

Representative Gerry A. Adair proposes the following substitute bill:

**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



- 26 **63B-11-112**, Utah Code Annotated 1953
- 27 **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
101 new Engineering lab and classroom building at Utah State University and place \$5,943,500 in
102 escrow for the renovation of the existing engineering building to be matched against \$10,000,000
103 in non-State funds raised by the university; and]~~

104 [~~(b) no state funds be expended on the remodel of the Utah State University Engineering
105 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
108 the Merrill Engineering Building at the University of Utah and place \$15,000,000 in escrow for
109 a new engineering building to be matched against \$30,000,000 in non-State funds raised by the
110 university; and]~~

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

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

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

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

116 **63B-11-101. State Bonding Commission authorized to issue general obligation bonds.**

117 When the conditions established in Section 63B-11-102 are met, the commission created
118 under Section 63B-1-201 may issue and sell general obligation bonds of the state pledging the full

119 faith, credit, and resources of the state for the payment of the principal of and interest on the bonds
 120 to provide funds to the division.

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

122 **63B-11-102. Maximum amount -- Projects authorized.**

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

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

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

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

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

141 (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>		

150 Engineering Building

151 COSTS OF ISSUANCE \$306,500

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

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

154 (i) are estimates only;

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

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

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

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

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

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

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

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

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

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

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

180 (c) Those contracts shall contain a provision for termination of the contract for the

181 convenience of the state as required by Section 63-56-40.

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

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

185 **63B-11-103. Use of bond proceeds for issuance and other costs.**

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

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

191 **63B-11-104. Manner of issuance -- Amounts, interest, and maturity.**

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

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

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

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

200 **63B-11-105. Terms and conditions of sale -- Plan of financing -- Signatures --**

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

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

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

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

206 (c) denominations;

207 (d) form;

208 (e) manner of execution;

209 (f) manner of authentication;

210 (g) place and medium of purchase;

211 (h) redemption terms; and

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

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

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

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

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

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

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

232 (b) Bonds in changed denominations shall:

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

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

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

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

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

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

251 (6) The commission may:

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

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

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

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

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

259 **63B-11-106. Constitutional debt limitation.**

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

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

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

267 **63B-11-107. Tax levy -- Abatement of tax.**

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

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

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

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

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

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

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

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

278 interest, principal, and redemption premiums.

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

280 **63B-11-108. Creation of sinking fund.**

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

282 "2002 General Obligation Bonds Sinking Fund."

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

284 debt service on the bonds.

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

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

287 of bonds issued.

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

289 **63B-11-109. Payment of interest, principal, and redemption premiums.**

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

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

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

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

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

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

296 **63B-11-110. Investment of sinking fund money.**

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

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

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

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

301 of bonds under this chapter, the treasurer shall retain all income from the investment of any money

302 contained in the sinking fund in the sinking fund and use it for the payment of debt service on the

303 bonds.

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

305 **63B-11-111. Bond proceeds -- Deposits -- Investment -- Disposition of investment**
306 **income and unexpended proceeds.**

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

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

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

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

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

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

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

321 **63B-11-112. Refunding of bonds.**

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

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

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

327 **63B-11-113. Certification of satisfaction of conditions precedent -- Conclusiveness.**

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

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

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

333 **63B-11-114. Tax exemption.**

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

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

337 **63B-11-115. Legal investment status.**

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

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

342 **63B-11-116. Publication of resolution or notice -- Limitation on actions to contest**
343 **legality.**

344 (1) The commission may:

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

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

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

350 (i) the legality of the resolution;

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

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

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

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

357 **63B-8-117. Report to Legislature.**

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