

1 **STATE BUILDING OWNERSHIP AUTHORITY**
2 **RECODIFICATION AND REVISION**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Neil A. Hansen**

6 **This act modifies provisions governing the State Building Ownership Authority. This act**
7 **removes the State Building Board as the State Building Ownership Authority and**
8 **designates the governor, state treasurer, and chair of the State Building Board as the**
9 **State Building Ownership Authority. This act requires the Division of Facilities**
10 **Construction and Management to perform certain duties formerly directed to be**
11 **performed by the State Building Board. This act recodifies the State Building Ownership**
12 **Authority sections into the Bond title and makes other technical corrections.**

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

14 RENUMBERS AND AMENDS:

15 **63B-1-301**, (Renumbered from 63-9a-1, as last amended by Chapter 260, Laws of Utah
16 1981)

17 **63B-1-302**, (Renumbered from 63-9a-2, as last amended by Chapter 314, Laws of Utah
18 1998)

19 **63B-1-303**, (Renumbered from 63-9a-3, as last amended by Chapters 67 and 314, Laws
20 of Utah 1998)

21 **63B-1-304**, (Renumbered from 63-9a-4, as last amended by Chapter 243, Laws of Utah
22 1996)

23 **63B-1-305**, (Renumbered from 63-9a-5, as last amended by Chapter 260, Laws of Utah
24 1981)

25 **63B-1-306**, (Renumbered from 63-9a-6, as last amended by Chapter 266, Laws of Utah
26 2002)

27 **63B-1-307**, (Renumbered from 63-9a-7, as last amended by Chapter 260, Laws of Utah



- 28 1981)
- 29 **63B-1-308**, (Renumbered from 63-9a-8, as last amended by Chapter 260, Laws of Utah
- 30 1981)
- 31 **63B-1-309**, (Renumbered from 63-9a-9, as last amended by Chapter 260, Laws of Utah
- 32 1981)
- 33 **63B-1-310**, (Renumbered from 63-9a-10, as enacted by Chapter 230, Laws of Utah
- 34 1979)
- 35 **63B-1-311**, (Renumbered from 63-9a-11, as last amended by Chapter 260, Laws of
- 36 Utah 1981)
- 37 **63B-1-312**, (Renumbered from 63-9a-12, as enacted by Chapter 230, Laws of Utah
- 38 1979)
- 39 **63B-1-313**, (Renumbered from 63-9a-13, as last amended by Chapter 20, Laws of Utah
- 40 1995)
- 41 **63B-1-314**, (Renumbered from 63-9a-14, as enacted by Chapter 230, Laws of Utah
- 42 1979)
- 43 **63B-1-315**, (Renumbered from 63-9a-15, as last amended by Chapter 61, Laws of Utah
- 44 1984)
- 45 **63B-1-316**, (Renumbered from 63-9a-16, as enacted by Chapter 230, Laws of Utah
- 46 1979)
- 47 **63B-1-317**, (Renumbered from 63-9a-17, as last amended by Chapter 260, Laws of
- 48 Utah 1981)
- 49 **63B-1-318**, (Renumbered from 63-9a-18, as last amended by Chapter 260, Laws of
- 50 Utah 1981)
- 51 **63B-1-319**, (Renumbered from 63-9a-19, as last amended by Chapter 260, Laws of
- 52 Utah 1981)
- 53 **63B-1-320**, (Renumbered from 63-9a-20, as enacted by Chapter 230, Laws of Utah
- 54 1979)
- 55 **63B-1-321**, (Renumbered from 63-9a-20.5, as enacted by Chapter 260, Laws of Utah
- 56 1981)
- 57 REPEALS:
- 58 **63-9a-21**, as last amended by Chapter 20, Laws of Utah 1995

59 **63-9a-22**, as last amended by Chapter 82, Laws of Utah 1997

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

61 Section 1. Section **63B-1-301**, which is renumbered from Section 63-9a-1 is
62 renumbered and amended to read:

63 **Part 3. State Building Ownership Authority Act**

64 ~~[63-9a-1].~~ **63B-1-301. Title.**

65 This ~~[chapter]~~ part shall be known ~~[and may be cited]~~ as the "State Building Ownership
66 Authority Act."

67 Section 2. Section **63B-1-302**, which is renumbered from Section 63-9a-2 is
68 renumbered and amended to read:

69 ~~[63-9a-2].~~ **63B-1-302. Legislative findings.**

70 The Legislature finds and declares as follows:

71 (1) it is the policy of this state to provide office space and related facilities for state
72 bodies and such other governmental facilities and property, including highways and highway
73 rights-of-way, as may be necessary or desirable, in the most efficient and economical way
74 possible;

