. § 73-10g-105(2)(c); § 73-10c-4.5; § 73-10-33
  3. The Olene Walker Housing Loan Fund may enter “into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part.” Utah Code Ann. § 35A-8-505
  4. The legislature constitutionally delegated its authority when it created a state agency to make direct loans to encourage small business development. Utah Technology Finance Corp. v. Wilkinson, 723 P.2d 406 (1986).
  5. DEQ may lend money for environmental protection projects. Utah Code Ann. § 11-8-2; § 19-1-404;
  6. WFS may make loans. Utah Code Ann. § 35A-8-1707; § 35A-8-1607 (Housing and Community Development)
  7. The Department of Agriculture may make loans. Utah Code Ann. § 4-19-3(1); § 65A-6-1(1)
  8. The following are “revolving loan funds” that the legislature has established:
    - (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 4-19-4;
    - (h) the Permanent Community Impact Fund, created in Section 35A-8-603;
    - (i) the Petroleum Storage Tank Trust Fund, created in Section 19-6-409;
    - (j) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;
    - (k) the Navajo Revitalization Fund, created in Section 35A-8-1704; and
    - (l) the Energy Efficiency Fund, created in Section 11-45-201.
- Utah Code Ann. § 63A-3-205
9. The Terrel H. Bell Teaching Incentive Loans program was established to recruit and train superior candidates for teaching in Utah's public school system. Utah Code Ann. § 53B-10-101
  10. GOED has the authority to lend money for economic development, e.g. Utah Code Ann. § 63N-3-204 (technology commercialization)
  11. The Board of Regents may make student loans. Utah Code Ann. § 53B-11-102
  13. Maybe UCSFA has authority to make loans to the extent that the state replaces shortfalls in a charter school's reserve fund and then is paid back later.

Utah Code sections and other legal authority that authorize the state to lend money

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2. Water Resources Division are is authorized to make loans for water-related projects. Utah Code Ann. § 73-10g-105(2)(c); § 73-10c-4.5; § 73-10-33

3. The Olene Walker Housing Loan Fund may enter "into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part." Utah Code Ann. § 35A-8-505

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9. The Terrel H. Bell Teaching Incentive Loans program was established to recruit and train superior candidates for teaching in Utah's public school system. Utah Code Ann. § 53B-10-101

10. GOED has the authority to lend money for economic development, e.g. Utah Code Ann. § 63N-3-204 (technology commercialization)

11. The Board of Regents may make student loans. Utah Code Ann. § 53B-11-102

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# Commercial Activities Inventory Survey (Tier 1)

UDOT Tier 1 Questions	State Infrastructure Bank Responses	MAXIMUM SCORING		SCORE	
		Yes	No		
T1	Describe the service/function so there is a clear understanding of the service and how it operates.	Administers revolving loan fund for local entities to use for highways (state and local); local entities submit application thru UDOT to Transportation Commission who decide; loans are based on state rate which varies based on length of term.	0	25	25
T2	What is the budget for this service/function?	Funds are capitalized periodically from the legislature but otherwise is revolving based on what is available. See code for sources of funds. Budget for staff is not broken out, charges for admin fees, averages one project per year.	0	25	25
GE2	Do other alternatives exist for providing the service?	Issue bonds, banks, but legislature set up as an alternative.	25	0	25
GE6	Are there any known legal barriers to privatization?	No, legislature could take away and they'd be left with traditional tools.	0	25	25
GE7	Are there any obvious risks to be considered with the privatization of this service?	No, privatizing it is simply eliminating the tools.	0	25	25
PE3	Would there be a high level of risk if a privatized service did not meet required performance requirements?	No	0	25	25
GE5	Has this service been successfully privatized by other state or local governments? By the Federal government?	Banks	15	0	0
PE1	Does this service currently utilize quantifiable and measurable performance measures?	No, has to be repaid; does anyone check to make sure the funds get spent on roads?	15	0	0
GE1	Is the service being reviewed considered a mission critical service of Utah State Government?	No	0	5	5
CE11	Does the current State service have excess capacity that could be sold due to a privatization arrangement?	No, balances are expended.	5	0	0
GE8	Does a vendor need access to confidential information?	No	0	5	5
GE4	Is there a significant level of political opposition to privatization of this service?	Probably not a huge opposition but some cities use the funds regularly.	0	20	20
Tier 1			Score	165	130

79%

A2

**FUND FACT SHEET**

UDOT Program Development & STIP  
Spring 2016

**FUNDING**

State year: July 1

Programmed funding  
2014 Capitalized total:  
\$23.5 million

2015 Uncommitted Balance  
Available: \$4.3 million

**CONTACT**

William Lawrence  
801 964-4468  
billlawrence@Utah.gov

**ACCOMPLISHMENTS**

St. George City, Logan City and Washington City have recently completed loans. Fountain Green City West Jordan City and Cedar City currently have outstanding loans and projects are underway. Vineyard City has recently been approved for a loan.

