

**Senator David H. Steele** proposes to substitute the following bill:

**HIGHWAY BONDING**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: David H. Steele**

AN ACT RELATING TO BONDS; AUTHORIZING THE ISSUANCE AND SALE OF  
GENERAL OBLIGATION BONDS FOR CERTAIN HIGHWAYS AND RELATED  
FACILITIES; SPECIFYING THE USE OF BOND AND NOTE PROCEEDS AND THE  
MANNER OF ISSUANCE; IMPOSING AND ABATING A PROPERTY TAX; CREATING  
SINKING FUNDS; MODIFYING DEBT LIMIT REQUIREMENTS; AUTHORIZING CERTAIN  
OTHER HIGHWAY EXPENDITURES; PROVIDING FOR RELATED MATTERS;  
REQUIRING THE DEPARTMENT OF TRANSPORTATION TO ENTER AN AGREEMENT;  
AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

**63-38c-402**, as last amended by Chapter 331, Laws of Utah 1999

ENACTS:

**63B-9-201**, Utah Code Annotated 1953

**63B-9-202**, Utah Code Annotated 1953

**63B-9-203**, Utah Code Annotated 1953

**63B-9-204**, Utah Code Annotated 1953

**63B-9-205**, Utah Code Annotated 1953

**63B-9-206**, Utah Code Annotated 1953

**63B-9-207**, Utah Code Annotated 1953

**63B-9-208**, Utah Code Annotated 1953

**63B-9-209**, Utah Code Annotated 1953

- 26           **63B-9-210**, Utah Code Annotated 1953
- 27           **63B-9-211**, Utah Code Annotated 1953
- 28           **63B-9-212**, Utah Code Annotated 1953
- 29           **63B-9-213**, Utah Code Annotated 1953
- 30           **63B-9-214**, Utah Code Annotated 1953
- 31           **63B-9-215**, Utah Code Annotated 1953
- 32           **63B-9-216**, Utah Code Annotated 1953
- 33           **63B-9-217**, Utah Code Annotated 1953

34 This act enacts uncodified material.

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

36           Section 1. Section **63-38c-402** is amended to read:

37           **63-38c-402. Debt limitation -- Vote requirement needed to exceed limitation --**

38 **Exceptions.**

39           (1) (a) Except as provided in Subsection (1)(b), the outstanding general obligation debt  
40 of the state may not exceed 20% of the maximum allowable appropriations limit unless approved  
41 by more than a two-thirds vote of both houses of the Legislature.

42           (b) Notwithstanding the limitation contained in Subsection (1)(a), debt issued under the  
43 authority of Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond Authorization,  
44 Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization, Title 63B,  
45 Chapter 7, Part 2, 1998 Highway General Obligation Bond Authorization, Title 63B, Chapter 7,  
46 Part 3, 1998 Highway Bond Anticipation Note Authorization, Title 63B, Chapter 8, Part 2, 1999  
47 Highway General Obligation Bond Authorization, [and] Title 63B, Chapter 8, Part 3, 1999  
48 Highway Bond Anticipation Note Authorization, Title 63B, Chapter 9, Part 2, 2000 Highway  
49 General Obligation Bond, is not subject to the debt limitation established by this section.

50           (2) This section does not apply if contractual rights will be impaired.

51           Section 2. Section **63B-9-201** is enacted to read:

52                                   **Part 2. 2000 Highway General Obligation Bond**

53           **63B-9-201. State Bonding Commission authorized to issue general obligation bonds.**

54           The commission created under Section 63B-1-201 may issue and sell general obligation  
55 bonds of the state pledging the full faith, credit, and resources of the state for the payment of the  
56 principal of and interest on the bonds, to provide funds to the Department of Transportation.

57 Section 3. Section **63B-9-202** is enacted to read:

58 **63B-9-202. Maximum amount -- Projects authorized.**

59 (1) In addition to any other bonds issued under this part, upon a written request from the  
60 Department of Transportation the State Bonding Commission may issue bonds that may not exceed  
61 \$6,000,000.

62 (2) (a) (i) Proceeds from the issuance of bonds shall be provided to the Department of  
63 Transportation to provide funds to pay all or part of the costs of state highway construction or  
64 reconstruction of the interchange on Interstate 80 at 5600 West and approximately one mile of  
65 5600 West both north and south of Interstate 80 in Salt Lake County.

66 (ii) The interchange and highway construction or reconstruction shall conform to the  
67 proposed design standards and configurations for the future 5600 West Legacy Highway profile.

68 (b) These costs may include the cost of acquiring land, interests in land, easements and  
69 rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient  
70 to the facilities, interest estimated to accrue on these bonds during the period to be covered by  
71 construction of the projects plus a period of six months after the end of the construction period,  
72 and all related engineering, architectural, and legal fees.

73 (3) If, after completion of the projects authorized under Subsection (2)(a) and payment of  
74 the costs of issuing and selling the bonds under Section 63B-9-203, any bond proceeds remain  
75 unexpended, the Department of Transportation may use those unexpended proceeds to pay all or  
76 part of the costs of construction projects approved and prioritized by the Transportation  
77 Commission.

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

80 (5) The Department of Transportation may enter into agreements related to that project  
81 before the receipt of proceeds of bonds issued under this chapter.

82 Section 4. Section **63B-9-203** is enacted to read:

83 **63B-9-203. Bond proceeds may be used to pay costs of issuance and sale.**

84 The proceeds of bonds issued under this chapter shall be used for the purposes described  
85 in Section 63B-9-202 and to pay all or part of any cost incident to the issuance and sale of the  
86 bonds including, without limitation, printing, registration and transfer costs, legal fees, trustees'  
87 fees, financial advisors' fees, liquidity providers' fees, credit enhancement providers' fees, and

88 underwriters' discount.

