



AGENDA

MEETING OF THE
UTAH STATE BOARD OF REGENTS

February 5, 2001

**Utah State Board of Regents
Office of the Commissioner
of Higher Education
355 West North Temple
3 Triad Center, Suite 550
Salt Lake City, Utah 84180-1205**

AGENDA
STATE BOARD OF REGENTS
REGENTS BOARD ROOM, 3 TRIAD CENTER, SUITE 550
February 5, 2002
2:30 p.m.

Open Meeting via Conference Call
800-403-1013, Participant Code 552369

1. UHEAA – Approving Resolution, SBR Revenue Bonds, Series 2002 (Office Facility Project) Tab A
2. Proposed Revisions to Policy R801, *Equal Opportunity and Nondiscrimination* Tab B
3. Update on Legislative Issues
4. Other

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In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify ADA Coordinator, at 355 West North Temple, 3 Triad Center, Suite 550, Salt Lake City, UT 84180, or at 801-321-7124. TDD # 801-321-7130.

MEMORANDUM

January 31, 2002

TO: State Board of Regents

FROM: Cecelia H. Foxley

**SUBJECT: ACTION: UHEAA--Approving Resolution, SBR Revenue Bonds,
Series 2002 (Office Facility Project)**

Issue

At its meeting on January 29, 2002, the Student Finance Subcommittee voted, by unanimous vote of members present, to recommend Board of Regents adoption of the attached Approving Resolution for the Board's Revenue Bonds, Series 2002 (Office Facility Project). Board of Regents adoption of the Resolution is necessary to provide authority for issuance and sale of the bonds.

The bonds will be issued under authority of Title 53B, Chapter 21 and Section 63B-9-101 of the Utah Code Annotated 1953, as amended (the "Act"). Under this authority the Board is authorized to issue, sell and deliver revenue bonds secured by the credit, revenues and reserves of the Board's Higher Education Loan Program (the "Program") to finance the cost of acquiring, construction, furnishing and equipping office space for use by the Board (the "Project"). The Program is accounted for in a separate Enterprise Fund of the State of Utah, as the State Board of Regents Loan Purchase Program (LPP). All transactions and cash flows related to the Project will be accounted for in the LPP Enterprise Fund, and the value of the asset will be in the fund balance of the LPP Enterprise Fund.

Student Finance Subcommittee

As directed by Policy R610, the UHEAA Board of Directors has designated persons from its membership to comprise the Student Finance Subcommittee. The Student Finance Subcommittee, in accordance with Policy R610, "shall be directly responsible, reporting directly to the Board of Regents through its Finance and Facilities Committee, for oversight and advice regarding bond issues and other financing arrangements for the Loan Purchase Program."

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The present members of the Student Finance Subcommittee are: Mr. John B. Goddard, Chair; Regent L. Brent Hoggan (Finance and Facilities Committee Chair); Regent David J. Grant; Regent Maria Sweeten; Ms. Elva M. Barnes; Mr. Edward T. Alter (State Treasurer); Dr. Stephen D. Nadauld; Mr. Walter P. Gnemi; Mr. Fred Stringham; Associate Commissioner Norman Tarbox; and Associate Commissioner Chalmers Gail Norris. Mr. Goddard and Mr. Stringham were excused from the January 29 meeting. Regent Hoggan chaired the meeting. All other Subcommittee members were present, with Regent Grant participating by conference telephone.

The State Board of Regents Loan Purchase Program

Pursuant to statutory authority, the Board of Regents operates its Loan Purchase Program (LPP) to assure liquidity in the local marketplace for guaranteed student loans under the Federal Family Education Loan Program (FFELP), to maintain a high degree of control over servicing of the student loans guaranteed by the Utah Higher Education Assistance Authority (UHEAA) Student Loan Guarantee Program (LGP), and to provide cost savings for the Program's borrowers. By maintaining its Loan Purchase Program the Board is able to ensure availability of the lowest feasible costs of educational loans for Utah students and families through its array of borrower benefits for reduced origination fees and lower in-repayment interest rates.

Through its programs administered by UHEAA, the Board is quite unusual in providing: (1) significant cost saving opportunities on PLUS Loans (for parents) and Consolidation Loans; (2) more generous qualifying criteria for the saving opportunities for all borrowers; and (3) a guarantee (backed up by designated reserve funds) that the benefits will be available for loans currently being originated, regardless of how much time elapses before the loans enter repayment and are sold to the Board. (Most lenders and secondary markets guarantee eligibility for their borrower benefits only for loans currently being purchased.)