Project example: Cedar City obtained a SIB loan to augment other funding to improve the South Cedar Interchange

# Utah State Infrastructure Bank

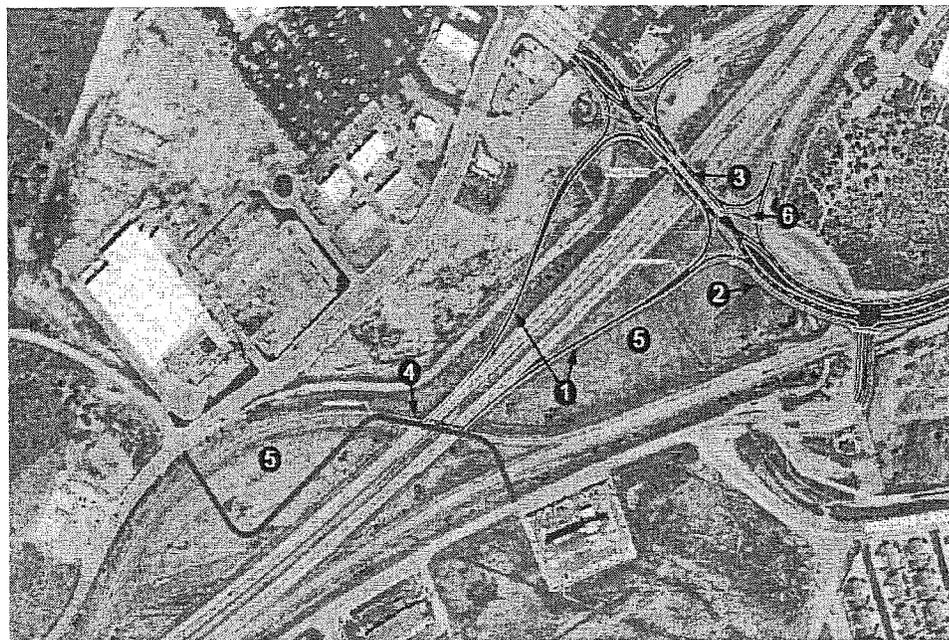
The Utah State Infrastructure Bank provides loans and credit enhancement to local government or private sponsors of transportation or transit projects.

The loans help state agencies leverage federal and non-federal transportation funds, assist local areas to develop facilities, and promote public-private partnerships. Loans can offer advantages over only grant-based funding by allowing project delivery to be accelerated by and helping local governments complete a financial plan.

The fixed-rate, low-interest loans are tied to the State of Utah bonding rate and term length. Repayment must be completed no more than ten years from the time the loan is executed. No one entity may borrow more than twenty five percent of the fund.

The Utah Transportation Commission has the authority to approve all qualified requests and loan terms. SIB loans can augment other project funding.

The fund is a revolving account that does not deplete. Prior to 2012, the fund was capitalized at \$4 million, including interest. House Bill 377, which passed in the 2012 legislative session, added \$20 million to the account.



*SIB funds helped Cedar City complete a much needed project on I-15: 1-3, new ramps, a DDI, realignment and new profile of Cross Hollow Road; 4-5, the old flyover was saved for a pedestrian and livestock crosswalk and surplus property was utilized, and 6, the interchange area was landscaped.*

AL

# State Infrastructure Bank Balance Sheet

Capitalized Funding	Amount	Year	Comments
		1998	\$2,310,000 Federal; \$167,743 State. Transferred to I-15 Salt Lake Co project. Paid back with State Funds (Centennial Highway Funds).
	\$2,477,743.00		
	\$1,000,000.00	2009	From Southern Parkway, paid back by St George City as part of their SIB loan.
	\$20,000,000.00	2013	2013 State Legislature - HB377
<b>Total =</b>	<b>\$23,477,743.00</b>		

<b>Total Fund Balance</b>	<b>Total = \$24,399,787.78</b>	As of FY 2016 Period 6 (Division of Finance COGNOS FMIS AM31 Report, Fund 5500)
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<b>Total Loan Balances</b>		
Executed Outstanding Loan Balance =	-\$16,786,898.28	1101, 1501 & 1507 Active loan balances as of FY 2016 Period 6 (COGNOS FMIS AM31 Report)
Non-executed or Pending Disbursement =	\$4,898,000.00	

<b>Uncommitted Balance Available =</b>	<b>\$2,714,889.50</b>
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	Debtor	Loan amount	Date Commission Approved	
<b>Current Loan Request(s)</b>				
<b>Loans Approved, Not Executed or Dispersed</b>				
	Herriman City	\$1,700,000	2/12/2016	Commission Approved 2/12/2016 - Not Dispersed.
	St. George City	\$3,198,000	2/12/2016	Commission Approved 2/12/2016 - Not Dispersed.
<b>Active Executed Loans</b>				
	Fountain Green City	\$100,000	7/19/2013	Active on schedule
	Cedar City	\$722,000	11/15/2013	Active on schedule
	West Jordan	\$2,960,052	3/21/2014	Active on schedule
	Vineyard City	\$16,150,000	7/19/2013	Executed on 12/9/2015
<b>Completed Loans</b>				
	Logan City	\$850,000	4/21/2006	Completed
	Washington City	\$900,000	4/14/2011	Completed
	St. George City	\$3,726,924	12/3/2008	Completed

