

SCHOOL BUILDINGS - STUDENT CAPACITY

LIMITS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: David N. Cox

AN ACT RELATING TO PUBLIC SCHOOLS; PROVIDING FOR A CAPITAL FACILITIES PROGRAM THAT WOULD REQUIRE NEW PUBLIC SCHOOLS TO BE BUILT TO ACCOMMODATE NO MORE THAN 600 STUDENTS AT THE ELEMENTARY AND MIDDLE SCHOOL LEVEL, NO MORE THAN 800 STUDENTS AT THE JUNIOR HIGH LEVEL, AND NO MORE THAN 1,000 STUDENTS AT THE HIGH SCHOOL LEVEL; PROVIDING FOR EXCEPTIONS; PROVIDING FOR THE ISSUANCE OF \$200,000,000 IN GENERAL OBLIGATION BONDS TO HELP FUND THE PROGRAM; PROVIDING STUDENT CAPACITY REQUIREMENTS FOR EXISTING BUILDINGS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

53A-20-103.5, Utah Code Annotated 1953

63B-9-101, Utah Code Annotated 1953

63B-9-102, Utah Code Annotated 1953

63B-9-103, Utah Code Annotated 1953

63B-9-104, Utah Code Annotated 1953

63B-9-105, Utah Code Annotated 1953

63B-9-106, Utah Code Annotated 1953

63B-9-107, Utah Code Annotated 1953

63B-9-108, Utah Code Annotated 1953

63B-9-109, Utah Code Annotated 1953

63B-9-110, Utah Code Annotated 1953

- 28 **63B-9-111**, Utah Code Annotated 1953
- 29 **63B-9-112**, Utah Code Annotated 1953
- 30 **63B-9-113**, Utah Code Annotated 1953
- 31 **63B-9-114**, Utah Code Annotated 1953
- 32 **63B-9-115**, Utah Code Annotated 1953
- 33 **63B-9-116**, Utah Code Annotated 1953
- 34 **63B-9-117**, Utah Code Annotated 1953

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

36 Section 1. Section **53A-20-103.5** is enacted to read:

37 **53A-20-103.5. School building capacity -- Exceptions.**

38 (1) Beginning July 1, 2000, local school boards shall provide for the construction of school
39 buildings to accommodate the following number of students:

40 (a) no more than 600 students for elementary and middle schools, as defined by State
41 Board of Education rule;

42 (b) no more than 800 students for junior high schools; and

43 (c) no more than 1,000 students for high schools.

44 (2) The State Bonding Commission shall issue general obligation bonds under Title 63B,
45 Chapter 9, 2000 Public Education Capital Facilities General Obligation Bonds, to assist local
46 school boards in meeting the requirements of Subsection (1).

47 (3) The State Board of Education shall make rules:

48 (a) for the distribution of monies received from the issuance of bonds under Title 63B,
49 Chapter 9 to local school boards, giving consideration to both needs and equity in relation to the
50 total amount of money received by the state board for distribution to the local boards and based
51 on:

52 (i) \$5,000,000 for the construction of a new elementary or middle school;

53 (ii) \$12,000,000 for the construction of a new junior high school; and

54 (iii) \$20,000,000 for the construction of a new high school;

55 (b) that would allow a school district to exceed the standards established under Subsection
56 (1) for new schools in the event that resources are not available to meet those standards; and

57 (c) for the reduction of the number of students in existing school buildings to meet the
58 standards established in Subsection (1) or to 3/4 of the original building capacity, whichever is

59 greater, by no later than the 2005 school year, unless the district is faced with such tremendous
60 student enrollment growth that existing resources would not be sufficient to meet the standards.

61 (4) The monies received under this section are in addition to other revenue sources
62 authorized by statute for the construction of capital facilities and are made available to promote
63 the construction of more effective and efficient facilities.

