

30 legislative committee as designated by Legislative Management Committee the transfers that
31 need to be made between all transportation-related funds to maintain the highway funding
32 program as prioritized by the Transportation Commission;

33 ▶ provides that transportation commissioners shall be selected on a nonpartisan basis;
34 ▶ provides that for Transportation Commission appointments made on or after July 1,
35 2009, the selection of commissioners shall be:

36 • four commissioners with one of the commissioners selected from each of the
37 regions established by the Department of Transportation; and

38 • three commissioners selected from the state at large;

39 ▶ provides that the Transportation Commission shall annually report to a committee
40 designated by the Legislative Management Committee a prioritized list of the new
41 transportation capacity projects in the state transportation system and the funding
42 levels available for those projects and the unfunded highway construction and
43 maintenance needs within the state;

44 ▶ provides that the committee designated by the Legislative Management Committee
45 shall review the list reported by the Transportation Commission and make a
46 recommendation to the Legislature on the amount of additional funding to allocate
47 to transportation and the source of revenue for the additional funding allocation;

48 ▶ provides that the Department of Transportation may not delay a new transportation
49 capacity project that was funded by the Legislature in an appropriations act to a
50 different fiscal year than programmed by the Transportation Commission due to an
51 unavoidable shortfall in revenues unless the project delays are prioritized and
52 approved by the Transportation Commission;

53 ▶ provides that the Transportation Commission shall prioritize and approve any new
54 transportation capacity project delays for projects that were funded by the
55 Legislature in an appropriations act due to an unavoidable shortfall in revenues;

56 ▶ provides that the Department of Transportation may not delay a Critical Highway
57 Needs Fund project that was funded by the Legislature in an appropriations act to a

58 different fiscal year than programmed by the Transportation Commission or that general
59 obligation bond proceeds have been issued for in the current fiscal year due to an unavoidable
60 shortfall in revenues unless the project delays are prioritized and approved by the
61 Transportation Commission;

62 ▶ provides that the Transportation Commission shall prioritize and approve any
63 Critical Highway Needs Fund project delays due to an unavoidable shortfall in
64 revenues for a project:

- 65 • that was funded by the Legislature in an appropriations act; or
- 66 • that general obligation bond proceeds were issued for in the current fiscal year;

67 and

68 ▶ makes technical changes.

69 Monies Appropriated in this Bill:

70 None

71 Other Special Clauses:

72 This bill provides an effective date.

73 Utah Code Sections Affected:

74 AMENDS:

75 **17B-2a-802**, as enacted by Laws of Utah 2007, Chapter 329

76 **17B-2a-803**, as enacted by Laws of Utah 2007, Chapter 329

77 **17B-2a-807**, as last amended by Laws of Utah 2008, Chapter 39

78 **72-1-201**, as last amended by Laws of Utah 2008, Chapter 382

79 **72-1-301**, as last amended by Laws of Utah 2002, Chapter 176

80 **72-1-303**, as last amended by Laws of Utah 2008, Chapters 39 and 382

81 **72-1-305**, as enacted by Laws of Utah 2005, Chapter 245

82 **72-2-125**, as last amended by Laws of Utah 2008, Chapters 124, 384, and 389

83 ENACTS:

84 **17B-2a-807.5**, Utah Code Annotated 1953

85 **17B-2a-825**, Utah Code Annotated 1953

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

Section 1. Section **17B-2a-802** is amended to read:

17B-2a-802. Definitions.

As used in this part:

(1) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

~~[(1)]~~ (2) "Department" means the Department of Transportation created in Section 72-1-201.

(3) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

~~[(2)]~~ (4) "Multicounty district" means a public transit district located in more than one county.

~~[(3)]~~ (5) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

~~[(4)]~~ (6) "Public transit" means the transportation of passengers only and their incidental baggage by means other than:

- (a) chartered bus;
- (b) sightseeing bus;
- (c) taxi; or
- (d) other vehicle not on an individual passenger fare paying basis.

~~[(5)]~~ (7) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

- (a) leased by or operated by or on behalf of a public transit district; and
- (b) related to the public transit services provided by the district, including:
 - (i) railway or other right-of-way;

- 114 (ii) railway line; and
- 115 (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by
- 116 a transit vehicle.

