Overview

In the 2019 General Session the Legislature passed H.J.R. 18, “Joint Rules Resolution on Base Budgeting Provisions” that required each appropriations subcommittee to create an accountable process budget (APB) for budgets under the purview of the subcommittee. The resolution states that an APB “is created by starting from zero and adding line items and programs” recommended by a subcommittee (see lines 30-31). Furthermore, the resolution requires that a subcommittee create an APB for approximately 20 percent of the budgets within its responsibilities each interim, and that each budget must be the subject of an APB at least once every five years (see lines 158-163).

To ensure that all budgets under the purview of the Infrastructure and General Government (IGG) Appropriations Subcommittee will be the subject of an APB over the next five years, the IGG chairs presented a plan to the Executive Appropriations Committee as outlined in a May 2019 memorandum. The chairs specified that the Department of Transportation’s (DOT) Construction Management line item would be the subject of the APB in the 2019 interim.

In this brief I present information that is intended to assist IGG as it creates an FY 2021 APB for the DOT Construction Management line item. The brief presents the following:

- Section 1 - a description of the line item;
- Section 2 - questions legislators might ask regarding the Construction Management line item;
- Section 3 - statutes pertaining to construction, preservation, and rehabilitation of the highway system;
- Section 4 - the roles of the Transportation Commission and department in prioritizing projects;
- Section 5 - the department’s goals and performance pertaining to the line item;
- Section 6 - current and historical data of financing sources to and expenditures from the line item; and
- Section 7 - APB options and recommendations from the financial analyst.

Section 1. Description of the Construction Management line item

The Department of Transportation uses the Construction Management line item to manage financing of projects from the design stage through project completion.1 While the department’s Maintenance Division carries out routine maintenance of the State’s highways, through the Construction Management line item DOT contracts private entities to perform construction, rehabilitation, and preservation. The line item is comprised of three programs:

- **Federal Construction-New.** In cooperation with the federal government, the department is responsible for approximately 2,900 miles of federal highways – 978 miles of interstate and 1,926 miles of other highways – as depicted in Appendix A. In recent years the majority of construction projects on federal highways in Utah has involved increasing capacity of the existing inventory, rather than adding new routes to the system.

- **Rehabilitation/Preservation.** In addition to rehabilitating and preserving the 2,900 miles of federal highways, DOT also rehabilitates and preserves approximately 5,100 miles of state highways.2

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1 The Budgetary Procedures Act prohibits DOT from moving appropriations across line items (see UCA 63J-1-206(2)(c)). By centralizing appropriations for major projects in the Construction Management line item rather than disaggregating funding to other line items (e.g. Support Services, Engineering Services, Operations/Maintenance Management), the Legislature has allowed DOT to more efficiently manage contracts and projects without violating the act.

2 See Utah Code Annotated (UCA) 72-4, Part 1 for legal descriptions of state highways.
• **Rehabilitation.** The department rehabilitates pavement surfaces by repairing damage in order to extend overall pavement life. Projects are limited to pavement surface treatments only, and do not typically include drainage, roadway realignment, curb, gutter and sidewalk or signal work. By statute the Legislature appropriates two-elevenths of motor fuel and special fuel tax collections, exclusive of amounts appropriated to B and C roads and the collector road fund, to DOT for highway rehabilitation (see UCA 72-2-106(1)). For FY 2018 this earmark was approximately $63 million and for FY 2019 the earmark was approximately $65 million.

• **Preservation.** DOT utilizes cost-effective treatments to preserve the pavement system at its current condition. Hard surface maintenance is limited to preventive maintenance and minor responsive maintenance, and it does not include minor or major rehabilitation or reconstruction or increases to structural capacity. The department is responsible for the construction of state highway projects that have prioritized importance as necessary highways but that may not be eligible for federal funding such as the Bangerter Highway.

It is important to note that under the current budgetary structure the Legislature funds new capacity (e.g. new routes or additional lane miles on existing routes) primarily through the Transportation Investment Fund (TIF) Capacity Program line item which will be the subject of the APB in the 2023 interim.

