

28 **63B-11-301**, Utah Code Annotated 1953

29 **63B-11-302**, Utah Code Annotated 1953

30 **63B-11-303**, Utah Code Annotated 1953

31 **63B-11-304**, Utah Code Annotated 1953

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

33 Section 1. Section **63B-11-201** is enacted to read:

34 **Part 2. 2002 Highway General Obligation Bonds**

35 **63B-11-201. State Bonding Commission authorized to issue general obligation bonds.**

36 The commission created under Section 63B-1-201 may issue and sell general obligation
37 bonds of the state pledging the full faith, credit, and resources of the state for the payment of the
38 principal of and interest on the bonds, to provide funds to the Department of Transportation.

39 Section 2. Section **63B-11-202** is enacted to read:

40 **63B-11-202. Maximum amount -- Projects authorized.**

41 (1) The total amount of bonds issued under this part may not exceed \$159,000,000.

42 (2) (a) Proceeds from the issuance of bonds shall be provided to the Department of
43 Transportation to provide funds to pay all or part of the costs of state highway construction or
44 reconstruction projects.

45 (b) These costs may include the cost of acquiring land, interests in land, easements and
46 rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient
47 to the facilities, interest estimated to accrue on these bonds during the period to be covered by
48 construction of the projects plus a period of six months after the end of the construction period,
49 interest estimated to accrue on any bond anticipation notes issued under the authority of Chapter
50 11, Part 3, 2002 Highway General Obligation Bond Anticipation Notes Authorization, and all
51 related engineering, architectural, and legal fees.

52 (3) The commission or the state treasurer may make any statement of intent relating to a
53 reimbursement that is necessary or desirable to comply with federal tax law.

54 (4) The Department of Transportation may enter into agreements related to that project
55 before the receipt of proceeds of bonds issued under this chapter.

56 Section 3. Section **63B-11-203** is enacted to read:

57 **63B-11-203. Bond proceeds may be used to pay costs of issuance and sale.**

58 The proceeds of bonds issued under this chapter shall be used for the purposes described

59 in Section 63B-11-202 and to pay all or part of any cost incident to the issuance and sale of the
60 bonds including, without limitation, printing, registration and transfer costs, legal fees, trustees'
61 fees, financial advisors' fees, and underwriters' discount.

62 Section 4. Section **63B-11-204** is enacted to read:

63 **63B-11-204. Manner of issuance -- Amounts, interest, and maturity.**

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

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

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

69 Section 5. Section **63B-11-205** is enacted to read:

70 **63B-11-205. Terms and conditions of sale -- Plan of financing -- Signatures --**

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

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

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

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

76 (c) denominations;

77 (d) form;

78 (e) manner of execution;

79 (f) manner of authentication;

80 (g) place and medium of purchase;

81 (h) redemption terms; and

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

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

89 (3) (a) Any signature of a public official authorized by resolution of the commission to

90 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
91 otherwise placed on the bonds.

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

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

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

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

102 (b) Bonds in changed denominations shall:

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

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

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

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

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

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

121 (6) The commission may:
122 (a) by resolution, provide for payment to the United States of whatever amounts are
123 necessary to comply with Section 148(f) of the Internal Revenue Code of 1986, as amended; and
124 (b) enter into agreements with financial and other institutions and attorneys to provide for:
125 (i) the calculation, holding, and payment of those amounts; and
126 (ii) payment from any legally available source of fees, charges, or other amounts coming
127 due under any agreements entered into by the commission.

128 Section 6. Section **63B-11-206** is enacted to read:

129 **63B-11-206. Constitutional debt limitation.**

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

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

136 Section 7. Section **63B-11-207** is enacted to read:

137 **63B-11-207. Tax levy -- Abatement of tax.**

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

- 141 (a) applicable bond redemption premiums, if any;
- 142 (b) interest on the bonds as it becomes due; and
- 143 (c) principal of the bonds as it becomes due.

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

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

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

149 Section 8. Section **63B-11-208** is enacted to read:

150 **63B-11-208. Creation of sinking fund.**

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

152 "2002 Highway General Obligation Bonds Sinking Fund."

