

- 28 **63B-10-112**, Utah Code Annotated 1953
- 29 **63B-10-113**, Utah Code Annotated 1953
- 30 **63B-10-114**, Utah Code Annotated 1953
- 31 **63B-10-115**, Utah Code Annotated 1953
- 32 **63B-10-116**, Utah Code Annotated 1953
- 33 **63B-10-117**, Utah Code Annotated 1953

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

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

36 **53A-20-103.5. Capital facilities general obligation bonds -- School district match --**
37 **School building capacity.**

38 (1) The State Bonding Commission shall issue general obligation bonds under Title 63B,
39 Chapter 10, 2001 Public Education Capital Facilities General Obligation Bonds, to assist local
40 school boards in meeting their school building needs.

41 (2) A school district shall use the monies it receives under Subsection (1) for capital outlay
42 purposes as defined by rule of the State Board of Education in accordance with Title 63, Chapter
43 46a, Utah Administrative Rulemaking Act.

44 (3) The State Board of Education shall distribute the bond proceeds to school districts on
45 the basis of a grant process that takes into account:

46 (a) the school district's capital outlay needs;

47 (b) the district's ability to raise money for capital outlay purposes as related to the assessed
48 valuation per student for real property within the school district; and

49 (c) effort made by the district to meet its capital outlay needs.

50 (4) (a) To receive monies under this section, a school district must match the monies it
51 would receive from the issuance of the bonds on a seven to three basis, that is three dollars in local
52 resources for every seven dollars in bond monies.

53 (b) A school district shall use local resources for its match under Subsection (4)(a), which
54 may include donations, gifts, endowments, and monies raised through school district taxing or
55 bonding authority.

56 (5) The monies received from the issuance of bonds under Subsection (1) shall only be
57 used to construct capital facilities which have the following maximum student capacities:

58 (a) 600 students in an elementary school;

59 (b) 900 students in a middle or junior high school; and

60 (c) 1,200 students in a high school.

61 (6) (a) The monies received under Subsection (1) are in addition to the appropriation made
62 under Section 53A-21-105 as the state's contribution to the capital outlay foundation program and
63 are made available to promote the construction of more effective and efficient facilities.

64 (b) A school district receiving monies under this section is not precluded from constructing
65 school buildings that exceed the capacities listed in Subsection (5) as long as the buildings are
66 wholly financed from sources other than the general obligation bonds issued under Title 63B,
67 Chapter 10.

68 Section 2. Section **63B-10-101** is enacted to read:

69 **CHAPTER 10. 2001 BONDING AND FINANCING AUTHORIZATIONS**

70 **Part 1. 2001 Public Education Capital Facilities General Obligation Bonds**

71 **63B-10-101. State Bonding Commission authorized to issue general obligation bonds.**

72 The commission created under Section 63B-1-201 may issue and sell general obligation
73 bonds of the state pledging the full faith, credit, and resources of the state for the payment of the
74 principal of and interest on the bonds to provide funds to the State Board of Education for
75 allocation to school districts for capital construction only.

76 Section 3. Section **63B-10-102** is enacted to read:

77 **63B-10-102. Maximum amounts -- Projects authorized.**

78 (1) The total amount of bonds issued under this chapter may not exceed \$100,000,000.

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

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

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

88 (4) The State Board of Education and local school boards may enter into agreements
89 relative to the projects referred to in Subsection (2)(a) prior to the receipt of proceeds of bonds

90 issued under this chapter.

91 Section 4. Section **63B-10-103** is enacted to read:

92 **63B-10-103. Bond proceeds may be used to pay costs of issuance and sale.**

93 The proceeds of the bonds issued under this chapter shall be used for the purposes
94 described in Section 63B-10-102 and to pay all or part of any cost incident to the issuance and sale
95 of the bonds, including, without limitation, printing, registration, and transfer costs, legal fees,
96 financial advisors' fees, and underwriters' discount.

