

Senator Sheldon L. Killpack proposes the following substitute bill:

TRANSPORTATION GOVERNANCE

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ reduces the number of members on a public transit district board of trustees if more than 200,000 people reside within the boundaries of the public transit district;
- ▶ eliminates the appointment of a Transportation Commissioner as a member on a public transit district board of trustees;
- ▶ extends the terms of a public transit district board member from two to four years;
- ▶ provides restrictions on appointment and officer selections for locally elected public officials serving on a public transit district board of trustees;
- ▶ provides transition provisions for existing public transit district board members whose positions are eliminated by reducing the number of members on certain public transit district board of trustees;
- ▶ authorizes a public transit to require certain persons to obtain a criminal background check;



- 26 ▶ provides that information obtained by a public transit district from a criminal
27 background check may only be used for certain purposes;
- 28 ▶ provides that a person is ineligible for certain employment with a public transit
29 district if the person has been convicted of certain offenses;
- 30 ▶ requires the Department of Transportation to annually report to an appropriate
31 legislative committee as designated by Legislative Management Committee the
32 transfers that need to be made between all transportation-related funds to maintain
33 the highway funding program as prioritized by the Transportation Commission;
- 34 ▶ provides that Transportation Commissioners shall be selected on a nonpartisan
35 basis;
- 36 ▶ provides that for Transportation Commission appointments made on or after July 1,
37 2009, the selection of commissioners shall be:
- 38 • four commissioners with one of the commissioners selected from each of the
39 regions established by the Department of Transportation; and
- 40 • three commissioners selected from the state at large;
- 41 ▶ provides that the Transportation Commission shall annually report to a committee
42 designated by the Legislative Management Committee a prioritized list of the new
43 transportation capacity projects in the state transportation system and the funding
44 levels available for those projects and the unfunded highway construction and
45 maintenance needs within the state;
- 46 ▶ provides that the committee designated by the Legislative Management Committee
47 shall review the list reported by the Transportation Commission and make a
48 recommendation to the Legislature on the amount of additional funding to allocate
49 transportation and the source of revenue for the additional funding allocation;
- 50 ▶ provides that the Department of Transportation may not delay a new transportation
51 capacity project that was funded by the Legislature in an appropriations act to a
52 different fiscal year than programmed by the Transportation Commission due to an
53 unavoidable shortfall in revenues unless the project delays are prioritized and
54 approved by the Transportation Commission;
- 55 ▶ provides that the Transportation Commission shall prioritize and approve any new
56 transportation capacity project delays for projects that were funded by the

57 Legislature in an appropriations act due to an unavoidable shortfall in revenues;
58 ▶ provides that the Department of Transportation may not delay a Critical Highway
59 Needs Fund project that was funded by the Legislature in an appropriations act to a
60 different fiscal year than programmed by the Transportation Commission or that
61 general obligation proceeds have been issued for in the current fiscal year due to an
62 unavoidable shortfall in revenues unless the project delays are prioritized and
63 approved by the Transportation Commission;

64 ▶ provides that the Transportation Commission shall prioritize and approve any
65 Critical Highway Needs Fund project delays due to an unavoidable shortfall in
66 revenues for a project:
67 • that was funded by the Legislature in an appropriations act; or
68 • that general obligation bond proceeds were issued for in the current fiscal year;

69 and

70 ▶ makes technical changes.

71 **Monies Appropriated in this Bill:**

72 None

73 **Other Special Clauses:**

74 This bill provides an effective date.

75 **Utah Code Sections Affected:**

76 AMENDS:

77 **17B-2a-802**, as enacted by Laws of Utah 2007, Chapter 329

78 **17B-2a-803**, as enacted by Laws of Utah 2007, Chapter 329

79 **17B-2a-807**, as last amended by Laws of Utah 2008, Chapter 39

80 **72-1-201**, as last amended by Laws of Utah 2008, Chapter 382

81 **72-1-301**, as last amended by Laws of Utah 2002, Chapter 176

82 **72-1-303**, as last amended by Laws of Utah 2008, Chapters 39 and 382

83 **72-1-305**, as enacted by Laws of Utah 2005, Chapter 245

84 **72-2-125**, as last amended by Laws of Utah 2008, Chapters 124, 384, and 389

85 ENACTS:

86 **17B-2a-807.5**, Utah Code Annotated 1953

87 **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;
 - (ii) railway line; and
 - (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

119 [(6)] (8) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle
120 operated as public transportation by a public transit district.

