

1                                   **BONDING LAW AMENDMENTS - STATE**  
2                                   **FINANCING CONSOLIDATION ACT**

3                                   2003 GENERAL SESSION  
4                                   STATE OF UTAH

5                                   **Sponsor: Leonard M. Blackham**

6   **This act modifies the State Financing Consolidation Act provisions by defining additional**  
7   **terms, clarifying the scope of the act, modifying certain responsibilities and processes**  
8   **established by the act, and making technical corrections.**

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

10   AMENDS:

11           **63-65-2**, as last amended by Chapter 270, Laws of Utah 1998

12           **63-65-3**, as last amended by Chapter 135, Laws of Utah 1997

13           **63-65-4**, as last amended by Chapter 175, Laws of Utah 2001

14           **63-65-5**, as repealed and reenacted by Chapter 164, Laws of Utah 1989

15           **63-65-6**, as enacted by Chapter 164, Laws of Utah 1989

16           **63-65-7**, as enacted by Chapter 164, Laws of Utah 1989

17           **63-65-8**, as last amended by Chapter 259, Laws of Utah 1991

18           **63-65-9**, as enacted by Chapter 164, Laws of Utah 1989

19   ENACTS:

20           **63-65-8.1**, Utah Code Annotated 1953

21           **63-65-8.2**, Utah Code Annotated 1953

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

23           Section 1. Section **63-65-2** is amended to read:

24           **63-65-2. Definitions.**

25           As used in this chapter:

26           (1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness  
27   representing loans or grants made by an authorizing [agencies] agency.



28           (2) "Authorized official" means the state treasurer or other person authorized by a bond  
29 document to perform the required action.

30           ~~[(2)]~~ (3) "Authorizing agency" means the board, person, or unit with legal  
31 responsibility for administering and managing revolving loan funds.

32           (4) "Bond document" means:

33           (a) a resolution of the commission; or

34           (b) an indenture or other similar document authorized by the commission that  
35 authorizes and secures outstanding revenue bonds from time to time.

36           (5) "Commission" means the State Bonding Commission created in Section  
37 63B-1-201.

38           ~~[(3)]~~ (6) "Revenue bonds" means any special fund revenue bonds issued ~~[by the state~~  
39 ~~treasurer on behalf of the state pursuant to Section 63-65-8]~~ under this chapter.

40           ~~[(4)]~~ (7) "Revolving Loan Funds" means:

41           (a) the Water Resources Conservation and Development Fund, created in Section  
42 73-10-24;

43           (b) the Water Resources Construction Fund, created in Section 73-10-8;

44           (c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

45           (d) the Clean Fuel Conversion Funds, created in Title [9] 63, Chapter [1] 34, Part [7] 2,  
46 Clean Fuels Conversion Program Act;

47           (e) the Water Development Security ~~[Account]~~ Fund and its subaccounts created in  
48 Section 73-10c-5;

49           (f) the Agriculture Resource Development Fund, created in Section 4-18-6;

50           (g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;

51           (h) the Permanent Community Impact Fund, created in Section 9-4-303;

52           (i) the Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3; and

53           (j) the Transportation Infrastructure Loan Fund, created in Section 72-2-202.

54           Section 2. Section **63-65-3** is amended to read:

55           **63-65-3. Investment officer -- Powers and duties.**

56           (1) There is created within the Office of the State Treasurer an investment banking  
57 officer to advise, counsel, and render technical assistance to authorizing agencies in the  
58 management of state loan and grant programs.

59 (2) This officer shall:

60 (a) work cooperatively with the staff and boards of authorizing agencies as an advisor  
61 on technical financial aspects concerning loan and grant programs authorized by law;

62 (b) coordinate procedures for the closing of and assist authorizing agencies in closing  
63 all loans and grants of funds or other subsidy agreements;

64 (c) analyze, in conjunction with the appropriate authorizing agency, the financial  
65 feasibility and economic and capital efficiency of projects of applicants to authorizing agencies  
66 for loans and grants, review financing options, and make recommendations to each authorizing  
67 agency regarding terms of loans or grants and levels of state subsidy in accordance with the  
68 financial feasibility of the project and the efficiency of available state capital;

69 (d) coordinate and consolidate, to the extent possible, all financial and legal analysis of  
70 financing plans and closings of loans and grants made by each authorizing agency; and

71 (e) provide an annual report of his activities to the state treasurer, the governor, the  
72 Division of Finance, and the boards of each authorizing agency.

