

**TRANSPORTATION GOVERNANCE**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

Senate Sponsor: Sheldon L. Killpack

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**LONG TITLE**

**General Description:**

This bill modifies the Transportation Code by amending provisions relating to transportation governance.

**Highlighted Provisions:**

This bill:

- ▶ provides that Transportation Commissioners shall be selected on a nonpartisan basis;
- ▶ provides that for Transportation Commission appointments made on or after July 1, 2009, the selection of commissioners shall be:
  - four commissioners with one of the commissioners selected from each of the regions established by the Department of Transportation; and
  - three commissioners selected from the state at large;
- ▶ provides that the Transportation Commission shall annually report to a committee designated by the Legislative Management Committee a prioritized list of the new transportation capacity projects in the state transportation system and the funding levels available for those projects and the unfunded highway construction and maintenance needs within the state;
- ▶ provides that the committee designated by the Legislative Management Committee shall review the list reported by the Transportation Commission and make a recommendation to the Legislature on the amount of additional funding to allocate



28 transportation, the source of revenue for the additional funding allocation, and the number of  
29 projects to fund on the prioritized list;

30       ▶ provides that the Department of Transportation may not delay a new transportation  
31 capacity project that was funded by the Legislature in an appropriations act due to  
32 an unavoidable shortfall in revenues unless the project delays are prioritized and  
33 approved by the Transportation Commission;

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

37       ▶ provides that the Department of Transportation may not delay a Critical Highway  
38 Needs Fund project that was funded by the Legislature in an appropriations act or  
39 that general obligation proceeds have been issued for in the current fiscal year due  
40 to an unavoidable shortfall in revenues unless the project delays are prioritized and  
41 approved by the Transportation Commission;

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

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

47 and

48       ▶ makes technical changes.

49 **Monies Appropriated in this Bill:**

50       None

51 **Other Special Clauses:**

52       None

53 **Utah Code Sections Affected:**

54 AMENDS:

55       **72-1-301**, as last amended by Laws of Utah 2002, Chapter 176

56       **72-1-303**, as last amended by Laws of Utah 2008, Chapters 39 and 382

57       **72-1-305**, as enacted by Laws of Utah 2005, Chapter 245

58       **72-2-125**, as last amended by Laws of Utah 2008, Chapters 124, 384, and 389

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

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

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

(1) (a) There is created the Transportation Commission which shall consist of seven members.

(b) The members of the commission shall be residents of Utah.

~~[(c) No more than four of the commissioners shall be members of any one political party.]~~

(c) The members of the commission shall be selected on a nonpartisan basis.

(d) (i) The commissioners shall be appointed by the governor, with the consent of the Senate, for a term of six years, beginning on April 1 of odd-numbered years, except as provided under Subsection (1)(d)(ii).

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

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

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

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

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

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

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

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

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

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

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

91 (b) Beginning with the appointment of commissioners on or after July 1, 2009, the  
92 selection of commissioners shall be as follows:

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

95 (ii) three commissioners selected from the state at large.

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

98 (b) Members appointed after May 2, 1996, shall receive no compensation or benefits  
99 for their services, but may receive per diem and expenses incurred in the performance of the  
100 member's official duties at the rates established by the Division of Finance under Sections  
101 63A-3-106 and 63A-3-107.

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

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

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

106 (5) Any four commissioners constitute a quorum.

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

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

109 (ii) giving a surety bond.

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

112 Section 2. Section **72-1-303** is amended to read:

113 **72-1-303. Duties of commission.**

114 (1) The commission has the following duties:

115 [~~1~~] (a) determining priorities and funding levels of projects in the state transportation  
116 systems for each fiscal year based on project lists compiled by the department;

117 [~~2~~] (b) determining additions and deletions to state highways under Chapter 4,  
118 Designation of State Highways Act;

119 [~~3~~] (c) holding public hearings and otherwise providing for public input in  
120 transportation matters;

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

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

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

128           ~~[(7)]~~ (g) approving settlement agreements of condemnation cases subject to Section  
 129 63G-10-401;

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

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

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

137           (2) (a) The commission shall annually report to a committee designated by the  
 138 Legislative Management Committee:

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

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

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

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

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

146           (A) the amount of additional funding to allocate transportation;

147           (B) the source of revenue for the additional funding allocation under Subsection  
 148 (2)(b)(ii)(A); and

149           (C) the number of projects to fund on the prioritized list presented under Subsection  
 150 (2)(a)(i).