**Section 2. Questions legislators might ask regarding the Construction Management line item**

To provide a framework for creating the Construction Management budget “starting from zero” for FY 2021, committee members might seek answers to numerous questions. Depending on the answers, the committee might recommend to the full Legislature specific actions such as:

• eliminating, restructuring, or adding programs within the line item;
• changing funding levels from financing sources;
• clarifying through statutory changes or intent language how funds should be expended; and
• making policy changes that could affect the budget at the line item level.

Committee members may wish to consider the questions below as they formula the APB for the line item.

1. Under what authority do DOT and the Transportation Commission operate and how does that authority relate specifically to the Construction Management line item?
   a. Should the Legislature adjust statutory authority?
   b. How do the department’s mission, goals, objectives, and performance metrics tie to its statutory responsibilities?
   c. Should the department modify its strategic vision to align better with statute?

2. How are transportation projects prioritized?
   a. How do the commission and department balance short-term and long-term needs?
   b. What methods and tools do elected policymakers have to change or influence the prioritization process?
   c. What role does debt financing play in the prioritization process? What are benefits, costs, and net impacts of debt financing?

3. What are the condition of the State’s highways? How do these conditions compare to the conditions of highways in surrounding and similar states?
   a. What criteria does the department use to establish goals for pavement condition?
   b. How does the department determine the type of treatment for a section of highway (e.g. regular maintenance only, preservation, rehabilitation, or rebuild)?
c. What is the average cost per mile for each type of road and each type of treatment? What is the life-cycle cost per mile for each type road? How do costs in Utah compare to costs in surrounding and similar states?

4. What are the financing sources and amounts by source for the Construction Management line item?
   a. What constitutional and statutory provisions affect funding to the line item?
   b. Is current funding sufficient to meet the State’s highway infrastructure needs?
   c. What options are available to place the burden of financing more directly on users?

5. What are the expenditure categories and amounts by category for the line item?

6. Why does the State provide the service?
   a. What segments of the State-owned system might be transferred to local governments due to the segment being used primarily as a local route rather than as a statewide route?

Section 3. Statutes pertaining to construction, preservation, and rehabilitation of the highway system

**DOT responsibilities.** The Department of Transportation is organized under and governed primarily by UCA Title 72, “Transportation Code”. The department’s executive director is responsible “for the oversight and supervision of any transportation project for which state funds are expended” (UCA 72-1-202(2)(c)), and to appoint two deputy directors along with division directors to assist in administration of the department (see UCA 72-1-202 & 203).

The Legislature has specified two key responsibilities of the department that relate to the Construction Management line item:

- plan, research, design, and construct state transportation systems; and
- ensure that systems are safe, reliable, environmentally sensitive, and serve the needs of the public, commerce, and industry (see UCA 72-1-201).

The Legislature also requires DOT to “coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities with state highway rights-of-way” (UCA 72-1-201(1)(g)) and this requirement may impact projects financed from the Construction Management line item.

**DOT organization.** The Legislature created the Comptroller, Internal Audit, and Communications divisions within DOT by statute (see UCA 72-1-204). It also gave the department authority to create divisions as necessary to administer the deputy directors’ statutory responsibilities (see UCA 72-1-203 & 204). Under this authority, DOT has created divisions that have duties that overlap with the Construction Management line item.  

- the Construction and Civil Rights Division provides “innovative construction services to our customers by creating a successful partnership throughout the construction process”; and
- the Materials and Pavements Division ensures that “high quality construction materials are incorporated into projects through qualified, certified, testing personnel and laboratories, as well as ensuring our pavement program and designs are optimized for preserving our infrastructure at the lowest life-cycle cost”.

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3 The Department of Transportation’s organization chart is shown in Appendix B.


Section 4. Roles of the Transportation Commission and department in prioritizing projects

The Legislature has directed the Transportation Commission to “determine priorities and funding levels of projects in the state transportation system,” and it has granted rulemaking authority to the commission (UCA 72-1-303(1)(a) & (d)). The Legislature has defined the department’s role in the prioritization process by requiring that

- DOT compile project lists for the commission to determine priorities and funding levels (see UCA 72-1-303(1)(a)); and
- the “deputy director of planning and investment assist the executive director with programming and prioritization of transportation projects” (UCA 72-1-203(2)(c)(iii)).