### Commercial Activities Inventory Survey (Tier 1)

DNR Tier 1 Questions	Water Resources	Responses	MAXIMUM SCORING		SCORE
			Yes	No	
T1	Describe the service/function so there is a clear understanding of the service and how it operates.	The Division administers, through a board, five revolving water loan funds used by local entities to develop water resources.			
T2	What is the budget for this service/function?	Budgets vary but loan processing is a small part of the budget costs as much of the cost. Principle balances of these loans total \$326 million in FY2015.			
GE2	Do other alternatives exist for providing the service?	Yes, but they may not necessarily accomplish the desired goals. The attached document notes that only about 20% of water projects are funded by the state. See attached.	25	0	25
GE6	Are there any known legal barriers to privatization?	No. Privatization means not subsidizing loans with low interest rates.	0	25	25
GE7	Are there any obvious risks to be considered with the privatization of this service?	Yes, but they may not necessarily accomplish the desired goals. Only about 20% of water projects are funded by the state. See attached.	0	25	0
PE3	Would there be a high level of risk if a privatized service did not meet required performance requirements?	Yes, many projects that would help and deep states water would not be built. See attached.	0	25	0
GE5	Has this service been successfully privatized by other state or local governments? By the Federal government?	There are other state and federal programs that provide funding for water projects. We are not aware of any efforts to privatize these. There are no other local government water loan programs.	15	0	0
PE1	Does this service currently utilize quantifiable and measurable performance measures?	Yes	15	0	15
GE1	Is the service being reviewed considered a mission critical service of Utah State Government?	Many consider it to be. State has given a mandate to "conserve and utilize" water and power resources.	0	5	0
CE11	Does the current State service have excess capacity that could be sold due to a privatization arrangement?	No	5	0	0
GE8	Does a vendor need access to confidential information?	No	0	5	5
GE4	Is there a significant level of political opposition to privatization of this service?	Expect opposition from the water suppliers within the state. See attached.	0	20	20
Tier 1			Score	165	90

55%

**Do other alternatives exist for providing the service?**

Yes, but they may not necessarily accomplish the desired goals. Approximately 80% of the water development and water infrastructure projects are funded locally generated and do not utilize the state funding programs. These are either funds the project sponsor has collected and saved for the project or funds it has borrowed from the capital markets or banks, thus the alternative to state financing is largely being used.

The remaining 20% of projects' sponsors seek state funding. Many that come to the Board of Water Resources may not have economical alternatives in the capital markets or with banks. These include irrigation companies, private municipal water companies and political subdivisions that either have no bond rating or a downscale bond rating. The borrowing costs for these entities can be significantly more than those entities that have excellent bond ratings and can borrow relatively inexpensively on the capital markets. As an example, in 2010 the Provo River Water Users Association, the principal sponsor of the \$150M Provo Reservoir Canal Enclosure Project, would have had to pay 6.5% interest on its share of the project cost on the market. The Board of Water Resources was able to extend a 4% loan to the Association, thereby making the project more affordable. A well-rated agency, might have got 3.5% at the time on the market.

Many projects that would help develop and efficiently use the state's water to develop local economies and maintain health and standards of living would not be built if there is no affordable financing.

**Are there any know legal barriers to privatization?**

No

**Are there any obvious risks to be considered with the privatization of this service?**

Yes. Many that come to the Board of Water Resources may not have economical alternatives in the capital markets or with banks. These include irrigation companies, private municipal water companies and political subdivisions that either have no bond rating or a downscale bond rating.

Many projects that would help develop and efficiently use the state's water to develop local economies and maintain health and standards of living would not be built if there is no affordable financing.

**Would there be a high level of risk if a privatized service did not meet required performance requirements?**

Yes. Many projects that would help develop and efficiently use the state's water to develop local economies and maintain health and standards of living would not be built if there is no affordable financing. This could affect up to 20% of the water development and infrastructure projects built in the State.

**Has this service been successfully privatized by other state or local governments?**

There are other State and federal programs that provide funding for water projects. We are not aware of any efforts to privatize these. There are no other local government water loan programs.

**Does this program utilize quantifiable and measureable performance measures?**

Yes

**Is the service being reviewed considered a mission critical service of Utah State Government?**

Many would consider it to be. The Board of Water Resources' funding program is 69 years old and even prior to that the State was facilitating water development. The original intent of the Board's program was to construct "conservation projects which....will conserve and utilize for the best advantage of the people of this state the water and power resources of the State..." The Board's intent is still to assist in building water development and infrastructure projects that will provide for the growing population, foster economic development and provide for the health and well-being of the State's citizens

**Does the current State service have excess capacity that could be sold due to a privatization arrangement?**

No

**Does a vendor need access to confidential information?**

No

**Is there a significant level of political opposition to privatization of this service?**

Many water suppliers within the state have been very supportive and protective of this program. We expect there would be significant opposition from the water community if it was proposed this service be taken out the State's hands. Since a private entity's aim will be to make a profit, it is expected the cost of this service to the water suppliers and water users would go up. That would defeat the purpose of the program in trying to provide affordable funding for those entities with limited options.

## WATER DEVELOPMENT PROGRAMS

### Contact Information for the Division Funding Programs

Joel Williams  
Project Funding Section Manager  
Utah Division of Water Resources  
1594 W. North Temple, Suite 310  
Salt Lake City, Utah 84114-6201  
801-538-7249

### Revolving Construction Fund:

The Utah Water and Power Board was created in 1947. At the same time, the Legislature implemented a Revolving Construction Fund to provide financial assistance for the construction of water development and conservation projects. This began the legacy of the state's participation in a self-help water development cooperative effort that continues to function today. The Revolving Construction Fund is used to fund water projects sponsored by irrigation companies and water companies owning clear title to a water right. Loan amounts are less than \$1 million per project and are repaid over 10-25 years without interest.

