

**Representative Wayne A. Harper** proposes the following substitute bill:

**2002 SPECIAL HIGHWAY SALES TAX**

**REVENUE BONDS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Wayne A. Harper**

**This act authorizes issuance of Utah sales tax revenue bonds by the State Bonding Commission to accelerate funding and construction of certain highways and related facilities in Salt Lake County upon receipt of a binding legal agreement to transfer certain county sales tax revenues to the state. This act defines the process and requirements for issuing the bonds and notes and specifies the use of the proceeds. This act creates a sinking fund to pay debt service on the bonds. This act provides for related matters and makes technical corrections.**

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

ENACTS:

**63B-11-301**, Utah Code Annotated 1953

**63B-11-302**, Utah Code Annotated 1953

**63B-11-303**, Utah Code Annotated 1953

**63B-11-304**, Utah Code Annotated 1953

**63B-11-305**, Utah Code Annotated 1953

**63B-11-306**, Utah Code Annotated 1953

**63B-11-307**, Utah Code Annotated 1953

**63B-11-308**, Utah Code Annotated 1953

**63B-11-309**, Utah Code Annotated 1953

**63B-11-310**, Utah Code Annotated 1953

**63B-11-311**, Utah Code Annotated 1953



- 26           **63B-11-312**, Utah Code Annotated 1953
- 27           **63B-11-313**, Utah Code Annotated 1953
- 28           **63B-11-314**, Utah Code Annotated 1953
- 29           **63B-11-315**, Utah Code Annotated 1953

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

31           Section 1. Section **63B-11-301** is enacted to read:

32                   **Part 3. 2002 Highway Sales Tax Revenue Bonds for Salt Lake County**

33           **63B-11-301. State Bonding Commission authorized to issue general obligation bonds.**

34           (1) Upon receipt of a formal opinion from the Utah Attorney General that Salt Lake  
35 County has entered a binding legal agreement with the state in which Salt Lake County agrees, for  
36 a minimum of ten years, to annually transfer the 1/4 of 1/4% of sales tax proceeds earmarked by  
37 Section 59-12-502 to the sinking fund created in Section 63B-11-308, the commission created  
38 under Section 63B-1-201 may issue and sell sales tax revenue bonds of the state pledging all of  
39 the sales tax revenues of the state for the payment of the principal of and interest on the bonds, to  
40 provide funds to the Department of Transportation.

41           (2) The bonds are not general obligations of the state, but shall be payable solely from the  
42 sales and use tax revenues of the state.

43           Section 2. Section **63B-11-302** is enacted to read:

44           **63B-11-302. Maximum amount -- Projects authorized.**

45           (1) The total amount of bonds issued under this part may not exceed \$110,000,000.

46           (2) (a) Proceeds from the issuance of bonds shall be provided to the Department of  
47 Transportation to provide funds to pay all or part of the costs of accelerating the following state  
48 highway construction or reconstruction projects in Salt Lake County in approximately the  
49 following order:

50           (i) I-15: 10600 South to the Utah County line;

51           (ii) I-15: Beck Street Overpass;

52           (iii) Final Environmental Impact Statement for Western Transportation Corridor: I-80 to  
53 Utah County;

54           (iv) Redwood Road: 6200 South to I-215;

55           (v) I-215: Jordan River to SR-201;

56           (vi) Redwood Road: 12600 South to Bangerter Highway;

57 (vii) State Street Reconstruction: 6400 South to 10600 South;  
58 (viii) 5600 West Reconstruction: 4500 South to 6200 South; and  
59 (ix) acquisition of rights-of-way for the Western Transportation Corridor.

60 (b) When the Utah Transit Authority certifies to the Transportation Commission that the  
61 Utah Transit Authority will pay half the costs of reconstruction of the Utah Transit Authority  
62 railroad overpass on 8000 South State Street, the Department of Transportation may provide funds  
63 from bond proceeds to pay the other half of the costs of reconstruction of the Utah Transit  
64 Authority railroad overpass on 8000 South.

65 (c) As used in Subsections (2)(a) and (b), "costs" may include the cost of acquiring land,  
66 interests in land, easements and rights-of-way, improving sites, and making all improvements  
67 necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds  
68 during the period to be covered by construction of the projects plus a period of six months after  
69 the end of the construction period, and all related engineering, architectural, and legal fees.

70 (3) If, after completion of the projects authorized under Subsection (2)(a) and payment of  
71 the costs of issuing and selling the bonds under Section 63B-11-303, any bond proceeds remain  
72 unexpended, the Department of Transportation may use those unexpended proceeds to pay all or  
73 part of the costs of construction projects in Salt Lake County that have been approved and  
74 prioritized by the Transportation Commission.

75 (4) The commission may, by resolution, make any statement of intent relating to a  
76 reimbursement that is necessary or desirable to comply with federal tax law.

77 (5) The Department of Transportation may enter into agreements related to the projects  
78 before the receipt of proceeds of bonds issued under this chapter.

