

1                                   **2001 SPECIAL HIGHWAY GENERAL**

2   **OBLIGATION BONDS**

3   2001 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: L. Steven Poulton**

6   **This act authorizes issuance of state of Utah general obligation bonds and bond anticipation**  
7   **notes by the State Bonding Commission to accelerate funding and construction of certain**  
8   **highways and related facilities in Salt Lake County. This act defines the process and**  
9   **requirements for issuing the bonds and notes and specifies the use of the proceeds. This act**  
10 **imposes a statewide property tax and abates it. This act creates a sinking fund to pay debt**  
11 **service on the bonds. This act provides for related matters and makes technical corrections.**

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

13 AMENDS:

14                   **63-38c-402**, as last amended by Chapter 354, Laws of Utah 2000

15 ENACTS:

16                   **63B-10-301**, Utah Code Annotated 1953

17                   **63B-10-302**, Utah Code Annotated 1953

18                   **63B-10-303**, Utah Code Annotated 1953

19                   **63B-10-304**, Utah Code Annotated 1953

20                   **63B-10-305**, Utah Code Annotated 1953

21                   **63B-10-306**, Utah Code Annotated 1953

22                   **63B-10-307**, Utah Code Annotated 1953

23                   **63B-10-308**, Utah Code Annotated 1953

24                   **63B-10-309**, Utah Code Annotated 1953

25                   **63B-10-310**, Utah Code Annotated 1953

26                   **63B-10-311**, Utah Code Annotated 1953

27                   **63B-10-312**, Utah Code Annotated 1953



- 28           **63B-10-313**, Utah Code Annotated 1953
- 29           **63B-10-314**, Utah Code Annotated 1953
- 30           **63B-10-315**, Utah Code Annotated 1953
- 31           **63B-10-316**, Utah Code Annotated 1953
- 32           **63B-10-317**, Utah Code Annotated 1953
- 33           **63B-10-401**, Utah Code Annotated 1953
- 34           **63B-10-402**, Utah Code Annotated 1953
- 35           **63B-10-403**, Utah Code Annotated 1953
- 36           **63B-10-404**, Utah Code Annotated 1953

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

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

39           **63-38c-402. Debt limitation -- Vote requirement needed to exceed limitation --**

40 **Exceptions.**

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

44           (b) Notwithstanding the limitation contained in Subsection (1)(a), debt issued under the  
45 authority of the following parts is not subject to the debt limitation established by this section:

46           (i) Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond Authorization[;];

47           (ii) Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization[;];

48           (iii) Title 63B, Chapter 7, Part 2, 1998 Highway General Obligation Bond

49 Authorization[;];

50           (iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note Authorization[;];

51           (v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond Authorization[;];

52           (vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note Authorization[;];

53           (vii) Title 63B, Chapter 9, Part 2, 2000 Highway General Obligation Bond[~~is not subject~~  
54 to the debt limitation established by this section.];

55           (viii) Title 63B, Chapter 10, Part 3, 2001 Highway General Obligation Bond for Salt Lake  
56 County; and

57           (ix) Title 63B, Chapter 10, Part 4, 2001 Highway Bond Anticipation Note for Salt Lake  
58 County Authorization.

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

60 Section 2. Section **63B-10-301** is enacted to read:

61 **Part 3. 2001 Highway General Obligation Bond for Salt Lake County**

62 **63B-10-301. State Bonding Commission authorized to issue general obligation bonds.**

63 Upon receipt of a formal opinion from the Utah Attorney General that Salt Lake County  
64 has entered a binding legal agreement with the state in which Salt Lake County agrees, for a  
65 minimum of ten years, to annually transfer the 1/4 of 1/4% of sales tax proceeds earmarked by  
66 Section 59-12-502 to the sinking fund created in Section 63B-10-308, the commission created  
67 under Section 63B-1-201 may issue and sell general obligation bonds of the state pledging the full  
68 faith, credit, and resources of the state for the payment of the principal of and interest on the bonds,  
69 to provide funds to the Department of Transportation.

70 Section 3. Section **63B-10-302** is enacted to read:

71 **63B-10-302. Maximum amount -- Projects authorized.**

72 (1) The total amount of bonds issued under this part may not exceed \$110,000,000.