WRES Construction Fund - 5270	FY16 YTD	FY15
Total Number of Loans	141	151
Principal Balance	33,353,606	35,181,967
Interest Revenue	28,511	43,034
Loan Repayments	2,361,257	2,604,007

### Cities Water Loan Fund:

The energy crisis of the 1970s brought rapid growth to many Utah cities. To help local leaders upgrade their culinary water systems, the 1974 Legislature created the Cities Water Loan Fund. Loans from the Cities Water Loan Fund are made to political subdivisions of the state for municipal projects and are repaid over 10-25 years at 0%-5% interest depending on the income level in the area and current water rates.

WRES Cities Water Loan Fund - 5280, 5281	FY16 YTD	FY15
Total Number of Loans	32	38
Principal Balance	16,908,980	16,407,051
Interest Revenue	164,605	281,687
Loan Repayments	1,412,433	2,053,155

**Conservation and Development Fund:**

Still faced with the need to develop additional water resources and the federal government's withering participation in funding water projects, the 1978 Legislature created a Conservation and Development Fund to help develop large projects. Loans from the Conservation and Development Fund are made to private corporations and political subdivisions of the state for municipal, irrigation, and flood control projects. The loans are typically repaid over a period of 10-30 years at 1%-7% interest depending on the project type, project benefits, and the income level in the area.

WRES C&D Fund - 5275, 5276, 5277	FY16 YTD	FY15
Total Number of Loans	127	128
Principal Balance	275,218,416	270,878,727
Interest Revenue	3,464,248	5,989,375
Loan Repayments	7,188,345	17,855,566

**Dam Safety Act:**

In 1990 the Dam Safety Act was passed and the Board again was given a new funding responsibility. Dam safety is included in the Revolving Construction Fund and the Board is authorized to provide grants to bring high hazard dams up to current dam safety standards. Grants are provided only when the legislature appropriates money for dam safety grants. The Grants of at least 80% are given based on the ranking priority of dams needing upgrades and money appropriated.

Dam Safety Program	FY16 YTD	FY15
Dam Safety Transfer from C&D Fund	1,900,000	3,800,000
Dam Safety Grants funded by the Board	2,390,058	4,004,799
Number of Grants	6	2

**Water Infrastructure Account:**

In 2015 the Legislature established the Water Infrastructure Restricted Account (WIRA) with an initial appropriation of \$5 million. The funds in the WIRA are to be used for development of the Bear and Colorado rivers and for repair, replacement, or improvement of federal water infrastructure projects. The Board of Water Resources has not yet funded any projects out of the Water Infrastructure Restricted Account.

WRES Water Infrastructure Res Acct - 1180	FY16 YTD	FY15
Balance	2,500,000*	0

\*\$2.5M out of \$5.0M as of 1/31/16

**Summary:**

Beginning in 1947 with the creation of the Water and Power Board, and continuing with the Board of Water Resources, both technical and financial assistance has been provided to public and private entities to more effectively utilize the state's water resources. Since initiation of that policy, the state legislature has appropriated approximately \$385 million for water development. Because the Board requires financial assistance be repaid (hence the term revolving loan program is often used), the Board has provided approximately \$787 million through its Revolving Construction, Cities Water Loan, and Conservation and Development Funds, with a ratio of about \$2.78 in construction for each dollar provided by the Board. Through its Dam Safety Funding Program the Board has provided grants totaling nearly \$70 million and loans totaling nearly \$3 million to bring 38 high hazard dams up to current or partial dam safety standards. Due to lack of funding some dams have been brought to only partial compliance to allow for continued reservoir storage. During the past 69 years the Board and Division have been involved in the planning, design, construction, and financing of 1,430 water projects.

## Commercial Activities Inventory Survey (Tier 1)

DEQ Tier 1 Questions	Environmental Quality	Responses	MAXIMUM SCORING		SCORE
			Yes	No	
T1	Describe the service/function so there is a clear understanding of the service and how it operates.	DEQ manages several loan programs in four divisions. Drinking Water (2), Water Quality (2), Air Quality (1), and Environmental Response (1).			
T2	What is the budget for this service/function?	Varies			
GE2	Do other alternatives exist for providing the service?	To some degree, but some are federally funded or mandated.	25	0	25
GE6	Are there any known legal barriers to privatization?	How does the program relate to federal delegation of authority? If federal, then yes.	0	25	0
GE7	Are there any obvious risks to be considered with the privatization of this service?	Yes, environmental consequences possible.	0	25	0
PE3	Would there be a high level of risk if a privatized service did not meet required performance requirements?	Yes, environmental consequences possible.	0	25	0
GE5	Has this service been successfully privatized by other state or local governments? By the Federal government?	Unknown	15	0	0
PE1	Does this service currently utilize quantifiable and measurable performance measures?	Yes	15	0	15
GE1	Is the service being reviewed considered a mission critical service of Utah State Government?	If not state, then perhaps federal.	0	5	0
CE11	Does the current State service have excess capacity that could be sold due to a privatization arrangement?	No	5	0	0
GE8	Does a vendor need access to confidential information?	No	0	5	5
GE4	Is there a significant level of political opposition to privatization of this service?	Possibly	0	20	0
Tier 1			Score	165	45

27%

Tier 1

Score

45

165

27%

AI

The Department of Environmental Quality manages several loan programs located in four of our Divisions. Each Division has provided a contact and brief description of their programs. In a separate attachment we have provided financial information.

