

1 **REVENUE BOND AND CAPITAL FACILITIES**

2 **AMENDMENTS**

3 2013 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Wayne A. Harper**

6 House Sponsor: Gage Froerer

7

LONG TITLE

8 **General Description:**

9
10 This bill makes modifications to provisions relating to revenue bonding; authorizes
11 certain state agencies and institutions to issue revenue bonds; and authorizes the
12 construction or renovation of capital facilities using agency, institutional, or donated
13 funds.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ modifies capital improvement appropriation requirements for the 2013-14 fiscal
- 17 year;
- 18 ▶ authorizes the State Board of Regents to issue bonds for the following:
 - 19 • \$30,000,000 for the Aggie Life & Wellness Center at Utah State University;
 - 20 • \$900,000 for the Blanding Recreational Center at Utah State University;
 - 21 College of Eastern Utah: Blanding Campus;
 - 22 • \$20,532,000 for the Space Dynamics Laboratory at Utah State University;
 - 23 • \$23,600,00 for the Basketball Training Center - HPER Addition at the
 - 24 University of Utah; and
 - 25 • \$7,500,000 for the Utah State University Athletic Complex/Training Center at
 - 26 Utah State University;
 - 27 ▶ prohibits the request of state funds for operation and maintenance costs or capital



28 improvements associated with the authorized revenue bond projects; and

29 ▶ authorizes the planning, design, and construction or renovation of the following,
30 provided that only agency, institutional, or donated funds are used:

31 • for a Center for the Arts at Southern Utah University at a cost of up to
32 \$30,000,000 and prohibits the use of state funds for operation and maintenance
33 and capital improvement costs of the building;

34 • for the Kennecott Building and Renovation and Addition of Phase II at the
35 University of Utah at a cost of up to \$11,040,000, and permits state funds to be
36 used for operation and maintenance and capital improvement costs of the
37 building;

38 • for a Science and Technology Building at the Tooele Campus of Utah State
39 University Tooele at a cost of up to \$8,000,000, and permits state funds to be
40 used for operation and maintenance and capital improvement costs of the
41 building; and

42 • for a Communications and Driver License Building at the Department of Public
43 Safety in Price at a cost of up to \$1,277,000, and permits state funds to be used
44 for operation and maintenance and capital improvement costs of the building.

45 **Money Appropriated in this Bill:**

46 None

47 **Other Special Clauses:**

48 None

49 **Utah Code Sections Affected:**

50 AMENDS:

51 **63A-5-104**, as last amended by Laws of Utah 2012, Chapters 129, 242, and 393

52 ENACTS:

53 **63B-22-101**, Utah Code Annotated 1953

54 **63B-22-201**, Utah Code Annotated 1953



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

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

58 **63A-5-104. Definitions -- Capital development and capital improvement process**

59 -- Approval requirements -- Limitations on new projects -- Emergencies.

60 (1) As used in this section:

61 (a) "Capital developments" means a:

62 (i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;

63 (ii) new facility with a construction cost of \$500,000 or more; or

64 (iii) purchase of real property where an appropriation is requested to fund the purchase.

65 (b) "Capital improvements" means a:

66 (i) remodeling, alteration, replacement, or repair project with a total cost of less than

67 \$2,500,000;

68 (ii) site and utility improvement with a total cost of less than \$2,500,000; or

69 (iii) new facility with a total construction cost of less than \$500,000.

70 (c) (i) "New facility" means the construction of a new building on state property

71 regardless of funding source.

72 (ii) "New facility" includes:

73 (A) an addition to an existing building; and

74 (B) the enclosure of space that was not previously fully enclosed.

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

76 (A) the replacement of state-owned space that is demolished or that is otherwise

77 removed from state use, if the total construction cost of the replacement space is less than

78 \$2,500,000; or

79 (B) the construction of facilities that do not fully enclose a space.