73 (3) The analysis under Subsection (2)(c) shall include~~[, but is not limited to,]~~  
74 consideration of the following criteria:

75 (a) a demonstration of need based on the applicant's overall financial profile, including  
76 ~~[but not limited to,]~~ overlapping debt, tax levies, user rates, fees, charges, assessments, and  
77 other revenue and obligations existing within the community as a whole;

78 (b) the ability of the applicant to obtain financing from other<sub>2</sub> [~~(~~preferably private~~)~~],  
79 sources on terms and conditions reasonably affordable;

80 (c) the availability and advisability of financing methods such as loans, grants, interest  
81 buy down arrangements, bond insurance, loan or bond guarantees, or any other appropriate  
82 method;

83 (d) the economic and efficiency of capital advantages enuring to the authorizing agency  
84 if the financing plan is adopted;

85 (e) a demonstration of local public support for the financing plan; and

86 (f) availability of other funds and financing methods under law.

87 (4) Each authorizing agency shall consult with and cooperate with the officer and shall  
88 consider his recommendations before proceeding to fund a project, but the final decision as to  
89 the appropriate financing plan shall rest with the board of the authorizing agency according to

90 their legal authority existing at the time.

91 Section 3. Section **63-65-4** is amended to read:

92 **63-65-4. Custodial officer -- Powers and duties.**

93 (1) There is created within the Division of Finance an officer responsible for the care,  
94 custody, safekeeping, collection, and accounting of all bonds, notes, contracts, trust documents,  
95 and other evidences of indebtedness owned or administered by:

96 (a) the state or any of its agencies; and

97 (b) revolving loan funds except the:

98 (i) Agriculture Resource Development Fund, created in Section 4-18-6;

99 (ii) Utah Rural Rehabilitation Fund, created in Section 4-19-4;

100 (iii) Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3; and

101 (iv) Olene Walker Housing Loan Fund, created in Section 9-4-702.

102 (2) (a) Each authorizing agency shall deliver to this officer for his care, custody,  
103 safekeeping, collection, and accounting all bonds, notes, contracts, trust documents, and other  
104 evidences of indebtedness owned or administered by:

105 (i) the state or any of its agencies; and

106 (ii) revolving loan funds.

107 (b) This officer shall:

108 (i) establish systems, programs, and facilities for the care, custody, safekeeping,  
109 collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences  
110 of indebtedness submitted to him under this Subsection (2); and

111 (ii) shall make available updated reports to each authorizing agency as to the status of  
112 loans under their authority.

113 (3) The officer described in Section 63-65-3 shall deliver to this officer for his care,  
114 custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents,  
115 and other evidences of indebtedness closed as provided in Subsection 63-65-3(2)(b).

116 Section 4. Section **63-65-5** is amended to read:

117 **63-65-5. State treasurer may sell, assign, or liquidate agency bonds -- Marketing**  
118 **plan required.**

119 (1) [~~Authorizing~~] One or more authorizing agencies may from time to time request the  
120 state treasurer to[~~-(a)~~] sell, assign, or [~~pledge~~] liquidate agency bonds on behalf of the

121 authorizing agencies as provided in Section 63-65-6~~[; or]~~.

122 ~~[(b) issue revenue bonds on behalf of the state, as provided in Section 63-65-8, for the~~  
123 ~~purpose of providing funds to purchase agency bonds from the authorizing agencies under~~  
124 ~~Section 63-65-7.]~~

125 (2) (a) Agency bonds shall be sold, assigned, transferred, or ~~[pledged by authorizing~~  
126 ~~agencies to or]~~ liquidated by the state treasurer pursuant to a ~~[plan or plans of]~~ marketing plan  
127 provided by the state treasurer under Section 63-65-6 ~~[or 63-65-7, as the case may be. The plan~~  
128 ~~or plans of marketing shall be approved in writing by the governor and the appropriate~~  
129 ~~authorizing agency or agencies].~~

130 (b) The governor or the governor's designee and the appropriate authorizing agency  
131 shall approve the marketing plan, in writing.

132 Section 5. Section **63-65-6** is amended to read:

133 **63-65-6. Marketing plan and related agreements -- Use of proceeds of liquidation**  
134 **of agency bonds -- Report to Division of Finance -- Special funds -- Limitation on**  
135 **liability.**

136 (1) (a) ~~[Prior to]~~ Before the liquidation of any agency bonds pursuant to the request of  
137 an authorizing agency as provided in Section 63-65-5, the state treasurer shall provide a written  
138 ~~[plan of]~~ marketing plan to the governor or the governor's designee and the appropriate  
139 authorizing agency or agencies for written approval.