### Division of Drinking Water

The Division of Drinking Water administers two loan programs:

Drinking Water Loan Program (State SRF), UCA73-10c-5(3)(a); and  
State Revolving Fund for Drinking Water Projects (Federal SRF), UCA 73-10c-(3)(b).

Contact:

Michael Grange, Engineering Manager  
Email [mgrange@utah.gov](mailto:mgrange@utah.gov)  
Phone [801-536-0069](tel:801-536-0069)

The State SRF is funded mainly from State sales tax revenues and the Federal SRF from an annual EPA Grant. The federal SRF must be funded by a 20% match from state funds. Hence a portion of the State SRF funds are allocated to the federal SRF funds.

The State SRF program is restricted for use only by political subdivisions of the State. The federal SRF funds can be used by any "public water system" as defined identically by both the State and Federal Safe Drinking Water Acts. That is: 15 or more connections and/or serve at least 25 people for 60 days per year.

The federal SRF funds are encumbered by federal regulations. These include: 1) an environmental assessment of the project, 2) require using only American iron and steel products in the construction project, 3) construction worker must be paid Davis Bacon wage rates or greater, 4) document that women and minority owned contractors are given opportunity to bid on projects, and 5) submit to annual EPA program and financial audits.

DDW is responsible to ensure that constructed projects: 1) comply with the DDW's construction standards, 2) where treatment projects are involved the Division is assured that the resulting water quality meets DDW's water quality standards, 3) that the necessary Rights of Way are obtained, 4) the Bond document comply with all applicable laws, and 5) the applying water utility can afford the project and repay the loan. DDW also looks at the receiving water utilities' median adjusted gross income, its water rates before and after completion of the project and compare it with Statewide averages to see if the water utility qualifies for reduced interest rates and/or partial grant funding.

## Division of Water Quality

The Division of Water Quality administers two loan programs:

Utah Wastewater Loan Program, UCA 73-10c-5(2)(a) and  
Clean Water State Revolving Fund (SRF) Program, UCA 73-10c-5(2)(b)

Contact:

Walter L. Baker, Director, Utah Division of Water Quality,  
Email [wbaker@utah.gov](mailto:wbaker@utah.gov),  
Phone 801-536-4310

The Utah Wastewater Loan Program had its inception in 1983 with the passage of enabling legislation. The state sold a \$50 million bond and \$20 million of the proceeds from the sale capitalized the loan program. Initial loans were made by the Utah Water Quality Board at a fixed interest rate of 7.324%. Once repayments were made on the initial loans, new loans were made at terms established by Board.

An impetus for the Utah Legislature creating a state wastewater loan program was the disinvestment, during the Reagan administration, of federal assistance to communities to fund water pollution abatement projects. Augmentations were made by the Legislature to the loan program in the 1990s through state appropriations or bond sales totaling \$18.3 million.

Beginning in 1972, with the passage of the Clean Water Act, the federal government instituted the Construction Grants program to provide 75% grants (later reduced to 55%) to communities for high priority water pollution abatement projects. Approximately three-fourths of the wastewater treatment infrastructure in Utah was constructed with assistance from this program. Construction Grants totaled \$211 million over that period. In the 1987 amendments to the Clean Water Act, the Construction Grants program was phased out and the Clean Water SRF Program replaced it. The Clean Water SRF, administered by EPA, provides a capitalization grant to states which states, in turn, make loans to their communities for water pollution abatement projects. A requirement, however, is that states provide a 20% match in order to receive its Clean Water SRF capitalization grant. In 1988, Utah became the 4<sup>th</sup> state to receive a Clean Water SRF capitalization grant. Since then and through Federal Fiscal Year 2015 Utah has received capitalization grants totaling \$220,852,294 million.

Beginning in 1996, interest earnings from these two loan programs have provided a pool of funds from which grants are made to communities, generally small rural communities, when needed water pollution abatement projects exceed affordability criteria established by the Utah Water Quality Board.

Division of Air Quality

The Division of Air Quality administers one loan program:

Clean Fuels and Vehicle Technology Grant and Loan Program, UCA 19-1-403

Contact:

Lisa Burr, Senior Research Analyst  
Email [lburr@utah.gov](mailto:lburr@utah.gov)  
Phone 801 536-4019

The Utah Clean Fuels and Vehicle Technology Grant and Loan Program (Grant and Loan Program), funded through the Clean Fuels and Vehicle Technology Fund, provides grants to assist businesses and government entities in covering 50% of the cost for converting vehicles to operate on a clean fuel, 50% of the incremental cost for purchasing Original Equipment Manufacturer (OEM) clean fuel vehicles, and for the purchase of clean fuel refueling equipment.