80 (d) "Replacement cost of existing state facilities" means the replacement cost, as

81 determined by the Division of Risk Management, of state facilities, excluding auxiliary

82 facilities as defined by the State Building Board.

83 (e) "State funds" means public money appropriated by the Legislature.

84 (2) The State Building Board, on behalf of all state agencies, commissions,

85 departments, and institutions shall submit its capital development recommendations and

86 priorities to the Legislature for approval and prioritization.

87 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development

88 project may not be constructed on state property without legislative approval.

89 (b) Legislative approval is not required for a capital development project that consists

90 of the design or construction of a new facility if the State Building Board determines that:

91 (i) the requesting state agency, commission, department, or institution has provided
92 adequate assurance that:

93 (A) state funds will not be used for the design or construction of the facility; and

94 (B) the state agency, commission, department, or institution has a plan for funding in
95 place that will not require increased state funding to cover the cost of operations and
96 maintenance to, or state funding for, immediate or future capital improvements to the resulting
97 facility; and

98 (ii) the use of the state property is:

99 (A) appropriate and consistent with the master plan for the property; and

100 (B) will not create an adverse impact on the state.

101 (c) (i) The Division of Facilities Construction and Management shall maintain a record
102 of facilities constructed under the exemption provided in Subsection (3)(b).

103 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state
104 agency, commission, department, or institution may not request:

105 (A) increased state funds for operations and maintenance; or

106 (B) state capital improvement funding.

107 (d) Legislative approval is not required for:

108 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds
109 that has been approved by the State Building Board;

110 (ii) a facility to be built with nonstate funds and owned by nonstate entities within
111 research park areas at the University of Utah and Utah State University;

112 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation
113 with funds of the foundation, including grant money from the state, or with donated services or
114 materials;

115 (iv) a capital project that:

116 (A) is funded by:

117 (I) the Uintah Basin Revitalization Fund; or

118 (II) the Navajo Revitalization Fund; and

119 (B) does not provide a new facility for a state agency or higher education institution; or

120 (v) a capital project on school and institutional trust lands that is funded by the School

121 and Institutional Trust Lands Administration from the Land Grant Management Fund and that
122 does not fund construction of a new facility for a state agency or higher education institution.

123 (e) (i) Legislative approval is not required for capital development projects to be built
124 for the Department of Transportation:

125 (A) as a result of an exchange of real property under Section 72-5-111; or

126 (B) as a result of a sale or exchange of real property from a maintenance facility if the
127 real property is exchanged for, or the proceeds from the sale of the real property are used for,
128 another maintenance facility, including improvements for a maintenance facility and real
129 property.

130 (ii) When the Department of Transportation approves a sale or exchange under
131 Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the
132 cochairs of the Infrastructure and General Government Appropriations Subcommittee of the
133 Legislature's Joint Appropriation Committee about any new facilities to be built or improved
134 under this exemption.

135 (4) (a) (i) The State Building Board, on behalf of all state agencies, commissions,
136 departments, and institutions shall by January 15 of each year, submit a list of anticipated
137 capital improvement requirements to the Legislature for review and approval.

138 (ii) The list shall identify:

139 (A) a single project that costs more than \$1,000,000;

140 (B) multiple projects within a single building or facility that collectively cost more than
141 \$1,000,000;

142 (C) a single project that will be constructed over multiple years with a yearly cost of
143 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

144 (D) multiple projects within a single building or facility with a yearly cost of
145 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

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

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

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

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

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

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

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

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

168 (5) The Legislature may authorize:

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

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

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

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

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

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

178 (ii) If the Legislature determines that an Education Fund budget deficit or a General
179 Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount
180 appropriated to capital improvements to 0.9% of the replacement cost of state buildings.

181 (c) (i) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09,
182 2009-10, 2010-11, 2011-12, and 2012-13 fiscal years.

183 (ii) For the 2013-14 fiscal year, the amount appropriated to capital improvements shall
184 be reduced to 0.9% of the replacement cost of state facilities.

