

Senator Sheldon L. Killpack proposes the following substitute bill:

TRANSPORTATION FUNDING REVISIONS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca D. Lockhart

Senate Sponsor: Sheldon L. Killpack

Cosponsor: Lorie D. Fowlke

LONG TITLE

General Description:

This bill amends provisions relating to funding for transportation.

Highlighted Provisions:

This bill:

- ▶ creates the Critical Highway Needs Fund;
- ▶ requires the Division of Finance to annually deposit \$90,000,000 of certain sales and use tax revenue into the Critical Highway Needs Fund;
- ▶ authorizes the issuance of general obligation bonds to pay for certain state highway construction or reconstruction projects;
- ▶ specifies the use of general obligation bond proceeds and the manner of issuance;
- ▶ exempts certain transportation transfers or appropriations from certain appropriations limit provisions;
- ▶ exempts the general obligation bonds from certain debt limitation provisions;
- ▶ requires the Division of Finance to transfer funds from the Centennial Highway Fund Restricted Account into the Transportation Investment Fund of 2005 if the fund monies are not required to pay certain costs for highway projects in the Centennial Highway Program in the current fiscal year;



26 ▶ requires the Department of Transportation to establish and the Transportation
27 Commission to prioritize a list of highway construction or reconstruction projects
28 based on certain criteria using monies deposited into the Critical Highway Needs
29 Fund and the bond proceeds authorized;

30 ▶ requires the Department of Transportation and the Transportation Commission to
31 report the list of prioritized projects and the amount of bonds needed to fund the
32 projects in the next fiscal year to the Executive Appropriations Committee of the
33 Legislature before the bonds may be issued;

34 ▶ requires the Division of Finance to transfer the Critical Highway Needs Fund
35 revenue source and any existing fund balance to the Transportation Investment Fund
36 of 2005 when certain general obligation bonds are paid off and certain projects
37 completed;

38 ▶ requires the Division of Finance to:
39 • monitor certain general obligation bonds; and
40 • report on the status of the bonds to Executive Appropriations Committee upon
41 request;

42 ▶ requires the Department of Transportation to:
43 • monitor certain highway projects;
44 • report on the status of the projects to the Executive Appropriations Committee
45 upon request;

46 ▶ requires the Department of Transportation to establish a finance plan and scope of
47 work for the construction of Interstate 15 in Utah County and report to the
48 Executive Appropriations Committee of the Legislature prior to November 30,
49 2007; and

50 ▶ makes technical changes.

51 **Monies Appropriated in this Bill:**

52 None

53 **Other Special Clauses:**

54 This bill takes effect on July 1, 2007.

55 **Utah Code Sections Affected:**

56 AMENDS:

57 **59-12-103**, as last amended by Chapter 9, Laws of Utah 2006, Third Special Session
 58 **63-38c-103**, as last amended by Chapter 1, Laws of Utah 2005, First Special Session
 59 **63-38c-402**, as last amended by Chapters 308 and 318, Laws of Utah 2004
 60 **72-2-118**, as last amended by Chapter 1, Laws of Utah 2005, First Special Session

61 ENACTS:

62 **63B-16-101**, Utah Code Annotated 1953
 63 **72-2-125, Utah Code Annotated 1953**

64 **Uncodified Material Affected:**

65 ENACTS UNCODIFIED MATERIAL



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

68 Section 1. Section **59-12-103** is amended to read:

69 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
 70 **tax revenues.**

71 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
 72 charged for the following transactions:

73 (a) retail sales of tangible personal property made within the state;

74 (b) amounts paid:

75 (i) (A) to a common carrier; or

76 (B) whether the following are municipally or privately owned, to a:

77 (I) telephone service provider; or

78 (II) telegraph corporation as defined in Section 54-2-1; and

79 (ii) for:

80 (A) telephone service, other than mobile telecommunications service, that originates
 81 and terminates within the boundaries of this state;

82 (B) mobile telecommunications service that originates and terminates within the
 83 boundaries of one state only to the extent permitted by the Mobile Telecommunications

84 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

85 (C) telegraph service;

86 (c) sales of the following for commercial use:

87 (i) gas;

- 88 (ii) electricity;
- 89 (iii) heat;
- 90 (iv) coal;
- 91 (v) fuel oil; or
- 92 (vi) other fuels;
- 93 (d) sales of the following for residential use:
- 94 (i) gas;
- 95 (ii) electricity;
- 96 (iii) heat;
- 97 (iv) coal;
- 98 (v) fuel oil; or
- 99 (vi) other fuels;
- 100 (e) sales of prepared food;
- 101 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 102 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 103 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 104 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 105 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 106 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 107 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 108 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 109 exhibition, cultural, or athletic activity;
- 110 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 111 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 112 (i) the tangible personal property; and
- 113 (ii) parts used in the repairs or renovations of the tangible personal property described
- 114 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 115 of that tangible personal property;
- 116 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 117 assisted cleaning or washing of tangible personal property;
- 118 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court

119 accommodations and services that are regularly rented for less than 30 consecutive days;

120 (j) amounts paid or charged for laundry or dry cleaning services;

121 (k) amounts paid or charged for leases or rentals of tangible personal property if within
122 this state the tangible personal property is:

123 (i) stored;

124 (ii) used; or

125 (iii) otherwise consumed;

126 (l) amounts paid or charged for tangible personal property if within this state the
127 tangible personal property is:

128 (i) stored;

129 (ii) used; or

130 (iii) consumed; and

131 (m) amounts paid or charged for prepaid telephone calling cards.

132 (2) (a) Except as provided in Subsection (2)(b) or (f), a state tax and a local tax is
133 imposed on a transaction described in Subsection (1) equal to the sum of:

134 (i) a state tax imposed on the transaction at a rate of 4.75%; and

135 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
136 transaction under this chapter other than this part.

137 (b) (i) A state tax and a local tax is imposed on a transaction described in Subsection
138 (1)(d) equal to the sum of:

139 (A) a state tax imposed on the transaction at a rate of 2%; and

140 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
141 transaction under this chapter other than this part; or

142 (ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a
143 transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction
144 equal to the sum of:

145 (A) a state tax imposed on the transaction at a rate of:

146 (I) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

147 (II) 2% for a transaction described in Subsection (1)(d); and

148 (B) a local tax imposed on the transaction at a rate equal to the sum of the following
149 rates:

150 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
151 and towns in the state impose the tax under Section 59-12-204; and

152 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
153 state impose the tax under Section 59-12-1102.

154 (iii) Except as provided in Subsection (2)(f), beginning on January 1, 2007, a state tax
155 and a local tax is imposed on amounts paid or charged for food and food ingredients equal to
156 the sum of:

157 (A) a state tax imposed on the amounts paid or charged for food and food ingredients
158 at a rate of 2.75%; and

159 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
160 amounts paid or charged for food and food ingredients under this chapter other than this part.

161 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax
162 rate imposed under the following shall take effect on the first day of a calendar quarter:

163 (i) Subsection (2)(a)(i);

164 (ii) Subsection (2)(b)(i)(A);

165 (iii) Subsection (2)(b)(ii)(A); or

166 (iv) Subsection (2)(b)(iii)(A).

167 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
168 effect on the first day of the first billing period:

169 (A) that begins after the effective date of the tax rate increase; and

170 (B) if the billing period for the transaction begins before the effective date of a tax rate
171 increase imposed under:

172 (I) Subsection (2)(a)(i);

173 (II) Subsection (2)(b)(i)(A); or

174 (III) Subsection (2)(b)(ii)(A).