The Grant and Loan Program also provides loans for the cost of converting vehicles to operate on a clean fuel, the incremental cost to purchase OEM clean fuel vehicles, and the purchase of clean fuel refueling equipment. Repayment schedules are allowed up to 10 years interest free for government entities, whereas rates for private sector vehicles are made at an interest rate equal to the annual return earned in the state treasurer's Public Treasurer's Investment Fund.

UDAQ solicits applications annually to help promote clean fuel projects statewide. The combined annual grant award limits are \$500,000 and individual award limits are \$200,000.

Since 2008, UDAQ has awarded a total \$1,416,952 in grants and \$283,333 in loans to 18 different entities. Projects have included the conversion of cars, trucks, and shuttle buses to natural gas as well as the purchase of natural gas refuse trucks, freight trucks, transit buses, school buses, street sweepers, aerial truck towers, glass recycling vehicles, and refueling stations.

The Fund is has approximately \$500,000 encumbered for existing awards.

A15

**Division of Environmental Response and Remediation**

The Division of Environmental Response and Remediation administers one loan program:

Petroleum Storage Tank Trust Fund, UCA 19-6-409(5)

Contact:

Gary Astin, Environmental Scientist  
Email [gastin@utah.gov](mailto:gastin@utah.gov)  
Phone 801 536-4103

Formerly the "Petroleum Storage Tank Loan Fund," although 2014's H.B. 138 abolished the fund, moving its assets into the PST Trust Fund and authorized the division director to make loans out of the PST Trust Fund for qualified purposes related to Underground Storage Tanks

The purpose and intent for making loans from the PST Trust Fund is to incentivize and assist Underground Storage Tank (UST) owners/operators to upgrade, replace, or permanently close aging UST's. Through UST upgrades and replacement, potentially leaking USTs are removed from service thereby mitigating the potential for releases from such USTs.

Utah Department of Environmental Quality Loan Fund Activity

FY2015 Actual

	DW SRF Fund 5210	DW State Fund 5235	Total Drinking Water	WQ SRF Fund 5255	WQ State Fund 5260	Total Water Quality	5486 (DEQ) Clean Fuel Conversion Fund	7220 (DEQ) Petroleum Storage Tank Trust Fund *
Federal Revenue	8,671,607		8,671,607	5,501,619		5,501,619		
Dedicated Credits								
1600 Interest Income	239,717		239,717	382,255		382,255	4,712	
1601 Interest on Loans	1,556,705		1,556,705	634,405	12,883	647,288	1,335	17,179
1606 Investment FVA	12,978		12,978	20,903		20,903		
1531 Late Fees				5,483	419	5,902	85	
2801- Sale of Services							4,198	
4744 Operating Transfers	1,833,800		1,833,800	1,472,400		1,472,400		
Principal Repayments	9,561,318	4,997,827	14,559,145	11,503,559	3,044,600	14,548,159	13,807	443,701
Total Dedicated Credits	13,204,518	4,997,827	16,368,545	14,019,005	3,057,902	15,604,507	24,137	460,880
1998 Restricted Sales Tax		3,587,500	3,587,500		3,587,500	3,587,500		
Total All Sources	21,876,125	8,585,327	28,627,652	19,520,624	6,645,402	24,693,626	24,137	460,880

FY2016 Authorized

	DW SRF Fund 5210	DW State Fund 5235	Total Drinking Water	WQ SRF Fund 5255	WQ State Fund 5260	Total Water Quality	5486 (DEQ) Clean Fuel Conversion Fund	7220 (DEQ) Petroleum Storage Tank Trust Fund
Federal Revenue	7,500,000		7,500,000	7,759,000		7,759,000		
Dedicated Credits								
1600 Interest Income	240,000		240,000	375,500		375,500	4,700	
1601 Interest on Loans	1,550,000		1,550,000	851,658		851,658	1,300	17,100
1606 Investment FVA				56,000		56,000		
1531 Late Fees								
4744 Operating Transfers	1,600,000		1,600,000	1,400,000		1,400,000		
Principal Repayments	6,038,000	3,321,000	9,359,000	10,973,240	2,900,598	13,873,838	19,668	172,782
Total Dedicated Credits	9,428,000	3,321,000	11,149,000	13,656,398	2,900,598	15,156,996	25,668	189,882
1998 Restricted Sales Tax		3,587,500	3,587,500		3,587,500	3,587,500		
Total All Sources	16,928,000	6,908,500	22,236,500	21,415,398	6,488,098	26,503,496	25,668	189,882

\* For fund 7220 I only included the sources that relate to the loan activities and not all activities of the fund.

DEQ Fund Balances - June 30, 2015

Fund #	Fund Name	Cash	Receivables	Total Assets	Liabilities	Fund Balance	Expenditures	Revenues
5210	State Revolving Fund for Drinking Water Projects	51,494,880	107,249,780	158,744,660	-	158,744,660	3,077,412	12,314,807
5235	Utah Drinking Water Loan Program Subaccount	4,479,321	48,270,217	52,749,538	(595)	52,750,134	2,743,580	3,587,500
5255	Utah State Revolving Fund for Wastewater Projects	81,452,789	170,374,690	251,827,479		251,827,479	244,019	8,017,065
5260	Utah Wastewater Loan Program Subaccount	13,838,135	46,578,052	60,416,186		60,416,186	2,842,745	3,600,802
5486	Clean Fuel Conversion Fund	780,732	234,916	1,015,648	-	1,015,648	390,981	10,331
7220	Petroleum Storage Tank Trust Fund	15,602,045	965,173	16,567,218	24,598,682	(8,031,463)	6,183,076	6,243,170
	Grand Total	209,146,660	378,452,125	587,598,785	25,084,871	562,513,914	37,359,281	49,201,078

