

**GENERAL OBLIGATION BONDS FOR  
ENGINEERING BUILDINGS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Gerry A. Adair**

**This act modifies provisions governing capital facilities authorizations for engineering buildings at Utah State University and the University of Utah and enacts provisions authorizing the issuance of general obligation bonds for capital facilities, buildings, and related facilities. This act specifies the use of bond proceeds and the manner of issuance, imposes and abates a property tax, creates sinking funds, and makes technical corrections.**

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

AMENDS:

**63B-10-401**, as enacted by Chapter 321, Laws of Utah 2001

ENACTS:

**63B-11-101**, Utah Code Annotated 1953

**63B-11-102**, Utah Code Annotated 1953

**63B-11-103**, Utah Code Annotated 1953

**63B-11-104**, Utah Code Annotated 1953

**63B-11-105**, Utah Code Annotated 1953

**63B-11-106**, Utah Code Annotated 1953

**63B-11-107**, Utah Code Annotated 1953

**63B-11-108**, Utah Code Annotated 1953

**63B-11-109**, Utah Code Annotated 1953

**63B-11-110**, Utah Code Annotated 1953

**63B-11-111**, Utah Code Annotated 1953

**63B-11-112**, Utah Code Annotated 1953

**63B-11-113**, Utah Code Annotated 1953

**63B-11-114**, Utah Code Annotated 1953

**63B-11-115**, Utah Code Annotated 1953

**63B-11-116**, Utah Code Annotated 1953

**63B-11-117**, Utah Code Annotated 1953

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

Section 1. Section **63B-10-401** is amended to read:

**63B-10-401. Other capital facility authorizations and intent language.**

(1) It is the intent of the Legislature that:

(a) Utah State University use institutional funds to plan, design, and construct an expansion of the HPER Building under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(2) It is the intent of the Legislature that:

(a) the University of Utah use institutional funds to plan, design, and construct the Moran Eye Center II project under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(3) It is the intent of the Legislature that:

(a) the University of Utah use institutional funds to plan, design, and construct the E. E. Jones Medical Science Addition under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved

academic and training purposes under Board of Regents policy R710.

(4) It is the intent of the Legislature that:

(a) the University of Utah use institutional funds to plan, design, and construct a Museum of Natural History under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(5) It is the intent of the Legislature that:

(a) Dixie College use institutional funds to plan, design, and construct the Hurricane Education Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the college may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(6) It is the intent of the Legislature that:

(a) Southern Utah University use institutional funds to plan, design, and construct the Shakespearean Festival Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the college may not request state funds for operations and maintenance.

(7) It is the intent of the Legislature that:

(a) the Department of Corrections use donations to plan, design, and construct the Wasatch Family History Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the department may request state funds for operations and maintenance.

(8) It is the intent of the Legislature that:

(a) the Department of Workforce Services use \$1,186,700 from its Special Administrative Expense Fund to plan, design, and construct an addition to the Cedar City Employment Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated; and

(b) the department may request state funds for operations and maintenance.

(9) It is the intent of the Legislature that the Division of Facilities Construction and Management, acting on behalf of the Department of Natural Resources, may enter into a lease purchase agreement with Carbon County to provide needed space for agency programs in the area if the Department of Natural Resources obtains the approval of the State Building Board by demonstrating that the lease purchase will be a benefit to the state and that the lease, including operation and maintenance costs, can be funded within existing agency budgets.

~~[(10) It is the intent of the Legislature that:]~~

~~[(a) the Division of Facilities Construction and Management use \$17,294,400 to erect a new Engineering lab and classroom building at Utah State University and place \$5,943,500 in escrow for the renovation of the existing engineering building to be matched against \$10,000,000 in non-State funds raised by the university; and]~~

~~[(b) no state funds be expended on the remodel of the Utah State University Engineering Building until the university has received all of the \$10 million.]~~

~~[(11) It is the intent of the Legislature that:]~~

~~[(a) the Division of Facilities Construction and Management use \$4,613,000 to remodel the Merrill Engineering Building at the University of Utah and place \$15,000,000 in escrow for a new engineering building to be matched against \$30,000,000 in non-State funds raised by the university; and]~~

~~[(b) no state funds be expended on the new Engineering Building until the university has received at least \$13,000,000.]~~

Section 2. Section **63B-11-101** is enacted to read:

## CHAPTER 11. 2002 BONDING AND FINANCING AUTHORIZATION

### Part 1. 2002 Engineering Building General Obligation Bonds

#### **63B-11-101. State Bonding Commission authorized to issue general obligation bonds.**

When the conditions established in Section 63B-11-102 are met, the commission created under Section 63B-1-201 may issue and sell general obligation bonds of the state pledging the full faith, credit, and resources of the state for the payment of the principal of and interest on the bonds to provide funds to the division.

