

1 **2002 SPECIAL HIGHWAY GENERAL**
2 **OBLIGATION BONDS**

3 2002 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Wayne A. Harper**

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

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

13 AMENDS:

14 **63-38c-402**, as last amended by Chapter 321, Laws of Utah 2001

15 ENACTS:

16 **63B-11-301**, Utah Code Annotated 1953

17 **63B-11-302**, Utah Code Annotated 1953

18 **63B-11-303**, Utah Code Annotated 1953

19 **63B-11-304**, Utah Code Annotated 1953

20 **63B-11-305**, Utah Code Annotated 1953

21 **63B-11-306**, Utah Code Annotated 1953

22 **63B-11-307**, Utah Code Annotated 1953

23 **63B-11-308**, Utah Code Annotated 1953

24 **63B-11-309**, Utah Code Annotated 1953

25 **63B-11-310**, Utah Code Annotated 1953

26 **63B-11-311**, Utah Code Annotated 1953

27 **63B-11-312**, Utah Code Annotated 1953



- 28 **63B-11-313**, Utah Code Annotated 1953
- 29 **63B-11-314**, Utah Code Annotated 1953
- 30 **63B-11-315**, Utah Code Annotated 1953
- 31 **63B-11-316**, Utah Code Annotated 1953
- 32 **63B-11-317**, Utah Code Annotated 1953
- 33 **63B-11-401**, Utah Code Annotated 1953
- 34 **63B-11-402**, Utah Code Annotated 1953
- 35 **63B-11-403**, Utah Code Annotated 1953
- 36 **63B-11-404**, Utah Code Annotated 1953

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

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

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

40 **Exceptions.**

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

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

- 46 (i) Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond Authorization;
- 47 (ii) Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization;
- 48 (iii) Title 63B, Chapter 7, Part 2, 1998 Highway General Obligation Bond Authorization;
- 49 (iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note Authorization;
- 50 (v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond Authorization;
- 51 (vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note Authorization;
- 52 (vii) Title 63B, Chapter 9, Part 2, 2000 Highway General Obligation Bond;
- 53 (viii) Title 63B, Chapter 10, Part 1, 2001 Highway General Obligation Bond; [~~and~~]
- 54 (ix) Title 63B, Chapter 10, Part 2, 2001 Highway General Obligation Bond Anticipation

55 Notes [~~Authorization~~];

56 (x) Title 63B, Chapter 11, Part 3, 2002 Highway General Obligation Bond for Salt Lake
57 County; and

58 (xi) Title 63B, Chapter 11, Part 4, 2002 Highway Bond Anticipation Note for Salt Lake

59 County Authorization.

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

61 Section 2. Section **63B-11-301** is enacted to read:

62 **Part 3. 2002 Highway General Obligation Bond for Salt Lake County**

63 **63B-11-301. State Bonding Commission authorized to issue general obligation bonds.**

64 Upon receipt of a formal opinion from the Utah Attorney General that Salt Lake County
65 has entered a binding legal agreement with the state in which Salt Lake County agrees, for a
66 minimum of ten years, to annually transfer the 1/4 of 1/4% of sales tax proceeds earmarked by
67 Section 59-12-502 to the sinking fund created in Section 63B-11-308, the commission created
68 under Section 63B-1-201 may issue and sell general obligation bonds of the state pledging the full
69 faith, credit, and resources of the state for the payment of the principal of and interest on the bonds,
70 to provide funds to the Department of Transportation.

71 Section 3. Section **63B-11-302** is enacted to read:

72 **63B-11-302. Maximum amount -- Projects authorized.**

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

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

76 (i) pay the interest and issuance costs of the \$26,000,000 in bonds issued under Section
77 63B-8-503; and

78 (ii) provide funds to pay all or part of the costs of accelerating the following state highway
79 construction or reconstruction projects in Salt Lake County:

80 (A) I-15: 10600 South to the Utah County line;

81 (B) I-15: Beck Street Overpass;

82 (C) Final Environmental Impact Statement for Western Transportation Corridor: I-80 to
83 Utah County;

84 (D) Redwood Road: 6200 South to I-215;

85 (E) State Street Reconstruction: 7800 South to 9000 South;

86 (F) 5600 West Reconstruction: 3100 South to 6200 South; and

87 (G) acquisition of rights-of-way for the Western Transportation Corridor.

88 (b) When the Utah Transit Authority certifies to the Transportation Commission that the
89 Utah Transit Authority will pay half the costs of reconstruction of the Utah Transit Authority

90 railroad overpass on 8000 South State Street, the Department of Transportation may provide funds
91 from bond proceeds to pay the other half of the costs of reconstruction of the Utah Transit
92 Authority railroad overpass on 8000 South.