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

122 **17B-2a-803. Provisions applicable to public transit districts.**

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

124 (i) this part; and

125 (ii) except as provided in Subsection (1)(b), Chapter 1, Provisions Applicable to All
126 Local Districts.

127 (b) (i) Except for Sections 17B-1-301, 17B-1-311, and 17B-1-313, the following
128 provisions [~~of Chapter 1, Part 3, Board of Trustees,~~] do not apply to public transit districts[-:];

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

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

131 (ii) A public transit district is not subject to Chapter 1, Part 6, Fiscal Procedures for
132 Local Districts.

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

134 (3) A public transit district is not subject to the provisions of any other part of this
135 chapter.

136 (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All
137 Local Districts, and a provision in this part, the provision in this part governs.

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

139 **17B-2a-807. Public transit district board of trustees -- Appointment --**
140 **Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.**

141 (1) (a) If 200,000 people or fewer reside within the boundaries of a public transit
142 district, the board of trustees shall consist of members appointed by the legislative bodies of
143 each municipality, county, or unincorporated area within any county on the basis of one
144 member for each full unit of regularly scheduled passenger routes proposed to be served by the
145 district in each municipality or unincorporated area within any county in the following calendar
146 year.

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

150 ~~[(c) The board of trustees of a public transit district under this Subsection (1) may~~
151 ~~include a member that is a commissioner on the Transportation Commission created in Section~~
152 ~~72-1-301 and appointed as provided in Subsection (11), who shall serve as a nonvoting, ex~~
153 ~~officio member.]~~

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

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

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

166 (i) ten members:

167 (A) appointed as described under this Subsection (2)[7]; or

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

169 (ii) three members appointed as described in Subsection (4)[7, and one voting member
170 appointed as provided in Subsection (11)].

171 (b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting
172 members to each county within the district using an average of:

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

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

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

181 apportionment.

182 (d) (i) If rounding to the nearest ~~[+15]~~ 1/10 of the total public transit district
183 apportionment basis under Subsection (2)(b) results in an apportionment of more than ~~[+5]~~ ten
184 members, the county or combination of counties with the smallest additional fraction of a
185 whole member proportion shall have one less member apportioned to it.

186 (ii) If rounding to the nearest ~~[+15]~~ 1/10 of the total public transit district
187 apportionment basis under Subsection (2)(b) results in an apportionment of less than ~~[+5]~~ ten
188 members, the county or combination of counties with the largest additional fraction of a whole
189 member proportion shall have one more member apportioned to it.

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

194 (f) If a municipality's population is at least ~~[+15]~~ 1/10 of the district's population, the
195 chief municipal executive, with the advice and consent of the municipal legislative body, shall
196 appoint one voting member to represent each ~~[+15]~~ 1/10 of the district's population within a
197 municipality.

198 (g) (i) The number of voting members appointed from a county and municipalities
199 within a county under Subsections (2)(e) and (f) shall be subtracted from the county's total
200 voting member apportionment under this Subsection (2).

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

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

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

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

212 executives of the municipalities within the county or combinations of counties if Subsection
213 (2)(c) applies.

214 (ii) The appointments shall be made by joint written agreement of the appointing
215 municipalities, with the consent and approval of the county legislative body of the county that
216 has at least [~~4~~5] 1/10 of the district's apportionment basis.

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

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

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

227 (n) (i) All population figures used under this section shall be derived from the most
228 recent official census or census estimate of the United States Bureau of the Census.

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

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

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

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

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

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

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

245 (vi) The appointing entities losing a board member shall inform the board of which
246 member currently serving on the board will step down:

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

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

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

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

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

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

256 (c) one member appointed by the governor.

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

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

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

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

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

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

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

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

276 (c) The affirmative vote of a majority of all voting members present at any meeting at
277 which a quorum was initially present shall be necessary and, except as otherwise provided, is
278 sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

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

280 (a) an attendance fee of \$50 per board or committee meeting attended, not to exceed
281 \$200 in any calendar month to any voting member; and

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

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

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

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

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

292 (10) ~~[At]~~ Except as otherwise authorized under Subsection (2)(g) and Section
293 17B-2a-807.5, at the time of a voting member's appointment or during a voting member's
294 tenure in office, a voting member may not hold any employment, except as an independent
295 contractor or locally elected public official, with a county or municipality within the district.