Relationship of the Building Bonds to Student Loan Revenue Bonds

The Board issues Student Loan Revenue Bonds as needed, and uses the proceeds to finance purchase of FFELP student and parent loans and origination of FFELP Consolidation Loans. The Board has established two different current bond series for the Student Loan Revenue Bonds, one based on a 1988 General Indenture and one based on a 1993 General Indenture. The current Resolution will authorize a completely separate bond issue with a separate Indenture, which will not in any way overlap with, pledge, or encumber any of the funds or revenue sources for the Student Loan Revenue Bonds under the 1988 and 1993 Indentures.

The bonds issued for the Office Facility Project are not subject to the tax-exempt cap authority limitations applicable to student loan revenue bonds (and to housing authority and private purpose economic development bonds), and will not diminish the cap authority available for the student loan revenue bonds.

Underwriting and Legal Team

The underwriting team consists of Wells Fargo Brokerage Services, LLC, as senior manager, Zions First National Bank as co-manager, and UBS PaineWebber Inc. (LPP's senior managing underwriter for Student Loan Revenue Bonds) as financial advisor. Bond Counsel is Ballard Spahr Andrews and Ingersoll, LLP, and Underwriter's Counsel is Chapman and Cutler. Trustee for the Bonds will be Wells Fargo Bank Northwest, NA.

The Project

The Project, which is the culmination of a lengthy request for proposals (RFP) selection process conducted for the Board by the Division of Facilities Construction and Management (DFCM), is for acquisition of floors three, four, and five (approximating 52,500 square feet of office and support space) in the newly-constructed Two Gateway Office Building. The Project will provide permanent space for the Office of the Commissioner of Higher Education (OCHE) and the Utah Higher Education Assistance Authority (UHEAA).¹ The Board of Regents voted on October 19, 2001, to authorize the execution of a purchase agreement for the Project. With The Board's approval, the real estate contract to purchase the Project was executed on December 20, 2001. The purchase price of the Project, including tenant improvements, is \$8,000,000. Legislation authorizing issuance of bonds for the Project² provides that "the bonds or other indebtedness authorized by this section may provide up to \$8,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements."

¹In addition, UHEAA will need to lease space on a major portion of the second floor of the building, primarily in connection with planned initiation of in-house servicing of in-repayment student loans.

²C. 1953, 63B-9-101, enacted by L. 2000, ch. 327, § 5.

Proposed Structure of the Bond Issue

The proposed structure recommended by the underwriting team and the Student Finance Subcommittee is as follows:

Proposed Sale Date: February 21, 2002
Proposed Closing Date: March 6, 2002

| <u>Expected Rating</u> | <u>Proposed Amount</u> | <u>Type</u> | <u>Maturity</u> |
|------------------------|------------------------|------------------------|-----------------|
| AAA ³ | \$ 8,170,000 | Fixed Rate, Tax Exempt | 2/01/23 |

The Authorizing Resolution provides for a total new issue amount *not to exceed* \$ 8,300,000, to allow flexibility in final marketing and sale of the bonds.

Proposed Not to Exceed Parameters

Proposed not-to-exceed parameters are as follows:

| | <u>Not-to-Exceed Parameter</u> | <u>Resolution Reference</u> |
|---|--|-----------------------------|
| ◆ | Total Principal Amount \$ 8,300,000 | Exhibit B |
| ◆ | Maximum Interest Rate 6.00% | Exhibit B |
| ◆ | Maximum Maturity Date 2/01/2023 | Exhibit B |
| ◆ | Bonds to be subject to Optional Redemption from and after February 1, 2012 at a redemption price of not to exceed 100% | Exhibit B |
| ◆ | Underwriter's Discount 0.55% | Section 6 |

³With Bond Insurance.

Basic Documents Requiring Approval

The Approving Resolution is attached in final draft form. Its approval by the Board will authorize the execution of an Indenture of Trust, a Bond Purchase Agreement, and an Official Statement.

The Indenture of Trust is a contract between the Board and Wells Fargo Bank Northwest, as trustee, for the Bank to serve as custodian of funds and as authorized representative of bondholders in order to ensure compliance by the Board with provisions of the Indenture.

The Official Statement is a disclosure document which describes in detail the security and financial information about the bond issue. The Official Statement is used by the Underwriters to market the bonds to potential investors.

The Bond Purchase Agreement is a contract between the Underwriters (Wells Fargo Brokerage Services, LLC and Zions First National Bank) and the Board, which sets forth the terms under which the Underwriters will purchase the bonds. This agreement will contain the selling price of the bonds, any premium or discount, the interest rates the bonds will bear, the conditions which must be met in order to close the sale of the bonds, and a description of any restrictions on the responsibilities of the Board or the Underwriters.