79 Section 3. Section **63B-11-303** is enacted to read:

80 **63B-11-303. Bond proceeds may be used to pay costs of issuance and sale.**

81 The proceeds of bonds issued under this chapter shall be used for the purposes described  
82 in Section 63B-11-302 and to pay all or part of any cost incident to the issuance and sale of the  
83 bonds including, without limitation, printing, registration and transfer costs, legal fees, trustees'  
84 fees, financial advisors' fees, liquidity providers' fees, credit enhancement providers' fees, and  
85 underwriters' discount.

86 Section 4. Section **63B-11-304** is enacted to read:

87 **63B-11-304. Manner of issuance -- Amounts, interest, and maturity.**

88 (1) Bonds issued under this chapter may be authorized, sold, and issued at times and in a  
89 manner determined by the commission by resolution.

90 (2) Bonds may be issued in one or more series, in amounts, and shall bear dates, interest  
91 rates, including a variable rate, and maturity dates as the commission determines by resolution.

92 (3) A bond issued may not mature later than 15 years after the dated date of the bonds.

93 Section 5. Section **63B-11-305** is enacted to read:

94 **63B-11-305. Terms and conditions of sale -- Plan of financing -- Signatures --**

95 **Replacement -- Registration -- Federal rebate.**

96 (1) In the issuance of bonds, the commission may determine by resolution:

97 (a) the manner of sale, including public or private sale;

98 (b) the terms and conditions of sale, including price, whether at, below, or above face  
99 value;

100 (c) denominations;

101 (d) form;

102 (e) manner of execution;

103 (f) manner of authentication;

104 (g) place and medium of purchase;

105 (h) redemption terms; and

106 (i) other provisions and details it considers appropriate.

107 (2) The commission may, by resolution, adopt a plan of financing, which may include

108 terms and conditions of arrangements entered into by the commission on behalf of the state with

109 financial and other institutions for letters of credit, standby letters of credit, reimbursement

110 agreements, and remarketing, indexing, and tender agent agreements to secure the bonds, including

111 payment from any legally available source of fees, charges, or other amounts coming due under

112 the agreements entered into by the commission.

113 (3) (a) Any signature of a public official authorized by resolution of the commission to

114 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or

115 otherwise placed on the bonds.

116 (b) If all signatures of public officials on the bonds are facsimile signatures, provision shall

117 be made for a manual authenticating signature on the bonds by or on behalf of a designated

118 authentication agent.

119 (c) If an official ceases to hold office before delivery of the bonds signed by that official,  
120 the signature or facsimile signature of the official is nevertheless valid for all purposes.

121 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise placed  
122 on the bonds.

123 (4) (a) The commission may enact resolutions providing for the replacement of lost,  
124 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller or  
125 larger denominations.

126 (b) Bonds in changed denominations shall:

127 (i) be exchanged for the original bonds in like aggregate principal amounts and in a  
128 manner that prevents the duplication of interest; and

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

131 (5) (a) Bonds may be registered as to both principal and interest or may be in a book entry  
132 form under which the right to principal and interest may be transferred only through a book entry.

133 (b) The commission may provide for the services and payment for the services of one or  
134 more financial institutions or other entities or persons, or nominees, within or outside the state, for  
135 the authentication, registration, transfer, including record, bookkeeping, or book entry functions,  
136 exchange, and payment of the bonds.

137 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of  
138 persons to whom payment with respect to the obligations is made, are private records as provided  
139 in Section 63-2-302, or protected records as provided in Section 63-2-304.

140 (d) The bonds and any evidences of participation interest in the bonds may be issued,  
141 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with  
142 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature relating  
143 to the registration of obligations enacted to meet the requirements of Section 149 of the Internal  
144 Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.

145 (6) The commission may:

146 (a) by resolution, provide for payment to the United States of whatever amounts are  
147 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended; and

148 (b) enter into agreements with financial and other institutions and attorneys to provide for:

149 (i) the calculation, holding, and payment of those amounts; and

150 (ii) payment from any legally available source of fees, charges, or other amounts coming  
151 due under any agreements entered into by the commission.

152 Section 6. Section **63B-11-306** is enacted to read:

153 **63B-11-306. Levy of Sales Tax --Pledge of state sales tax revenue --Abatement of**  
154 **Levy.**

155 (1) The bonds shall be secured by an irrevocable first charge and lien, but not necessarily  
156 an exclusive charge and lien, on the sales and use tax revenues collected by the state.

157 (2) It is intended that sales and use taxes received from the county under the agreement  
158 described in Section 63B-11-301 be used first for the payment of the principal of, interest on and  
159 redemption premiums, if any, due on outstanding bonds and, to the extent necessary, that such  
160 payment be made from all other sales and use tax revenues of the state.

161 Section 7. Section **63B-11-307** is enacted to read:

162 **63B-11-307. Creation of a sinking fund --Maintenance of bond accounts.**

163 (1) There is created a sinking fund, to be administered by the state treasurer, entitled the  
164 "Highway Sales Tax Revenue Bonds Sinking Fund."

165 (2) (a) All sales and use taxes transferred by Salt Lake County pursuant to the agreement  
166 described in Section 63B-11-301 shall be deposited in the sinking fund.