117 ~~[(6)]~~ (8) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle

118 operated as public transportation by a public transit district.

119 Section 2. Section **17B-2a-803** is amended to read:

120 **17B-2a-803. Provisions applicable to public transit districts.**

121 (1) (a) Each public transit district is governed by and has the powers stated in:

- 122 (i) this part; and
- 123 (ii) except as provided in Subsection (1)(b), Chapter 1, Provisions Applicable to All
- 124 Local Districts.

125 (b) (i) Except for Sections 17B-1-301, 17B-1-311, and 17B-1-313, the following

126 provisions ~~[of Chapter 1, Part 3, Board of Trustees,]~~ do not apply to public transit districts[-];

127 (A) Chapter 1, Part 3, Board of Trustees; and

128 (B) Section 17B-2a-905.

129 (ii) A public transit district is not subject to Chapter 1, Part 6, Fiscal Procedures for

130 Local Districts.

131 (2) This part applies only to public transit districts.

132 (3) A public transit district is not subject to the provisions of any other part of this

133 chapter.

134 (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All

135 Local Districts, and a provision in this part, the provision in this part governs.

136 Section 3. Section **17B-2a-807** is amended to read:

137 **17B-2a-807. Public transit district board of trustees -- Appointment --**

138 **Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.**

139 (1) (a) If 200,000 people or fewer reside within the boundaries of a public transit

140 district, the board of trustees shall consist of members appointed by the legislative bodies of

141 each municipality, county, or unincorporated area within any county on the basis of one

142 member for each full unit of regularly scheduled passenger routes proposed to be served by the
143 district in each municipality or unincorporated area within any county in the following
144 calendar year.

145 (b) For purposes of determining membership under Subsection (1)(a), the number of
146 service miles comprising a unit shall be determined jointly by the legislative bodies of the
147 municipalities or counties comprising the district.

148 (c) The board of trustees of a public transit district under this Subsection (1) may
149 include a member that is a commissioner on the Transportation Commission created in
150 Section 72-1-301 and appointed as provided in Subsection (11), who shall serve as a
151 nonvoting, ex officio member.

152 (d) Members appointed under this Subsection (1) shall be appointed and added to the
153 board or omitted from the board at the time scheduled routes are changed, or as municipalities,
154 counties, or unincorporated areas of counties annex to or withdraw from the district using the
155 same appointment procedures.

156 (e) For purposes of appointing members under this Subsection (1), municipalities,
157 counties, and unincorporated areas of counties in which regularly scheduled passenger routes
158 proposed to be served by the district in the following calendar year is less than a full unit, as
159 defined in Subsection (1)(b), may combine with any other similarly situated municipality or
160 unincorporated area to form a whole unit and may appoint one member for each whole unit
161 formed.

162 (2) (a) [~~H~~] Subject to Section 17B-2a-807.5, if more than 200,000 people reside within
163 the boundaries of a public transit district, the board of trustees shall consist of [~~15~~]:

164 (i) ten members;

165 (A) appointed as described under this Subsection (2)[~~;~~]; or

166 (B) retained in accordance with Section 17B-2a-807.5;

167 (ii) three members appointed as described in Subsection (4)[~~;~~]; and

168 (iii) one voting member appointed as provided in Subsection (11).

169 (b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting

170 members to each county within the district using an average of:

171 (i) the proportion of population included in the district and residing within each
172 county, rounded to the nearest ~~[1/15]~~ 1/10 of the total transit district population; and

173 (ii) the cumulative proportion of transit sales and use tax collected from areas included
174 in the district and within each county, rounded to the nearest ~~[1/15]~~ 1/10 of the total
175 cumulative transit sales and use tax collected for the transit district.

176 (c) The board shall join an entire or partial county not apportioned a voting member
177 under this Subsection (2) with an adjacent county for representation. The combined
178 apportionment basis included in the district of both counties shall be used for the
179 apportionment.

180 (d) (i) If rounding to the nearest ~~[1/15]~~ 1/10 of the total public transit district
181 apportionment basis under Subsection (2)(b) results in an apportionment of more than ~~[15]~~ ten
182 members, the county or combination of counties with the smallest additional fraction of a
183 whole member proportion shall have one less member apportioned to it.