175 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate
176 decrease shall take effect on the first day of the last billing period:

177 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
178 and

179 (B) if the billing period for the transaction begins before the effective date of the repeal
180 of the tax or the tax rate decrease imposed under:

- 181 (I) Subsection (2)(a)(i);
- 182 (II) Subsection (2)(b)(i)(A); or
- 183 (III) Subsection (2)(b)(ii)(A).
- 184 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:
- 185 (A) Subsection (1)(b);
- 186 (B) Subsection (1)(c);
- 187 (C) Subsection (1)(d);
- 188 (D) Subsection (1)(e);
- 189 (E) Subsection (1)(f);
- 190 (F) Subsection (1)(g);
- 191 (G) Subsection (1)(h);
- 192 (H) Subsection (1)(i);
- 193 (I) Subsection (1)(j); or
- 194 (J) Subsection (1)(k).
- 195 (e) (i) If a tax due under Subsection (2)(a)(i) or (2)(b)(ii)(A) on a catalogue sale is
- 196 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 197 change in a tax rate imposed under Subsection (2)(a)(i) or (2)(b)(ii)(A) takes effect:
- 198 (A) on the first day of a calendar quarter; and
- 199 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change
- 200 under Subsection (2)(a)(i) or (2)(b)(ii)(A).
- 201 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 202 the commission may by rule define the term "catalogue sale."
- 203 (f) If the price of a bundled transaction is attributable to food and food ingredients and
- 204 tangible personal property other than food and food ingredients, the tax imposed on the entire
- 205 bundled transaction is the sum of the tax rates described in Subsection (2)(a).
- 206 (3) (a) Except as provided in Subsections (4) through [~~9~~] (10), the following state
- 207 taxes shall be deposited into the General Fund:
- 208 (i) the tax imposed by Subsection (2)(a)(i);
- 209 (ii) the tax imposed by Subsection (2)(b)(i)(A);
- 210 (iii) the tax imposed by Subsection (2)(b)(ii)(A); or
- 211 (iv) the tax imposed by Subsection (2)(b)(iii)(A).

212 (b) The local taxes described in Subsections (2)(a)(ii), (2)(b)(i)(B), and (2)(b)(iii)(B)
213 shall be distributed to a county, city, or town as provided in this chapter.

214 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
215 state shall receive the county's, city's, or town's proportionate share of the revenues generated
216 by the local tax described in Subsection (2)(b)(ii)(B) as provided in Subsection (3)(c)(ii).

217 (ii) The commission shall determine a county's, city's, or town's proportionate share of
218 the revenues under Subsection (3)(c)(i) by:

219 (A) calculating an amount equal to the population of the unincorporated area of the
220 county, city, or town divided by the total population of the state; and

221 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
222 amount of revenues generated by the local tax under Subsection (2)(b)(ii)(B) for all counties,
223 cities, and towns.

224 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for
225 purposes of this section shall be derived from the most recent official census or census estimate
226 of the United States Census Bureau.

227 (B) If a needed population estimate is not available from the United States Census
228 Bureau, population figures shall be derived from the estimate from the Utah Population
229 Estimates Committee created by executive order of the governor.

230 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
231 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
232 through (g):

233 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

234 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

235 (B) for the fiscal year; or

236 (ii) \$17,500,000.

237 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
238 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
239 Department of Natural Resources to:

240 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
241 protect sensitive plant and animal species; or

242 (B) award grants, up to the amount authorized by the Legislature in an appropriations

243 act, to political subdivisions of the state to implement the measures described in Subsections
244 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

245 (ii) Money transferred to the Department of Natural Resources under Subsection
246 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
247 person to list or attempt to have listed a species as threatened or endangered under the
248 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

249 (iii) At the end of each fiscal year:

250 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
251 Conservation and Development Fund created in Section 73-10-24;

252 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
253 Program Subaccount created in Section 73-10c-5; and

254 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
255 Program Subaccount created in Section 73-10c-5.

256 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
257 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
258 created in Section 4-18-6.

259 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
260 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
261 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
262 water rights.

263 (ii) At the end of each fiscal year:

264 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
265 Conservation and Development Fund created in Section 73-10-24;

266 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
267 Program Subaccount created in Section 73-10c-5; and

268 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
269 Program Subaccount created in Section 73-10c-5.

270 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
271 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
272 Fund created in Section 73-10-24 for use by the Division of Water Resources.

273 (ii) In addition to the uses allowed of the Water Resources Conservation and

274 Development Fund under Section 73-10-24, the Water Resources Conservation and
275 Development Fund may also be used to:

276 (A) conduct hydrologic and geotechnical investigations by the Division of Water
277 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
278 quantifying surface and ground water resources and describing the hydrologic systems of an
279 area in sufficient detail so as to enable local and state resource managers to plan for and
280 accommodate growth in water use without jeopardizing the resource;

281 (B) fund state required dam safety improvements; and

282 (C) protect the state's interest in interstate water compact allocations, including the
283 hiring of technical and legal staff.