A17

## Commercial Activities Inventory Survey (Tier 1)

UDAF Tier 1 Questions	Various Questions	Responses		MAXIMUM SCORING		SCORE	
		Yes	No	Yes	No		
T1	Describe the service/function so there is a clear understanding of the service and how it operates.	Administers revolving loan funds providing low interest loans, generally as a lender of last resort.					
T2	What is the budget for this service/function?	See attached					
GE2	Do other alternatives exist for providing the service?	Yes for most people but not for farmers and ranchers with poor credit.	25	0	25	25	
GE6	Are there any known legal barriers to privatization?	No	0	25	25	25	
GE7	Are there any obvious risks to be considered with the privatization of this service?	Yes, possible environmental issues	0	25	25	0	
PE3	Would there be a high level of risk if a privatized service did not meet required performance requirements?	Not respecting loan administration	0	25	25	25	
GE5	Has this service been successfully privatized by other state or local governments? By the Federal government?	Unknown	15	0	0	0	
PE1	Does this service currently utilize quantifiable and measurable performance measures?	Yes, loan repayments	15	0	15	15	
GE1	Is the service being reviewed considered a mission critical service of Utah State Government?	Not specifically, but Agriculture was the first state agency	0	5	5	5	
CE11	Does the current State service have excess capacity that could be sold due to a privatization arrangement?	No	5	0	0	0	
GE8	Does a vendor need access to confidential information?	No	0	5	5	5	
GE4	Is there a significant level of political opposition to privatization of this service?	Yes, from the agriculture community	0	20	20	0	
				Score	165	100	

Tier 1

61%

AIC

A19

Utah Department of Agriculture and Food  
Loans Section Program Descriptions and Terms

ARDL 4-18-106 – Agriculture Resource Development Fund

The Agriculture Resource Development Loan program (ARDL) is a revolving loan fund, administered by the Utah Department of Agriculture and Food under the direction of the Utah Conservation Commission. Low-interest loans are available for conservation projects for the benefit of Utah farms, ranches and irrigation companies. Low-interest rates of 2.50% - 3%, based on the loan amount and a one-time 4% technical assistance fee.. The Loan term is based on collateral, 7 years for Chattel and 15 years for real estate or water stock. Loans may only be made for soil and water conservation, rangeland improvement, watershed protection, flood prevention, Crop Storage Facilities and other Farm Animal Protection Structures, and on-farm energy projects.

Utah Rural Rehabilitation Loan Fund 4-19-4

The purpose of the Rural Rehabilitation Loan Program is to help troubled farmers and ranchers as a loan of last resort in addition to farm acquisition financing for beginning farmers and others as approved. The preference is to work jointly with Farm Service Agency (FSA) on land acquisition loans. Farm operating loans are also considered. The low-interest (4% fixed annual interest rate) loans are approved by the Agricultural Advisory Board under the Commissioner of Agriculture. The term is for 10 years but the payment is calculated on a 20 year amortization, with the loan being extended at the maturity date for another ten year term per the Rural Rehabilitation Use Agreement.

Petroleum Storage Tank Trust Fund 19-6-409 – Department of Ag is the underwriter

The Utah Legislature created a zero-percent interest loan fund that is overseen by the Utah Department of Environmental Quality, Division of Environmental Response and Remediation. The loan fund is designed to assist underground storage tank owners and operators in rural areas of Utah, and support small businesses in the state. The Loan funds are available to eligible owners and operators for the purpose of upgrading, replacing or permanently closing UST systems to comply with Federal regulations and to protect the environment. The maximum loan amount is \$150,000 and the maximum amount per tank is \$50,000. These are 10 year loans at 0% interest paid monthly at a 80% Loan to value.

A20

		<u>    </u> Servicing	<u>    </u> Applications Received	<u>    </u> Loans in Process	<u>    </u> Underwritten Approved or Denied	<u>    </u> Paid off
ARDL	FY2013	522	52	62	34	80
	FY2014	475	38	47	21	75
	FY2015	451	40	58	30	75
	Through 3/31/16 FY2016	387	24	21	7	40
RRS, RRF, RRSO, RRSO	FY2013	141	12		8	11
	FY2014	138	14		12	14
	FY2015	136	4		4	9
	Through 3/31/16 FY2016	133	6	5	4	3
DEQ/PST	FY2013	17	3		3	
	FY2014	14	1		1	3
	FY2015	9	8		8	3
	Through 3/31/16 FY2016	19	2	2	2	
DWQ/OSWW	FY2013		3		3	
	FY2014		3		3	
	FY2015		5		5	
	Through 3/31/16 FY2016	0	5	0	5	
DWQ/SRF	FY2013					
	FY2014					
	FY2015					
	Through 3/31/16 FY2016	0		0		

Fiscal year calculated from July 1 through June 30

**Agriculture Resource Development Loan Fund**  
Robert Hougaard, Contact

	FY 2016		FY 2015
	Budget	Actual	Actual
Personnel Services	175,700	104,975.56	175,133.33
Travel/In State	2,000	405.67	925.51
Travel/Out of State	1,300	884.20	2,138.18
Durrent Expense	8,800	3,704.93	9,634.72
Data Processing CE	2,900	155.01	4,528.55
Pass Through	14,600	0.00	0.00
	<u>205,300</u>	<u>110,125</u>	<u>192,360</u>

Low-interest ARDL loans are available through the Utah Conservation Commission in cooperation with the division's program. ARDL loans are made for a maximum of 15 years at 2.5 to 3 percent interest with a one-time administration fee of 4 percent.