75 (2) many state bodies are inadequately provided with necessary office space, related
76 facilities, other governmental facilities, and property to serve the public welfare;

77 (3) the state is renting space for state bodies in privately owned buildings with funds
78 which could more efficiently and economically be put to use toward the purchase and
79 acquisition of facilities by the state;

80 (4) in order to provide for a fully adequate supply of office space, related facilities,
81 other governmental facilities, and property at the lowest possible cost, this Legislature should
82 establish a State Building Ownership Authority for the purpose of financing, owning, leasing,
83 operating, or encumbering such facilities to meet the needs of the state government and to
84 serve the public welfare;

85 (5) the foregoing involve public purposes and uses for which public moneys may be
86 borrowed, expended, advanced, loaned, or granted, the activities specified would serve a public
87 purpose in improving or otherwise benefiting the people of this state and, therefore, this ~~[act]~~
88 part is in the public interest and is ~~[hereby so]~~ declared to be in the public interest as a matter of
89 express legislative determination; and

90 (6) the compelling need within this state for the creation of an adequate supply of
91 office space, related facilities, other government facilities, and property for state bodies at a
92 low cost can be best met by the establishment of a body corporate and politic vested with the
93 powers and duties specified in this ~~[act]~~ part.

94 Section 3. Section **63B-1-303**, which is renumbered from Section 63-9a-3 is
95 renumbered and amended to read:

96 ~~[63-9a-3]~~. **63B-1-303. Definitions.**

97 As used in this ~~[chapter]~~ part:

98 (1) "Acquire or construct," "acquired or constructed," "constructed or acquired,"
99 "acquiring or constructing," or "acquisition or construction" means any acquisition,
100 construction, reconstruction, restoration, enlargement, improvement, renovation, repair,
101 replacement, equipping or furnishing, in whole or in part, of a facility.

102 (2) "Authority" means the State Building Ownership Authority created by this ~~[chapter]~~
103 part.

104 (3) "Division" means the Division of Facilities Construction and Management.

105 ~~[(3)]~~ (4) (a) "Facility" or "facilities" means any public building, structure, highway, or
106 property for any governmental purpose of state bodies, and the related and appurtenant
107 easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities, and
108 the lands, interests in land, and grounds, together with the personal property necessary,
109 convenient, or appurtenant ~~[thereto]~~ to them.

110 (b) "Facility" includes a golf course.

111 ~~[(4)]~~ (5) "Mortgage" means any mortgage, trust deed, indenture, pledge agreement,
112 assignment, security agreement, financing statement, or other instrument ~~[pursuant to which]~~
113 that encumbers property ~~[may be encumbered]~~ as security for obligations.

114 ~~[(5)]~~ (6) (a) "Obligations" means any mortgage certificates, notes, debentures, interim
115 certificates, revenue bonds, or other evidences of financial indebtedness~~[, but not including]~~.

116 (b) "Obligations" does not mean general obligation bonds.

117 ~~[(6)]~~ (7) (a) "State body" or "state bodies" means the state and any department, board,
118 commission, or agency of the state.

119 (b) Except as provided in Subsection ~~[(6)]~~ (7)(c), "state body" or "state bodies" does
120 not mean colleges and universities.

121 (c) "State body" or "state bodies" includes a college or university when the obligation
122 to be issued will finance the acquisition or construction of research facilities, housing facilities,
123 or student centers at the college or university.

124 [~~(d) "State body" or "state bodies" includes applied technology centers.~~]

125 Section 4. Section **63B-1-304**, which is renumbered from Section 63-9a-4 is
126 renumbered and amended to read:

127 **[~~63-9a-4~~]. 63B-1-304. State Building Ownership Authority created --**
128 **Members -- Compensation -- Location in Department of Administrative Services.**

129 (1) There is created a body politic and corporate to be known as the State Building
130 Ownership Authority[~~:(2) The members~~] composed of:

131 (a) the governor;

132 (b) the state treasurer; and

133 (c) the chair of the State Building Board created under Section 63A-5-101 [~~shall serve~~
134 ~~as members of the State Building Ownership Authority~~].