184 (ii) If rounding to the nearest ~~[1/15]~~ 1/10 of the total public transit district
185 apportionment basis under Subsection (2)(b) results in an apportionment of less than ~~[15]~~ ten
186 members, the county or combination of counties with the largest additional fraction of a whole
187 member proportion shall have one more member apportioned to it.

188 (e) If the population in the unincorporated area of a county is at least ~~[1/15]~~ 1/10 of
189 the district's population, the county executive, with the advice and consent of the county
190 legislative body, shall appoint one voting member to represent each ~~[1/15]~~ 1/10 of the district's
191 population within a county's unincorporated area population.

192 (f) If a municipality's population is at least ~~[1/15 of the district's population]~~ 160,000,
193 the chief municipal executive, with the advice and consent of the municipal legislative body,
194 shall appoint one voting member to represent ~~[each 1/15 of the district's]~~ the population within
195 a municipality.

196 (g) (i) The number of voting members appointed from a county and municipalities
197 within a county under Subsections (2)(e) and (f) shall be subtracted from the county's total

198 voting member apportionment under this Subsection (2).

199 (ii) Notwithstanding Subsections (2)(1) and (10), no more than one voting member
200 appointed by an appointing entity may be a locally elected public official.

201 (h) If the entire county is within the district, the remaining voting members for the
202 county shall represent the county or combination of counties, if Subsection (2)(c) applies, or
203 the municipalities within the county.

204 (i) If the entire county is not within the district, and the county is not joined with
205 another county under Subsection (2)(c), the remaining voting members for the county shall
206 represent a municipality or combination of municipalities.

207 (j) (i) Except as provided under Subsections (2)(e) and (f), voting members
208 representing counties, combinations of counties if Subsection (2)(c) applies, or municipalities
209 within the county shall be designated and appointed by a simple majority of the chief
210 executives of the municipalities within the county or combinations of counties if Subsection
211 (2)(c) applies.

212 (ii) The appointments shall be made by joint written agreement of the appointing
213 municipalities, with the consent and approval of the county legislative body of the county that
214 has at least [~~1/15~~] 1/10 of the district's apportionment basis.

215 (k) Voting members representing a municipality or combination of municipalities
216 shall be designated and appointed by the chief executive officer of the municipality or simple
217 majority of chief executive officers of municipalities with the consent of the legislative body
218 of the municipality or municipalities.

219 (l) The appointment of voting members shall be made without regard to partisan
220 political affiliation from among citizens in the community.

221 (m) Each voting member shall be a bona fide resident of the municipality, county, or
222 unincorporated area or areas which the voting member is to represent for at least six months
223 before the date of appointment, and must continue in that residency to remain qualified to
224 serve as a voting member.

225 (n) (i) All population figures used under this section shall be derived from the most

226 recent official census or census estimate of the United States Bureau of the Census.

227 (ii) If population estimates are not available from the United States Bureau of Census,
228 population figures shall be derived from the estimate from the Utah Population Estimates
229 Committee.

230 (iii) All transit sales and use tax totals shall be obtained from the State Tax
231 Commission.

232 (o) (i) The board shall be apportioned as provided under this section in conjunction
233 with the decennial United States Census Bureau report every ten years.

234 (ii) Within 120 days following the receipt of the population estimates under this
235 Subsection (2)(o), the district shall reapportion representation on the board of trustees in
236 accordance with this section.

237 (iii) The board shall adopt by resolution a schedule reflecting the current and proposed
238 apportionment.

239 (iv) Upon adoption of the resolution, the board shall forward a copy of the resolution
240 to each of its constituent entities as defined under Section 17B-1-701.

241 (v) The appointing entities gaining a new board member shall appoint a new member
242 within 30 days following receipt of the resolution.

243 (vi) The appointing entities losing a board member shall inform the board of which
244 member currently serving on the board will step down;

245 (A) upon appointment of a new member under Subsection (2)(o)(v)[-]; or

246 (B) in accordance with Section 17B-2a-807.5.

247 (3) Upon the completion of an annexation to a public transit district under Chapter 1,
248 Part 4, Annexation, the annexed area shall have a representative on the board of trustees on the
249 same basis as if the area had been included in the district as originally organized.