151           Section 3. Section **72-1-305** is amended to read:

152           **72-1-305. Project selection using the written prioritization process -- Public**  
153 **comment -- Report.**

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

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

161           (a) the written prioritization process;

162           (b) the merits of new transportation capacity projects that will be prioritized under this  
163 section; and

164           (c) the merits of new transportation capacity projects as recommended by a consensus  
165 of local elected officials participating in a metropolitan planning organization as defined in  
166 Section 72-1-208.5.

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

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

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

175           (5) The executive director or the executive director's designee shall report annually to  
176 the governor and a committee designated by the Legislative Management Committee no later  
177 than the last day of October:

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

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

180           (6) (a) The department may not delay a new transportation capacity project that was  
181 funded by the Legislature in an appropriations act due to an unavoidable shortfall in revenues  
182 unless the project delays are prioritized and approved by the Transportation Commission.

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

186           Section 4. Section **72-2-125** is amended to read:

187           **72-2-125. Critical Highway Needs Fund.**

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

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

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

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

194           (c) the sales and use tax revenues deposited into the fund in accordance with Section  
195 59-12-103.

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

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

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

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

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

203           (b) (i) The department shall:

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

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

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

210           (III) the highway construction project mitigates congestion;

211           (IV) whether local matching funds are available for the highway construction project;

212 and

213           (V) the highway construction project is a critical alternative route for priority Interstate

214 15 reconstruction projects; and

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

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

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

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

221 (c) (i) The commission shall prioritize the project list submitted by the department in  
222 accordance with Subsection (4)(b).

223 (ii) For projects prioritized under this Subsection (4)(c), the commission shall give  
224 priority consideration to fully funding a project that meets the criteria under Subsection  
225 (4)(b)(i)(A)(V).

226 (d) (i) Expenditures of bond proceeds issued in accordance with Section 63B-16-101  
227 by the department for the construction of highway projects prioritized under this Subsection (4)  
228 may not exceed \$1,200,000,000.

229 (ii) Monies expended from the fund for principal, interest, and issuance costs of bonds  
230 issued under Section 63B-16-101 are not considered expenditures for purposes of the  
231 \$1,200,000,000 cap under Subsection (4)(d)(i).

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

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

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

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

243 (f) The Division of Finance shall, from monies deposited into the fund, transfer the  
244 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by



245 Section 63B-16-101 in the current fiscal year to the appropriate debt service or sinking fund.

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

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

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

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

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

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

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

264 (7) (a) Unless prioritized and approved by the Transportation Commission, the  
265 department may not delay a project prioritized under this section due to an unavoidable  
266 shortfall in revenues if:

267 (i) the prioritized project was funded by the Legislature in an appropriations act; or

268 (ii) general obligation proceeds have been issued for the project in the current fiscal  
269 year.

270 (b) The commission shall prioritize and approve any project delays for projects  
271 prioritized under this section due to an unavoidable shortfall in revenues if:

272 (i) the prioritized project was funded by the Legislature in an appropriations act; or

273 (ii) general obligation proceeds have been issued for the project in the current fiscal  
274 year.

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**Legislative Review Note**  
as of 2-17-09 4:55 PM

**Office of Legislative Research and General Counsel**

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**H.B. 371 - Transportation Governance**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations. However, if additional Transportation Commission Meetings are required it is estimated to cost \$1,400 from the Transportation Fund per meeting.

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**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.

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