64 Section 2. Section **63B-9-101** is enacted to read:

65 **CHAPTER 9. 2000 PUBLIC EDUCATION CAPITAL FACILITIES GENERAL**
66 **OBLIGATION BONDS**

67 **63B-9-101. State Bonding Commission authorized to issue general obligation bonds.**

68 The commission created under Section 63B-1-201 may issue and sell general obligation
69 bonds of the state pledging the full faith, credit, and resources of the state for the payment of the
70 principal of and interest on the bonds to provide funds to the State Board of Education.

71 Section 3. Section **63B-9-102** is enacted to read:

72 **63B-9-102. Maximum amounts -- Projects authorized.**

73 (1) The total amount of bonds issued under this chapter may not exceed \$200,000,000.

74 (2) (a) Proceeds from the issuance of bonds shall be provided to the State Board of
75 Education to provide funds to school districts to help pay the costs of capital facilities construction
76 projects referred to in Section 53A-20-103.5.

77 (b) These costs may include the cost of acquiring land on which to build new schools,
78 interest estimated to accrue on the bonds during the period to be covered by the construction of the
79 projects plus a period of six months thereafter, and all related engineering, architectural, and legal
80 fees.

81 (3) The commission may, by resolution, make any statement of intent relating to a
82 reimbursement that is necessary or desirable to comply with federal tax law.

83 (4) The State Board of Education and local school boards may enter into agreements
84 relative to the projects referred to in Subsection (2)(a) prior to the receipt of proceeds of bonds
85 issued under this chapter.

86 Section 4. Section **63B-9-103** is enacted to read:

87 **63B-9-103. Bond proceeds may be used to pay costs of issuance and sale.**

88 The proceeds of the bonds issued under this chapter shall be used for the purposes
89 described in Section 63B-9-102 and to pay all or part of any cost incident to the issuance and sale

90 of the bonds, including, without limitation, printing, registration, and transfer costs, legal fees,
91 financial advisors' fees, and underwriters' discount.

92 Section 5. Section **63B-9-104** is enacted to read:

93 **63B-9-104. Manner of issuance -- Amounts, interest, and maturity.**

94 (1) Bonds issued under this chapter may be authorized, sold, and issued at times and in a
95 manner determined by the commission by resolution.

96 (2) Bonds may be issued in one or more series, in amounts, and shall bear dates, interest
97 rates, including a variable rate, and maturity dates as the commission determines by resolution.

98 (3) A bond issued may not mature later than 20 years after the date of final passage of this
99 chapter.

100 Section 6. Section **63B-9-105** is enacted to read:

101 **63B-9-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
102 **Replacement -- Registration -- Federal rebate.**

103 (1) In the issuance of bonds, the commission may determine by resolution:

104 (a) the manner of sale, including public or private sale;

105 (b) the terms and conditions of sale, including price, whether at, below, or above face
106 value;

107 (c) denominations;

108 (d) form;

109 (e) manner of execution;

110 (f) manner of authentication;

111 (g) place and medium of purchase;

112 (h) redemption terms; and

113 (i) other provisions and details it considers appropriate.

114 (2) The commission may by resolution adopt a plan of financing which may include terms
115 and conditions of arrangements entered into by the commission on behalf of the state with financial
116 and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and
117 remarketing, indexing, and tender agent agreements to secure the bonds, including payment from
118 any legally available source of fees, charges, or other amounts coming due under the agreements
119 entered into by the commission.

120 (3) (a) Any signature of a public official authorized by resolution of the commission to

121 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
122 otherwise placed on the bonds.

123 (b) If all signatures of public officials on the bonds are facsimile signatures, provision shall
124 be made for a manual authenticating signature on the bonds by or on behalf of a designated
125 authentication agent.

126 (c) If an official ceases to hold office before delivery of the bonds signed by that official,
127 the signature or facsimile signature of the official is nevertheless valid for all purposes.

128 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise placed
129 on the bonds.

130 (4) (a) The commission may enact resolutions providing for the replacement of lost,
131 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller or
132 larger denominations.