140 (b) The marketing plan ~~[of marketing]~~ may provide for:

141 (i) the terms and conditions under which the agency bonds may be sold, assigned, or  
142 ~~[pledged]~~ liquidated by the state treasurer;

143 (ii) the particular agency bonds to be sold, assigned, or ~~[pledged]~~ liquidated, or a  
144 maximum par amount of agency bonds to be sold, assigned, or ~~[pledged]~~ liquidated;

145 (iii) the price or a range of prices of the agency bonds to be sold, assigned, or ~~[pledged]~~  
146 liquidated, which may be at, above, or below par, as the state treasurer determines in the ~~[plan~~  
147 ~~of]~~ marketing plan;

148 (iv) the terms and conditions of agreements entered into by the state treasurer on behalf  
149 of the state with financial and other institutions for financial advisory services, trustee services,  
150 insurance, letters of credit, reimbursement agreements, tender agreements, put agreements,  
151 repurchase agreements, and indexing and tender agent agreements to facilitate the ~~[plan of]~~

152 marketing plan or to secure or provide liquidity to support any agreement, obligation, or  
153 contract entered into by the state treasurer on behalf of the state in connection with the sale,  
154 assignment, or [~~pledge~~] liquidation of the agency bonds and any repurchase, remarketing, or  
155 other [~~pledge~~] liquidation of the agency bonds and any insurance, repurchase, remarketing,  
156 tender, put, letter of credit, or agreement, obligation, or contract entered in connection with  
157 them, including payment of fees, charges, or other amounts coming due under agreements  
158 entered into with financial or other institutions by the state treasurer, from the proceeds of any  
159 sale, [~~pledge,~~] assignment, or other [~~hypothecation~~] liquidation of agency bonds, and from any  
160 investment earnings on such proceeds, and no other state money may be used for this purpose;

161 (v) the application of the proceeds received from the sale, assignment, or [~~pledge~~]  
162 liquidation of agency bonds, and any investment earnings on them; and

163 (vi) all other details relating to the sale, assignment, or [~~pledge~~] liquidation of agency  
164 bonds and any related, attached, or accompanying insurance, tender, put, repurchase,  
165 remarketing, letter of credit, or other agreement, obligation, or contract deemed necessary or  
166 appropriate by the state treasurer.

167 [~~(b)~~] (c) The state treasurer, on behalf of the state, may enter into the agreements  
168 contemplated in the [~~plan of~~] marketing plan.

169 (2) (a) After the payment of, or provision for payment of, the fees, charges, or other  
170 amounts[;] pursuant to Subsection (1), the state treasurer shall deliver the proceeds of the sale,  
171 [~~pledge,~~] assignment, or other [~~hypothecation~~] liquidation of agency bonds under this section  
172 [~~shall be delivered by the state treasurer~~] to the appropriate authorizing agency [~~for application~~  
173 ~~as then authorized under~~] to be applied as authorized by the law creating or authorizing the  
174 loan or grant program of [~~each~~] the authorizing agency.

175 (b) (i) The marketing plan [~~of marketing~~] may provide that if any agreement,  
176 obligation, or contract entered into by the state treasurer on behalf of the state with respect to  
177 the sale, repurchase, [~~pledge,~~] remarketing, tender, put, assignment, or other [~~hypothecation~~]  
178 liquidation of the agency bonds remains outstanding under the [~~plan of~~] marketing plan, the  
179 proceeds, and investment earnings on them, may be pledged, escrowed, held in trust, or  
180 otherwise held in reserve by the state treasurer to secure these agreements, obligations, or  
181 contracts of the state treasurer entered into on behalf of the state.

182 (ii) Any [~~such~~] obligations of the state treasurer entered into on behalf of the state

183 under Subsection (2)(b)(i) shall be limited solely to [~~such~~] those proceeds and the investment  
184 earnings on them.

185 (c) No holder or beneficiary of any put, tender, repurchase, remarketing, or other  
186 similar rights under such agreements, obligations, or contracts of the state treasurer entered into  
187 on behalf of the state has any rights against the state, the state treasurer or any state agency, or  
188 funds of the state, the state treasurer, or any state agency, other than those expressly set forth in  
189 the agreement or contract embodying [~~such~~] those rights, consistent with the marketing plan [~~of~~  
190 marketing] and the limitation set forth in this Subsection (2).

191 (3) (a) (i) The state treasurer may establish more than one [~~plan of~~] marketing plan  
192 under this section.