Additionally, the Legislature has directed DOT to develop statewide strategic initiatives by considering (among other topics) corridor preservation, congestion reduction, development of new transportation capacity projects, long-term maintenance and operations of the transportation system, and safety; and to assess capacity needs and establish goals for corridors that meet the following:

- high volume of travel and throughput;
- connection of projected major centers of economic activity, population growth, and future job centers;
- major freight corridors; and
- corridors accommodating multiple modes of travel (UCA 72-1-211(2)).

Prioritization processes depend on project types, financing sources, and allowed uses of financing sources. For example, the federal government restricts the use of federal dollars to specific projects or purposes such as maintenance of federal highways, promotion of safety, and project that facilitate freight transport – consequently prioritization of projects that use federal dollars occurs separately from prioritization of projects that use only state funds.

As previously mentioned in the line item description, projects funded from the Construction Management line item involve rehabilitation/preservation and small-scale construction. The commission typically prioritizes and funds these projects based on recommendations from the department. The department develops its recommendations by comprehensively assessing each road in the state system biannually and working to achieve the lowest life-cycle cost for a road segment while maintaining road conditions at target levels of quality for each road type.

For projects funded from the TIF Capacity Program line item (that will be the subject of the accountable budget process in the 2023 interim) the Legislature has required the commission to “develop a written prioritization process for the prioritization of new transportation capacity projects” (emphasis added) (UCA 72-1-304(1)(a)(i)). The commission’s rules pertaining to prioritization of new capacity projects are contained in Rule R940-6. Although not required by statute the commission has applied the department’s strategic initiatives in its written prioritization process (see Rule R940-6-3). In R940-6-3 the commission directs that the department should first seek to preserve existing infrastructure, improve mobility through technology, and address safety before the commission will recommend adding new capacity projects.

Section 5. The department’s goals and performance pertaining to Construction Management

The department has three strategic goals: zero fatalities, optimize mobility, and preserve infrastructure, and the commission and department consider these goals in prioritization processes. As directed by the Legislature each year through intent language (see, for example, H.B. 6, Item 68, 2019 General Session) DOT reports performance measures related to its strategic goals to IGG as shown in Table 1.
Table 1. Department of Transportation Performance Measures

<table>
<thead>
<tr>
<th>Goal</th>
<th>Target</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce Fatalities, Injuries, and Crashes</td>
<td></td>
</tr>
<tr>
<td>Traffic fatalities</td>
<td>2% reduction</td>
</tr>
<tr>
<td>Traffic serious injuries</td>
<td>2% reduction</td>
</tr>
<tr>
<td>Traffic crashes</td>
<td>2% reduction</td>
</tr>
<tr>
<td>Internal fatalities</td>
<td>Zero</td>
</tr>
<tr>
<td>Internal injuries</td>
<td>&lt; 6.5%</td>
</tr>
<tr>
<td>Internal equipment damage</td>
<td>&lt; 7.5%</td>
</tr>
<tr>
<td>Preserve Infrastructure</td>
<td></td>
</tr>
<tr>
<td>Pavement in good condition</td>
<td>&gt;= 50%</td>
</tr>
<tr>
<td>Pavement in poor condition</td>
<td>&lt; 10%</td>
</tr>
<tr>
<td>Structures in fair or good condition</td>
<td>&gt;= 80%</td>
</tr>
<tr>
<td>Automated transportation management systems in good condition</td>
<td>&gt;= 90%</td>
</tr>
<tr>
<td>Signals in good condition</td>
<td>&gt;= 90%</td>
</tr>
<tr>
<td>Optimize Mobility</td>
<td></td>
</tr>
<tr>
<td>Minimize delay along I-15</td>
<td>Score &gt; 90</td>
</tr>
<tr>
<td>Reliable fast condition on I-15 along the Wasatch Front</td>
<td>&gt;= 85% of segments</td>
</tr>
<tr>
<td>Optimal use of snow and ice equipment and materials</td>
<td>&gt; 92% effectiveness</td>
</tr>
<tr>
<td>Support increase of trips by public transit</td>
<td>10%</td>
</tr>
</tbody>
</table>