133 (b) Bonds in changed denominations shall:

134 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
135 manner that prevents the duplication of interest; and

136 (ii) bear interest at the same rate, mature on the same date, and be as nearly as practicable
137 in the form of the original bonds.

138 (5) (a) Bonds may be registered as to both principal and interest or may be in a book entry
139 form under which the right to principal and interest may be transferred only through a book entry.

140 (b) The commission may provide for the services and payment for the services of one or
141 more financial institutions or other entities or persons, or nominees, within or outside the state, for
142 the authentication, registration, transfer, including record, bookkeeping, or book entry functions,
143 exchange, and payment of the bonds.

144 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
145 persons to whom payment with respect to the obligations is made, are private records as provided
146 in Section 63-2-302 or protected records as provided in Section 63-2-304.

147 (d) The bonds and any evidences of participation interest in the bonds may be issued,
148 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
149 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature relating
150 to the registration of obligations enacted to meet the requirements of Section 149 of the Internal
151 Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.

152 (6) The commission may:
153 (a) by resolution, provide for payment to the United States of such amounts as may be
154 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended; and
155 (b) enter into agreements with financial and other institutions and attorneys to provide for:
156 (i) the calculation, holding, and payment of those amounts; and
157 (ii) payment from any legally available source of fees, charges, or other amounts coming
158 due under any agreements entered into by the commission.

159 Section 7. Section **63B-9-106** is enacted to read:

160 **63B-9-106. Constitutional debt limitation.**

161 (1) The commission may not issue bonds under this chapter in an amount that violates the
162 limitation described in Utah Constitution Article XIV, Sec. 1.

163 (2) For purposes of applying the debt limitation contained in Utah Constitution Article
164 XIV, Sec. 1, the value of taxable property in Utah is considered to be 100% of the fair market
165 value of the taxable property of the state, as computed from the last assessment for state purposes
166 previous to the issuance of the bonds.

167 Section 8. Section **63B-9-107** is enacted to read:

168 **63B-9-107. Tax levy -- Abatement of tax.**

169 (1) Each year after issuance of the bonds and until all outstanding bonds are retired, there
170 is levied a direct annual tax on all real and personal property within the state subject to state
171 taxation, sufficient to pay:

172 (a) applicable bond redemption premiums, if any;
173 (b) interest on the bonds as it becomes due; and
174 (c) principal of the bonds as it becomes due.

175 (2) (a) The State Tax Commission shall fix the rate of the direct annual tax levy each year.

176 (b) The tax shall be collected and the proceeds applied as provided in this chapter.

177 (3) The direct annual tax imposed under this section is abated to the extent money is
178 available from sources, other than ad valorem taxes in the sinking fund, for the payment of bond
179 interest, principal, and redemption premiums.

180 Section 9. Section **63B-9-108** is enacted to read:

181 **63B-9-108. Creation of sinking fund.**

182 (1) There is created a sinking fund to be administered by the state treasurer entitled the

183 "2000 Public Education Capital Facilities General Obligation Bonds Sinking Fund."

184 (2) All monies deposited in the sinking fund, from whatever source, shall be used to pay
185 debt service on the bonds.

186 (3) The proceeds of all taxes levied under this chapter are appropriated to this fund.

187 (4) The state treasurer may create separate accounts within the sinking fund for each series
188 of bonds issued.

189 Section 10. Section **63B-9-109** is enacted to read:

190 **63B-9-109. Payment of interest, principal, and redemption premiums.**

191 (1) The Division of Finance shall draw warrants on the state treasury before any interest,
192 principal, or redemption premiums become due on the bonds.

193 (2) After receipt of the warrants, the state treasurer shall:

194 (a) promptly pay from funds within the sinking fund; and

195 (b) immediately transmit the amount paid to the paying agent for the bonds.

196 Section 11. Section **63B-9-110** is enacted to read:

197 **63B-9-110. Investment of sinking fund money.**

198 (1) The state treasurer may invest any money in the sinking fund in accordance with Title
199 51, Chapter 7, State Money Management Act, until it is needed for the purposes for which the fund
200 is created.