284 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
285 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
286 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

287 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
288 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
289 created in Section 73-10c-5 for use by the Division of Drinking Water to:

290 (i) provide for the installation and repair of collection, treatment, storage, and
291 distribution facilities for any public water system, as defined in Section 19-4-102;

292 (ii) develop underground sources of water, including springs and wells; and

293 (iii) develop surface water sources.

294 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
295 2006, the difference between the following amounts shall be expended as provided in this
296 Subsection (5), if that difference is greater than \$1:

297 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
298 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

299 (ii) \$17,500,000.

300 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

301 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
302 credits; and

303 (B) expended by the Department of Natural Resources for watershed rehabilitation or
304 restoration.

305 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
306 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
307 created in Section 73-10-24.

308 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
309 remaining difference described in Subsection (5)(a) shall be:

310 (A) transferred each fiscal year to the Division of Water Resources as dedicated
311 credits; and

312 (B) expended by the Division of Water Resources for cloud-seeding projects
313 authorized by Title 73, Chapter 15, Modification of Weather.

314 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
315 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
316 created in Section 73-10-24.

317 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
318 remaining difference described in Subsection (5)(a) shall be deposited into the Water
319 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
320 Division of Water Resources for:

321 (i) preconstruction costs:

322 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
323 26, Bear River Development Act; and

324 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
325 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

326 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
327 Chapter 26, Bear River Development Act;

328 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
329 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

330 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
331 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

332 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
333 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

334 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
335 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be

336 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
337 incurred for employing additional technical staff for the administration of water rights.

338 (g) At the end of each fiscal year, any unexpended dedicated credits described in
339 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
340 Fund created in Section 73-10-24.

341 (6) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
342 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)
343 through (d):

344 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

345 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

346 (B) for the fiscal year; or

347 (ii) \$18,743,000.

348 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described
349 in Subsection (6)(a) shall be deposited each year in the Transportation Corridor Preservation
350 Revolving Loan Fund created in Section 72-2-117.

351 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation
352 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made
353 by the Department of Transportation at the request of local governments.

354 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
355 Subsection (6)(a) shall be transferred each year as nonlapsing dedicated credits to the
356 Department of Transportation for the State Park Access Highways Improvement Program
357 created in Section 72-3-207.

358 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in
359 Subsection (6)(a) shall be deposited in the class B and class C roads account to be expended as
360 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C
361 roads.

362 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
363 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
364 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
365 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
366 transactions under Subsection (1).

367 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
368 have been paid off and the highway projects completed that are intended to be paid from
369 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
370 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
371 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
372 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
373 by a 1/64% tax rate on the taxable transactions under Subsection (1).

374 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
375 year 2004-05, the commission shall each year on or before the September 30 immediately
376 following the last day of the fiscal year deposit the difference described in Subsection (8)(b)
377 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is
378 greater than \$0.

379 (b) The difference described in Subsection (8)(a) is equal to the difference between:

380 (i) the total amount of the revenues under Subsections (2)(b)(ii)(A) and (2)(b)(iii)(A)
381 the commission received from sellers collecting a tax in accordance with Subsection
382 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in
383 Subsection (8)(a); and

384 (ii) \$7,279,673.

385 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
386 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after
387 July 1, 2006, the Division of Finance shall deposit into the Centennial Highway Fund
388 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
389 (3)(a) equal to 8.3% of the revenues collected from the taxes described in Subsections (2)(a)(i),
390 (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the approximately 17% of sales
391 and use tax revenues generated annually by the sales and use tax on vehicles and
392 vehicle-related products.

393 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
394 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
395 highway projects completed that are intended to be paid from revenues deposited in the
396 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
397 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the

398 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
399 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the taxes described
400 in Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the
401 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
402 on vehicles and vehicle-related products.