135 [~~(3)~~] (2) (a) (i) Members who are not government employees shall receive no
136 compensation or benefits for their services, but may receive per diem and expenses incurred in
137 the performance of the member's official duties at the rates established by the Division of
138 Finance under Sections 63A-3-106 and 63A-3-107.

139 (ii) Members may decline to receive per diem and expenses for their service.

140 (b) (i) State government officer and employee members who do not receive salary, per
141 diem, or expenses from their agency for their service may receive per diem and expenses
142 incurred in the performance of their official duties from the authority at the rates established by
143 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

144 (ii) State government officer and employee members may decline to receive per diem
145 and expenses for their service.

146 [~~(4) The~~] (3) (a) Upon request, the division shall provide staff support to the State
147 Building Ownership Authority [~~shall be located within the Department of Administrative~~
148 ~~Services for administrative purposes and shall receive staff support and all necessary~~
149 ~~information and resources from the department as required~~].

150 (b) The State Building Ownership Authority may seek and obtain independent financial
151 advice, support, and information from the state financial advisor created under Section

152 67-4-16.

153 Section 5. Section **63B-1-305**, which is renumbered from Section 63-9a-5 is
154 renumbered and amended to read:

155 ~~[63-9a-5].~~ **63B-1-305.** Powers and duties of authority.

156 (1) The authority shall have ~~[the following powers and duties: (1) to have]~~ perpetual
157 succession as a body politic and corporate[;].

158 (2) The authority may:

159 ~~[(2) to]~~ (a) sue and to be sued in its own name;

160 ~~[(3) to]~~ (b) have, and alter at will, an official seal;

161 ~~[(4) to]~~ (c) contract with experts, advisers, consultants, and agents for needed services;

162 ~~[(5)]~~ (d) with the prior approval of the Legislature, ~~[to]~~ borrow money and issue
163 obligations, including refunding obligations;

164 ~~[(6) to]~~ (e) receive and accept aid or contributions from any source, including the
165 United States or this state, in the form of money, property, labor, or other things of value to be
166 held, used and applied to carry out the purposes of this ~~[chapter]~~ part, subject to the conditions
167 upon which this aid and contributions are made, for any purpose consistent with this ~~[chapter]~~
168 part;

169 ~~[(7) to]~~ (f) enter into agreements with any department, agency or instrumentality of the
170 United States or this state, financial institutions, or contractors for the purpose of leasing,
171 maintaining, and operating any facility;

172 ~~[(8)]~~ (g) to the extent permitted under its contract with the holders of its obligations,
173 ~~[to]~~ consent to any modification relating to rate of interest, time and payment of any installment
174 of principal or interest, security or any other term of any contract, mortgage, mortgage loan,
175 mortgage loan commitment, contract or agreement of any kind to which it is a party;

176 ~~[(9) to]~~ (h) pledge revenues from any facility to secure the payment of obligations
177 relating to that facility, including interest on obligations, and to redeem those obligations;

178 ~~[(10) to]~~ (i) cause to be executed mortgages, trust deeds, indentures, pledge
179 agreements, assignments, security agreements, and financing statements encumbering property
180 acquired, or constructed under this ~~[chapter]~~ part;

181 ~~[(11) to]~~ (j) own, lease, operate, and encumber facilities acquired or constructed under
182 this chapter by it or the ~~[state building board]~~ division;

183 ~~[(12) to]~~ (k) exercise the power of eminent domain;
184 ~~[(13) to]~~ (l) rent or lease any facility in whole or in part to any state body; and
185 ~~[(14) to]~~ (m) have and exercise ~~[such]~~ any other powers or duties ~~[as may be]~~ that are
186 necessary or appropriate to carry out and effectuate the purposes of this ~~[chapter]~~ part.

187 Section 6. Section **63B-1-306**, which is renumbered from Section 63-9a-6 is
188 renumbered and amended to read:

189 ~~[63-9a-6].~~ **63B-1-306. Obligations issued by authority -- Limitation of liability**
190 **on obligations -- Limitation on amount of obligations issued.**

191 (1) (a) All obligations issued by the authority under this ~~[chapter]~~ part shall be limited
192 obligations of the authority and ~~[shall]~~ may not constitute, nor give rise to, a general obligation
193 or liability of, nor a charge against the general credit or taxing power of, this state or any of its
194 political subdivisions.