The Approving Resolution delegates authority to the Board Chair, Vice Chair and/or Chair of Finance and Facilities to approve final versions of the documents described above, consistent with parameters contained in the Approving Resolution, and, along with designated Officers of the Board, to execute other necessary implementing agreements. (See Resolution sections 7 through 11.)

Copies of the draft bond documents described above are being mailed under separate cover to members of the Finance and Facilities Committee. Copies are available upon request for other members of the Board, from Richard Davis at (801) 321-7285. Assistant Commissioner Richard Davis (UHEAA Chief Financial Officer) and representatives of the Attorney General's Office and Bond Counsel will be at the Board of Regents meeting by Conference Call on February 5 to answer questions.

Policy Implications

Timely sale of the Board's Revenue Bonds, Series 2000 (Office Facility Project) will provide stable occupancy for the offices of the Board, the Office of the Commissioner of Higher Education, and UHEAA with long-term cost savings from escalating leasing costs. Amortization of the bond principle and interest will be covered by amounts previously budgeted to pay rental costs on a lesser amount of space.

Options Considered

Alternative lease and acquisition opportunities were thoroughly reviewed and evaluated during the facility RFP process, and the Two Gateway Office Building space acquisition was determined to provide the best value consistent with the Board's location and functionality objectives. Variable rate financing was considered, but under current market conditions a fixed rate facility was determined most likely to be advantageous longer term.

Recommendation

It is the recommendation of the Commissioner that the Board of Regents approve the attached Approving Resolution for the Board's Revenue Bonds, Series 2002 (Office Facility Project).

Cecelia H. Foxley, Commissioner

Attachment
CHF/CGN/ROD

MEMORANDUM

January 4, 2001

TO: State Board of Regents

FROM: Cecelia H. Foxley

SUBJECT: Draft Proposed Replacement Policy R801, *Equal Opportunity and Nondiscrimination*

Issue

To update Board policy regarding equal opportunity and nondiscrimination and to clarify its application to both employees and students.

Background

As originally developed and amended in 1977, R801, *Equal Opportunity and Nondiscrimination*, was a combination of statements responding to specific requirements of several state and federal statutes dealing at that time with the issues of equal opportunity and nondiscrimination.

Recommendation

It is the recommendation of the Commissioner that the Board consider the draft proposed replacement policy R801, *Equal Opportunity and Nondiscrimination*, and suggest modifications or additional research and review as necessary. The revised policy will be considered for action at the March meeting of the Board.

Cecelia H. Foxley, Commissioner

CHF/HRE
Attachment

Draft Proposed Replacement ***R801, Equal Opportunity and Nondiscrimination***

R801-1. Purpose

To provide, in the Utah System of Higher Education, for equal opportunity and nondiscrimination in employment and in educational programs and activities on the basis of race, color, religion, national or ethnic origin, gender, childbirth, pregnancy, pregnancy-related conditions, age, disability, veteran status, or otherwise as provided by law.

R801-2. References

- 2.1. Utah Code [§34A-5-106](#) (Discriminatory or Unfair Employment Practices - Permitted Practices)
- 2.2. Titles VI of the Civil Rights Act of 1964, as amended
- 2.3. Section 504 of the Rehabilitation Act of 1973
- 2.4. The Older Americans Act of 1975
- 2.5. The Vietnam Era Veterans Readjustment Assistance Act of 1974
- 2.6. Title IX of the Education Amendments of 1972
- 2.7. The Americans with Disabilities Act of 1990
- 2.8. Policy and Procedures [R831](#) , Guidelines for Non-Faculty Staff Employment Grievances Policy

R801-3. Policy

3.1. Commitment to Equal Opportunity and Nondiscrimination - The State Board of Regents is fully committed to the most fundamental principles of academic freedom, equality of opportunity, and human dignity and policies of equal opportunity and nondiscrimination. Decisions involving students and employees must be based on individual merit and be free from discrimination in all its forms. Accordingly, the Board directs the institutions of the System of Higher Education and the Office of the Commissioner not to engage in discrimination, harassment or prejudicial treatment against any person in the administration of its employment and educational programs, services and activities, on the basis of race, color, religion, national or ethnic origin, gender, childbirth, pregnancy, pregnancy-related conditions, age, disability, veteran status, or otherwise as provided by law.

3.2. Complaint Procedures - The Board directs the institutions and the Office of the Commissioner to provide grievance procedures for prompt and equitable resolution of employee and student complaints of discrimination, harassment or prejudicial treatment in violation of this policy.

(Adopted May 24, 1977, amended July 27, 1977. Draft proposed replacement policy February 4, 2002.)