403 (10) (a) Notwithstanding Subsection (3)(a) and until Subsection (10)(b) applies, the
404 Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes
405 listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section
406 72-2-125.

407 (b) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
408 Subsections (7) and (9), when the general obligation bonds authorized by Section 63B-16-101
409 have been paid off and the highway projects completed that are included in the prioritized
410 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
411 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
412 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund
413 of 2005 created by Section 72-2-124.

414 Section 2. Section **63-38c-103** is amended to read:

415 **63-38c-103. Definitions.**

416 As used in this chapter:

417 (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations
418 from unrestricted General Fund sources and from non-Uniform School Fund income tax
419 revenues as presented in the governor's executive budgets.

420 (b) "Appropriation" includes appropriations that are contingent upon available
421 surpluses in the General Fund.

422 (c) "Appropriations" does not mean:

423 (i) debt service expenditures;

424 (ii) emergency expenditures;

425 (iii) expenditures from all other fund or subfund sources presented in the executive
426 budgets;

427 (iv) transfers into, or appropriations made to, the General Fund Budget Reserve
428 Account established in Section 63-38-2.5;

429 (v) transfers into, or appropriations made to, the Education Budget Reserve Account
430 established in Section 63-38-2.6;

431 (vi) monies appropriated to fund the total one-time project costs for the construction of
432 capital developments as defined in Section 63A-5-104;

433 (vii) transfers or deposits into or appropriations made to the Centennial Highway Fund
434 Restricted Account created by Section 72-2-118; [~~or~~]

435 (viii) transfers or deposits into or appropriations made to the Transportation Investment
436 Fund of 2005 created by Section 72-2-124; or

437 (ix) transfers or deposits into or appropriations made to:

438 (A) the Department of Transportation from any source; or

439 (B) any transportation-related account or fund from any source.

440 (2) "Base year real per capita appropriations" means the result obtained for the state by
441 dividing the fiscal year 1985 actual appropriations of the state less debt monies by:

442 (a) the state's July 1, 1983 population; and

443 (b) the fiscal year 1983 inflation index divided by 100.

444 (3) "Calendar year" means the time period beginning on January 1 of any given year
445 and ending on December 31 of the same year.

446 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate
447 expenditures and includes the settlement under Chapter 4, Laws of Utah 1988, Fourth Special
448 Session.

449 (5) "Fiscal year" means the time period beginning on July 1 of any given year and
450 ending on June 30 of the subsequent year.

451 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual
452 capital and operations appropriations from General Fund and non-Uniform School Fund
453 income tax revenue sources, less debt monies.

454 (7) "Inflation index" means the change in the general price level of goods and services
455 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic
456 Analysis, U.S. Department of Commerce calculated as provided in Section 63-38c-202.

457 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could
458 be, or could have been, spent in any given year under the limitations of this chapter.

459 (b) "Maximum allowable appropriations limit" does not mean actual appropriations

460 spent or actual expenditures.

461 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two
462 fiscal years previous to the fiscal year for which the maximum allowable inflation and
463 population appropriations limit is being computed under this chapter.

464 (10) "Most recent fiscal year's population" means the fiscal year population two fiscal
465 years previous to the fiscal year for which the maximum allowable inflation and population
466 appropriations limit is being computed under this chapter.

467 (11) "Population" means the number of residents of the state as of July 1 of each year
468 as calculated by the Governor's Office of Planning and Budget according to the procedures and
469 requirements of Section 63-38c-202.

470 (12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and
471 other monetary exaction and interest connected with it that are recorded as unrestricted revenue
472 of the General Fund and from non-Uniform School Fund income tax revenues, except as
473 specifically exempted by this chapter.

474 (13) "Security" means any bond, note, warrant, or other evidence of indebtedness,
475 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an
476 "indebtedness" within the meaning of any provision of the constitution or laws of this state.

477 Section 3. Section **63-38c-402** is amended to read:

478 **63-38c-402. Debt limitation -- Vote requirement needed to exceed limitation --**
479 **Exceptions.**

480 (1) (a) Except as provided in Subsection (1)(b), the outstanding general obligation debt
481 of the state may not exceed 45% of the maximum allowable appropriations limit unless
482 approved by more than a two-thirds vote of both houses of the Legislature.