Section 6. Financing to and expenditures from the Construction Management line item

**Financing.** The Legislature appropriates primarily from the Transportation Fund and federal funds to the Construction Management line item. For both financing sources, actual receipts to the line item may differ from appropriated amounts that are based on the consensus revenue forecast in the case of the Transportation Fund and on known and anticipated receipts of federal funds. Figure 1a shows actual amounts to the line item for FY 2015 through FY 2018, Revised Appropriated amounts for FY 2019 and Appropriated amounts for FY 2020 as shown in on the Financials tab on the Legislative Fiscal Analyst’s Compendium of Budget Information (COBI). Figure 1b shows total appropriations to the programs within the line item for the same years.

Figures 1a and 1b. Appropriations to the Construction Management Line Item ($ Millions)

**Figure 1a. By Financing Source**

**Figure 1b. By Program**
Expenditures. The department expends almost all of the financing to the line item directly on projects. The department may also expend a small amount on salaries, benefits, and other expenses associated with employees that are assigned to specific projects being paid out of the line item. Figure 2 shows expenditures by category from the line item.

Figure 2. Expenditures from the Construction Management Line Item ($ Millions)

Section 7. APB recommendations and options from the financial analyst

Recommendations.

1. Change the names of the line item and two programs to add clarity. “Construction Management,” may give the impression that funding in the line item is used to pay salaries and related expenses for DOT employees who manage construction projects. Funding, however, is generally used to pay contractors to carry out construction activities. The word “New” in “Federal Construction – New” and “State Construction – New” may give the impression that projects are adding new capacity rather than rehabilitating, preserving, or otherwise altering existing assets on a small scale.
   - Line item: Construction Management Highway System Construction
   - Program: Federal Construction – New Federal Construction
   - Program: State Construction – New State Construction

Department response: DOT agrees that the proposed modifications provide better clarity of the funds appropriated in this line item.

2. Add intent language that directs the commission and department to consider the following ordered objectives when prioritizing and funding projects:
   a. participate with the federal government so as to maximize receipt of federal funds;
   b. maintain existing assets at target conditions as determined through data-driven prioritization; and
   c. add capacity.

Department response: DOT agrees with this intent language. It reflects the strategic goals and direction adopted and followed by DOT and the Transportation Commission for management and construction of the state transportation system.

Options. The financial analyst presents the options below for discussion and further exploration at the direction of the committee. The department’s responses are summarized below and included verbatim in Appendix C.

1. Motor fuel taxes do not cover the full amount of appropriations going to roads. Sales tax earmarks to transportation exceed gas tax in UDOT’s budget. Possible options to reduce or eliminate earmarks to transportation include:
a. Spending less by
   i. Eliminating lane miles/roads from the state’s portfolio by transferring ownership of roads that
   are currently in the state system but primarily serve a local function to local governments
   Department response: This is a policy decision for the Legislature.
   ii. Not adding lane miles
   Department response: This is a policy decision for the Legislature.
   iii. Maintaining state roads at a quality standard similar to surrounding states
   Department response: DOT and the Transportation Commission have implemented a long-term
   asset management strategy based on “Good Roads Cost Less”.
   iv. Not expanding capacity and pushing costs to consumers in form of congestion pricing
   Department response: This is a policy decision for the Legislature.
   v. Not building parking garages or only building garages at periphery of public transit
   Department response: This is a policy decision for the Legislature.
   vi. Fully funding total cost of ownership for new capacity by including in cost estimates ongoing
   cost of maintenance
   Department response: This is current practice of the Legislature.
   vii. Not adding “nice to haves” such as sound walls and variable speed zones
   Department response: This is a policy decision for the Legislature, but not all “nice to haves” are
   the same.
   viii. Being more efficient in projects (what do UDOT projects cost compared to surrounding
   states?)
   Department response: DOT is committed to being effective and efficient with taxpayer dollars.

b. Maximizing partner investments by prioritizing projects that bring other federal/state/local
   resources to the table
   Department response: DOT supports this option.