185 (7) (a) If, after approval of capital development and capital improvement priorities by
186 the Legislature under this section, emergencies arise that create unforeseen critical capital
187 improvement projects, the State Building Board may, notwithstanding the requirements of Title
188 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address
189 those projects.

190 (b) The State Building Board shall report any changes it makes in capital improvement
191 allocations approved by the Legislature to:

192 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

193 (ii) the Legislature at its next annual general session.

194 (8) (a) The State Building Board may adopt a rule allocating to institutions and
195 agencies their proportionate share of capital improvement funding.

196 (b) The State Building Board shall ensure that the rule:

197 (i) reserves funds for the Division of Facilities Construction and Management for
198 emergency projects; and

199 (ii) allows the delegation of projects to some institutions and agencies with the
200 requirement that a report of expenditures will be filed annually with the Division of Facilities
201 Construction and Management and appropriate governing bodies.

202 (9) It is the intent of the Legislature that in funding capital improvement requirements
203 under this section the General Fund be considered as a funding source for at least half of those
204 costs.

205 Section 2. Section **63B-22-101** is enacted to read:

206 **CHAPTER 22. 2013 BONDING AND FINANCING AUTHORIZATIONS**

207 **Part 1. 2013 Revenue Bond Authorizations**

208 **63B-22-101. Revenue bond authorizations -- Board of Regents.**

209 (1) The Legislature intends that:

210 (a) the Board of Regents, on behalf of Utah State University, may issue, sell, and
211 deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow
212 money on the credit, revenues, and reserves of the university, other than appropriations of the
213 Legislature, to finance the cost of constructing the Aggie Life & Wellness Center;

214 (b) Utah State University use student fees as the primary revenue sources for
215 repayment of any obligation created under authority of this section;

216 (c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
217 this section is \$30,000,000, together with other amounts necessary to pay costs of issuance, pay
218 capitalized interest, and fund any debt service reserve requirements;

219 (d) the university shall plan, design, and construct the Aggie Life & Wellness Center
220 subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of
221 Facilities Construction and Management; and

222 (e) the university may not request state funds for operation and maintenance costs or
223 capital improvements.

224 (2) The Legislature intends that:

225 (a) the Board of Regents, on behalf of Utah State University, may issue, sell, and
226 deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow
227 money on the credit, revenues, and reserves of the university, other than appropriations of the
228 Legislature, to finance the cost of constructing the Blanding Recreational Center at Utah State
229 University: College of Eastern Utah: Blanding Campus;

230 (b) Utah State University use student fees as the primary revenue sources for
231 repayment of any obligation created under authority of this section;

232 (c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
233 this section is \$900,000, together with other amounts necessary to pay costs of issuance, pay
234 capitalized interest, and fund any debt service reserve requirements;

235 (d) the university shall plan, design, and construct the Blanding Recreational Center
236 subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of
237 Facilities Construction and Management; and

238 (e) the university may not request state funds for operation and maintenance costs or
239 capital improvements.

240 (3) The Legislature intends that:

241 (a) the Board of Regents, on behalf of Utah State University, may issue, sell, and
242 deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow
243 money on the credit, revenues, and reserves of the university, other than appropriations of the
244 Legislature, to finance the cost of constructing the Space Dynamics Laboratory;

245 (b) Utah State University use reimbursement from research projects as the primary
246 revenue sources for repayment of any obligation created under authority of this section;

247 (c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
248 this section is \$20,532,000, together with other amounts necessary to pay costs of issuance, pay
249 capitalized interest, and fund any debt service reserve requirements;

250 (d) the university shall plan, design, and construct the Space Dynamics Laboratory
251 subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of
252 Facilities Construction and Management; and

253 (e) the university may not request state funds for operation and maintenance costs or
254 capital improvements.