73 (2) (a) Proceeds from the issuance of bonds shall be provided to the Department of  
74 Transportation to:

75 (i) pay the interest and issuance costs of the \$26,000,000 in bonds issued under Section  
76 63B-8-503; and

77 (ii) provide funds to pay all or part of the costs of accelerating the state highway  
78 construction or reconstruction projects in Salt Lake County listed on the Statewide Transportation  
79 Improvement Program.

80 (b) These costs may include the cost of acquiring land, interests in land, easements and  
81 rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient  
82 to the facilities, interest estimated to accrue on these bonds during the period to be covered by  
83 construction of the projects plus a period of six months after the end of the construction period,  
84 interest estimated to accrue on any bond anticipation notes issued under the authority of Chapter  
85 10, Part 4, 2001 Highway Bond Anticipation Note for Salt Lake County Authorization, and all  
86 related engineering, architectural, and legal fees.

87 (c) Any interest earned due to investment of bond proceeds shall be deposited into the  
88 General Fund.

89 (3) If, after completion of the projects authorized under Subsection (2)(a) and payment of

90 the costs of issuing and selling the bonds under Section 63B-10-303, any bond proceeds remain  
91 unexpended, the Department of Transportation may use those unexpended proceeds to pay all or  
92 part of the costs of construction projects approved and prioritized by the Transportation  
93 Commission.

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

96 (5) The Department of Transportation may enter into agreements related to the projects  
97 before the receipt of proceeds of bonds issued under this chapter.

98 Section 4. Section **63B-10-303** is enacted to read:

99 **63B-10-303. Bond proceeds may be used to pay costs of issuance and sale.**

100 The proceeds of bonds issued under this chapter shall be used for the purposes described  
101 in Section 63B-10-302 and to pay all or part of any cost incident to the issuance and sale of the  
102 bonds including, without limitation, printing, registration and transfer costs, legal fees, trustees'  
103 fees, financial advisors' fees, liquidity providers' fees, credit enhancement providers' fees, and  
104 underwriters' discount.

105 Section 5. Section **63B-10-304** is enacted to read:

106 **63B-10-304. Manner of issuance -- Amounts, interest, and maturity.**

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

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

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

112 Section 6. Section **63B-10-305** is enacted to read:

113 **63B-10-305. Terms and conditions of sale -- Plan of financing -- Signatures --**

114 **Replacement -- Registration -- Federal rebate.**

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

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

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

119 (c) denominations;

120 (d) form;

121 (e) manner of execution;

122 (f) manner of authentication;

123 (g) place and medium of purchase;

124 (h) redemption terms; and

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

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

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

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

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

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

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

145 (b) Bonds in changed denominations shall:

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

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

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

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

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

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

164 (6) The commission may:

165 (a) by resolution, provide for payment to the United States of whatever amounts are  
166 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended; and

167 (b) enter into agreements with financial and other institutions and attorneys to provide for:

168 (i) the calculation, holding, and payment of those amounts; and

169 (ii) payment from any legally available source of fees, charges, or other amounts coming  
170 due under any agreements entered into by the commission.

171 Section 7. Section **63B-10-306** is enacted to read:

172 **63B-10-306. Constitutional debt limitation.**

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

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

179 Section 8. Section **63B-10-307** is enacted to read:

180 **63B-10-307. Tax levy -- Abatement of tax.**

181 (1) Each year after issuance of the bonds and until all outstanding bonds are retired, there  
182 is levied a direct annual tax on all real and personal property within the state subject to state

183 taxation, sufficient to pay:

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

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

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

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

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

189 (3) The direct annual tax imposed under this section is abated to the extent money is

190 available from sources, other than ad valorem taxes in the sinking fund, for the payment of bond

191 interest, principal, and redemption premiums.

192 Section 9. Section **63B-10-308** is enacted to read:

193 **63B-10-308. Creation of sinking fund.**

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

195 "2001 Highway General Obligation Bonds for Salt Lake County Sinking Fund."

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

197 debt service on the bonds.

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

199 (4) The state treasurer may create separate accounts within the sinking fund for each series

200 of bonds issued.