483 (b) Notwithstanding the limitation contained in Subsection (1)(a), debt issued under the
484 authority of the following parts or sections is not subject to the debt limitation established by
485 this section:

486 (i) Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond
487 Authorization;

488 (ii) Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization;

489 (iii) Title 63B, Chapter 7, Part 2, 1998 Highway General Obligation Bond
490 Authorization;

- 491 (iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note
- 492 Authorization;
- 493 (v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond
- 494 Authorization;
- 495 (vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note
- 496 Authorization;
- 497 (vii) Title 63B, Chapter 9, Part 2, 2000 Highway General Obligation Bond;
- 498 (viii) Title 63B, Chapter 10, Part 1, 2001 Highway General Obligation Bond;
- 499 (ix) Title 63B, Chapter 10, Part 2, 2001 Highway General Obligation Bond
- 500 Anticipation Notes;
- 501 (x) Title 63B, Chapter 11, Part 5, 2002 Highway General Obligation Bond for Salt
- 502 Lake County;
- 503 (xi) Title 63B, Chapter 11, Part 6, 2002 Highway General Obligation Bond
- 504 Anticipation Notes for Salt Lake County Authorization; ~~and~~
- 505 (xii) Section 63B-13-102[-]; and
- 506 (xiii) Section 63B-16-101.

507 (2) This section does not apply if contractual rights will be impaired.

508 Section 4. Section **63B-16-101** is enacted to read:

Part 1. 2007 General Obligation Bonds

63B-16-101. Highway Bonds -- Maximum amount -- Use of proceeds for highway projects.

- 512 (1) (a) The total amount of bonds issued under this part may not exceed
- 513 \$1,000,000,000.
- 514 (b) When the Department of Transportation certifies to the commission that the
- 515 requirements of Subsection 72-2-125(4)(e) have been met and certifies the amount of bond
- 516 proceeds that it needs to provide funding for projects on the project list for the next fiscal year,
- 517 the commission may issue and sell general obligation bonds in an amount equal to the certified
- 518 amount plus costs of issuance.
- 519 (2) (a) Proceeds from the issuance of bonds shall be provided to the Department of
- 520 Transportation to pay all or part of the costs of state highway construction or reconstruction
- 521 projects that are included in the project list established and prioritized in accordance with

522 Subsection 72-2-125(4).

523 (b) The costs under Subsection (2)(a) may include the cost of acquiring land, interests
524 in land, easements and rights-of-way, improving sites, and making all improvements necessary,
525 incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the
526 period to be covered by construction of the projects plus a period of six months after the end of
527 the construction period, interest estimated to accrue on any bond anticipation notes issued
528 under the authority of this title, and all related engineering, architectural, and legal fees.

529 (3) The commission or the state treasurer may make any statement of intent relating to
530 a reimbursement that is necessary or desirable to comply with federal tax law.

531 (4) The Department of Transportation may enter into agreements related to projects
532 before the receipt of proceeds of bonds issued under this chapter.

533 Section 5. Section **72-2-118** is amended to read:

534 **72-2-118. Centennial Highway Fund Restricted Account.**

535 (1) There is created a restricted account entitled the Centennial Highway Fund
536 Restricted Account within the Transportation Investment Fund of 2005 created by Section
537 72-2-124.

538 (2) The account consists of monies generated from the following revenue sources:

539 (a) any voluntary contributions received for the construction, major reconstruction, or
540 major renovation of state or federal highways;

541 (b) appropriations made to the fund by the Legislature;

542 (c) registration fees designated under Subsection 41-1a-1201(6)(a); and

543 (d) the sales and use tax amounts provided for in Section 59-12-103.

544 (3) (a) The account shall earn interest.

545 (b) All interest earned on account monies shall be deposited into the account.

546 (4) The executive director may use account monies, as prioritized by the Transportation
547 Commission, only to pay the costs of construction, major reconstruction, or major renovation
548 to state and federal highways.