195 (b) This limitation shall be plainly stated upon all obligations.

196 (2) (a) No authority obligations incurred under this section may be issued in an amount
197 exceeding the difference between the total indebtedness of the state and an amount equal to
198 1-1/2% of the value of the taxable property of the state.

199 (b) Debt issued under authority of the following parts may not be included as part of
200 the total indebtedness of the state of Utah in determining the debt limit established by this
201 Subsection (2):

202 (i) Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond
203 Authorization;

204 (ii) Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization;

205 (iii) Title 63B, Chapter 7, Part 2, 1998 Highway General Obligation Bond
206 Authorization;

207 (iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note
208 Authorization;

209 (v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond
210 Authorization;

211 (vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note
212 Authorization;

213 (vii) Title 63B, Chapter 9, Part 2, 2000 Highway General Obligation Bond;

214 (viii) Title 63B, Chapter 10, Part 1, 2001 Highway General Obligation [~~Bond~~] Bonds;
215 and

216 (ix) Title 63B, Chapter 10, Part 2, 2001 Highway General Obligation Bond
217 Anticipation Notes [~~Authorization~~];

218 (x) Title 63B, Chapter 11, Part 5, 2002 Highway General Obligation [~~Bond~~] Bonds for
219 Salt Lake County; and

220 (xi) Title 63B, Chapter 11, Part 6, 2002 Highway General Obligation Bond
221 Anticipation Notes for Salt Lake County [~~Authorization~~].

222 (c) Debt issued under authority of Section 63B-7-503 may not be included as part of
223 the total indebtedness of the state in determining the debt limit established by this Subsection
224 (2).

225 (3) The obligations shall be authorized by resolution of the authority, following
226 approval of the Legislature, and may:

227 (a) be executed and delivered at any time, and from time to time, as the authority may
228 determine;

229 (b) be sold at public or private sale in the manner and at the prices, either at, in excess
230 of, or below their face value and at [~~such~~] the times [~~as~~] that the authority [~~may determine~~]
231 determines;

232 (c) be in the form and denominations [~~as~~] that the authority [~~may determine~~]
233 determines;

234 (d) be of the tenor [~~as~~] that the authority [~~may determine~~] determines;

235 (e) be in registered or bearer form either as to principal or interest or both;

236 (f) be payable in those installments and at the times [~~as~~] that the authority [~~may~~
237 ~~determine~~] determines;

238 (g) be payable at the places, either within or without this state, [~~as~~] that the authority
239 [~~may determine~~] determines;

240 (h) bear interest at the rate or rates, payable at the place or places, and evidenced in the
241 manner, [~~as~~] that the authority [~~may determine~~] determines;

242 (i) be redeemable [~~prior to~~] before maturity, with or without premium;

243 (j) contain [~~such~~] any other provisions not inconsistent with this [~~chapter as shall be~~
244 ~~deemed~~] part that are considered to be for the best interests of the authority and provided for in

245 the proceedings of the authority under which the bonds [~~shall be~~] are authorized to be issued;
246 and

247 (k) bear facsimile signatures and seals.

248 (4) The authority may pay any expenses, premiums, or commissions, [~~which~~] that it
249 [~~deems~~] considers necessary or advantageous in connection with the authorization, sale, and
250 issuance of these obligations, from the proceeds of the sale of the obligations or from the
251 revenues of the projects involved.

252 Section 7. Section **63B-1-307**, which is renumbered from Section 63-9a-7 is
253 renumbered and amended to read:

254 [~~63-9a-7~~]. **63B-1-307. Lease of facilities to state bodies -- Rental.**

255 (1) The authority and state bodies shall enter into leases or agreements for the use and
256 occupancy of any portion of any facility constructed or acquired under this [~~chapter, which~~]
257 part.

258 (2) The leases or agreements may provide for the operation, maintenance, and
259 insurance of the facility. [~~The~~]

260 (3) The leases and agreements shall provide that:

261 (a) the rental to be paid annually by each state body to the authority for the use and
262 occupancy [~~shall be~~] is in proportion to the space occupied in the facility by that state body
263 [~~and~~];

264 (b) those rentals shall be in an amount sufficient to completely pay all principal and
265 interest on those obligations as they come due; and

266 (c) those rentals may include:

267 (i) the cost of maintenance, operation, and insurance of those facilities [~~and~~];

268 (ii) the expenses of the authority in administering the facilities under this [~~chapter and~~]
269 part;

270 (iii) amounts needed to provide reserves to secure obligations, to maintain, repair,
271 renovate, reconstruct, or replace those facilities[;]; and [~~such~~]

272 (iv) any other reserves and funds [~~as~~] that the authority [~~deems~~] considers necessary or
273 advisable in order to sell its obligations.