c. Pursuing road user charges by
   i. Better enforcing existing HOV tolls (what has toll revenue generated vs. cost of operating HOV
   lanes?)
   Department response: DOT is exploring strategies to decrease violations and increase toll
   collections.
   ii. More aggressively tolling new capacity along state-financed corridors such as Mountain
   View/Legacy, I-15 from SLC to Payson
   Department response: Current eligibility to toll certain corridors is generally limited.
   iii. Setting toll levels sufficient to cover maintenance costs
   Department response: Toll collections cover daily operations and maintenance costs, but are
   insufficient to pay for more significant system rehabilitation.
   iv. Setting a per mile charge (and possibly lowering the fuel tax rate)
   Department response: DOT is implementing a voluntary road user charge (RUC) program for
   alternative fuel and hybrid vehicles, and it is exploring additional RUC demonstration program
   options.
2. Eliminating intent language that lets DOT spend whatever gas tax is collected notwithstanding the appropriated amount

*Department response:* DOT supports the current practice of including the intent language in the appropriations bill if actual revenues exceed estimates.
Appendix A. Utah National Highway System

Appendix B. Department of Transportation Organization Chart

Appendix C. Department of Transportation Verbatim Responses to Financial Analyst’s Options

1. Motor fuel taxes do not cover the full amount of appropriations going to roads. Sales tax earmarks to transportation exceed gas tax in UDOT’s budget. Possible options to reduce or eliminate earmarks to transportation include:
   
   **Department commentary:** As the committee knows, no sales tax earmarks are contained in the Construction Management line item. Instead, they are contained in the Transportation Investment Fund line item to fund major capacity improvements to the state highway system, and to help fund certain types of capacity projects for transit and active transportation.

   a. Spending less by
      
      i. Eliminating lane miles/roads from the state’s portfolio by transferring ownership of roads that are currently in the state system but primarily serve a local function to local governments
         
         **Department response:** This is a policy decision for the legislature. The state highway system is defined under Utah Code Title 72 Chapter 4. Under current code, the Transportation Commission may add or delete roads from the state highway system between legislative sessions. Each year, the legislature considers a bill to codify or modify changes to the state system previously adopted by the Transportation Commission. As provided in code, the Transportation Commission may not transfer a road to a local jurisdiction without approval from the local government. The legislature, however, can choose to add or delete roads from the state system without local approval. In 2005, a legislative task force was charged with recommending roads to transfer from the state to the local system, or from local system to the state system. Ultimately, the task force did not recommend any roads for transfer, instead the task force recommended modifications to the road transfer process, as currently reflected in state code.

      ii. Not adding lane miles
         
         **Department response:** This is a policy decision for the legislature whether UDOT should continue to add lanes miles to the highway system.

      iii. Maintaining state roads at a quality standard similar to surrounding states
         
         **Department response:** DOT and the Transportation Commission have implemented a long-term asset management strategy based on “Good Roads Cost Less”, which demonstrates it costs less to keep a road in good condition than allow the road to deteriorate and then reconstruct to bring it back to a good condition. This strategy is based on achieving the lowest lifecycle cost of ownership, while maintaining roadway safety and mitigating cost to roadway users. Studies demonstrate that every $1 spent on preservation of the interstate saves $25 in reconstruction costs, and every $1 spent on preservation of other major highways saves $10 in reconstruction costs. National studies support DOT’s asset management strategy, demonstrated through numerous studies completed by TRIP, a National Transportation Research Group [http://tripnet.org/trip-publications.php](http://tripnet.org/trip-publications.php).

      iv. Not expanding capacity and pushing costs to consumers in form of congestion pricing
         
         **Department response:** This is a policy decision for the legislature whether DOT should continue to add new capacity to the highway system. New capacity includes new roads, new lanes, and operational improvements such as intersection improvements or truck passing lanes on the interstate. Applying user fees through congestion pricing is also a policy decision. Properly aligned user fees and user-oriented taxes can often balance service demand and supply, particularly for infrastructure. Congestion pricing is one aspect of a user fee that uses market forces through pricing to manage levels of roadway congestion. The Express Lanes on I-15 use
pricing to manage levels of congestion and provide reliable travel times in that lane. As congestion in the Express Lane rises, toll prices increase which decreases the number of vehicles in the lane and improving travel speeds. As congestion decreases, toll prices also decrease attracting more drivers in the lane while still maintaining travel speeds. Current statutory tolling authority would allow use of pricing on toll facilities, as demonstrated with the Express Lanes on I-15. Further consideration of congestion pricing is being explored worldwide as a potential future mechanism to better manage demand and supply of transportation infrastructure.