549 (5) When the highway general obligation bonds have been paid off and the highway
550 projects completed that are intended to be paid from revenues deposited in the account as
551 determined by the Executive Appropriations Committee under Subsection (6)(d), the Division
552 of Finance shall transfer any existing balance in the account into the Transportation Investment

553 Fund of 2005 created by Section 72-2-124.

554 (6) (a) The Division of Finance shall monitor the highway general obligation bonds
555 that are being paid from revenues deposited in the account.

556 (b) The department shall monitor the highway construction, major reconstruction, or
557 major renovation projects that are being paid from revenues deposited in the account.

558 (c) Upon request by the Executive Appropriations Committee of the Legislature:

559 (i) the Division of Finance shall report to the committee the status of all highway
560 general obligation bonds that are being paid from revenues deposited in the account; and

561 (ii) the department shall report to the committee the status of all highway construction,
562 major reconstruction, or major renovation projects that are being paid from revenues deposited
563 in the account.

564 (d) The Executive Appropriations Committee of the Legislature shall notify the State
565 Tax Commission, the department, and the Division of Finance when:

566 (i) all highway general obligation bonds that are intended to be paid from revenues
567 deposited in the account have been paid off; and

568 (ii) all highway projects that are intended to be paid from revenues deposited in the
569 account have been completed.

570 (7) (a) The Division of Finance shall, from funds that are deposited into the Centennial
571 Highway Fund Restricted Account, transfer into the Transportation Investment Fund of 2005
572 created by Section 72-2-124 the amount of funds certified by the Transportation Commission
573 in accordance with Subsection (7)(b) that are not required to pay:

574 (i) principal, interest, and issuance costs of bonds issued for projects in the Centennial
575 Highway Program in the current fiscal year; or

576 (ii) construction or reconstruction costs for projects in the Centennial Highway
577 Program in the current fiscal year.

578 (b) The Division of Finance shall transfer the amount under Subsection (7)(a) when the
579 Division of Finance receives a written letter from the Transportation Commission certifying the
580 amount of funds available under Subsection (7)(a).

581 Section 6. Section **72-2-125** is enacted to read:

582 **72-2-125. Critical Highway Needs Fund.**

583 (1) There is created a restricted special revenue fund entitled the Critical Highway

584 Needs Fund.

585 (2) The fund consists of monies generated from the following sources:

586 (a) any voluntary contributions received for the maintenance, construction,
587 reconstruction, or renovation of state and federal highways;

588 (b) appropriations made to the fund by the Legislature; and

589 (c) the sales and use tax revenues deposited into the fund in accordance with
590 Subsection 59-12-103(10).

591 (3) (a) The fund shall earn interest.

592 (b) All interest earned on fund monies shall be deposited into the fund.

593 (4) (a) The executive director shall use monies deposited into the fund to pay:

594 (i) the costs of right-of-way acquisition, maintenance, construction, reconstruction, or
595 renovation to state and federal highways identified by the department and prioritized by the
596 commission in accordance with this Subsection (4); and

597 (ii) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101.

598 (b) (i) The department shall:

599 (A) establish a complete list of projects to be maintained, constructed, reconstructed, or
600 renovated using the funding described in Subsection (4)(a) based on the following criteria:

601 (I) the highway construction project is a high priority project due to high growth in the
602 surrounding area;

603 (II) the highway construction project addresses critical access needs that have a high
604 impact due to commercial and energy development;

605 (III) the highway construction project mitigates congestion; ~~§~~ → [and] ← ~~§~~

606 (IV) whether local matching funds are available for the highway construction project;
607 and

607a ~~§~~ → (V) the highway construction project is a critical alternative route for priority Interstate 15
607b reconstruction projects; and ← ~~§~~

608 (B) submit the list of projects to the commission for prioritization in accordance with
609 Subsection (4)(c).

610 (ii) A project that is included in the list under this Subsection (4):

611 (A) is not required to be currently listed in the statewide long-range plan; and

612 (B) is not required to be prioritized through the prioritization process for new
613 transportation capacity projects adopted under Section 72-1-304.

614 (c) The commission shall prioritize the project list submitted by the department in

615 accordance with Subsection (4)(b).