296 ~~[(11) The Transportation Commission created in Section 72-1-301:]~~

297 ~~[(a) for a public transit district serving a population of 200,000 people or fewer, may~~
298 ~~appoint a commissioner of the Transportation Commission to serve on the board of trustees as~~
299 ~~a nonvoting, ex officio member; and]~~

300 ~~[(b) for a public transit district serving a population of more than 200,000 people, shall~~
301 ~~appoint a commissioner of the Transportation Commission to serve on the board of trustees as~~
302 ~~a voting member.]~~

303 ~~[(12)]~~ (11) (a) (i) Each member of the board of trustees of a public transit district is
304 subject to recall at any time by the legislative body of the county or municipality from which

305 the member is appointed.

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

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

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

312 (c) ~~[H]~~ (i) Except as provided in Section 17B-2a-807.5, if a board member is recalled
313 or resigns under this Subsection [~~(12)~~] (11), the vacancy shall be filled as provided in
314 Subsection (6).

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

316 **17B-2a-807.5. Public transit district board of trustees -- Transitional provisions.**

317 (1) (a) A member appointed to a board of trustees in accordance with Subsection
318 17B-2a-807(2) prior to April 1, 2009, may remain on the board of trustees and fulfill the
319 unserved term of the member's appointment based on the term limits of the appointment that
320 existed at the time of the member's appointment.

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

325 (c) A member appointed to a board of trustees in accordance with Subsection
326 17B-2a-807(2) prior to April 1, 2009 is not eligible for reappointment to serve on the board of
327 trustees upon expiration of the member's existing term if:

328 (i) (A) the appointing entity that appointed the member has appointed more than one
329 member to the board of trustees that is locally elected public officials and the locally elected
330 public officials are serving concurrently on the board of trustees;

331 (B) the member is a locally elected public official that holds an elected position with a
332 municipality; and

333 (C) the other member appointed by the appointing entity described in Subsection
334 (1)(c)(i)(A) is a locally elected public official that holds an elected position with a county; or

335 (ii) (A) the appointing entity that appointed the member:

336 (I) has appointed more than one member to the board of trustees; and
337 (II) does not have another member appointed by the appointing entity on the board of
338 trustees that is ineligible under Subsection (1)(c)(i);
339 (B) the member has served more than six months on April 1, 2009; and
340 (C) the member has served the least amount of time on the board of trustees of all
341 members appointed by that appointing entity to the board of trustees that took the oath of office
342 prior to November 1, 2008.

343 (2) A commissioner of the Transportation Commission appointed to a public transit
344 district board of trustees prior to April 1, 2009:

345 (a) may remain on the board of trustees and fulfill the unserved term of the member's
346 appointment based on the term limits of the appointment that existed at the time of the
347 member's appointment; and

348 (b) is not eligible for reappointment to the board of trustees for successive terms.

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

350 **17B-2a-825. Criminal background checks authorized -- Employment eligibility.**

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

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

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

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

355 (ii) the Federal Bureau of Investigation.

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

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

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

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

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

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

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

365 (iv) handling security-sensitive information, including information system
366 technologies; or

367 (b) is seeking access to designated security-sensitive areas.
368 (3) A public transit district may use the information obtained in accordance with this
369 section only for one or more of the following purposes:
370 (a) to determine whether or not an individual is convicted of:
371 (i) a felony under federal or state law;
372 (ii) a violation of a federal law, state law, or local ordinance concerning the sale,
373 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic
374 beverage;
375 (iii) a crime involving moral turpitude; or
376 (iv) two or more convictions for a violation of driving under the influence of alcohol,
377 any drug, or the combined influence of alcohol and any drug;
378 (b) to determine whether or not an individual has accurately disclosed the person's
379 criminal history on an application or document filed with the public transit district;
380 (c) to approve or deny an application for employment with the public transit district; or
381 (d) to take disciplinary action against an employee of the public transit district,
382 including possible termination of employment.
383 (4) A person is not eligible for employment with a public transit district in a capacity
384 described in Subsection (2) if the person has been convicted of any of the offenses described in
385 Subsection (3).
386 Section 6. Section **72-1-201** is amended to read:
387 **72-1-201. Creation of Department of Transportation -- Functions, powers, duties,**
388 **rights, and responsibilities.**
389 There is created the Department of Transportation which shall:
390 (1) have the general responsibility for planning, research, design, construction,
391 maintenance, security, and safety of state transportation systems;
392 (2) provide administration for state transportation systems and programs;
393 (3) implement the transportation policies of the state;
394 (4) plan, develop, construct, and maintain state transportation systems that are safe,
395 reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and
396 industry;
397 (5) establish standards and procedures regarding the technical details of administration