v. Not building parking garages or only building garages at periphery of public transit

*Department response:* This is a policy decision for the legislature. As population continues to grow more people will need to use transit in order to maintain mobility throughout urban areas. Current transportation planning efforts are focused on ensuring we have an integrated transportation system so that all modes of transportation work together to meet transportation needs. Parking structures, when they are located in the right place, can provide an important component of an integrated multi-modal transportation system. But, they need to be strategically located and part of a strategic transportation plan.

vi. Fully funding total cost of ownership for new capacity by including in cost estimates ongoing cost of maintenance

*Department response:* The Legislature does this based on DOT’s analysis of increased road surfaces and needs associated with new roadway capacity. The Transportation Fund (primarily fuel taxes, registration fees) currently provides funding sufficient for ongoing operations and maintenance of the state highway system. In addition, the state code allows use of the Transportation Investment Fund to maintain and operate highway projects that were built with that funding source. That TIF provision was adopted by the legislature as a result of a recommendation from the 2003-2004 legislative Transportation Planning Task Force. Legislators on the Task Force wanted to ensure that the TIF provided a mechanism to fund new roadway capacity along with funds needed for on-going costs associated with those improvements. Under DOT’s budget process, those funds are taken off the top before new projects are prioritized and funded by the Transportation Commission. The IGG committee has consistently supported moving those TIF funds to the appropriate line item needed to support operation and maintenance costs for roads built with TIF funds.

vii. Not adding “nice to haves” such as sound walls and variable speed zones

*Department response:* While these are policy decisions for the legislature, not all “nice to haves” are similar.

1. DOT and the Transportation Commission recognize that state highways are an important component to a local community. DOT has a process to take local considerations into account when constructing state highway projects. For example, local communities often partner with DOT to pay for landscaping at interchanges as part of a construction project.

2. DOT does not view variable speed zones as a “nice to have”. We have been statutorily directed to provide for a safe transportation system. Variable speed zones are an important and emerging safety component which allows DOT to set speed limits in real time to reflect current roadway conditions. We believe variable speed limits will continue to be an important component to improve roadway safety.

3. In regard to sound walls, both state law (UCA 72-6-111) and federal regulations (23 C.F.R 772) provide guidance. Federal regulations mandate that states mitigate road noise in certain circumstances. State law allows DOT to construct noise abatement along a highway under circumstances outlined in state code. DOT has also adopted a rule, R930-3, to outline...
procedures and processes to consider noise abatement. The extent to which state law provides for construction of noise abatement would be a policy decision for legislators.

viii. Being more efficient in projects (what do UDOT projects cost compared to surrounding states?)

*Department response:* DOT is committed to being effective and efficient with taxpayer dollars. We continue to actively work on developing efficiencies and work toward improved outcomes under each of our strategic goals. One example of efficiencies is implementation of the Trans Tech program that resulted in redirecting $6 million annually that previously paid for people to roadway activities, instead. DOT is widely considered a leader in the country in the way we deliver projects, such as Design/Build, Construction Manager/General Contractor, Diverging Diamond interchanges, Continuous Flow Intersections, and Advanced Bridge Construction. DOT publishes online an annual report on “Innovations and Efficiencies” that outlines the specific strategies DOT has implemented that year to innovate and make the most of taxpayer dollars. Those annual reports may be found on DOT’s website [https://www.udot.utah.gov/main/f?p=100:pg:0:::V,T:,3136](https://www.udot.utah.gov/main/f?p=100:pg:0:::V,T:,3136).

b. Maximizing partner investments by prioritizing projects that bring other federal/state/local resources to the table