89 Section 5. Section **63B-9-204** is enacted to read:

90 **63B-9-204. Manner of issuance -- Amounts, interest, and maturity.**

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

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

95 (3) A bond issued may not mature later than 15 years after the dated date of the bonds.

96 Section 6. Section **63B-9-205** is enacted to read:

97 **63B-9-205. Terms and conditions of sale -- Plan of financing -- Signatures --**  
98 **Replacement -- Registration -- Federal rebate.**

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

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

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

103 (c) denominations;

104 (d) form;

105 (e) manner of execution;

106 (f) manner of authentication;

107 (g) place and medium of purchase;

108 (h) redemption terms; and

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

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

116 (3) (a) Any signature of a public official authorized by resolution of the commission to  
117 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or  
118 otherwise placed on the bonds.

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

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

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

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

129 (b) Bonds in changed denominations shall:

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

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

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

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

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

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

148 (6) The commission may:

149 (a) by resolution, provide for payment to the United States of whatever amounts are

150 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended; and  
151 (b) enter into agreements with financial and other institutions and attorneys to provide for:  
152 (i) the calculation, holding, and payment of those amounts; and  
153 (ii) payment from any legally available source of fees, charges, or other amounts coming  
154 due under any agreements entered into by the commission.

155 Section 7. Section **63B-9-206** is enacted to read:

156 **63B-9-206. Constitutional debt limitation.**

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

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

163 Section 8. Section **63B-9-207** is enacted to read:

164 **63B-9-207. Tax levy -- Abatement of tax.**

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

168 (a) applicable bond redemption premiums, if any;

169 (b) interest on the bonds as it becomes due; and

170 (c) principal of the bonds as it becomes due.

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

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

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

176 Section 9. Section **63B-9-208** is enacted to read:

177 **63B-9-208. Creation of sinking fund.**

178 (1) There is created a sinking fund, to be administered by the state treasurer, entitled the  
179 "2000 Highway General Obligation Bonds Sinking Fund."

180 (2) All monies deposited in the sinking fund, from whatever source, shall be used to pay

181 debt service on the bonds.

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

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

185 Section 10. Section **63B-9-209** is enacted to read:

186 **63B-9-209. Payment of interest, principal, and redemption premiums.**

187 The state treasurer shall:

188 (1) promptly pay any principal and interest due on the bonds from funds within the sinking  
189 fund; and

190 (2) immediately transmit the amount paid to the paying agent for the bonds.

191 Section 11. Section **63B-9-210** is enacted to read:

192 **63B-9-210. Investment of sinking fund money.**

193 (1) The state treasurer may, by following the procedures and requirements of Title 51,  
194 Chapter 7, State Money Management Act, invest any money contained in the sinking fund until  
195 it is needed for the purposes for which the fund is created.

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

200 Section 12. Section **63B-9-211** is enacted to read:

201 **63B-9-211. Bond proceeds -- Deposits -- Investment -- Disposition of investment**  
202 **income and unexpended proceeds.**

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

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

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

209 (2) (a) The commission, by resolution, shall provide for the kinds of investments in which  
210 the proceeds of bonds issued under this chapter may be invested.

211 (b) Income from the investment of proceeds of bonds issued under this chapter shall be

212 applied as provided by resolution of the commission.

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

216 Section 13. Section **63B-9-212** is enacted to read:

217 **63B-9-212. Refunding of bonds.**

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

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

222 Section 14. Section **63B-9-213** is enacted to read:

223 **63B-9-213. Certification of satisfaction of conditions precedent -- Conclusiveness.**

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

226 (2) A recital on any bond of this finding and certification conclusively establishes the  
227 completion and satisfaction of all such conditions.

228 Section 15. Section **63B-9-214** is enacted to read:

229 **63B-9-214. Tax exemption.**

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

232 Section 16. Section **63B-9-215** is enacted to read:

233 **63B-9-215. Legal investment status.**

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

237 Section 17. Section **63B-9-216** is enacted to read:

238 **63B-9-216. Publication of resolution or notice -- Limitation on actions to contest**  
239 **legality.**

240 (1) The commission may:

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

243 (b) in lieu of publishing the entire resolution, publish a notice of bonds to be issued, titled  
244 as such, containing the information required by Subsection 11-14-21(3).

245 (2) (a) Any interested person, for 30 days after the date of publication, may contest:

246 (i) the legality of the resolution;

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

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

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

252 Section 18. Section **63B-9-217** is enacted to read:

253 **63B-9-217. Report to Legislature.**

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

256 Section 19. **Department of Transportation agreement required.**

257 (1) As used in this section:

258 (a) "Department" means the Department of Transportation.

259 (b) "Developer" means a developer of a large sales tax generating development that  
260 requires highway improvement projects because of significant impacts on highway infrastructure.

261 (2) Before the department may request the issuance of bonds under Section 63B-9-202,  
262 the department shall enter into an agreement with a developer that specifies the liability of the  
263 developer for:

264 (a) project costs, including costs that exceed the amount of the bond issuance;

265 (b) new sales tax revenues from construction of the developer's development and new  
266 revenues from the completed development that are less than \$6,000,000 within an agreed upon  
267 time as certified by the Tax Commission; and

268 (c) failure of the developer to complete the agreed upon capital construction for the  
269 development.

270 (3) Notwithstanding the requirements of Subsection (2), the agreement may not contain  
271 any terms that prevent the bonds under Section 63B-9-202 from being issued on a federally  
272 tax-exempt basis.