398 of the state transportation systems as established by statute and administrative rule;

399 (6) advise the governor and the Legislature about state transportation systems needs;

400 (7) coordinate with utility companies for the reasonable, efficient, and cost-effective
401 installation, maintenance, operation, relocation, and upgrade of utilities within state highway
402 rights-of-way; ~~and~~

403 (8) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
404 make policy and rules for the administration of the department, state transportation systems,
405 and programs[-]; and

406 (9) annually report to an appropriate legislative committee as designated by the
407 Legislative Management Committee the transfers that need to be made between all
408 transportation-related funds to maintain the state highway construction program as prioritized
409 by the commission.

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

411 **72-1-301. Transportation Commission created -- Members, appointment, terms --**
412 **Qualifications -- Pay and expenses -- Chair -- Quorum -- Surety bond.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

446 (c) (i) At least one of the three commissioners appointed under Subsection (2)(b)(ii)
447 shall be selected from a rural county.

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

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

452 (b) Members appointed after May 2, 1996, shall receive no compensation or benefits
453 for their services, but may receive per diem and expenses incurred in the performance of the
454 member's official duties at the rates established by the Division of Finance under Sections
455 63A-3-106 and 63A-3-107.

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

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

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

460 (5) Any four commissioners constitute a quorum.

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

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

463 (ii) giving a surety bond.

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

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

467 **72-1-303. Duties of commission.**

468 (1) The commission has the following duties:

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

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

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

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

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

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

482 ~~[(7)]~~ (g) approving settlement agreements of condemnation cases subject to Section
483 63G-10-401;

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

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

489 ~~[(10)]~~ (i) reviewing administrative rules made, amended, or repealed by the
490 department.

491 (2) (a) For projects prioritized with funding provided under Sections 72-2-124 and
492 72-2-125, the commission shall annually report to a committee designated by the Legislative
493 Management Committee:

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

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

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

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

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

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

502 (B) the source of revenue for the additional funding allocation under Subsection
503 (2)(b)(ii)(A).

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

505 **72-1-305. Project selection using the written prioritization process -- Public**
506 **comment -- Report.**

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

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

514 (a) the written prioritization process;

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

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

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

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

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

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

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

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

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

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

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

541 **72-2-125. Critical Highway Needs Fund.**

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

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

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

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

548 (c) the sales and use tax revenues deposited into the fund in accordance with Section
549 59-12-103.

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

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

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

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

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

557 (b) (i) The department shall:

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

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

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

564 (III) the highway construction project mitigates congestion;

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

566 and

567 (V) the highway construction project is a critical alternative route for priority Interstate
568 15 reconstruction projects; and

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

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

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

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

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

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

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

583 (ii) Monies expended from the fund for principal, interest, and issuance costs of bonds

584 issued under Section 63B-16-101 are not considered expenditures for purposes of the
585 \$1,200,000,000 cap under Subsection (4)(d)(i).

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

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

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

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

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

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

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

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

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

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

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

613 (d) When the Division of Finance has reported that the general obligation bonds issued
614 by Section 63B-16-101 have been paid off and the department has reported that projects

615 included in the prioritized project list are complete to the Executive Appropriations Committee
616 of the Legislature, the Division of Finance shall transfer any existing fund balance in
617 accordance with Subsection (5).

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

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

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

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

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

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

630 **Section 11. Effective date.**

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

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

H.B. 371 1st Sub. (Buff) - Transportation Governance

Fiscal Note

2009 General Session

State of Utah

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.

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.