201 Section 10. Section **63B-10-309** is enacted to read:

202 **63B-10-309. Payment of interest, principal, and redemption premiums.**

203 (1) The Division of Finance shall draw warrants on the state treasury before any interest,

204 principal, or redemption premiums become due on the bonds.

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

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

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

208 Section 11. Section **63B-10-310** is enacted to read:

209 **63B-10-310. Investment of sinking fund money.**

210 (1) The state treasurer may, by following the procedures and requirements of Title 51,

211 Chapter 7, State Money Management Act, invest any money contained in the sinking fund until

212 it is needed for the purposes for which the fund is created.

213 (2) Unless otherwise provided in the resolution of the commission authorizing the issuance

214 of bonds under this chapter, the treasurer shall retain all income from the investment of any money  
215 contained in the sinking fund in the sinking fund and use it for the payment of debt service on the  
216 bonds.

217 Section 12. Section **63B-10-311** is enacted to read:

218 **63B-10-311. Bond proceeds -- Deposits -- Investment -- Disposition of investment**  
219 **income and unexpended proceeds.**

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

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

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

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

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

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

233 Section 13. Section **63B-10-312** is enacted to read:

234 **63B-10-312. Refunding of bonds.**

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

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

239 Section 14. Section **63B-10-313** is enacted to read:

240 **63B-10-313. Certification of satisfaction of conditions precedent -- Conclusiveness.**

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

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

245 Section 15. Section **63B-10-314** is enacted to read:

246 **63B-10-314. Tax exemption.**

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

249 Section 16. Section **63B-10-315** is enacted to read:

250 **63B-10-315. Legal investment status.**

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

254 Section 17. Section **63B-10-316** is enacted to read:

255 **63B-10-316. Publication of resolution or notice -- Limitation on actions to contest**  
256 **legality.**

257 (1) The commission may:

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

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

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

263 (i) the legality of the resolution;

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

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

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

269 Section 18. Section **63B-10-317** is enacted to read:

270 **63B-10-317. Report to Legislature.**

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

273 Section 19. Section **63B-10-401** is enacted to read:

274 **Part 4. 2001 Highway Bond Anticipation Note for Salt Lake County Authorization**

275 **63B-10-401. Definitions.**

276 As used in this part:

277 (1) "Bond anticipation note" means a note issued in anticipation of the receipt of the  
278 proceeds of the sale of the bonds authorized under Part 3 of this chapter.

279 (2) "Flexible note" means a bond anticipation note whose interest is payable at, and on one  
280 or more dates before, maturity.

281 (3) (a) "Short-term series note" means a bond anticipation note that is one of a series of  
282 notes issued pursuant to a financing program under which it is expected that:

283 (i) each note will be paid from the proceeds of one or more renewal notes of that series;

284 and

285 (ii) the final note or notes of the series will be paid from:

286 (A) the proceeds of bonds in anticipation of the receipt of which the note or notes were  
287 issued; or

288 (B) monies of the state on hand and legally available for that purpose.

289 (b) "Short-term series note" includes any note issued pursuant to a revolving credit  
290 agreement or other similar liquidity facility for the purpose of renewing or paying outstanding  
291 short-term series notes on their stated maturity dates when those short-term series notes are not  
292 renewed or paid from the proceeds of one or more other renewal notes of the series.

293 Section 20. Section **63B-10-402** is enacted to read:

294 **63B-10-402. Authorization, terms, and procedures.**

295 (1) The state treasurer may, by written order, issue bond anticipation notes and renewals  
296 of bond anticipation notes, including, but not limited to, flexible notes and short-term series notes,  
297 in the form and with the terms that he determines.

298 (2) The state treasurer may:

299 (a) enter into whatever agreements with other persons that he considers necessary or  
300 appropriate in connection with the issuance, sale, and resale of the notes; and

301 (b) resell or retire any notes purchased by the state before the stated maturity of those  
302 notes.

303 (3) (a) The notes and renewals of the notes shall:

304 (i) bear the interest rate or rates as determined by the state treasurer; and

305 (ii) mature within a period not to exceed three years.