167 (b) To the extent necessary to pay debt service on the bonds, all other sales and use tax  
168 revenues of the state shall be deposited in the sinking fund.

169 (3) Amounts on deposit in the sinking fund shall be used to pay the debt service on the  
170 bonds and to redeem the bonds prior to maturity and otherwise shall be used as provided by  
171 resolution of the commission.

172 (4) The state treasurer and the commission may create separate accounts within the sinking  
173 fund for each series of bonds issued.

174 (5) The state treasurer shall, unless otherwise provided by resolution by the commission,  
175 administer and maintain one or more bond funds as established and determined by resolution by  
176 the commission.

177 Section 8. Section **63B-11-308** is enacted to read:

178 **63B-11-308. Payment of interest, principal, and redemption premiums.**

179 (1) The Division of Finance shall draw warrants on the state treasury before any interest,  
180 principal, or redemption premiums become due on the bonds.

181 (2) After receipt of the warrants, the state treasurer shall:

182 (a) promptly pay the warrants from funds within the sinking fund; and

183 (b) immediately transmit the amount paid to the paying agent for the bonds.

184 Section 9. Section **63B-11-309** is enacted to read:

185 **63B-11-309. Investment of sinking fund money.**

186 (1) The state treasurer may, by following the procedures and requirements of Title 51,  
187 Chapter 7, State Money Management Act, invest any money contained in the sinking fund until  
188 it is needed for the purposes for which the fund is created.

189 (2) Unless otherwise provided in the resolution of the commission authorizing the issuance  
190 of bonds under this chapter, the treasurer shall retain all income from the investment of any money  
191 contained in the sinking fund in the sinking fund and use it for the payment of debt service on the  
192 bonds.

193 Section 10. Section **63B-11-310** is enacted to read:

194 **63B-11-310. Bond proceeds -- Deposits -- Investment -- Disposition of investment**  
195 **income and unexpended proceeds.**

196 (1) (a) Proceeds from the sale of bonds issued under this chapter shall be deposited within  
197 one or more accounts as determined by resolution of the commission.

198 (b) The state treasurer shall administer and maintain these accounts unless otherwise  
199 provided by the commission by resolution.

200 (c) The commission, by resolution, may provide for the deposit of these monies with a  
201 trustee and the administration, disposition, or investment of these monies by this trustee.

202 (2) (a) The commission, by resolution, shall provide for the kinds of investments in which  
203 the proceeds of bonds issued under this chapter may be invested.

204 (b) Income from the investment of proceeds of bonds issued under this chapter shall be  
205 applied as provided by resolution of the commission.

206 (3) Any unexpended bond proceeds issued under this chapter shall be deposited, upon  
207 completion of the purposes for which the bonds were issued, in the sinking fund, unless otherwise  
208 provided in the resolution of the commission authorizing the issuance of bonds under this chapter.

209 Section 11. Section **63B-11-311** is enacted to read:

210 **63B-11-311. Refunding of bonds.**

211 (1) The commission may provide for the refunding of any of the bonds in accordance with

212 Title 11, Chapter 27, Utah Refunding Bond Act.

213 (2) For purposes of Title 11, Chapter 27, Utah Refunding Bond Act, the state is considered  
214 the public body and the commission its governing body.

215 Section 12. Section **63B-11-312** is enacted to read:

216 **63B-11-312. Certification of satisfaction of conditions precedent -- Conclusiveness.**

217 (1) The commission may not issue any bond under this chapter until it finds and certifies  
218 that all conditions precedent to issuance of the bonds have been satisfied.

219 (2) A recital on any bond of this finding and certification conclusively establishes the  
220 completion and satisfaction of all such conditions.

221 Section 13. Section **63B-11-313** is enacted to read:

222 **63B-11-313. Legal investment status.**

223 Bonds issued under this chapter are legal investments for all state trust funds, insurance  
224 companies, banks, trust companies, and the State School Fund and may be used as collateral to  
225 secure legal obligations.

226 Section 14. Section **63B-11-314** is enacted to read:

227 **63B-11-314. Publication of resolution or notice -- Limitation on actions to contest**  
228 **legality.**

229 (1) The commission may:

230 (a) publish any resolution it adopts under this chapter once in a newspaper having general  
231 circulation in Utah; or

232 (b) in lieu of publishing the entire resolution, publish a notice of bonds to be issued, titled  
233 as such, containing the information required by Subsection 11-14-21(3).

234 (2) (a) Any interested person, for 30 days after the date of publication, may contest:

235 (i) the legality of the resolution;

236 (ii) any of the bonds authorized under it; or

237 (iii) any of the provisions made for the security and repayment of the bonds.

238 (b) After 30 days, a person may not contest the legality of the resolution, any of the bonds  
239 authorized under it, or any of the provisions made for the security and repayment of the bonds for  
240 any cause.

241 Section 15. Section **63B-11-315** is enacted to read:

242 **63B-11-315. Report to Legislature.**

243           The governor shall report the commission's proceedings to each annual general session of  
244 the Legislature in his budget for as long as bonds issued under this chapter remain outstanding.