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

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

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

158 Section 9. Section **63B-11-209** is enacted to read:

159 **63B-11-209. Payment of interest, principal, and redemption premiums.**

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

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

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

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

165 Section 10. Section **63B-11-210** is enacted to read:

166 **63B-11-210. Investment of sinking fund money.**

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

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

174 Section 11. Section **63B-11-211** is enacted to read:

175 **63B-11-211. Bond proceeds -- Deposits -- Investment -- Disposition of investment**
176 **income and unexpended proceeds.**

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

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

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

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

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

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

190 Section 12. Section **63B-11-212** is enacted to read:

191 **63B-11-212. Refunding of bonds.**

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

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

196 Section 13. Section **63B-11-213** is enacted to read:

197 **63B-11-213. Certification of satisfaction of conditions precedent -- Conclusiveness.**

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

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

202 Section 14. Section **63B-11-214** is enacted to read:

203 **63B-11-214. Tax exemption.**

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

206 Section 15. Section **63B-11-215** is enacted to read:

207 **63B-11-215. Legal investment status.**

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

211 Section 16. Section **63B-11-216** is enacted to read:

212 **63B-11-216. Publication of resolution or notice -- Limitation on actions to contest**
213 **legality.**

214 (1) The commission may:
 215 (a) publish any resolution it adopts under this chapter once in a newspaper having general
 216 circulation in Utah; or

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

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

220 (i) the legality of the resolution;

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

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

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

226 Section 17. Section **63B-11-217** is enacted to read:

227 **63B-11-217. Report to Legislature.**

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

230 Section 18. Section **63B-11-301** is enacted to read:

231 **Part 3. 2002 Highway General Obligation Bond Anticipation Notes Authorization**

232 **63B-11-301. Definitions.**

233 As used in this part:

234 (1) "Bond anticipation note" means a note issued in anticipation of the receipt of the
 235 proceeds of the sale of the bonds authorized under Part 2 of this chapter.

236 (2) "Flexible note" means a bond anticipation note whose interest is payable at, and on one
 237 or more dates before, maturity.

238 (3) (a) "Short-term series note" means a bond anticipation note that is one of a series of
 239 notes issued pursuant to a financing program under which it is expected that:

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

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

243 (A) the proceeds of bonds in anticipation of the receipt of which the note or notes were
 244 issued; or

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

246 (b) "Short-term series note" includes any note issued pursuant to a revolving credit
247 agreement or other similar liquidity facility for the purpose of renewing or paying outstanding
248 short-term series notes on their stated maturity dates when those short-term series notes are not
249 renewed or paid from the proceeds of one or more other renewal notes of the series.

250 Section 19. Section **63B-11-302** is enacted to read:

251 **63B-11-302. Authorization, terms, and procedures.**

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

255 (2) The state treasurer may:

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

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

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

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

262 (ii) mature within a period not to exceed five years from the date of original issuance.

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

264 (i) bear a variable interest rate; and

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

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

268 (a) the purposes established in Section 63B-11-202;

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

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

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

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

275 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of

276 which the original note was issued.

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

279 (a) issue renewal notes for that purpose;

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

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

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

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

286 (a) secured by the full faith, credit, and resources of the state in the manner provided in
287 Part 2 of this chapter;

288 (b) payable from:

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

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

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

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

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

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

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

299 Section 20. Section **63B-11-303** is enacted to read:

300 **63B-11-303. Purchase and redemption requirements.**

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

304 (2) Notwithstanding Subsection (1), the holders of the notes and renewals of notes may
305 not be provided with the right to require the state to repurchase or redeem the notes and renewals
306 of the notes before their stated maturity unless the state has entered into one or more letter of credit

307 agreements or other liquidity facility agreements:
308 (a) for the express purpose of those sales;
309 (b) that require a financially responsible party or parties to the agreement or agreements,
310 other than the state, to purchase or redeem all or any portion of the notes and renewals of notes
311 tendered by the holders of the notes or renewals of notes for repurchase or redemption before the
312 stated maturity of the notes and renewals of notes; and
313 (c) that continue until the right of the holders of the notes and renewals of notes to require
314 repurchase or redemption of the notes and renewals of notes before the stated maturity has ceased.
315 Section 21. Section **63B-11-304** is enacted to read:
316 **63B-11-304. General provisions -- Funds and accounts.**
317 (1) (a) Sections 63B-11-205, 63B-11-206, 63B-11-213, 63B-11-214, 63B-11-215, and
318 63B-11-216 apply to any notes or renewals of notes issued under this part.
319 (b) (i) For purposes of this part, any action that those sections require or permit the
320 commission to take shall be considered sufficient if taken by the state treasurer.
321 (ii) The treasurer may take action by issuing a written order, or in some other manner that
322 he finds necessary or convenient, to accomplish the purposes of this part.
323 (2) The treasurer may:
324 (a) in a written order, establish whatever funds and accounts are necessary or desirable to
325 carry out the purposes of this part; and
326 (b) until the monies are needed for the purpose for which the fund or account was created,
327 invest the monies held in those funds and accounts by following the procedures and requirements
328 of Title 51, Chapter 7, State Money Management Act.

Legislative Review Note
as of 3-5-02 6:34 PM

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

Office of Legislative Research and General Counsel