274 Section 8. Section **63B-1-308**, which is renumbered from Section 63-9a-8 is
275 renumbered and amended to read:

276 ~~[63-9a-8].~~ **63B-1-308. Payment of obligations out of rentals -- Other**
277 **governmental entities not liable for payment -- Appropriations for increased rentals --**
278 **Defaulting bodies to quit premises.**

279 (1) Except as secured as provided in this ~~[chapter, every]~~ part:

280 (a) each obligation issued or caused to be issued by the authority, and the interest
281 ~~[thereon, shall be]~~ on that obligation, is payable solely out of rentals or lease payments received
282 by the authority for the facilities constructed or acquired under this ~~[chapter, and all~~
283 ~~obligations]~~ part; and

284 (b) each obligation shall ~~[so]~~ state that information on ~~[their]~~ its face.

285 (2) Except to the extent that facilities are encumbered, nothing in this ~~[chapter shall]~~
286 part may be construed ~~[as requiring]~~ to:

287 (a) require the state, or any department, board, commission, agency, or political
288 subdivision of the state, other than the authority, to pay any part of any obligation issued or
289 caused to be issued under this ~~[chapter]~~ part, or any interest ~~[thereon, or as requiring]~~ on any of
290 those obligations;

291 (b) require the state or any department, board, commission, agency or political
292 subdivision of the state, other than the state body or state bodies leasing any portion of the
293 facilities, to pay any rental due to the authority by any state body under the terms of any lease
294 of facilities~~[- Neither shall anything in this chapter be construed as requiring]; or~~

295 (c) require the Legislature to appropriate any money to pay these obligations, interest,
296 or rentals.

297 (3) If the rentals paid by a state body to the authority are insufficient to pay the
298 principal and interest on the obligations or other amounts payable from rentals when due, the
299 governor may request the Legislature to appropriate additional funds to that body for the
300 payment of increased rentals.

301 (4) If a state body fails to pay any rentals due to the authority under the terms of any
302 lease or agreement for facilities, that body shall immediately quit and vacate ~~[such]~~ the portion
303 of that facility ~~[as]~~ that it has occupied under that lease or agreement, and the rental or lease
304 obligation under the ~~[same]~~ lease or agreement shall then cease.

305 Section 9. Section **63B-1-309**, which is renumbered from Section 63-9a-9 is
306 renumbered and amended to read:

307 ~~[63-9a-9]~~. 63B-1-309. Securing of obligations -- Provisions in mortgages given
308 as security -- Procedure upon default.

309 (1) The principal and interest on any obligation issued under this ~~[chapter]~~ part:

310 (a) shall be secured by a pledge and assignment of the revenues out of which that
311 obligation shall be made payable;

312 (b) may be secured by a mortgage covering all or any part of the facility for which the
313 revenues from the obligation were used;

314 (c) may be secured by a pledge and assignment of the lease of that facility; and

315 (d) may be secured by any other security device on that facility ~~[as may be deemed]~~
316 that is considered most advantageous by the authority.

317 (2) ~~(a)~~ (a) The proceedings under which the obligations are authorized to be issued under
318 this ~~[chapter]~~ part and any mortgage given to secure the ~~[same]~~ obligations may contain any
319 agreements and provisions customarily contained in instruments securing obligations,
320 including, but not limited to, provisions respecting:

321 ~~[(a)]~~ (i) the fixing and collection of rents for any facility covered by the proceedings or
322 mortgage;

323 ~~[(b)]~~ (ii) the terms to be incorporated in the lease of that facility;

324 ~~[(c)]~~ (iii) the operation, maintenance, and insurance of that facility;

325 ~~[(d)]~~ (iv) the creation and maintenance of special reserve or other funds and accounts
326 from the proceeds of sale of obligations or from the revenues of that facility; and

327 ~~[(e)]~~ (v) the rights and remedies available in the event of a default to the holders of
328 obligations or to the trustee under a mortgage, as the authority may determine in accordance
329 with this ~~[chapter]~~ part.