306 (b) The notes and renewals of notes may:

- 307 (i) bear a variable interest rate; and  
308 (ii) be redeemed prior to maturity by the state treasurer, but only in accordance with the  
309 provisions of the notes relating to redemption prior to maturity.  
310 (4) The proceeds from the sale of the notes may be used only for:  
311 (a) the purposes established in Section 63B-10-302;  
312 (b) the payment of principal of and, if not otherwise provided, interest on, bond  
313 anticipation notes;  
314 (c) the payment of costs of issuance; or  
315 (d) any combination of Subsections (4)(a), (b), and (c).  
316 (5) (a) All of the notes and any renewals of the notes shall be payable from the proceeds  
317 of the sale of bonds.  
318 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of  
319 which the original note was issued.  
320 (6) If a sale of the bonds has not occurred before the maturity of the notes issued in  
321 anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:  
322 (a) issue renewal notes for that purpose;  
323 (b) pay the notes from state monies legally available for paying those notes; or  
324 (c) any combination of Subsections (6)(a) and (b).  
325 (7) Each note and any renewal of any note, with the interest on the note or renewal,  
326 constitute general obligations of the state.  
327 (8) Each note and any renewal of any note, with the interest on the note or renewal, shall  
328 be:  
329 (a) secured by the full faith, credit, and resources of the state in the manner provided in  
330 Part 3 of this chapter;  
331 (b) payable from:  
332 (i) the proceeds of the sale of the bonds and not from any other borrowing; and  
333 (ii) monies of the state on hand and legally available for that purpose; or  
334 (iii) any combination of Subsections (8)(b)(i) and (ii); and  
335 (c) payable within five years from the date of original issue.  
336 (9) (a) As used in this Subsection (9), "total amount of bonds authorized to be issued but  
337 not yet issued" includes bonds authorized to be issued only if one or more conditions are met.

338 (b) The total amount of notes or renewals of notes issued and outstanding at any one time  
339 may not exceed the total amount of bonds authorized to be issued but not yet issued.

340 (10) The state treasurer shall, in his annual report to the governor, include a detailed  
341 statement of all notes and bonds issued during the year and of his actions in relation to them.

342 Section 21. Section **63B-10-403** is enacted to read:

343 **63B-10-403. Purchase and redemption requirements.**

344 (1) The notes and renewals of notes may provide the holders of the notes or renewals of  
345 notes with the right to require the state or other persons to purchase or redeem the notes or renewal  
346 notes before the stated maturity of the notes or renewals.

347 (2) Notwithstanding Subsection (1), the holders of the notes and renewals of notes may  
348 not be provided with the right to require the state to repurchase or redeem the notes and renewals  
349 of the notes before their stated maturity unless the state has entered into one or more letter of credit  
350 agreements or other liquidity facility agreements:

351 (a) for the express purpose of those sales;

352 (b) that require a financially responsible party or parties to the agreement or agreements,  
353 other than the state, to purchase or redeem all or any portion of the notes and renewals of notes  
354 tendered by the holders of the notes or renewals of notes for repurchase or redemption before the  
355 stated maturity of the notes and renewals of notes; and

356 (c) that continue until the right of the holders of the notes and renewals of notes to require  
357 repurchase or redemption of the notes and renewals of notes before the stated maturity has ceased.

358 Section 22. Section **63B-10-404** is enacted to read:

359 **63B-10-404. General provisions -- Funds and accounts.**

360 (1) (a) Sections 63B-10-305, 63B-10-306, 63B-10-313, 63B-10-314, 63B-10-315, and  
361 63B-10-316 apply to any notes or renewals of notes issued under this part.

362 (b) (i) For purposes of this part, any action that those sections require or permit the  
363 commission to take shall be considered sufficient if taken by the state treasurer.

364 (ii) The treasurer may take action by issuing a written order, or in some other manner that  
365 he finds necessary or convenient, to accomplish the purposes of this part.

366 (2) The treasurer may:

367 (a) in a written order, establish whatever funds and accounts are necessary or desirable to  
368 carry out the purposes of this part; and

369            (b) until the monies are needed for the purpose for which the fund or account was created,  
370 invest the monies held in those funds and accounts by following the procedures and requirements  
371 of Title 51, Chapter 7, State Money Management Act.

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**Legislative Review Note**  
**as of 2-20-01 12:09 PM**

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

**Office of Legislative Research and General Counsel**