93 (c) As used in Subsections (2)(a) and (b), "costs" may include the cost of acquiring land,
94 interests in land, easements and rights-of-way, improving sites, and making all improvements
95 necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds
96 during the period to be covered by construction of the projects plus a period of six months after
97 the end of the construction period, interest estimated to accrue on any bond anticipation notes
98 issued under the authority of Chapter 11, Part 4, 2002 Highway Bond Anticipation Note for Salt
99 Lake County Authorization, and all related engineering, architectural, and legal fees.

100 (d) Any interest earned due to investment of bond proceeds shall be deposited into the
101 General Fund.

102 (3) If, after completion of the projects authorized under Subsection (2)(a) and payment of
103 the costs of issuing and selling the bonds under Section 63B-11-303, any bond proceeds remain
104 unexpended, the Department of Transportation may use those unexpended proceeds to pay all or
105 part of the costs of construction projects in Salt Lake County that have been approved and
106 prioritized by the Transportation Commission.

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

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

111 Section 4. Section **63B-11-303** is enacted to read:

112 **63B-11-303. Bond proceeds may be used to pay costs of issuance and sale.**

113 The proceeds of bonds issued under this chapter shall be used for the purposes described
114 in Section 63B-11-302 and to pay all or part of any cost incident to the issuance and sale of the
115 bonds including, without limitation, printing, registration and transfer costs, legal fees, trustees'
116 fees, financial advisors' fees, liquidity providers' fees, credit enhancement providers' fees, and
117 underwriters' discount.

118 Section 5. Section **63B-11-304** is enacted to read:

119 **63B-11-304. Manner of issuance -- Amounts, interest, and maturity.**

120 (1) Bonds issued under this chapter may be authorized, sold, and issued at times and in a

121 manner determined by the commission by resolution.

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

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

125 Section 6. Section **63B-11-305** is enacted to read:

126 **63B-11-305. Terms and conditions of sale -- Plan of financing -- Signatures --**

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

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

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

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

132 (c) denominations;

133 (d) form;

134 (e) manner of execution;

135 (f) manner of authentication;

136 (g) place and medium of purchase;

137 (h) redemption terms; and

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

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

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

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

151 (c) If an official ceases to hold office before delivery of the bonds signed by that official,

152 the signature or facsimile signature of the official is nevertheless valid for all purposes.

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

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

158 (b) Bonds in changed denominations shall:

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

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

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

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

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

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

177 (6) The commission may:

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

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

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

182 (ii) payment from any legally available source of fees, charges, or other amounts coming

183 due under any agreements entered into by the commission.

184 Section 7. Section **63B-11-306** is enacted to read:

185 **63B-11-306. Constitutional debt limitation.**

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

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

192 Section 8. Section **63B-11-307** is enacted to read:

193 **63B-11-307. Tax levy -- Abatement of tax.**

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

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

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

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

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

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

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

205 Section 9. Section **63B-11-308** is enacted to read:

206 **63B-11-308. Creation of sinking fund.**

207 (1) There is created a sinking fund, to be administered by the state treasurer, entitled the
208 "2002 Highway General Obligation Bonds for Salt Lake County Sinking Fund."

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

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

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

214 Section 10. Section **63B-11-309** is enacted to read:

215 **63B-11-309. Payment of interest, principal, and redemption premiums.**

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

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

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

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

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

222 **63B-11-310. Investment of sinking fund money.**

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

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

230 Section 12. Section **63B-11-311** is enacted to read:

231 **63B-11-311. Bond proceeds -- Deposits -- Investment -- Disposition of investment**
232 **income and unexpended proceeds.**

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

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

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

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

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

243 (3) Any unexpended bond proceeds issued under this chapter shall be deposited, upon
244 completion of the purposes for which the bonds were issued, in the sinking fund, unless otherwise

245 provided in the resolution of the commission authorizing the issuance of bonds under this chapter.