Section 3. Section **63B-11-102** is enacted to read:

#### **63B-11-102. Maximum amount -- Projects authorized.**

(1) (a) The total amount of bonds issued under this part may not exceed \$21,250,000.

(b) When Utah State University certifies to the commission that the university has obtained reliable commitments, convertible to cash, of \$10,000,000 or more in nonstate funds to renovate the existing engineering building, the commission may issue and sell general obligation bonds in a total amount not to exceed \$6,100,000.

(c) When the University of Utah certifies to the commission that the university has obtained reliable commitments, convertible to cash, of \$13,000,000 or more in nonstate funds to construct a new engineering building, the commission may issue and sell general obligation bonds in a total amount not to exceed \$15,150,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

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

(c) For the division, proceeds shall be provided for the following:

<u>PROJECT DESCRIPTION</u>	<u>AMOUNT FUNDED</u>	<u>ESTIMATED OPERATING AND MAINTENANCE COSTS</u>
1. <u>Utah State University Engineering Building Renovation</u>	<u>\$5,943,500</u>	<u>\$425,000</u>
2. <u>University of Utah New Engineering Building</u>	<u>\$15,000,000</u>	<u>\$489,000</u>
<u>COSTS OF ISSUANCE</u>	<u>\$306,500</u>	
<u>TOTAL CAPITAL AND ECONOMIC DEVELOPMENT</u>		<u>\$21,250,000</u>

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

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

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state as required by Section 63-56-40.

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 4. Section **63B-11-103** is enacted to read:

**63B-11-103. Use of bond proceeds for issuance and other costs.**

The proceeds of bonds issued under this chapter shall be used for the purposes described in Section 63B-11-102 and to pay all or part of any cost incident to the issuance and sale of the bonds including, without limitation, printing, registration and transfer costs, legal fees, trustees' fees, financial advisors' fees, and underwriters' discounts.

Section 5. Section **63B-11-104** is enacted to read:

**63B-11-104. Manner of issuance -- Amounts, interest, and maturity.**

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

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

(3) A bond issued may not mature later than 15 years after the date of final passage of this chapter.

Section 6. Section **63B-11-105** is enacted to read:

**63B-11-105. Terms and conditions of sale -- Plan of financing -- Signatures --**

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

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

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

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

(c) denominations;

(d) form;

(e) manner of execution;

(f) manner of authentication;

(g) place and medium of purchase;

(h) redemption terms; and

(i) other provisions and details it considers appropriate.

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

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

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

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

(d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise placed

on the bonds.

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

(b) Bonds in changed denominations shall:

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

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

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

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

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

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

(6) The commission may:

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

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

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

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

Section 7. Section **63B-11-106** is enacted to read:

**63B-11-106. Constitutional debt limitation.**

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

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

Section 8. Section **63B-11-107** is enacted to read:

**63B-11-107. Tax levy -- Abatement of tax.**

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

(a) applicable bond redemption premiums, if any;

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

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

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

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

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

Section 9. Section **63B-11-108** is enacted to read:

**63B-11-108. Creation of sinking fund.**

(1) There is created a sinking fund, to be administered by the state treasurer, entitled the "2002 General Obligation Bonds Sinking Fund."

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

service on the bonds.

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

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

Section 10. Section **63B-11-109** is enacted to read:

**63B-11-109. Payment of interest, principal, and redemption premiums.**

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

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

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

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

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

**63B-11-110. Investment of sinking fund money.**

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

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

Section 12. Section **63B-11-111** is enacted to read:

**63B-11-111. Bond proceeds -- Deposits -- Investment -- Disposition of investment income and unexpended proceeds.**

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

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

(c) The commission by resolution may provide for the deposit of these monies with a trustee

and the administration, disposition, or investment of these monies by this trustee.

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

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

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

Section 13. Section **63B-11-112** is enacted to read:

**63B-11-112. Refunding of bonds.**

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

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

Section 14. Section **63B-11-113** is enacted to read:

**63B-11-113. Certification of satisfaction of conditions precedent -- Conclusiveness.**

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

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

Section 15. Section **63B-11-114** is enacted to read:

**63B-11-114. Tax exemption.**

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

Section 16. Section **63B-11-115** is enacted to read:

**63B-11-115. Legal investment status.**

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

secure legal obligations.

Section 17. Section **63B-11-116** is enacted to read:

**63B-11-116. Publication of resolution or notice -- Limitation on actions to contest legality.**

(1) The commission may:

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

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

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

(i) the legality of the resolution;

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

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

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

Section 18. Section **63B-11-117** is enacted to read:

**63B-11-117. Report to Legislature.**

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