250 (4) In addition to the voting members appointed in accordance with Subsection (2),
251 the board shall consist of three voting members appointed as follows:

252 (a) one member appointed by the speaker of the House of Representatives;

253 (b) one member appointed by the president of the Senate; and

254 (c) one member appointed by the governor.

255 (5) (a) Except ~~[the initial members of the board,]~~ as provided in Section
256 17B-2a-807.5, the terms of office of the voting members of the board shall be ~~[two]~~ four years
257 or until a successor is appointed, qualified, seated, and has taken the oath of office.

258 ~~[(b) At the first meeting of the initial members of the board held after July 1, 2004,~~
259 ~~voting members of the board shall designate by the drawing of lots for 1/2 of their number to~~
260 ~~serve for one-year terms and 1/2 for two-year terms.]~~

261 ~~[(c)]~~ (b) (i) A voting member may not be appointed for more than three successive full
262 terms regardless of the appointing entity that appoints the voting member.

263 (ii) A person:

264 (A) may serve no more than 12 years on a public transit district board of trustees
265 described in Subsection (2)(a) regardless of the appointing entity that appoints the member;
266 and

267 (B) that has served 12 years on a public transit district board of trustees described in
268 Subsection (2)(a) is ineligible for reappointment to a public transit board of trustees described
269 in Subsection (2)(a).

270 (6) (a) Vacancies for voting members shall be filled by the official appointing the
271 member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy
272 within 90 days.

273 (b) If the appointing official under Subsection (1) does not fill the vacancy within 90
274 days, the board of trustees of the authority shall fill the vacancy.

275 (c) If the appointing official under Subsection (2) does not fill the vacancy within 90
276 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

277 (7) (a) Each voting member may cast one vote on all questions, orders, resolutions,
278 and ordinances coming before the board of trustees.

279 (b) A majority of all voting members of the board of trustees are a quorum for the
280 transaction of business.

281 (c) The affirmative vote of a majority of all voting members present at any meeting at

282 which a quorum was initially present shall be necessary and, except as otherwise provided, is
283 sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

284 (8) Each public transit district shall pay to each voting member:

285 (a) an attendance fee of \$50 per board or committee meeting attended, not to exceed
286 \$200 in any calendar month to any voting member; and

287 (b) reasonable mileage and expenses necessarily incurred to attend board or committee
288 meetings.

289 (9) (a) Members of the initial board of trustees shall convene at the time and place
290 fixed by the chief executive officer of the entity initiating the proceedings.

291 (b) [~~Immediately upon convening, the~~] The board of trustees shall elect from its voting
292 membership a [~~president, vice president,~~] chair, vice chair, and secretary.

293 (c) The members elected under Subsection (9)(b) shall serve for a period of two years
294 or until their successors shall be elected and qualified.

295 (d) On or after January 1, 2011, a locally elected public official is not eligible to serve
296 as the chair, vice chair, or secretary of the board of trustees.

297 (10) [~~At~~] Except as otherwise authorized under Subsection (2)(g) and Section
298 17B-2a-807.5, at the time of a voting member's appointment or during a voting member's
299 tenure in office, a voting member may not hold any employment, except as an independent
300 contractor or locally elected public official, with a county or municipality within the district.

301 (11) The Transportation Commission created in Section 72-1-301:

302 (a) for a public transit district serving a population of 200,000 people or fewer, may
303 appoint a commissioner of the Transportation Commission to serve on the board of trustees as
304 a nonvoting, ex officio member; and

305 (b) for a public transit district serving a population of more than 200,000 people, shall
306 appoint a commissioner of the Transportation Commission to serve on the board of trustees as
307 a voting member.

308 (12) (a) (i) Each member of the board of trustees of a public transit district is subject
309 to recall at any time by the legislative body of the county or municipality from which the

310 member is appointed.

311 (ii) Each recall of a board of trustees member shall be made in the same manner as the
312 original appointment.

313 (iii) The legislative body recalling a board of trustees member shall provide written
314 notice to the member being recalled.

315 (b) Upon providing written notice to the board of trustees, a member of the board may
316 resign from the board of trustees.

317 (c) [~~H~~] Except as provided in Section 17B-2a-807.5, if a board member is recalled or
318 resigns under this Subsection (12), the vacancy shall be filled as provided in Subsection (6).