330 (b) All these mortgages, trust deeds, security agreements, or trust indentures shall
331 provide that no deficiency judgment upon foreclosure may be entered against the authority, this
332 state, or any of its political subdivisions.

333 (3) The proceedings authorizing obligations under this ~~[chapter]~~ part, and any
334 mortgage securing these obligations, may provide that, ~~[in the event of]~~ if there is a default in
335 the payment of the principal of or the interest on these obligations or in the performance of any
336 agreement contained in the proceedings or mortgage, the payment or performance may be
337 enforced by the appointment of a receiver relative to that facility with power to charge and

338 collect rents and to apply the revenues from the facility in accordance with the proceedings or
339 the provisions of the mortgage.

340 (4) (a) Any mortgage made under this [~~chapter~~] part to secure obligations issued
341 pursuant to it may also provide that, in the event of a default in the payment of [~~same~~] the
342 mortgage or the violation of any agreement contained in the mortgage, the mortgage may be
343 foreclosed or otherwise realized on in any manner permitted by law.

344 (b) The mortgage may also provide that any trustee under the mortgage or the holder of
345 any of the obligations secured by the mortgage may become the purchaser at any foreclosure
346 sale, if that trustee is highest bidder. [~~No~~]

347 (c) A breach of the agreement [~~shall~~] does not impose any general obligation or
348 liability upon, nor a charge against, the authority or the general credit or taxing power of this
349 state or any of its political subdivisions.

350 Section 10. Section **63B-1-310**, which is renumbered from Section 63-9a-10 is
351 renumbered and amended to read:

352 [~~63-9a-10~~]. **63B-1-310. Proceeds from sale of obligations -- Use.**

353 (1) The proceeds from the sale of obligations issued [~~pursuant to this act shall~~] under
354 this part may be applied only for the purposes for which the obligations were issued. [~~However,~~
355 ~~any~~]

356 (2) Any accrued interest and premium received upon [~~such~~] the sale, and any portion of
357 [~~such~~] the proceeds [~~which~~] that may not be needed for the purposes for which the obligations
358 were issued, [~~that portion~~] shall be applied to the payment of the principal of, or the interest on,
359 [~~such~~] the obligations.

360 Section 11. Section **63B-1-311**, which is renumbered from Section 63-9a-11 is
361 renumbered and amended to read:

362 [~~63-9a-11~~]. **63B-1-311. Cost of acquiring or constructing facility.**

363 The cost of acquiring or constructing any facility shall be [~~deemed~~] considered to
364 include the following:

365 (1) the actual cost of acquiring or improving real estate;

366 (2) the actual cost of enlarging, constructing, reconstructing, improving, replacing,
367 restoring, renovating, maintaining, equipping, or furnishing all or any part of a facility,
368 including architects' or engineers' fees; and

369 (3) all expenses connected with the authorization, sale, and issuance of the obligations
370 to finance the acquisition or construction, including:

371 (a) fees for outside attorneys or accountants~~;~~ whose opinions are required to secure
372 the issuance of those obligations~~;~~;

373 (b) financial advisors' fees and commissions ~~[and]~~;

374 (c) printing costs~~;~~;

375 (d) those amounts ~~[as]~~ that the authority ~~[shall find]~~ considers necessary to establish
376 bond reserves and maintenance, repair, replacement, and contingency funds and accounts~~;~~;

377 and

378 (e) the interest on these obligations for a reasonable time ~~[prior to]~~ before, during, and
379 for a reasonable period of time after, completion of~~;~~ the acquisition or construction.

380 Section 12. Section **63B-1-312**, which is renumbered from Section 63-9a-12 is
381 renumbered and amended to read:

382 ~~[63-9a-12].~~ **63B-1-312. Signature of former member or officer of authority --**

383 **Continuing validity.**

384 If any of the members or officers of the authority ~~[shall]~~ no longer occupy ~~[such]~~ their
385 position at the time of the delivery of any obligations signed by them, their signatures or
386 facsimiles ~~[thereof shall nevertheless be]~~ of their signatures are valid and sufficient for all
387 purposes, as if they had remained in office until that delivery.

388 Section 13. Section **63B-1-313**, which is renumbered from Section 63-9a-13 is
389 renumbered and amended to read:

390 ~~[63-9a-13].~~ **63B-1-313. Negotiability of obligations -- Registration.**

391 All obligations of the authority ~~[shall be deemed to be]~~ are negotiable instruments
392 within the meaning of, and for all purposes of Title 70A, Uniform Commercial Code, subject
393 only to any provisions of those obligations relating to registration.