193 (ii) Agency bonds may be combined in any combination and sold, pledged, assigned, or  
194 otherwise [~~hypothecated~~] liquidated in any amounts, at any time, and from time to time as  
195 provided in the applicable marketing plan [~~of marketing~~].

196 (b) The state treasurer may, by order, set forth the sale price, form, manner of  
197 execution, payment, manner of sale, [~~pledge,~~] assignment, or other [~~hypothecation~~] liquidation,  
198 and all details of agreements or contracts entered into in connection with them, including the  
199 application of any proceeds and the investment earnings on them, consistent with the [~~plan of~~  
200 marketing plan] and this section.

201 (c) The state treasurer shall make a verified return to the Division of Finance  
202 immediately upon completion of each transaction of:

203 (i) the amount of agency bonds involved;

204 (ii) the amounts received in each transaction entered into under this section; and

205 (iii) a brief description of any pledge or other restriction on the proceeds of the  
206 transaction or the investment earnings on the proceeds.

207 (4) The state treasurer may:

208 (a) create any funds necessary to carry out the purposes of this section[~~—The state~~  
209 ~~treasurer may~~];

210 (b) invest all money held in those funds in accordance with Title 51, Chapter 7, State  
211 Money Management Act [~~of 1974~~], and in accordance with any agreement of the state,  
212 pursuant to the [~~plan of~~] marketing plan, with respect to the investment and application of the  
213 money[~~—Money~~]; and

214 (c) invest money held in the funds [~~may be invested~~] in obligations of any state,  
 215 territory, or possession of the United States, or of any of the political subdivisions of any state,  
 216 territory, or possession of the United States, or of the District of Columbia, described in  
 217 Section 103, Internal Revenue Code of 1986.

218 (5) The limitations contained in this section with respect to the liability of the state or  
 219 its agencies may not be construed to limit or alter the obligations of political subdivisions on  
 220 the bonds in the hands of the holders of them in any manner.

221 Section 6. Section ~~63-65-7~~ is amended to read:

222 **63-65-7. Pledge of agency bonds to pay revenue bonds -- Contents of financing**  
 223 **agreements -- Use of monies received by authorizing agencies.**

224 [~~(1) Authorizing agencies may sell, assign, transfer, or pledge to the state treasurer, and~~  
 225 ~~the state treasurer may acquire from authorizing agencies, agency bonds pursuant to the request~~  
 226 ~~of an authorizing agency as provided in Section 63-65-5.]~~

227 [~~(2) (a) Prior to the acquisition of agency bonds, the state treasurer shall provide a~~  
 228 ~~written plan of marketing to the governor and the appropriate authorizing agency or agencies~~  
 229 ~~for written approval. The plan of marketing shall specify:]~~

230 [~~(i) the agency bonds that may be acquired by the state treasurer;]~~

231 [~~(ii) the purchase price for the agency bonds or the manner in which the purchase price~~  
 232 ~~may subsequently be determined by the state treasurer; and]~~

233 [~~(iii) the source or sources of funds from which the state treasurer shall pay the~~  
 234 ~~purchase price of the agency bonds, including the proceeds of revenue bonds issued by the state~~  
 235 ~~treasurer under Section 63-65-8.]~~

236 [~~(b) The plan of marketing may include other provisions the state treasurer deems~~  
 237 ~~necessary or appropriate.]~~

238 [~~(c) The state treasurer may prepare more than one plan of marketing. Each plan of~~  
 239 ~~marketing may include agency bonds of more than one authorizing agency.]~~

240 [~~(3) Following the approval of the plan of marketing, the state treasurer may]~~

241 (1) With the approval of the relevant authorizing agency, the State Bonding  
 242 Commission may pledge, assign, or otherwise transfer any agency bonds, any monies payable  
 243 on or with respect to them, any legally available monies or other security administered by an  
 244 authorizing agency, or any combination of bonds, monies, or other security to provide for the



245 payment of revenue bonds issued under Section 63-65-8 and the payment of any amounts due  
 246 under agreements and contracts described in Subsection 63-65-8 (9).

247 (2) (a) Before issuing revenue bonds under Section 63-65-8, the commission shall enter  
 248 into a [purchase] financing agreement with the appropriate authorizing agency or agencies.

249 (b) This agreement shall specify:

250 [~~(a) the~~] (i) any agency bonds, monies, or other security to be [purchased] pledged by  
 251 the [state treasurer] commission to provide for the payment of the revenue bonds;

252 [~~(b)~~] (ii) the [purchase price of] amount to be paid to the order of the authorizing  
 253 agency or agencies for the agency bonds[;], monies, or other security; and

254 [~~(c) the terms of sale of the agency bonds from the authorizing agency or agencies to~~  
 255 the state treasurer; and]

256 [~~(d)~~] (iii) other [details with respect to the purchase of the agency bonds] matters that  
 257 the [state treasurer deems] commission considers necessary or appropriate.

258 [~~(4)~~] (3) The [purchase price for agency bonds paid to] amounts received by each  
 259 authorizing agency from the proceeds of the revenue bonds, together with all amounts paid to  
 260 the authorizing agencies pursuant to Subsection 63-65-8(10), shall be applied by the  
 261 authorizing agency as [then] authorized [under] by the law creating or authorizing the loan or  
 262 grant program of [each] the authorizing agency.

263 Section 7. Section **63-65-8** is amended to read:

264 **63-65-8. Commission may authorize revenue bonds -- Contents of bond document**  
 265 **-- Special and reserve funds -- Limitation on liability -- Restoration of monies in reserve**  
 266 **funds -- Payment of bonds and other technical requirements -- Refunding -- Report to**  
 267 **Division of Finance.**

268 (1) (a) In order to provide authorizing agencies with an alternative method of  
 269 liquidating agency bonds[~~;~~ ~~thereby~~] and, by doing so, providing authorizing agencies with  
 270 additional funds to further the purposes of authorizing agencies, the [state treasurer]  
 271 commission may authorize the issuance of revenue bonds from time to time [issue revenue  
 272 bonds on behalf of] by the state [for the purpose of generating funds necessary to purchase the  
 273 agency bonds identified in the plan of marketing provided by the state treasurer pursuant to  
 274 Section 63-65-7].

275 (b) These revenue bonds shall be payable solely from a special fund established by the

276 state treasurer as provided in Subsection (4).

277 (c) Revenue bonds may be sold at public or private sale and may be issued in one or  
278 more series.

279 (2) Revenue bonds may be authorized, issued, and sold by the ~~[state treasurer]~~  
280 commission on behalf of the state at a time or times and in a manner set forth in a ~~[written~~  
281 ~~order of the state treasurer with respect to each issue of revenue bonds. A copy of this order~~  
282 ~~shall be filed in the office of the governor prior to the issuance of the revenue bonds by the~~  
283 ~~state treasurer. The state treasurer shall determine and set forth in the order with respect to each~~  
284 ~~issue of revenue bonds]~~ bond document that provides for:

285 (a) the terms and conditions of sale, including price, whether at, below or above face  
286 value;

287 (b) interest rates, including a variable rate;

288 (c) authorized denomination;

289 (d) maturity dates;

290 (e) form;

291 (f) manner of execution;

292 (g) manner of authentication;

293 (h) place and medium of payment;

294 (i) redemption terms;

295 (j) authorized signatures of public officials; and

296 (k) other provisions and details considered necessary or appropriate.

297 ~~[(3) The aggregate face amount of each issue of revenue bonds may not exceed the~~  
298 ~~outstanding principal balance of the agency bonds purchased with the proceeds of the revenue~~  
299 ~~bonds plus an amount sufficient to:]~~

300 (3) To the extent set forth in the resolution, the proceeds of revenue bonds may be used  
301 for the purposes set forth in Subsection (1) and to:

302 (a) provide for any necessary or desirable reserve fund as provided for in Subsection  
303 (5); and

304 (b) pay fees, charges, and other amounts related to the issuance and sale of the revenue  
305 bonds.

306 (4) (a) As provided in the ~~[order of the state treasurer]~~ bond document, the principal of,

307 premium, if any, and interest on, any issue of revenue bonds is payable solely from and  
308 secured by ~~[a]~~ one or more special [fund] funds consisting of:

309 (i) the pledge and assignment ~~[by the state treasurer of all]~~ of any agency bonds,  
310 including all amounts payable on or with respect to them, ~~[purchased by the state treasurer with~~  
311 ~~the proceeds of sale of that issue of revenue bonds]~~ and other monies and security, as provided  
312 for in an agreement entered into under Subsection 63-65-7(2);

313 (ii) amounts on deposit in the reserve fund, if any, established ~~[with respect to each~~  
314 ~~respective issue of revenue bonds pursuant to]~~ under Subsection (5);

315 (iii) amounts available pursuant to any security device or credit enhancement device  
316 that the ~~[state treasurer may utilize]~~ commission authorizes for the purpose of improving the  
317 marketability of the revenue bonds; and

318 (iv) other amounts available ~~[to the state treasurer]~~ and pledged by the ~~[state treasurer]~~  
319 commission to secure payment of that issue of revenue bonds.

320 (b) ~~[Purchasers]~~ Owners of revenue bonds do not have recourse against the general  
321 funds or general credit of the state or its political subdivisions or agencies, but this limitation  
322 does not limit or alter the obligations of political subdivisions on agency bonds in any manner.

323 (c) Revenue bonds do not constitute nor give rise to a general obligation or liability of,  
324 or constitute a charge or lien against, the general credit or taxing power of the state or its  
325 political subdivisions or agencies, including any authorizing agency.

326 (d) Revenue bonds shall contain on their face a statement that:

327 (i) ~~[the state treasurer is obligated to pay]~~ the revenue bonds are payable solely from  
328 the sources set forth in this Subsection (4) and specified in the ~~[order of the state treasurer]~~  
329 bond document with respect to the revenue bonds;

330 (ii) neither the state nor any political subdivision of the state is obligated to pay the  
331 revenue bonds; and

332 (iii) neither the faith and credit nor the taxing power of the state or any of its political  
333 subdivisions is pledged to the payment of principal or redemption price of, or premium, if any,  
334 or interest on the revenue bonds.

335 (e) Revenue bonds do not constitute debt of the state within the meaning of Utah  
336 Constitution Article XIII, Sec. ~~[2-(H)]~~ 5 (3) or Article XIV, Sec. 1~~[, Utah Constitution]~~.

337 (5) (a) The ~~[state treasurer]~~ commission may establish a reserve fund with respect to

338 any issue of revenue bonds.

339 (b) If a reserve fund is established, the [~~order of the state treasurer pursuant to which~~]  
340 bond document relating to that issue of revenue bonds is issued shall specify:

341 (i) the minimum amount that is required to be on deposit in the reserve fund;

342 (ii) the amount of sale proceeds from the sale of that issue of revenue bonds that shall  
343 be deposited in the reserve fund; and

344 (iii) the manner in which any deficiency in the reserve fund shall be replenished.

345 [~~(b)~~] (c) (i) On or before the first day of December of each year, the state treasurer shall  
346 certify to the governor and the director of the Division of Finance the amount [~~or amounts~~], if  
347 any, that may be required to restore all reserve funds established to the minimum amount  
348 specified by the state treasurer with respect to each reserve fund.

349 (ii) The governor may request an appropriation from the Legislature [~~an appropriation~~  
350 ~~of the amount or amounts so~~] equal to the certified amount in order to restore each reserve fund  
351 to the specified minimum amount.

352 (6) (a) (i) The [~~state treasurer~~] commission may provide in the [~~order~~] bond document  
353 that any signature of a public official authorized to sign revenue bonds may be by the facsimile  
354 signature of [~~such~~] that official imprinted, engraved, stamped, or otherwise placed on the  
355 revenue bonds.

356 (ii) If all signatures of public officials on the revenue bonds are facsimile signatures,  
357 the [~~order~~] bond document shall provide for a manual authenticating signature on the revenue  
358 bonds by or on behalf of a designated authenticating agent.

359 (iii) If an official ceases to hold office before delivery of the revenue bonds signed by  
360 [~~such~~] that official, the signature or facsimile signature of the official [~~shall be~~] is valid and  
361 sufficient for all purposes.

362 (b) A facsimile of the seal of the state [~~treasurer~~] may be imprinted, engraved, stamped,  
363 or otherwise placed on the revenue bonds.

364 (7) (a) The [~~state treasurer~~] commission may provide in the [~~order~~] bond document for  
365 the replacement of lost, destroyed, stolen, or mutilated revenue bonds or for the exchange of  
366 revenue bonds after issuance for revenue bonds of smaller or larger denominations.

367 (b) Revenue bonds in changed denominations shall:

368 (i) be exchanged for the original revenue bonds in the aggregate principal amounts and

369 in a manner that prevents the duplication of interest; and

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

372 (8) (a) (i) Revenue bonds may be registered as to both principal and interest or may be  
373 in a book entry form under which the right to principal and interest may be transferred only  
374 through a book entry.

375 (ii) The ~~[state treasurer]~~ commission may provide for the services and payment for  
376 ~~[such]~~ the services of one or more financial institutions, other entities or persons, or nominees,  
377 within or outside the state, for:

378 [(i)] (A) authentication;

379 [(ii)] (B) registration;

380 [(iii)] (C) transfer, including record, bookkeeping, or book entry functions;

381 [(iv)] (D) exchange; and

382 [(v)] (E) payment.

383 (b) The records of ownership, registration, transfer, and exchange of the revenue  
384 bonds, and of persons to whom payment with respect to them is made, are classified as private  
385 or protected as defined in Title 63, Chapter 2, Government Records Access and Management  
386 Act.

387 (c) The revenue bonds and any evidences of participation interests in the revenue bonds  
388 may be issued, executed, authenticated, registered, transferred, exchanged, and otherwise made  
389 to comply with Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the  
390 Legislature relating to the registration of obligations enacted to meet the requirements of  
391 Section 149 (a), Internal Revenue Code of 1986, or any comparable predecessor or successor  
392 provision, and applicable regulations.

393 ~~[(9) The state treasurer may, on behalf of the state, enter into]~~

394 (9) (a) The commission may authorize the execution and delivery of whatever  
395 agreements and contracts [as] that the ~~[state treasurer]~~ commission considers necessary and  
396 appropriate in connection with the issuance of revenue bonds.

397 (b) These agreements and contracts may include agreements and contracts with  
398 financial and other institutions for financial advisory services, trustee services, insurance,  
399 letters of credit, reimbursement agreements, tender agreements, put agreements, repurchase

400 agreements, and indexing and tender agent agreements to:

401 ~~[(a)]~~ (i) facilitate the sale of the revenue bonds; or

402 ~~[(b)]~~ (ii) secure or provide liquidity to support any agreement, obligation, or contract  
403 entered into by ~~[the state treasurer]~~ an authorized officer on behalf of the state in connection  
404 with:

405 ~~[(i)]~~ (A) the issuance and sale of the revenue bonds;

406 ~~[(ii)]~~ (B) any repurchase, remarketing, or other pledge of the revenue bonds; and

407 ~~[(iii)]~~ (C) any insurance, repurchase, remarketing, tender, put, letter of credit, or  
408 agreement, obligation, or contract entered into in connection with them, including payment of  
409 fees, charges, or other amounts coming due under agreements entered into with financial or  
410 other institutions ~~[by the state treasurer]~~ on behalf of the state.

411 (10) When all revenue bonds of an issue have been paid, or provision for their payment  
412 has been made, there shall be transferred to the appropriate authorizing agency or agencies, in  
413 the amounts and in the manner that the ~~[state treasurer]~~ commission considers fair and  
414 equitable, and to the extent not required to secure payment of the revenue bonds and related  
415 fees, charges, and other amounts:

416 (a) all amounts remaining on deposit in any reserve fund established with respect to the  
417 issue of revenue bonds; and

418 (b) all other amounts and all agency bonds held by the ~~[state treasurer]~~ commission and  
419 any trustee and pledged to the payment of the revenue bonds.

420 (11) (a) The state treasurer or the commission may create any funds and accounts  
421 necessary to carry out the purposes of this section.

422 (b) (i) The state treasurer shall administer and maintain those funds and accounts.

423 (ii) The state treasurer may invest all ~~[moneys]~~ monies held in those funds and  
424 accounts in accordance with Title 51, Chapter 7, State Money Management Act ~~[of 1974]~~, and  
425 in accordance with the ~~[resolution]~~ bond document or any other agreement entered into ~~[by the]~~  
426 on behalf of the state ~~[treasurer]~~ as authorized by the ~~[resolution]~~ bond document.

427 (iii) The commission may not approve the bond document or other agreement with  
428 respect to the investment and application of these [moneys] monies unless the state treasurer  
429 has affirmatively approved any investment provisions contained in the bond document or other  
430 agreement.

431 (c) All income from the ~~[moneys]~~ monies invested in a fund or account created under  
432 this Subsection (11) shall accrue to the benefit of the fund or account and shall be used for the  
433 purpose ~~[or purposes]~~ for which the fund or account was established.

434 (12) (a) The ~~[state treasurer may issue]~~ commission may authorize the issuance of  
435 refunding revenue bonds of the state in accordance with Title 11, Chapter 27, Utah Refunding  
436 Bond Act, for the purpose of refunding any revenue bonds.

437 (b) The state is considered a "public body" and the ~~[state treasurer]~~ commission its  
438 "governing body" for purposes of that act.

439 (13) (a) ~~[The state treasurer may not issue any revenue bond]~~ Revenue bonds may not  
440 be issued under this section until ~~[he]~~ an authorized official finds and certifies that all  
441 conditions precedent to the issuance of the revenue bond have been satisfied.