*Department response:* DOT supports and implements the annual appropriations intent language that directs the Department to, first, maximize participation with federal dollars. While almost all federal highway funds are distributed on a formula basis, there are certain federal discretionary programs that are offered under a competitive basis. Utah has had mixed success securing federal discretionary grants, but DOT has implemented processes to more proactively search for opportunities to secure additional federal dollars, following state requirements for review and approval of federal grants. While the Transportation Commission and DOT have previously sought opportunities to partner with local entities for mutually beneficial transportation projects, the legislature has recently provided additional tools for partnering with local entities and the private sector. Those tools include authorization for Transportation Reinvestment Zones and expanded opportunities for Public Private Partnerships. As authorized in the 2018 General Session, DOT has created a Director of Strategic Investment whose primary focus is to seek innovative partnering opportunities. The Transportation Commission is also updating project prioritization to include consideration of other non-state resources brought to a proposed project.

c. Pursuing road user charges by

*Department commentary:* Some statutory tools are currently in place for tolling.

i. Better enforcing existing HOV tolls (what has toll revenue generated vs. cost of operating HOV lanes?)

*Department response:* The Express Lanes on I-15 currently generates enough revenue to pay for daily operations and maintenance of the system. For Fiscal Year 2019, the Express Lanes generated $1,974,504 with expenditures of $1,245,591. Similar to other tolling systems in the country, violations continue to be a significant issue. DOT is continuing to explore strategies to decrease violations and increase toll collections in those lanes.
ii. More aggressively tolling new capacity along state financed corridors such as Mountain View/Legacy, I-15 from SLC to Payson

*Department response:* The legislature granted tolling authority on the state highway system to DOT with approval from the Transportation Commission. In addition to tolling the Express Lanes as authorized under both federal and state law, DOT has previously considered tolling on other state facilities. At the federal level, while proposals have been considered to remove or significantly reduce federal restrictions on interstate tolling, current eligibility is generally limited.

iii. Setting tolls levels sufficient to cover maintenance costs

*Department response:* Tolls collected on the Express Lanes is sufficient to pay for daily operations and maintenance costs. However, revenues are insufficient to pay for more significant system rehabilitation that will be needed in the future. The Transportation Commission, with concurrence from the legislature, recently increased tolls up to $4 per zone with a current maximum operating rate of $2 per zone. Current efforts to improve enforcement and toll collection may help address future needs. Simply raising toll rates does not always result in increased revenue. Over pricing can result in a reduction in revenue as drivers perceive the benefit too small for the cost. We set rates at the balance point of revenue and travel time savings.

iv. Setting a per mile charge (and possibly lowering the fuel tax rate)

*Department response:* As directed by UCA 72-1-213 and 213.1, DOT is implementing a voluntary Road Usage Charge (RUC) program for alternative fuel and hybrid vehicles beginning on January 1, 2020. RUC is a user fee based on the number of miles driven instead of the gallons of fuel consumed. Similar to utilities, drivers pay for what they use. It is a potential replacement for the gas tax. Authorization for the RUC program was adopted by the Legislature in S.B. 136, 2018 General Session, and S.B. 72, 2019 General Session. Additional information about the RUC program may be found on DOT's website https://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:5090. As directed in code, DOT is continuing to explore additional RUC demonstration program options.

2. Eliminating intent language that lets DOT spend whatever gas tax is collected notwithstanding the appropriated amount

*Department response:* DOT supports current practice to include the following intent language in the appropriations bill if actual revenues exceed estimates: “There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient but not more than the surplus of the Transportation Fund, to be used by the department for the construction, rehabilitation, and preservation of State highways in Utah.” The current intent language achieves an appropriate balance between accountability and responsible, timely expenditure of taxpayer dollars. Because the intent language is restricted to the Construction Management line item, DOT cannot use those revenues for expenditures such as hiring additional people or purchasing additional equipment. Instead, expenditures are limited to highway construction projects, ensuring that the public realizes timely benefit of their tax dollars in the form of highway construction. Because these revenues are constitutionally directed to highway uses, they may not be used for other general government purposes. DOT believes the current intent language provides an appropriate mechanism to efficiently invest available highway tax dollars while still retaining legislative oversight.