394 Section 14. Section **63B-1-314**, which is renumbered from Section 63-9a-14 is
395 renumbered and amended to read:

396 ~~[63-9a-14].~~ **63B-1-314. Person executing obligations not personally liable.**

397 No person executing any obligations issued ~~[pursuant to this act shall be]~~ under this part
398 is subject to personal liability or accountability ~~[by reason]~~ because of the issuance ~~[thereof]~~.

399 Section 15. Section **63B-1-315**, which is renumbered from Section 63-9a-15 is

400 renumbered and amended to read:

401 ~~[63-9a-15]~~. **63B-1-315. Tax exemption.**

402 (1) All property acquired or held by the authority under this ~~[chapter]~~ part is declared
403 to be public property used for essential public and governmental purposes.

404 (2) All property and income from it, and all obligations issued under this ~~[chapter]~~ part,
405 the interest payable on them, and income derived from them, ~~[shall be]~~ are exempt from all
406 taxation imposed by this state or any of its political subdivisions, except for the corporate
407 franchise tax.

408 Section 16. Section **63B-1-316**, which is renumbered from Section 63-9a-16 is
409 renumbered and amended to read:

410 ~~[63-9a-16]~~. **63B-1-316. Obligations as legal investments -- Deposit of**
411 **obligations.**

412 (1) The obligations issued ~~[pursuant to]~~ under this ~~[act shall be]~~ part are securities in
413 which all persons and organizations authorized to invest in any obligations of this state may
414 properly and legally invest any funds, including capital belonging to them or within their
415 control.

416 (2) These obligations are also declared to be securities ~~[which]~~ that may properly and
417 legally be deposited with, and received by, any state, county, or municipal officer, or agency of
418 the state for any purpose for which the deposit of any obligations of the state is authorized by
419 law.

420 Section 17. Section **63B-1-317**, which is renumbered from Section 63-9a-17 is
421 renumbered and amended to read:

422 ~~[63-9a-17]~~. **63B-1-317. Publication of resolution or other proceeding -- Contest**
423 **of proceedings -- Mandamus to compel official to sign obligations.**

424 (1) The authority may provide for the publication of any resolution it adopts for the
425 authorization of obligations under this ~~[chapter]~~ part in one issue of a newspaper having
426 general circulation in this state.

427 (2) In case of resolution or other proceeding providing for the issuance of obligations
428 under this ~~[chapter]~~ part, the authority may, in lieu of publishing the entire resolution or other
429 proceeding, publish a notice of obligations to be issued, titled as such, containing:

430 (a) the name of the authority;

- 431 (b) the purpose of the issue;
- 432 (c) the type of obligations and the principal amount to be issued;
- 433 (d) the maximum maturity of the obligations;
- 434 (e) the maximum net effective rate of interest payable on the issue of obligations;
- 435 (f) the maximum discount from par which is to be permitted if the obligations may be
- 436 sold at a discount below par value; and
- 437 (g) the times and place where a copy of the resolution or other proceeding may be
- 438 examined, during regular business hours, for a period of at least 30 days after the publication of
- 439 the notice.

440 (3) (a) For a period of 30 days after the date of publication under Subsection (1) or (2),

441 any interested person may contest the legality of the resolution, of the obligations authorized by

442 it, or any of the provisions made for the security and payment of these obligations.

443 (b) After this period, no one shall have any cause of action to contest the regularity,

444 formality, or legality of same for any cause whatsoever, except as provided in Subsection (4).

445 (4) (a) If any official required to sign the obligations [~~shall refuse to affix his signature~~

446 ~~to them, alleging as the reason for this the illegality of]~~ refuses to sign them because the official

447 alleges that the obligations to be signed are illegal, the authority may bring an original action in

448 the supreme court for a writ of mandamus requiring the official to sign the obligations. [~~fr~~

449 ~~view]~~

450 (b) Because of the importance of the facilities construction and acquisition program

451 provided for in this [~~chapter,~~] part, the Utah Supreme Court shall:

452 (i) give this action [~~should be given]~~ precedence over any other matters pending before

453 the court[~~;~~]; and [~~the court is requested to]~~

454 (ii) consider and determine these matters at the earliest possible time.

