

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

LONG TITLE

8 **General Description:**

9 This bill makes modifications to provisions relating to bonding and authorizes certain
10 state agencies and higher education institutions to issue revenue bonds and to build
11 capital facilities using agency, institutional, or donated funds.
12

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 ▶ authorizes the issuance of revenue bonds by the State Building Ownership
20 Authority;

21 ▶ authorizes the issuance of revenue bonds by the State Board of Regents; and

22 ▶ authorizes other capital facility planning, design, and construction to be funded
23 from agency, institutional, or donated funds.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63A-5-104**, as last amended by Laws of Utah 2010, Chapter 338

31 **63B-8-501**, as last amended by Laws of Utah 2008, Chapter 382

32 ENACTS:

33 **63B-20-101**, Utah Code Annotated 1953

34 **63B-20-102**, Utah Code Annotated 1953

35 **63B-20-201**, Utah Code Annotated 1953



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

38 Section 1. Section **63A-5-104** is amended to read:

39 **63A-5-104. Capital development and capital improvement process -- Approval**
40 **requirements -- Limitations on new projects -- Emergencies.**

41 (1) As used in this section:

42 (a) "Capital developments" means a:

- 43 (i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;
- 44 (ii) new facility with a construction cost of \$500,000 or more; or
- 45 (iii) purchase of real property where an appropriation is requested to fund the purchase.

46 (b) "Capital improvements" means a:

- 47 (i) remodeling, alteration, replacement, or repair project with a total cost of less than
- 48 \$2,500,000;
- 49 (ii) site and utility improvement with a total cost of less than \$2,500,000; or
- 50 (iii) new facility with a total construction cost of less than \$500,000.

51 (c) (i) "New facility" means the construction of a new building on state property
52 regardless of funding source.

53 (ii) "New facility" includes:

- 54 (A) an addition to an existing building; and
- 55 (B) the enclosure of space that was not previously fully enclosed.

56 (iii) "New facility" does not mean:

- 57 (A) the replacement of state-owned space that is demolished or that is otherwise
- 58 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;

117 (D) multiple projects within a single building or facility with a yearly cost of
118 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

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

121 more than \$1,000,000; and

122 (F) multiple projects within a single building or facility previously reported to the
123 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in
124 costs or scope of work, will now cost more than \$1,000,000.

125 (b) Unless otherwise directed by the Legislature, the State Building Board shall
126 prioritize capital improvements from the list submitted to the Legislature up to the level of
127 appropriation made by the Legislature.

128 (c) In prioritizing capital improvements, the State Building Board shall consider the
129 results of facility evaluations completed by an architect/engineer as stipulated by the building
130 board's facilities maintenance standards.

131 (d) The State Building Board may require an entity that benefits from a capital
132 improvement project to repay the capital improvement funds from savings that result from the
133 project.

134 (e) The State Building Board may provide capital improvement funding to a single
135 project, or to multiple projects within a single building or facility, even if the total cost of the
136 project or multiple projects is \$2,500,000 or more, if:

137 (i) the capital improvement project or multiple projects require more than one year to
138 complete; and

139 (ii) the Legislature has affirmatively authorized the capital improvement project or
140 multiple projects to be funded in phases.

141 (5) The Legislature may authorize:

142 (a) the total square feet to be occupied by each state agency; and

143 (b) the total square feet and total cost of lease space for each agency.

144 (6) (a) Except as provided in Subsection (6)(b) or (c), the Legislature may not fund the
145 design or construction of any new capital development projects, except to complete the funding
146 of projects for which partial funding has been previously provided, until the Legislature has
147 appropriated 1.1% of the replacement cost of existing state facilities to capital improvements.

148 (b) (i) As used in this Subsection (6)(b):

149 (A) "Education Fund budget deficit" is as defined in Section 63J-1-312; and

150 (B) "General Fund budget deficit" is as defined in Section 63J-1-312.

151 (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 **63B-8-501** 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~~
181 ~~which participation interests may be created, to provide up to \$2,510,000 for the acquisition of~~
182 ~~the Department of Human Services Office in Brigham City, together with additional amounts~~

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 [(2)(a)] 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 **63B-20-101** is enacted to read:

203 **CHAPTER 20. 2011 FINANCING AUTHORIZATIONS**

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 **63B-20-102** 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 Legislature, 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;

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.

328 Section 5. Section **63B-20-201** 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