97 Section 5. Section **63B-10-104** is enacted to read:

98 **63B-10-104. Manner of issuance -- Amounts, interest, and maturity.**

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

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

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

105 Section 6. Section **63B-10-105** is enacted to read:

106 **63B-10-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
107 **Replacement -- Registration -- Federal rebate.**

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

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

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

112 (c) denominations;

113 (d) form;

114 (e) manner of execution;

115 (f) manner of authentication;

116 (g) place and medium of purchase;

117 (h) redemption terms; and

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

119 (2) The commission may by resolution adopt a plan of financing which may include terms
120 and conditions of arrangements entered into by the commission on behalf of the state with financial

121 and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and
122 remarketing, indexing, and tender agent agreements to secure the bonds, including payment from
123 any legally available source of fees, charges, or other amounts coming due under the agreements
124 entered into by the commission.

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

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

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

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

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

138 (b) Bonds in changed denominations shall:

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

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

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

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

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

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

157 (6) The commission may:

158 (a) by resolution, provide for payment to the United States of such amounts as may be
159 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended; and

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

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

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

164 Section 7. Section **63B-10-106** is enacted to read:

165 **63B-10-106. Constitutional debt limitation.**

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

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

172 Section 8. Section **63B-10-107** is enacted to read:

173 **63B-10-107. Tax levy -- Abatement of tax.**

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

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

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

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

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

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

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

183 available from sources, other than ad valorem taxes in the sinking fund, for the payment of bond
184 interest, principal, and redemption premiums.

185 Section 9. Section **63B-10-108** is enacted to read:

186 **63B-10-108. Creation of sinking fund.**

187 (1) There is created a sinking fund to be administered by the state treasurer entitled the
188 "2001 Public Education Capital Facilities General Obligation Bonds Sinking Fund."

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

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

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

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

195 **63B-10-109. Payment of interest, principal, and redemption premiums.**

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

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

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

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

201 Section 11. Section **63B-10-110** is enacted to read:

202 **63B-10-110. Investment of sinking fund money.**

203 (1) The state treasurer may invest any money in the sinking fund in accordance with Title
204 51, Chapter 7, State Money Management Act, until it is needed for the purposes for which the fund
205 is created.

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

209 Section 12. Section **63B-10-111** is enacted to read:

210 **63B-10-111. Bond proceeds -- Deposits -- Investment -- Disposition of investment**
211 **income and unexpended proceeds.**

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

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

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

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

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

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

225 Section 13. Section **63B-10-112** is enacted to read:

226 **63B-10-112. Refunding of bonds.**

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

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

231 Section 14. Section **63B-10-113** is enacted to read:

232 **63B-10-113. Certification of satisfaction of conditions precedent -- Conclusiveness.**

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

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

237 Section 15. Section **63B-10-114** is enacted to read:

238 **63B-10-114. Tax exemption.**

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

241 Section 16. Section **63B-10-115** is enacted to read:

242 **63B-10-115. Legal investment status.**

243 Bonds issued under this chapter are legal investments for all state trust funds, insurance
244 companies, banks, trust companies, and the State School Fund and may be used as collateral to

245 secure legal obligations.

246 Section 17. Section **63B-10-116** is enacted to read:

247 **63B-10-116. Publication of resolution or notice -- Limitation on actions to contest**
248 **legality.**

249 (1) The commission may:

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

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

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

255 (i) the legality of the resolution;

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

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

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

261 Section 18. Section **63B-10-117** is enacted to read:

262 **63B-10-117. Report to Legislature.**

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

265 Section 19. **Legislative intent.**

266 It is the intent of the Legislature that each year after issuance of the bonds and until all
267 outstanding bonds are retired, the state shall use a portion of the income tax revenue allocated
268 under Article XII, Section 12 of the Utah Constitution, sufficient to pay:

269 (1) applicable bond redemption premiums, if any;

270 (2) interest on the bonds as it becomes due; and

271 (3) principal of the bonds as it becomes due.

272 Section 20. **Effective date.**

273 This act takes effect on July 1, 2001.

Legislative Review Note

as of 1-2-01 3:25 PM

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

Office of Legislative Research and General Counsel