616 (d) (i) Expenditures by the department for the construction of highway projects
617 prioritized under this Subsection (4) may not exceed \$1,000,000,000.

618 (ii) Monies expended from the fund for principal, interest, and issuance costs of bonds
619 issued under Section 63B-16-101 are not considered expenditures for purposes of the
620 \$1,000,000,000 cap under Subsection (4)(d)(i).

621 (e) (i) Before bonds authorized by Section 63B-16-101 may be issued in any fiscal
622 year, the department and the commission shall appear before the Executive Appropriations
623 Committee of the Legislature and present:

624 (A) the commission's current list of projects established and prioritized in accordance
625 with this Subsection (4); and

626 (B) the amount of bond proceeds that the department needs to provide funding for
627 projects on the project list prioritized in accordance with this Subsection (4) for the next fiscal
628 year.

629 (ii) The Executive Appropriations Committee of the Legislature shall review and
630 comment on the prioritized project list and the amount of bond proceeds needed to fund the
631 projects on the prioritized list.

632 (f) The Division of Finance shall, from monies deposited into the fund, transfer the
633 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
634 Section 63B-16-101 in the current fiscal year to the appropriate debt service or sinking fund.

635 (5) When the general obligation bonds authorized by Section 63B-16-101 have been
636 paid off and the highway projects completed that are included in the prioritized project list
637 under Subsection (4), the Division of Finance shall transfer any existing balance in the fund
638 into the Transportation Investment Fund of 2005 created by Section 72-2-124.

639 (6) (a) The Division of Finance shall monitor the general obligation bonds authorized
640 by Section 63B-16-101.

641 (b) The department shall monitor the highway construction or reconstruction projects
642 that are included in the prioritized project list under Subsection (4).

643 (c) Upon request by the Executive Appropriations Committee of the Legislature:

644 (i) the Division of Finance shall report to the committee the status of all general
645 obligations bonds issued under Section 63B-16-101; and

646 (ii) the department shall report to the committee the status of all highway construction
647 or reconstruction projects that are included in the prioritized project list under Subsection (4).

648 (d) When the Division of Finance has reported that the general obligation bonds issued
649 by Section 63B-16-101 have been paid off and the department has reported that projects
650 included in the prioritized project list are complete to the Executive Appropriations Committee
651 of the Legislature, the Division of Finance shall transfer any existing fund balance in
652 accordance with Subsection (5).

653 **Section 7. Finance plan and scope of work report.**

654 The Department of Transportation shall:

655 (1) develop a finance plan and scope of work for the construction of Interstate 15 in
656 Utah County that uses positive cash flow available in the Transportation Investment Fund of
657 2005 that is anticipated to begin in fiscal year 2009; and

658 (2) report the finance plan and scope of work required under Subsection (1) to the
659 Executive Appropriations Committee of the Legislature prior to November 30, 2007.

660 **Section 8. Effective date.**

661 This bill takes effect on July 1, 2007.

H.B. 314 2nd Sub. (Gray) - Transportation Funding Revisions

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will require the Division of Finance to deposit \$90,000,000 of sales and use taxes annually into the newly created Critical Highway Needs Fund that would otherwise have been deposited into the General Fund. A general obligation bond, or a series of bonds totaling \$1,000,000,000 (plus issuance costs) will be issued for highway projects. Assuming a standard fifteen-year repayment period with flattened payments at today's interest rates, when the full amount of bonding authority is issued, there will be fifteen annual payments of approximately \$86,800,000 each plus first year interest costs of \$19,000,000. While the entire bond is unlikely to be issued at once, these numbers show how total debt service will level out when all bonds are issued. The actual debt service schedule will vary according to how the bonds are structured. This bill exempts certain transfers or appropriations for transportation projects from certain appropriations limit provisions.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$90,000,000)	(\$90,000,000)
Transportation Fund Restricted	\$0	\$19,000,000	\$86,800,000	\$0	\$90,000,000	\$90,000,000
Bonding	\$0	\$0	\$0	\$0	\$1,000,000,000	\$0
Total	\$0	\$19,000,000	\$86,800,000	\$0	\$1,000,000,000	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.