

**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



- 28 **63B-11-114**, Utah Code Annotated 1953
- 29 **63B-11-115**, Utah Code Annotated 1953
- 30 **63B-11-116**, Utah Code Annotated 1953
- 31 **63B-11-117**, Utah Code Annotated 1953

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

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

34 **63B-10-401. Other capital facility authorizations and intent language.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

88 (a) the Department of Workforce Services use \$1,186,700 from its Special Administrative
89 Expense Fund to plan, design, and construct an addition to the Cedar City Employment Center

90 under the direction of the director of the Division of Facilities Construction and Management
91 unless supervisory authority has been delegated; and

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

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

99 (10) It is the intent of the Legislature that:

100 (a) the Division of Facilities Construction and Management use \$17,294,400 to erect a new
101 Engineering lab and classroom building at Utah State University [~~and place \$5,943,500 in escrow~~];

102 (b) Utah State University raise \$10,000,000 for the renovation of the existing engineering
103 building [to be matched against \$10,000,000 in non-State funds raised by the university]; and

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

106 (11) It is the intent of the Legislature that:

107 (a) the Division of Facilities Construction and Management use \$4,613,000 to remodel the
108 Merrill Engineering Building at the University of Utah [~~and place \$15,000,000 in escrow~~];

109 (b) the University of Utah shall raise \$30,000,000 from nonstate funds for a new
110 engineering building [to be matched against \$30,000,000 in non-State funds raised by the
111 university]; and

112 [~~(b)~~] (c) no state funds be expended on the new Engineering Building until the university
113 has received a legally binding commitment of at least \$13,000,000 in cash donations.

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

115 **CHAPTER 11. 2002 BONDING AND FINANCING AUTHORIZATION**

116 **Part 1. 2002 Engineering Building General Obligation Bonds**

117 **63B-11-101. State Bonding Commission authorized to issue general obligation bonds.**

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

121 to provide funds to the division.

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

123 **63B-11-102. Maximum amount -- Projects authorized.**

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

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

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

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

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

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

<u>PROJECT</u>	<u>AMOUNT</u>	<u>ESTIMATED OPERATING</u>
<u>DESCRIPTION</u>	<u>FUNDED</u>	<u>AND MAINTENANCE COSTS</u>
<u>1. Utah State</u>	<u>\$5,943,500</u>	<u>\$425,000</u>
<u>University</u>		
<u>Engineering Building</u>		
<u>Renovation</u>		
<u>2. University of</u>	<u>\$15,000,000</u>	<u>\$489,000</u>
<u>Utah New</u>		
<u>Engineering Building</u>		

152 COSTS OF ISSUANCE \$306,500

153 TOTAL CAPITAL AND ECONOMIC DEVELOPMENT \$21,250,000

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

155 (i) are estimates only;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

186 **63B-11-103. Use of bond proceeds for issuance and other costs.**

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

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

192 **63B-11-104. Manner of issuance -- Amounts, interest, and maturity.**

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

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

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

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

201 **63B-11-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
202 **Replacement -- Registration -- Federal rebate.**

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

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

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

207 (c) denominations;

208 (d) form;

209 (e) manner of execution;

210 (f) manner of authentication;

211 (g) place and medium of purchase;

212 (h) redemption terms; and

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

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

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

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

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

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

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

233 (b) Bonds in changed denominations shall:

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

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

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

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

244 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of

245 persons to whom payment with respect to the obligations are made, are private records as provided
246 in Section 63-2-302 or protected records as provided in Section 63-2-304.

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

252 (6) The commission may:

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

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

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

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

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

260 **63B-11-106. Constitutional debt limitation.**

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

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

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

268 **63B-11-107. Tax levy -- Abatement of tax.**

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

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

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

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

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

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

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

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

281 **63B-11-108. Creation of sinking fund.**

282 (1) There is created a sinking fund, to be administered by the state treasurer, entitled the
283 "2002 General Obligation Bonds Sinking Fund."

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

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

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

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

290 **63B-11-109. Payment of interest, principal, and redemption premiums.**

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

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

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

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

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

297 **63B-11-110. Investment of sinking fund money.**

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

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

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

306 **63B-11-111. Bond proceeds -- Deposits -- Investment -- Disposition of investment**

307 **income and unexpended proceeds.**

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

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

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

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

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

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

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

322 **63B-11-112. Refunding of bonds.**

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

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

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

328 **63B-11-113. Certification of satisfaction of conditions precedent -- Conclusiveness.**

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

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

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

334 **63B-11-114. Tax exemption.**

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

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

338 **63B-11-115. Legal investment status.**

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

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

343 **63B-11-116. Publication of resolution or notice -- Limitation on actions to contest**
344 **legality.**

345 (1) The commission may:

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

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

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

351 (i) the legality of the resolution;

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

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

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

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

358 **63B-8-117. Report to Legislature.**

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

Legislative Review Note
as of 1-15-02 1:37 PM

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

Office of Legislative Research and General Counsel