246 Section 13. Section **63B-11-312** is enacted to read:

247 **63B-11-312. Refunding of bonds.**

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

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

252 Section 14. Section **63B-11-313** is enacted to read:

253 **63B-11-313. Certification of satisfaction of conditions precedent -- Conclusiveness.**

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

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

258 Section 15. Section **63B-11-314** is enacted to read:

259 **63B-11-314. Tax exemption.**

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

262 Section 16. Section **63B-11-315** is enacted to read:

263 **63B-11-315. Legal investment status.**

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

267 Section 17. Section **63B-11-316** is enacted to read:

268 **63B-11-316. Publication of resolution or notice -- Limitation on actions to contest**
269 **legality.**

270 (1) The commission may:

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

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

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

- 276 (i) the legality of the resolution;
- 277 (ii) any of the bonds authorized under it; or
- 278 (iii) any of the provisions made for the security and repayment of the bonds.
- 279 (b) After 30 days, a person may not contest the legality of the resolution, any of the bonds
- 280 authorized under it, or any of the provisions made for the security and repayment of the bonds for
- 281 any cause.

282 Section 18. Section **63B-11-317** is enacted to read:

283 **63B-11-317. Report to Legislature.**

284 The governor shall report the commission's proceedings to each annual general session of

285 the Legislature in his budget for as long as bonds issued under this chapter remain outstanding.

286 Section 19. Section **63B-11-401** is enacted to read:

287 **Part 4. 2002 Highway Bond Anticipation Note for Salt Lake County Authorization**

288 **63B-11-401. Definitions.**

289 As used in this part:

290 (1) "Bond anticipation note" means a note issued in anticipation of the receipt of the

291 proceeds of the sale of the bonds authorized under Part 3 of this chapter.

292 (2) "Flexible note" means a bond anticipation note whose interest is payable at, and on one

293 or more dates before, maturity.

294 (3) (a) "Short-term series note" means a bond anticipation note that is one of a series of

295 notes issued pursuant to a financing program under which it is expected that:

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

297 and

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

299 (A) the proceeds of bonds in anticipation of the receipt of which the note or notes were

300 issued; or

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

302 (b) "Short-term series note" includes any note issued pursuant to a revolving credit

303 agreement or other similar liquidity facility for the purpose of renewing or paying outstanding

304 short-term series notes on their stated maturity dates when those short-term series notes are not

305 renewed or paid from the proceeds of one or more other renewal notes of the series.

306 Section 20. Section **63B-11-402** is enacted to read:

307 **63B-11-402. Authorization, terms, and procedures.**

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

311 (2) The state treasurer may:

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

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

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

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

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

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

320 (i) bear a variable interest rate; and

321 (ii) be redeemed prior to maturity by the state treasurer, but only in accordance with the
322 provisions of the notes relating to redemption prior to maturity.

323 (4) The proceeds from the sale of the notes may be used only for:

324 (a) the purposes established in Section 63B-11-302;

325 (b) the payment of principal of and, if not otherwise provided, interest on, bond
326 anticipation notes;

327 (c) the payment of costs of issuance; or

328 (d) any combination of Subsections (4)(a), (b), and (c).

329 (5) (a) All of the notes and any renewals of the notes shall be payable from the proceeds
330 of the sale of bonds.

331 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of
332 which the original note was issued.

333 (6) If a sale of the bonds has not occurred before the maturity of the notes issued in
334 anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:

335 (a) issue renewal notes for that purpose;

336 (b) pay the notes from state monies legally available for paying those notes; or

337 (c) any combination of Subsections (6)(a) and (b).

338 (7) Each note and any renewal of any note, with the interest on the note or renewal,
339 constitute general obligations of the state.

340 (8) Each note and any renewal of any note, with the interest on the note or renewal, shall
341 be:

342 (a) secured by the full faith, credit, and resources of the state in the manner provided in
343 Part 3 of this chapter;

344 (b) payable from:

345 (i) the proceeds of the sale of the bonds and not from any other borrowing;

346 (ii) monies of the state on hand and legally available for that purpose; or

347 (iii) any combination of Subsections (8)(b)(i) and (ii); and

348 (c) payable within five years from the date of original issue.

349 (9) (a) As used in this Subsection (9), "total amount of bonds authorized to be issued but
350 not yet issued" includes bonds authorized to be issued only if one or more conditions are met.

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

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

355 Section 21. Section **63B-11-403** is enacted to read:

356 **63B-11-403. Purchase and redemption requirements.**

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

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

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

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

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

371 Section 22. Section **63B-11-404** is enacted to read:

372 **63B-11-404. General provisions -- Funds and accounts.**

373 (1) (a) Sections 63B-11-305, 63B-11-306, 63B-11-313, 63B-11-314, 63B-11-315, and
374 63B-11-316 apply to any notes or renewals of notes issued under this part.

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

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

379 (2) The treasurer may:

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

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

Legislative Review Note
as of 1-29-02 11:54 AM

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

Office of Legislative Research and General Counsel