319 Section 4. Section **17B-2a-807.5** is enacted to read:

320 **17B-2a-807.5. Public transit district board of trustees -- Transitional provisions.**

321 (1) (a) A member appointed to a board of trustees in accordance with Subsection
322 17B-2a-807(2) prior to April 1, 2009, that is ineligible for reappointment under Subsection (3)
323 may remain on the board of trustees and fulfill the member's appointment until July 1, 2010.

324 (b) The term of a member appointed to a board of trustees in accordance with
325 Subsection 17B-2a-807(2) prior to April 1, 2009, that is ineligible for reappointment under
326 Subsection (3) is extended until July 1, 2010 if the member's term of appointment based on the
327 term limits that existed at the time of the member's appointment expires prior to July 1, 2010.

328 (2) The term of a member appointed to a board of trustees in accordance with
329 Subsection 17B-2a-807(2) prior to April 1, 2009, shall be extended by two years from the
330 original date of appointment if the member is not ineligible for reappointment under
331 Subsection (3).

332 (3) A member appointed to a board of trustees in accordance with Subsection
333 17B-2a-807(2) prior to April 1, 2009, is not eligible for reappointment to serve on the board of
334 trustees upon expiration of the member's existing term if:

335 (a) (i) the appointing entity that appointed the member has appointed more than one
336 member to the board of trustees that are locally elected public officials and the locally elected
337 public officials are serving concurrently on the board of trustees;

338 (ii) the member is a locally elected public official that holds an elected position with a
339 municipality; and

340 (iii) the other member appointed by the appointing entity described in Subsection
341 (3)(a)(i) is a locally elected public official that holds an elected position with a county; or

342 (b) (i) the appointing entity that appointed the member:

343 (A) has appointed more than one member to the board of trustees; and

344 (B) does not have another member appointed by the appointing entity on the board of
345 trustees that is ineligible under Subsection (3)(a);

346 (C) the member has served more than six months on April 1, 2009; and

347 (D) the member has served the least amount of time on the board of trustees of all
348 members appointed by that appointing entity to the board of trustees that took the oath of
349 office prior to November 1, 2008.

350 Section 5. Section **17B-2a-825** is enacted to read:

351 **17B-2a-825. Criminal background checks authorized -- Employment eligibility.**

352 (1) A public transit district may require an individual described in Subsection (2) to:

353 (a) submit a fingerprint card in a form acceptable to the public transit district; and

354 (b) consent to a fingerprint background check by:

355 (i) the Utah Bureau of Criminal Identification; and

356 (ii) the Federal Bureau of Investigation.

357 (2) A person shall comply with the requirements of Subsection (1) if the person:

358 (a) is applying for or continuing employment with the public transit district:

359 (i) working in a safety-sensitive position or other position that may affect:

360 (A) the safety or well-being of patrons of the public transit district; or

361 (B) the safety or security of the transit buildings, stations, platforms, railways, bus
362 systems, and transit vehicles;

363 (ii) handling personally identifiable information, financial information, or other
364 sensitive information including personal health information;

365 (iii) working in security-sensitive areas; or

366 (iv) handling security-sensitive information, including information system
367 technologies; or
368 (b) is seeking access to designated security-sensitive areas.
369 (3) A public transit district may use the information obtained in accordance with this
370 section only for one or more of the following purposes:
371 (a) to determine whether or not an individual is convicted of:
372 (i) a felony under federal or state law;
373 (ii) a violation of a federal law, state law, or local ordinance concerning the sale,
374 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic
375 beverage;
376 (iii) a crime involving moral turpitude; or
377 (iv) two or more convictions for a violation of driving under the influence of alcohol,
378 any drug, or the combined influence of alcohol and any drug;
379 (b) to determine whether or not an individual has accurately disclosed the person's
380 criminal history on an application or document filed with the public transit district;
381 (c) to approve or deny an application for employment with the public transit district;
382 or
383 (d) to take disciplinary action against an employee of the public transit district,
384 including possible termination of employment.
385 (4) A person is not eligible for employment with a public transit district in a capacity
386 described in Subsection (2) if the person has been convicted of any of the offenses described
387 in Subsection (3).