201 (2) Unless otherwise provided in the resolution of the commission authorizing the issuance
202 of bonds under this chapter, the treasurer shall retain all income from the investment of any money
203 contained in the sinking fund and use it for the payment of debt service on the bonds.

204 Section 12. Section **63B-9-111** is enacted to read:

205 **63B-9-111. Bond proceeds -- Deposits -- Investment -- Disposition of investment**
206 **income and unexpended proceeds.**

207 (1) (a) Proceeds from the sale of bonds issued under this chapter shall be deposited within
208 one or more accounts as determined by resolution of the commission.

209 (b) The state treasurer shall administer and maintain these accounts unless otherwise
210 provided by the commission by resolution.

211 (c) The commission by resolution may provide for the deposit of these monies with a
212 trustee and the administration, disposition, or investment of these monies by this trustee.

213 (2) (a) The commission by resolution shall provide for the kinds of investments in which

214 the proceeds of bonds issued under this chapter may be invested.

215 (b) Income from the investment of proceeds of bonds issued under this chapter shall be
216 applied as provided by resolution of the commission.

217 (3) Any unexpended bond proceeds issued under this chapter shall be deposited, upon
218 completion of the purposes for which the bonds were issued, in the sinking fund, unless otherwise
219 provided in the resolution of the commission authorizing the issuance of bonds under this chapter.

220 Section 13. Section **63B-9-112** is enacted to read:

221 **63B-9-112. Refunding of bonds.**

222 (1) The commission may provide for the refunding of any of the bonds in accordance with
223 Title 11, Chapter 27, Utah Refunding Bond Act.

224 (2) For purposes of Title 11, Chapter 27, Utah Refunding Bond Act, the state is considered
225 the public body and the commission its governing body.

226 Section 14. Section **63B-9-113** is enacted to read:

227 **63B-9-113. Certification of satisfaction of conditions precedent -- Conclusiveness.**

228 (1) The commission may not issue any bond under this chapter until it finds and certifies
229 that all conditions precedent to issuance of the bonds have been satisfied.

230 (2) A recital on any bond of such a finding and certification conclusively establishes the
231 completion and satisfaction of all such conditions.

232 Section 15. Section **63B-9-114** is enacted to read:

233 **63B-9-114. Tax exemption.**

234 The bonds issued under this chapter, any interest paid on the bonds, and any income from
235 the bonds are not taxable in this state for any purpose, except for the corporate franchise tax.

236 Section 16. Section **63B-9-115** is enacted to read:

237 **63B-9-115. Legal investment status.**

238 Bonds issued under this chapter are legal investments for all state trust funds, insurance
239 companies, banks, trust companies, and the State School Fund and may be used as collateral to
240 secure legal obligations.

241 Section 17. Section **63B-9-116** is enacted to read:

242 **63B-9-116. Publication of resolution or notice -- Limitation on actions to contest**
243 **legality.**

244 (1) The commission may:

245 (a) publish any resolution it adopts under this chapter once in a newspaper having general
246 circulation in Utah; or

247 (b) instead of publishing the entire resolution, publish a notice of bonds to be issued, titled
248 as such, containing the information called for in Subsection 11-14-21(3).

249 (2) (a) Any interested person, for a 30-day period after the date of publication, may contest:

250 (i) the legality of the resolution;

251 (ii) any of the bonds authorized under it; or

252 (iii) any of the provisions made for the security and repayment of the bonds.

253 (b) After 30 days a person may not contest the legality of the resolution, any of the bonds
254 authorized under it, or any of the provisions made for the security and repayment of the bonds for
255 any cause.

256 Section 18. Section **63B-9-117** is enacted to read:

257 **63B-9-117. Report to Legislature.**

258 The governor shall report the commission's proceedings to each annual general session of
259 the Legislature in his budget for as long as bonds issued under this chapter remain outstanding.

260 Section 19. **Effective date.**

261 This act takes effect on July 1, 2000.

Legislative Review Note
as of 1-7-00 11:03 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel