1	REVENUE BOND AND CAPITAL FACILITIES
2	AUTHORIZATIONS
3	2011 GENERAL SESSION
4	STATE OF UTAH
5	Chief Sponsor: J. Stuart Adams
6	House Sponsor: Gage Froerer
7 8	LONG TITLE
9	General Description:
10	This bill makes modifications to provisions relating to bonding and authorizes certain
11	state agencies and higher education institutions to issue revenue bonds and to build
12	capital facilities using agency, institutional, or donated funds.
13	Highlighted Provisions:
14	This bill:
15	• exempts the 2011-12 fiscal year from funding and construction restrictions relating
16	to budget deficits;
17	removes an existing authorization for acquisition of the Department of Human
18	Services office in Brigham City, Utah;
19	<ul> <li>authorizes the issuance of revenue bonds by the State Building Ownership</li> </ul>
20	Authority;
21	<ul><li>authorizes the issuance of revenue bonds by the State Board of Regents; and</li></ul>
22	<ul> <li>authorizes other capital facility planning, design, and construction to be funded</li> </ul>
23	from agency, institutional, or donated funds.
24	Money Appropriated in this Bill:
25	None
26	Other Special Clauses:
27	None



	Utah Code Sections Affected:
	AMENDS:
	63A-5-104, as last amended by Laws of Utah 2010, Chapter 338
	63B-8-501, as last amended by Laws of Utah 2008, Chapter 382
	ENACTS:
	<b>63B-20-101</b> , Utah Code Annotated 1953
	<b>63B-20-102</b> , Utah Code Annotated 1953
	<b>63B-20-201</b> , Utah Code Annotated 1953
i	Be it enacted by the Legislature of the state of Utah:
	Section 1. Section <b>63A-5-104</b> is amended to read:
	63A-5-104. Capital development and capital improvement process Approval
	requirements Limitations on new projects Emergencies.
	(1) As used in this section:
	(a) "Capital developments" means a:
	(i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;
	(ii) new facility with a construction cost of \$500,000 or more; or
	(iii) purchase of real property where an appropriation is requested to fund the purchase.
	(b) "Capital improvements" means a:
	(i) remodeling, alteration, replacement, or repair project with a total cost of less than
	\$2,500,000;
	(ii) site and utility improvement with a total cost of less than \$2,500,000; or
	(iii) new facility with a total construction cost of less than \$500,000.
	(c) (i) "New facility" means the construction of a new building on state property
	regardless of funding source.
	(ii) "New facility" includes:
	(A) an addition to an existing building; and
	(B) the enclosure of space that was not previously fully enclosed.
	(iii) "New facility" does not mean:
	(A) the replacement of state-owned space that is demolished or that is otherwise
	removed from state use, if the total construction cost of the replacement space is less than

59	\$2,500,000; or
60	(B) the construction of facilities that do not fully enclose a space.
61	(d) "Replacement cost of existing state facilities" means the replacement cost, as
62	determined by the Division of Risk Management, of state facilities, excluding auxiliary
63	facilities as defined by the State Building Board.
64	(e) "State funds" means public money appropriated by the Legislature.
65	(2) The State Building Board, on behalf of all state agencies, commissions,
66	departments, and institutions shall submit its capital development recommendations and
67	priorities to the Legislature for approval and prioritization.
68	(3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development
69	project may not be constructed on state property without legislative approval.
70	(b) Legislative approval is not required for a capital development project if the State
71	Building Board determines that:
72	(i) the requesting higher education institution has provided adequate assurance that:
73	(A) state funds will not be used for the design or construction of the facility; and
74	(B) the higher education institution has a plan for funding in place that will not require
75	increased state funding to cover the cost of operations and maintenance to, or state funding for,
76	immediate or future capital improvements to the resulting facility; and
77	(ii) the use of the state property is:
78	(A) appropriate and consistent with the master plan for the property; and
79	(B) will not create an adverse impact on the state.
80	(c) (i) The Division of Facilities Construction and Management shall maintain a record
81	of facilities constructed under the exemption provided in Subsection (3)(b).
82	(ii) For facilities constructed under the exemption provided in Subsection (3)(b), a
83	higher education institution may not request:
84	(A) increased state funds for operations and maintenance; or
85	(B) state capital improvement funding.
86	(d) Legislative approval is not required for:
87	(i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds;
88	(ii) a facility to be built with nonstate funds and owned by nonstate entities within
89	research park areas at the University of Utah and Utah State University;

90 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation 91 with funds of the foundation, including grant money from the state, or with donated services or 92 materials; 93 (iv) a capital project that: 94 (A) is funded by: 95 (I) the Uintah Basin Revitalization Fund; or 96 (II) the Navajo Revitalization Fund; and 97 (B) does not provide a new facility for a state agency or higher education institution; or 98 (v) a capital project on school and institutional trust lands that is funded by the School 99 and Institutional Trust Lands Administration from the Land Grant Management Fund and that 100 does not fund construction of a new facility for a state agency or higher education institution. 101 (e) (i) Legislative approval is not required for capital development projects to be built 102 for the Department of Transportation as a result of an exchange of real property under Section 103 72-5-111. 104 (ii) When the Department of Transportation approves those exchanges, it shall notify 105 the president of the Senate, the speaker of the House, and the cochairs of the Capital Facilities 106 and Administrative Services Subcommittee of the Legislature's Joint Appropriation Committee 107 about any new facilities to be built under this exemption. 108 (4) (a) (i) The State Building Board, on behalf of all state agencies, commissions, 109 departments, and institutions shall by January 15 of each year, submit a list of anticipated 110 capital improvement requirements to the Legislature for review and approval. 111 (ii) The list shall identify: 112 (A) a single project that costs more than \$1,000,000; 113 (B) multiple projects within a single building or facility that collectively cost more than 114 \$1,000,000; 115 (C) a single project that will be constructed over multiple years with a yearly cost of 116 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

(E) a single project previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost

(D) multiple projects within a single building or facility with a yearly cost of

\$1,000,000 or more and an aggregate cost of more than \$2,500,000;

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121	more	than	\$1.	.000.	.000:	and

- (F) multiple projects within a single building or facility previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000.
- (b) Unless otherwise directed by the Legislature, the State Building Board shall prioritize capital improvements from the list submitted to the Legislature up to the level of appropriation made by the Legislature.
- (c) In prioritizing capital improvements, the State Building Board shall consider the results of facility evaluations completed by an architect/engineer as stipulated by the building board's facilities maintenance standards.
- (d) The State Building Board may require an entity that benefits from a capital improvement project to repay the capital improvement funds from savings that result from the project.
- (e) The State Building Board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$2,500,000 or more, if:
- (i) the capital improvement project or multiple projects require more than one year to complete; and
- (ii) the Legislature has affirmatively authorized the capital improvement project or multiple projects to be funded in phases.
  - (5) The Legislature may authorize:
  - (a) the total square feet to be occupied by each state agency; and
  - (b) the total square feet and total cost of lease space for each agency.
- (6) (a) Except as provided in Subsection (6)(b) or (c), the Legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities to capital improvements.
  - (b) (i) As used in this Subsection (6)(b):
- (A) "Education Fund budget deficit" is as defined in Section 63J-1-312; and
- (B) "General Fund budget deficit" is as defined in Section 63J-1-312.
- (ii) If the Legislature determines that an Education Fund budget deficit or a General

152	Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount
153	appropriated to capital improvements to 0.9% of the replacement cost of state buildings.
154	(c) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09,
155	2009-10, [and] 2010-11, and 2011-12 fiscal years.
156	(7) (a) If, after approval of capital development and capital improvement priorities by
157	the Legislature under this section, emergencies arise that create unforeseen critical capital
158	improvement projects, the State Building Board may, notwithstanding the requirements of Title
159	63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address
160	those projects.
161	(b) The State Building Board shall report any changes it makes in capital improvement
162	allocations approved by the Legislature to:
163	(i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and
164	(ii) the Legislature at its next annual general session.
165	(8) (a) The State Building Board may adopt a rule allocating to institutions and
166	agencies their proportionate share of capital improvement funding.
167	(b) The State Building Board shall ensure that the rule:
168	(i) reserves funds for the Division of Facilities Construction and Management for
169	emergency projects; and
170	(ii) allows the delegation of projects to some institutions and agencies with the
171	requirement that a report of expenditures will be filed annually with the Division of Facilities
172	Construction and Management and appropriate governing bodies.
173	(9) It is the intent of the Legislature that in funding capital improvement requirements
174	under this section the General Fund be considered as a funding source for at least half of those
175	costs.
176	Section 2. Section <b>63B-8-501</b> is amended to read:
177	63B-8-501. Revenue bond authorizations.
178	[(1) (a) It is the intent of the Legislature that the State Building Ownership Authority,
179	under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act,
180	may issue or execute obligations, or enter into or arrange for a lease purchase agreement in

which participation interests may be created, to provide up to \$2,510,000 for the acquisition of

the Department of Human Services Office in Brigham City, together with additional amounts

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183	necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve
184	requirements.]
185	[(b) It is the intent of the Legislature that amounts representing existing budgets for
186	rent for the Department of Human Services be used as the primary revenue source for the
187	Department of Human Services to pay the state for repayment of any obligation created under
188	authority of this Subsection (1).]
189	$\left[\frac{(2)(a)}{a}\right]$ It is the intent of the Legislature that:
190	(1) the State Building Ownership Authority, under the authority of Title 63B, Chapter
191	1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
192	into or arrange for a lease purchase agreement in which participation interests may be created,
193	to provide up to $$6,518,000$ for the construction of an office building to house the Department
194	of Corrections and the Board of Pardons and Parole Administration, together with additional
195	amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service
196	reserve requirements[:]; and
197	[(b) It is the intent of the Legislature that]
198	(2) amounts representing existing budgets for rent for the Department of Corrections
199	and the Board of Pardons and Parole Administration be used as the primary revenue source for
200	the Department of Corrections and the Board of Pardons and Parole Administration to pay the
201	state for repayment of any obligation created under authority of this [Subsection (2)] section.
202	Section 3. Section <b>63B-20-101</b> is enacted to read:
203	<b>CHAPTER 20. 2011 FINANCING AUTHORIZATIONS</b>
204	Part 1. 2011 Revenue Bond Authorizations
205	63B-20-101. Revenue Bond Authorizations State Building Ownership
206	Authority.
207	(1) The Legislature intends that:
208	(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter
209	1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
210	into or arrange for a lease-purchase agreement in which participation interests may be created,
211	to provide up to \$3,900,000 for the acquisition of the Davis County Courts building and
212	adjacent land in Farmington City, together with additional amounts necessary to pay costs of
213	issuance, pay capitalized interest, and fund any debt service reserve requirements;

214	(b) the judicial branch use existing lease budgets as the primary revenue source for
215	repayment of any obligation created under authority of this section; and
216	(c) the judicial branch may not request additional state funds for operation and
217	maintenance costs.
218	(2) The Legislature intends that:
219	(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter
220	1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
221	into or arrange for a lease-purchase agreement in which participation interests may be created,
222	to provide up to \$1,200,000 for the acquisition and construction of the Utah College of Applied
223	Technology Administration and Training building with up to 8,000 square feet, together with
224	additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any
225	debt service reserve requirements;
226	(b) the Utah College of Applied Technology use existing lease budgets as the primary
227	revenue source for repayment of any obligation created under authority of this section; and
228	(c) the Utah College of Applied Technology may not request additional state funds for
229	operation and maintenance costs.
230	Section 4. Section <b>63B-20-102</b> is enacted to read:
231	63B-20-102. Revenue Bond Authorizations Board of Regents.
232	(1) The Legislature intends that:
233	(a) the Board of Regents, on behalf of Utah Valley University, may issue, sell, and
234	deliver revenue bonds or other evidences of indebtedness of Utah Valley University to borrow
235	money on the credit, revenues, and reserves of the university, other than appropriations of the
236	<u>Legislature</u> , to finance the cost of constructing a Student Life and Wellness building with up to
237	170,000 square feet;
238	(b) Utah Valley University use student fees as the primary revenue sources for
239	repayment of any obligation created under authority of this section;
240	(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
241	this section is \$40,000,000, together with other amounts necessary to pay costs of issuance, pay
242	capitalized interest, and fund any debt service reserve requirements;
243	(d) the university may plan, design, and construct the Student Life and Wellness
244	building subject to the requirements of Title 63A, Chapter 5, State Building Board - Division

245	of Facilities Construction and Management; and
246	(e) the university may not request state funds for operation and maintenance costs or
247	capital improvements.
248	(2) The Legislature intends that:
249	(a) the Board of Regents, on behalf of Utah Valley University, may issue, sell, and
250	deliver revenue bonds or other evidences of indebtedness of Utah Valley University to borrow
251	money on the credit, revenues, and reserves of the university, other than appropriations of the
252	Legislature, to finance the cost of constructing a parking structure with up to 534 stalls;
253	(b) Utah Valley University use parking fees as the primary revenue sources for
254	repayment of any obligation created under authority of this section;
255	(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
256	this section is \$8,000,000, together with other amounts necessary to pay costs of issuance, pay
257	capitalized interest, and fund any debt service reserve requirements;
258	(d) the university may plan, design, and construct the parking structure, subject to the
259	requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities
260	Construction and Management; and
261	(e) the university may not request state funds for operation and maintenance costs or
262	capital improvements.
263	(3) The Legislature intends that:
264	(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and
265	deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
266	money on the credit, revenues, and reserves of the university, other than appropriations of the
267	Legislature, to finance the cost of constructing a parking structure for the Ambulatory Care
268	Complex:
269	(b) the University of Utah use clinical revenues and other institutional funds as the
270	primary revenue sources for repayment of any obligation created under authority of this
271	section;
272	(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
273	this section is \$16,328,000, together with other amounts necessary to pay costs of issuance, pay
274	capitalized interest, and fund any debt service reserve requirements;
275	(d) the university may plan, design, and construct the parking structure, subject to the

276	requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities
277	Construction and Management; and
278	(e) the university may not request state funds for operation and maintenance costs or
279	capital improvements.
280	(4) The Legislature intends that:
281	(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and
282	deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
283	money on the credit, revenues, and reserves of the university, other than appropriations of the
284	Legislature, to finance the cost of constructing a University of Utah Healthcare Medical
285	Services building with up to 70,000 square feet;
286	(b) the University of Utah use clinical revenues, donations, and other institutional
287	funds as the primary revenue sources for repayment of any obligation created under authority of
288	this section;
289	(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
290	this section is \$25,857,000, together with other amounts necessary to pay costs of issuance, pay
291	capitalized interest, and fund any debt service reserve requirements;
292	(d) the university may plan, design, and construct the Healthcare Medical Services
293	building, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division
294	of Facilities Construction and Management; and
295	(e) the university may not request state funds for operation and maintenance costs or
296	capital improvements.
297	(5) The Legislature intends that:
298	(a) the Board of Regents, on behalf of Snow College, may issue, sell, and deliver
299	revenue bonds or other evidences of indebtedness of Snow College to borrow money on the
300	credit, revenues, and reserves of the university, other than appropriations of the Legislature, to
301	finance the cost of constructing student housing with up to 93,000 square feet;
302	(b) Snow College use student housing rental fees as the primary revenue source for
303	repayment of any obligation created under authority of this section;
304	(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
305	this section is \$15,689,000, together with other amounts necessary to pay costs of issuance, pay
306	capitalized interest, and fund any debt service reserve requirements;

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307	(d) the university may plan, design, and construct the student housing, subject to the
308	requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities
309	Construction and Management; and
310	(e) the university may not request state funds for operation and maintenance costs or
311	capital improvements.
312	(6) The Legislature intends that:
313	(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and
314	deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
315	money on the credit, revenues, and reserves of the university, other than appropriations of the
316	Legislature, to finance the cost of expanding the Dee Glen Smith Athletic Center with up to
317	58,000 new square feet;
318	(b) the University of Utah use donations and other institutional funds as the primary
319	revenue sources for repayment of any obligation created under authority of this section;
320	(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
321	this section is \$20,000,000, together with other amounts necessary to pay costs of issuance, pay
322	capitalized interest, and fund any debt service reserve requirements;
323	(d) the university may plan, design, and construct the athletic center subject to the
324	requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities
325	Construction and Management; and
326	(e) the university may not request state funds for operation and maintenance costs or
327	capital improvements.
327a1	Ĥ→ (7) The Legislature intends that:
327b1	(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and
327c1	deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
327d1	money on the credit, revenues, and reserves of the university, other than appropriations of the
327e1	Legislature, to finance the cost of acquiring the University of Utah South Jordan Health
327f1	Center that is currently leased;
327g1	(b) the University of Utah use clinical enterprise revenues as the primary source for
327h1	repayment of any obligation created under authority of this section;
327i1	(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
327j1	this section is \$66,000,000, together with other amounts necessary to pay costs of issuance, pay
327k1	capitalized interest, and fund any debt service reserve requirements;
32711	(d) no state funds be used for any portion of this project; and
327m1	(e) the university may not request state funds for operation and maintenance costs

327n1	or capital improvements. ←Ĥ
327a	<b>Ŝ→</b> (7) The Legislature intends that:
327b	(a) the Board of Regents, on behalf of Weber State University, may issue, sell, and
327c	deliver revenue bonds or other evidences of indebtedness of Weber State University to borrow
327d	money on the credit, revenues, and reserves of the university, other than appropriations of the
327e	Legislature, to finance a portion of the cost of constructing a Professional Programs Classroom
327f	Building on the Davis Campus;
327g	(b) Weber State University use student fees and other contributions as the primary
327h	revenue sources for repayment of any obligation created under authority of this section;
327i	(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
327j	this section is \$8,400,000, together with other amounts necessary to pay costs of issuance, pay
327k	capitalized interest, and fund any debt service reserve requirements;
3271	(d) the university may plan, design, and construct the classroom building subject to the
327m	requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities ←Ŝ

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327n	<b>Ŝ→</b> Construction and Management; and
327o	(e) the university may not request state funds for operation and maintenance costs or
327p	capital improvements. ←Ŝ
328	Section 5. Section <b>63B-20-201</b> is enacted to read:
329	Part 2. 2011 Capital Facility Design and Construction Authorizations
330	63B-20-201. Authorizations to design and construct capital facilities using
331	institutional or agency funds.
332	(1) The Legislature intends that:
333	(a) Utah State University may, subject to requirements in Title 63A, Chapter 5, State
334	Building Board - Division of Facilities Construction and Management, use \$2,500,000 in
335	donations to plan, design, renovate the existing 8,800 square foot structure, and construct an
336	addition to the Art Barn with up to 3,700 new square feet;
337	(b) no state funds be used for any portion of this project: and

338	(c) the university may not request state funds for operation and maintenance costs or
339	capital improvements.
340	(2) The Legislature intends that:
341	(a) Utah State University may, subject to requirements in Title 63A, Chapter 5, State
342	Building Board - Division of Facilities Construction and Management, use \$10,000,000 in
343	donations and institutional funds to plan, design, and construct a Regional Campuses and
344	Distance Education building, with up to 38,000 new square feet;
345	(b) no state funds be used for any portion of this project; and
346	(c) the university may not request state funds for operation and maintenance costs or
347	capital improvements.
348	(3) The Legislature intends that:
349	(a) Utah State University may, subject to requirements in Title 63A, Chapter 5, State
350	Building Board - Division of Facilities Construction and Management, use \$7,500,000 in
351	donations to plan, design, and construct an Athletics Competition and Practice Facility, with up
352	to 28,000 new square feet;
353	(b) no state funds be used for any portion of this project; and
354	(c) the university may not request state funds for operation and maintenance costs or
355	capital improvements.
356	(4) The Legislature intends that:
357	(a) the Department of Natural Resources may, subject to requirements in Title 63A,
358	Chapter 5, State Building Board - Division of Facilities Construction and Management, use
359	\$2,300,000 in donations to plan, design, and construct the Lee Kay Archery Center, with up to
360	50,000 new square feet;
361	(b) no state funds be used for any portion of this project; and
362	(c) the department may not request state funds for operation and maintenance costs or
363	capital improvements.

Legislative Review Note as of 3-2-11 8:43 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 5

SHORT TITLE: Revenue Bond and Capital Facilities Authorizations

SPONSOR: Adams, J. S.

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

The bill authorizes \$130,974,000 (plus direct issue costs) for revenue bond projects and \$22,300,000 for design and construction of buildings using non-state institutional funds or donations.

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d)) Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.

3/8/2011, 03:37 PM, Lead Analyst: Amon, R./Attorney: ENW

Office of the Legislative Fiscal Analyst