388 Section 6. Section **72-1-201** is amended to read:

389 **72-1-201. Creation of Department of Transportation -- Functions, powers,**
390 **duties, rights, and responsibilities.**

391 There is created the Department of Transportation which shall:

392 (1) have the general responsibility for planning, research, design, construction,
393 maintenance, security, and safety of state transportation systems;

- 394 (2) provide administration for state transportation systems and programs;
- 395 (3) implement the transportation policies of the state;
- 396 (4) plan, develop, construct, and maintain state transportation systems that are safe,
397 reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and
398 industry;
- 399 (5) establish standards and procedures regarding the technical details of administration
400 of the state transportation systems as established by statute and administrative rule;
- 401 (6) advise the governor and the Legislature about state transportation systems needs;
- 402 (7) coordinate with utility companies for the reasonable, efficient, and cost-effective
403 installation, maintenance, operation, relocation, and upgrade of utilities within state highway
404 rights-of-way; ~~and~~
- 405 (8) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
406 make policy and rules for the administration of the department, state transportation systems,
407 and programs~~[-]; and~~
- 408 (9) annually report to an appropriate legislative committee as designated by the
409 Legislative Management Committee the transfers that need to be made between all
410 transportation-related funds to maintain the state highway construction program as prioritized
411 by the commission.

412 Section 7. Section **72-1-301** is amended to read:

413 **72-1-301. Transportation Commission created -- Members, appointment, terms**
414 **-- Qualifications -- Pay and expenses -- Chair -- Quorum -- Surety bond.**

- 415 (1) (a) There is created the Transportation Commission which shall consist of seven
416 members.
- 417 (b) The members of the commission shall be residents of Utah.
- 418 ~~[(c) No more than four of the commissioners shall be members of any one political~~
419 ~~party.]~~
- 420 (c) The members of the commission shall be selected on a nonpartisan basis.
- 421 (d) (i) The commissioners shall be appointed by the governor, with the consent of the

422 Senate, for a term of six years, beginning on April 1 of odd-numbered years, except as
423 provided under Subsection (1)(d)(ii).

424 (ii) The first two additional commissioners serving on the seven member commission
425 shall be appointed for terms of two years nine months and four years nine months,
426 respectively, initially commencing on July 1, 1996, and subsequently commencing as
427 specified under Subsection (1)(d)(i).

428 (e) The commissioners serve on a part-time basis.

429 (f) Each commissioner shall remain in office until a successor is appointed and
430 qualified.

431 (2) ~~[The]~~ (a) Except as provided in Subsection (2)(b), the selection of the
432 commissioners shall be as follows:

433 ~~[(a)]~~ (i) one commissioner from Box Elder, Cache, or Rich county;

434 ~~[(b)]~~ (ii) one commissioner from Salt Lake or Tooele county;

435 ~~[(c)]~~ (iii) one commissioner from Carbon, Emery, Grand, or San Juan county;

436 ~~[(d)]~~ (iv) one commissioner from Beaver, Garfield, Iron, Kane, Millard, Piute,
437 Sanpete, Sevier, Washington, or Wayne county;

438 ~~[(e)]~~ (v) one commissioner from Weber, Davis, or Morgan county;

439 ~~[(f)]~~ (vi) one commissioner from Juab, Utah, Wasatch, Duchesne, Summit, Uintah, or
440 Daggett county; and

441 ~~[(g)]~~ (vii) one commissioner selected from the state at large.

442 (b) Beginning with the appointment of commissioners on or after July 1, 2009 and
443 subject to the restriction in Subsection (2)(d), the selection of commissioners shall be as
444 follows:

445 (i) four commissioners with one commissioner selected from each of the four regions
446 established by the department; and

447 (ii) subject to the restriction in Subsection (2)(c), three commissioners selected from
448 the state at large.

449 (c) (i) At least one of the three commissioners appointed under Subsection (2)(b)(ii)

450 shall be selected from a rural county.

451 (ii) For purposes of this Subsection (2)(c), a rural county includes a county of the
452 third, fourth, fifth, or sixth class.

453 (d) No more than two commissioners appointed under Subsection (2)(b) may be
454 selected from any one of the four regions established by the department.

455 (3) (a) Members appointed before May 2, 1996, shall continue to receive the
456 compensation, per diem, expenses, and benefits they were receiving as of January 1, 1996.