255 (4) The Legislature intends that:

256 (a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and
257 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
258 money on the credit, revenues, and reserves of the university, other than appropriations of the
259 Legislature, to finance the cost of constructing the Basketball Training Center - HPER
260 Addition;

261 (b) the University of Utah use athletic revenues from ticket sales and television
262 revenues as the primary revenue sources for repayment of any obligation created under
263 authority of this section;

264 (c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
265 this section is \$23,600,000, together with other amounts necessary to pay costs of issuance, pay
266 capitalized interest, and fund any debt service reserve requirements;

267 (d) the university shall plan, design, and construct the Basketball Training Center -
268 HPER Addition subject to the requirements of Title 63A, Chapter 5, State Building Board -
269 Division of Facilities Construction and Management; and

270 (e) the university may not request state funds for operation and maintenance costs or
271 capital improvements.

272 (5) The Legislature intends that:

273 (a) the Board of Regents, on behalf of Utah State University, may issue, sell, and
274 deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow
275 money on the credit, revenues, and reserves of the university, other than appropriations of the

276 Legislature, to finance the cost of constructing the Utah State University Athletic
277 Complex/Training Center;

278 (b) Utah State University use donations as the primary revenue sources for repayment
279 of any obligation created under authority of this section;

280 (c) the maximum amount of revenue bonds or evidences of indebtedness authorized by
281 this section is \$7,500,000, together with other amounts necessary to pay costs of issuance, pay
282 capitalized interest, and fund any debt service reserve requirements;

283 (d) the university shall plan, design, and construct the Utah State University Athletic
284 Complex/Training Center subject to the requirements of Title 63A, Chapter 5, State Building
285 Board - Division of Facilities Construction and Management; and

286 (e) the university may not request state funds for operation and maintenance costs or
287 capital improvements.

288 Section 3. Section **63B-22-201** is enacted to read:

289 **Part 2. 2013 Capital Facility Design and Construction Authorizations**

290 **63B-22-201. Authorizations to design and construct capital facilities using**
291 **institutional or agency funds.**

292 (1) The Legislature intends that:

293 (a) Southern Utah University may, subject to requirements in Title 63A, Chapter 5,
294 State Building Board - Division of Facilities Construction and Management, use up to
295 \$30,000,000 in donations and institutional funds to plan, design, and construct a Center for the
296 Arts with up to 80,490 square feet;

297 (b) no state funds be used for any portion of this project; and

298 (c) the university may not request state funds for operation and maintenance costs or
299 capital improvements.

300 (2) The Legislature intends that:

301 (a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State
302 Building Board - Division of Facilities Construction and Management, use up to \$11,040,000
303 in donations and institutional funds to plan, design, and construct a Renovation and Addition of
304 Phase II of the Kennecott Building with up to 40,700 new square feet;

305 (b) no state funds be used for any portion of this project; and

306 (c) the university may use state funds for operation and maintenance costs or capital

307 improvements.

308 (3) The Legislature intends that:

309 (a) Utah State University may, subject to requirements in Title 63A, Chapter 5, State
310 Building Board - Division of Facilities Construction and Management, use up to \$8,000,000 in
311 donations and institutional funds to plan, design, and construct a Science and Technology
312 Building at Utah State University Tooele with up to 26,000 square feet;

313 (b) no state funds be used for any portion of this project; and

314 (c) the university may use state funds for operation and maintenance costs or capital
315 improvements.

316 (4) The Legislature intends that:

317 (a) the Department of Public Safety may, subject to requirements in Title 63A, Chapter
318 5, State Building Board - Division of Facilities Construction and Management, use up to
319 \$1,277,000 in nonlapsing balances to plan, design, and construct a Drivers License Building in
320 Price with up to 7,000 square feet;

321 (b) no state funds be used for any portion of this project; and

322 (c) the department may use state funds for operation and maintenance costs or capital
323 improvements.

Legislative Review Note
as of 3-13-13 11:10 AM

Office of Legislative Research and General Counsel