455 Section 18. Section **63B-1-318**, which is renumbered from Section 63-9a-18 is

456 renumbered and amended to read:

457 **[63-9a-18]. 63B-1-318. State Building Board duties -- Reimbursement.**

458 (1) The [~~State Building Board]~~ division shall:

459 (a) construct, maintain, allocate the space in, and dispose of all facilities acquired or

460 constructed for the authority with the proceeds of obligations of the authority[~~, and the board~~

461 shall]; and

462 (b) do all things necessary to keep those facilities in good order and repair ~~[and]~~.

463 (2) The division may perform all ~~[these acts]~~ of the duties established in Subsection (1)
464 pursuant to contracts with the authority.

465 (3) The ~~[board]~~ division shall be reimbursed for all direct costs of maintenance by the
466 authority from funds derived from rental or lease payments.

467 (4) Nothing contained in this part may be construed to limit, supersede, or otherwise
468 change in any way the authority of the division provided in Title 63A, Chapter 5, State
469 Building Board - Division of Facilities Construction and Management.

470 Section 19. Section **63B-1-319**, which is renumbered from Section 63-9a-19 is
471 renumbered and amended to read:

472 ~~[63-9a-19].~~ **63B-1-319. Legal, accounting, and auditing services.**

473 (1) The attorney general shall provide all legal services, and the state auditor shall
474 provide all accounting and auditing services, required by the authority, without reimbursement
475 from that authority.

476 (2) Subsection (1) ~~[shall]~~ does not apply to attorneys' or accountants' opinions
477 ~~[necessitated]~~ required for the issuance of any obligations.

478 (3) The authority may:

479 (a) obtain accounting and auditing services in addition to those specified in
480 ~~[Subsection]~~ Subsections (1) and (2) from outside accountants and auditors, with the consent of
481 the state auditor~~[-and]~~;

482 (b) obtain legal services in addition to those specified in ~~[Subsection]~~ Subsections (1)
483 and (2) from outside attorneys, with the consent of the attorney general~~[-]~~; and ~~[may]~~

484 (c) include the costs of these services:

485 (i) in the rentals and charges payable to it under leases or agreements between it and
486 state bodies for the use of space in facilities; or

487 (ii) as a cost payable from the proceeds of the sale of obligations ~~[with respect to]~~ for
488 which ~~[such]~~ those services ~~[are utilized]~~ were provided.

489 Section 20. Section **63B-1-320**, which is renumbered from Section 63-9a-20 is
490 renumbered and amended to read:

491 ~~[63-9a-20].~~ **63B-1-320. State to succeed to property of authority when**
492 **encumbrances paid or authority dissolved.**

493 (1) Each facility shall immediately vest in and become the property of this state when
494 the obligations encumbering it are paid.

495 (2) If the authority is dissolved at any time, for any reason, all property of the authority
496 shall immediately vest in and become the property of this state, which shall succeed to all
497 rights of the authority and to any encumbrances which may then exist on any particular
498 facilities, to the extent provided by this [act] part.

499 Section 21. Section **63B-1-321**, which is renumbered from Section 63-9a-20.5 is
500 renumbered and amended to read:

501 **[63-9a-20.5]. 63B-1-321. Validation of prior obligations.**

502 All obligations issued by the authority [~~prior to~~] before the effective date of this [act]
503 part and all proceedings had in the authorization and issuance of these obligations and all
504 agreements with respect to them and the security for them are:

505 (1) validated, ratified, and confirmed; and

506 (2) all these obligations, agreements, and security are declared to constitute legally
507 binding obligations of the authority and all state bodies relating to them in accordance with
508 their terms.

509 Section 22. **Repealer.**

510 This act repeals:

511 Section **63-9a-21, State Building Ownership Authority Program of 1979 --**
512 **Obligations for general office building facility authorized.**

513 Section **63-9a-22, State Building Ownership Authority Program -- Obligations for**
514 **agriculture and food department office building facility authorized.**

Legislative Review Note
as of 11-20-02 5:16 PM

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

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-12-02 3:48 PM

The Government Operations Interim Committee recommended this bill.

Fiscal Note

State Building Ownership Authority Recodification and Revision

03-Jan-03

Bill Number HB00212:54 PM

State Impact

No fiscal impact.

Individual and Business ImpactNo fiscal impact.

Office of the Legislative Fiscal Analyst