457 (b) Members appointed after May 2, 1996, shall receive no compensation or benefits
458 for their services, but may receive per diem and expenses incurred in the performance of the
459 member's official duties at the rates established by the Division of Finance under Sections
460 63A-3-106 and 63A-3-107.

461 (c) Members may decline to receive compensation, benefits, per diem, and expenses
462 for their service.

463 (4) (a) One member of the commission shall be designated by the governor as chair.

464 (b) The commission shall select one member as vice chair to act in the chair's absence.

465 (5) Any four commissioners constitute a quorum.

466 (6) (a) Each member of the commission shall qualify by:

467 (i) taking the constitutional oath of office; and

468 (ii) giving a surety bond.

469 (b) The Division of Finance of the Department of Administrative Services shall
470 determine the form and amount of the bond, and the state shall pay the bond premium.

471 Section 8. Section **72-1-303** is amended to read:

472 **72-1-303. Duties of commission.**

473 (1) The commission has the following duties:

474 ~~[(1)]~~ (a) determining priorities and funding levels of projects in the state transportation
475 systems for each fiscal year based on project lists compiled by the department;

476 ~~[(2)]~~ (b) determining additions and deletions to state highways under Chapter 4,
477 Designation of State Highways Act;

478 ~~[(3)]~~ (c) holding public hearings and otherwise providing for public input in
479 transportation matters;

480 ~~[(4)]~~ (d) making policies and rules in accordance with Title 63G, Chapter 3, Utah
481 Administrative Rulemaking Act, necessary to perform the commission's duties described
482 under this section;

483 ~~[(5)]~~ (e) in accordance with Section 63G-4-301, reviewing orders issued by the
484 executive director in adjudicative proceedings held in accordance with Title 63G, Chapter 4,
485 Administrative Procedures Act;

486 ~~[(6)]~~ (f) advising the department in state transportation systems policy;

487 ~~[(7)]~~ (g) approving settlement agreements of condemnation cases subject to Section
488 63G-10-401;

489 ~~[(8)]~~ (h) in accordance with Section 17B-2a-807, appointing a commissioner to serve
490 as a nonvoting, ex officio member or a voting member on the board of trustees of a public
491 transit district;

492 ~~[(9)]~~ (i) in accordance with Section 17B-2a-808, reviewing, at least annually, the
493 short-term and long-range public transit plans; and

494 ~~[(10)]~~ (j) reviewing administrative rules made, amended, or repealed by the
495 department.

496 (2) (a) For projects prioritized with funding provided under Sections 72-2-124 and
497 72-2-125, the commission shall annually report to a committee designated by the Legislative
498 Management Committee:

499 (i) a prioritized list of the new transportation capacity projects in the state
500 transportation system and the funding levels available for those projects; and

501 (ii) the unfunded highway construction and maintenance needs within the state.

502 (b) The committee designated by the Legislative Management Committee under
503 Subsection (2)(a) shall:

504 (i) review the list reported by the Transportation Commission; and

505 (ii) make a recommendation to the Legislature on:

- 506 (A) the amount of additional funding to allocate to transportation; and
- 507 (B) the source of revenue for the additional funding allocation under Subsection
- 508 (2)(b)(ii)(A).

509 Section 9. Section **72-1-305** is amended to read:

510 **72-1-305. Project selection using the written prioritization process -- Public**
511 **comment -- Report.**

512 (1) Except as provided in Subsection (4), in determining priorities and funding levels
513 of projects in the state transportation system under Subsection 72-1-303(1)(a) that are new
514 transportation capacity projects, the commission shall use the weighted criteria system adopted
515 in the written prioritization process under Section 72-1-304.

516 (2) Prior to finalizing priorities and funding levels of projects in the state
517 transportation system, the commission shall conduct public hearings at locations around the
518 state and accept public comments on:

- 519 (a) the written prioritization process;
- 520 (b) the merits of new transportation capacity projects that will be prioritized under this
- 521 section; and
- 522 (c) the merits of new transportation capacity projects as recommended by a consensus
- 523 of local elected officials participating in a metropolitan planning organization as defined in
- 524 Section 72-1-208.5.

525 (3) The commission shall make the weighted criteria system ranking for each project
526 publicly available prior to the public hearings held under Subsection (2).