442 (b) A recital on any revenue bond of a finding and certification conclusively establishes  
443 the completion and satisfaction of all conditions of this section.

444 (14) Revenue bonds, interest paid on revenue bonds, and any income from revenue  
445 bonds is not taxable within this state for any purpose, except for the corporate franchise tax.

446 (15) (a) Revenue bonds are legal investments for all state trust funds, insurance  
447 companies, banks, trust companies, and the State School Fund.

448 (b) Revenue bonds may also be used as collateral to secure legal obligations.

449 (16) Immediately upon the issuance of each issue of revenue bonds, ~~[the state~~  
450 ~~treasurer]~~ an authorized official shall make a verified return to the Division of Finance of:

451 (a) the aggregate principal amount of revenue bonds issued;

452 (b) the amount of proceeds of sale of revenue bonds received by the state ~~[treasurer]~~;

453 (c) the ~~[purchase price]~~ amount paid to the authorizing agency or agencies for the  
454 agency bonds;

455 (d) the total amount of all fees and expenses relating to the issuance of the revenue  
456 bonds;

457 (e) the amount of sale proceeds of the revenue bonds used to pay fees and expenses;  
458 and

459 (f) the amount of sale proceeds of the revenue bonds deposited in the reserve fund  
460 established with respect to the issue of revenue bonds, if any.

461 Section 8. Section ~~63-65-8.1~~ is enacted to read:

462 **63-65-8.1. Tax status -- Exemption.**

463 The revenue bonds issued under this chapter, any interest paid on the revenue bonds,  
464 and any income from the bonds is not taxable in Utah for any purpose, except for the corporate  
465 franchise tax.

466 Section 9. Section **63-65-8.2** is enacted to read:

467 **63-65-8.2. Publication of resolution or notice -- Limitation on actions to contest**  
468 **legality.**

469 (1) The commission may either:

470 (a) publish once in a newspaper having general circulation in Utah any resolution  
471 adopted by it; or

472 (b) in lieu of publishing the entire resolution, publish a notice of revenue bonds to be  
473 issued, titled as such, containing:

474 (i) the purpose of the revenue bond issue;

475 (ii) the maximum principal amount that may be issued;

476 (iii) the maximum number of years over which the revenue bonds may mature;

477 (iv) the maximum interest rate that the revenue bonds may bear, if any;

478 (v) the maximum discount from par, expressed as a percentage of principal amount, at  
479 which the revenue bonds may be sold; and

480 (vi) that a copy of the resolution or other bond document may be examined at the office  
481 of the state treasurer during regular business hours for at least 30 days after the publication of  
482 the notice.

483 (2) For 30 days after the date of publication, any interested person may contest:

484 (a) the legality of the resolution or other bond document;

485 (b) any of the revenue bonds authorized under it; or

486 (c) any of the provisions made for the repayment of the revenue bonds.

487 (3) After 30 days, a person may not, for any cause, contest:

488 (a) the legality of the resolution or other bond document;

489 (b) any of the revenue bonds authorized under the resolution or other bond document;

490 or

491 (c) any of the provisions made for the security and repayment of the revenue bonds.

492 Section 10. Section **63-65-9** is amended to read:



493           **63-65-9. Payment of expenses.**

494           (1) All expenses incurred by the state [~~treasurer~~] under this chapter may be paid:

495           (a) in the case of expenses incurred under Section 63-65-6, from the proceeds of [~~sale~~]  
496 the liquidation of agency bonds; and

497           (b) in the case of expenses incurred under Section [~~63-65-7~~] 63-65-8, from the  
498 proceeds of sale of revenue bonds [~~or agency bonds~~].

499           (2) [~~Any~~] (a) Any expenses incurred by the state [~~treasurer~~] under this chapter [~~and~~]  
500 that are not paid [~~out of~~] from the proceeds of [~~sale~~] the liquidation of agency bonds or the  
501 issuance of state revenue bonds shall be [~~charged to the earnings derived~~] paid from the  
502 revolving funds of the authorizing agencies [~~as provided under this chapter and recorded as~~  
503 ~~dedicated credits to the state treasurer~~].

504           (b) These expenses are not a charge to or an appropriation from the General Fund.

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**Legislative Review Note**

as of 2-13-03 3:25 PM

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

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0149**

**Bonding Law Amendments - State Financing Consolidation Act**

*18-Feb-03*

*3:30 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**