The objectives of the program are to:

1. Conserve soil and water resources
2. Increase agricultural yields for croplands, orchards, pasture, range, and livestock
3. Maintain and improve water quality
4. Conserve and/or develop on-farm energy
5. Reduce damages to agriculture as a result of flooding, drought, or other natural disasters
6. Provide and maintain protection of crops or

Note:

Actual figures for FY 2016 are year to date as of February 17, 2016.

Actual figures for FY 2015 are through yearend, June 30, 2015.

A22

### Utah Rural Rehabilitation Fund

Robert Hougaard, Contact

	FY 2016		FY 2015
	Budget	Actual	Actual
Personnel Services	94,300	55,530.18	94,303.00
Travel/In State	600	214.59	497.00
Travel/Out of State	900	467.72	1,151.00
Durrent Expense	3,400	1,959.84	5,086.86
Data Processing CE	1,600	81.99	2,439.00
Pass Through	7,800	0.00	0.00
	<u>108,600</u>	<u>58,254</u>	<u>103,477</u>

The Rural Rehabilitation Loan Program is a source of low-interest loans for farms and ranches. The purpose of this program is to help those who want to buy, begin or improve an agricultural operation but who cannot qualify for conventional financing. The current interest rates for these loans are from 5-6 percent. This loan fund was augmented by the Legislature to assist distressed farmers in 1992, and has since grown as a result of additional appropriations and internal growth through earnings. The program contains both state and federal funds.

## Commercial Activities Inventory Survey (Tier 1)

USOE Tier 1 Questions	Charter School Loans	Responses	MAXIMUM SCORING		SCORE
			Yes	No	
T1	Describe the service/function so there is a clear understanding of the service and how it operates.	Funds available for startup Charter Schools at low interest loans; process for application results in a promissory note and payments start a year after, 5 year repayment. 5 or 6 per year. Payments drawn ACH			
T2	What is the budget for this service/function?	No new appropriations, staff do as part of other duties.			
GE2	Do other alternatives exist for providing the service?	Banks, but not at the interest rates provided. New CSs would not have credit ratings yet.	25	0	25
GE6	Are there any known legal barriers to privatization?	State code change required, funds would lapse back into the Uniform School Fund	0	25	25
GE7	Are there any obvious risks to be considered with the privatization of this service?	Reduce ability of charter schools to move forward. CSs would start with higher interest costs.	0	25	0
PE3	Would there be a high level of risk if a privatized service did not meet required performance requirements?	No.	0	25	25
GE5	Has this service been successfully privatized by other state or local governments? By the Federal government?	No	15	0	0
PE1	Does this service currently utilize quantifiable and measurable performance measures?	Repayment rates	15	0	15
GE1	Is the service being reviewed considered a mission critical service of Utah State Government?	Education is, but loaning to schools is not.	0	5	5
CE11	Does the current State service have excess capacity that could be sold due to a privatization arrangement?	Only assets are the loans to be repaid.	5	0	0
GE8	Does a vendor need access to confidential information?	No more than a business loan.	0	5	5
GE4	Is there a significant level of political opposition to privatization of this service?	No	0	20	20
Tier 1			Score	165	120

73%

A23

A24

## Revolving Loan

The legislature created, within the Uniform School Fund, a *restricted* account known as the "Charter School Revolving Account" (UCA §53A-1a-522) to provide assistance to charter schools to meet school building construction and renovation needs and pay for expenses related to the start-up of a new charter school or the expansion of an existing charter school. Because charter schools do not receive any funds prior to opening other than a small start-up grant, which is usually less than \$125,000, many rely on a revolving loan to assist with start-up costs. New schools and existing schools with urgent facility needs may receive given priority for loans.

Once a loan application is received, State Charter School Board staff reviews the application for completeness and gets clarification from the applicant for any items that need further explanation. As a revolving loan committee member, it is important that you review the loans prior to the committee meeting for:

1. fit within the loan program (e.g., is it an eligible expense, is it an ongoing cost or one-time start-up need, etc.);
2. quality of applicant and request (e.g., is there a high risk of non-repayment, is the request reasonable given the size of the approved student population, etc.); and
3. areas of concern (e.g., issues with credit scores/business scores, other outstanding debt, etc.)

It is also important you come prepared to share your concerns with and receive answers to questions from the applicants. You are welcome to speak with other committee members individually prior to the committee meeting or contact State Charter School Board staff at any time with requests for additional information. If you are unable to attend the meeting, please send your questions and comments to the chair of the committee prior to the meeting.

For timeline, application and further information about the revolving loan program you can follow the link: <http://schools.utah.gov/charterschools/Funding/Funding-Information.aspx>.