527 (4) (a) If the commission prioritizes a project over another project with a higher rank
528 under the weighted criteria system, the commission shall identify the change and accept public
529 comment at a hearing held under this section on the merits of prioritizing the project above
530 higher ranked projects.

531 (b) The commission shall make the reasons for the prioritization under Subsection
532 (4)(a) publicly available.

533 (5) The executive director or the executive director's designee shall report annually to

534 the governor and a committee designated by the Legislative Management Committee no later
535 than the last day of October:

536 (a) the projects prioritized under this section during the year prior to the report; and

537 (b) the status and progress of all projects prioritized under this section.

538 (6) (a) The department may not delay a new transportation capacity project that was
539 funded by the Legislature in an appropriations act to a different fiscal year than programmed
540 by the commission due to an unavoidable shortfall in revenues unless the project delays are
541 prioritized and approved by the Transportation Commission.

542 (b) The Transportation Commission shall prioritize and approve any new
543 transportation capacity project delays for projects that were funded by the Legislature in an
544 appropriations act due to an unavoidable shortfall in revenues.

545 Section 10. Section **72-2-125** is amended to read:

546 **72-2-125. Critical Highway Needs Fund.**

547 (1) There is created a restricted special revenue fund entitled the Critical Highway
548 Needs Fund.

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

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

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

553 (c) the sales and use tax revenues deposited into the fund in accordance with Section
554 59-12-103.

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

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

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

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

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

562 (b) (i) The department shall:
563 (A) establish a complete list of projects to be maintained, constructed, reconstructed,
564 or renovated using the funding described in Subsection (4)(a) based on the following criteria:
565 (I) the highway construction project is a high priority project due to high growth in the
566 surrounding area;
567 (II) the highway construction project addresses critical access needs that have a high
568 impact due to commercial and energy development;
569 (III) the highway construction project mitigates congestion;
570 (IV) whether local matching funds are available for the highway construction project;
571 and
572 (V) the highway construction project is a critical alternative route for priority Interstate
573 15 reconstruction projects; and
574 (B) submit the list of projects to the commission for prioritization in accordance with
575 Subsection (4)(c).
576 (ii) A project that is included in the list under this Subsection (4):
577 (A) is not required to be currently listed in the statewide long-range plan; and
578 (B) is not required to be prioritized through the prioritization process for new
579 transportation capacity projects adopted under Section 72-1-304.
580 (c) (i) The commission shall prioritize the project list submitted by the department in
581 accordance with Subsection (4)(b).
582 (ii) For projects prioritized under this Subsection (4)(c), the commission shall give
583 priority consideration to fully funding a project that meets the criteria under Subsection
584 (4)(b)(i)(A)(V).
585 (d) (i) Expenditures of bond proceeds issued in accordance with Section 63B-16-101
586 by the department for the construction of highway projects prioritized under this Subsection
587 (4) may not exceed \$1,200,000,000.
588 (ii) Monies expended from the fund for principal, interest, and issuance costs of bonds
589 issued under Section 63B-16-101 are not considered expenditures for purposes of the

590 \$1,200,000,000 cap under Subsection (4)(d)(i).

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

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

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

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

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

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

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

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

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

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

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

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

623 (7) (a) Unless prioritized and approved by the Transportation Commission, the
624 department may not delay a project prioritized under this section to a different fiscal year than
625 programmed by the commission due to an unavoidable shortfall in revenues if:

- 626 (i) the prioritized project was funded by the Legislature in an appropriations act; or
- 627 (ii) general obligation bond proceeds have been issued for the project in the current
628 fiscal year.

629 (b) For projects identified under Subsection (7)(a), the commission shall prioritize and
630 approve any project delays for projects prioritized under this section due to an unavoidable
631 shortfall in revenues if:

- 632 (i) the prioritized project was funded by the Legislature in an appropriations act; or
- 633 (ii) general obligation bond proceeds have been issued for the project in the current
634 fiscal year.

635 Section 11. **Effective date.**

636 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2009.

637 (2) If approved by two-thirds of all the members elected to each house, the
638 amendments in Sections 17B-2a-802, 17B-2a-807, and 17B-2a-807.5 take effect upon
639 approval by the governor, or the day following the constitutional time limit of Utah
640 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
641 the date of veto override.