

HB0173S01 compared with HB0173

~~deleted text~~ shows text that was in HB0173 but was deleted in HB0173S01.

inserted text shows text that was not in HB0173 but was inserted into HB0173S01.

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Representative Brad L. Dee proposes the following substitute bill:

TRANSPORTATION FUNDING MODIFICATIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to transportation funding.

Highlighted Provisions:

This bill:

- ▶ provides that county option sales and use tax revenues for transportation may be used for a project that is a collector road in a county of the second class in certain circumstances;
- ▶ reduces the amount of bonds that may be issued to pay for the costs of construction, reconstruction, renovations, or improvements to certain highway projects;
- ▶ provides that a portion of certain bond proceeds shall be provided to the Department of Transportation to pay for or to provide funds to a municipality or county to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations,

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or improvements to certain highways;

- ▶ provides that debt service and bond issuance costs for certain bonds that have been issued shall be paid by the Transportation Investment Fund of 2005 and the County of the First Class State Highways Fund; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2012.

Utah Code Sections Affected:

AMENDS:

59-12-2217, as enacted by Laws of Utah 2010, Chapter 263

63B-18-401, as enacted by Laws of Utah 2009, Chapter 241

72-2-121, as last amended by Laws of Utah 2010, Chapters 168, 263, and 278

72-2-121.3, as enacted by Laws of Utah 2010, Chapter 168

72-2-124, as last amended by Laws of Utah 2011, Chapter 189

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

Section 1. Section **59-12-2217** is amended to read:

59-12-2217. County option sales and use tax for transportation -- Base -- Rate --

Written prioritization process -- Approval by county legislative body.

(1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues collected from a sales and use tax under this section may only be expended for:

(a) a project or service:

(i) relating to a regionally significant transportation facility for the portion of the project or service that is performed within the county;

(ii) for new capacity or congestion mitigation if the project or service is performed within a county:

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(A) of the first or second class; or

(B) if that county is part of an area metropolitan planning organization; and

(iii) that is on a priority list:

(A) created by the county's council of governments in accordance with Subsection (7);

and

(B) approved by the county legislative body in accordance with Subsection (7);

(b) corridor preservation for a project or service described in Subsection (2)(a) as provided in Subsection (8); or

(c) debt service or bond issuance costs related to a project or service described in Subsection (2)(a)(i) or (ii).

(3) If a project or service described in Subsection (2) is for:

(a) a principal arterial highway or a minor arterial highway in a county of the first or second class or a collector road in a county of the second class, that project or service shall be part of the:

(i) county and municipal master plan; and

(ii) (A) statewide long-range plan; or

(B) regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(b) a fixed guideway or an airport, that project or service shall be part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area.

(4) In a county of the first or second class, a regionally significant transportation facility project or service described in Subsection (2)(a)(i) shall have a funded year priority designation on a Statewide Transportation Improvement Program and Transportation Improvement Program if the project or service described in Subsection (2)(a)(i) is:

(a) a principal arterial highway;

(b) a minor arterial highway; [~~or~~]

(c) a collector road in a county of the second class; or

[~~(c)~~] (d) a major collector highway in a rural area.

(5) Of the revenues collected from a sales and use tax imposed under this section within a county of the first or second class, 25% or more shall be expended for the purpose

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described in Subsection (2)(b).

(6) (a) As provided in this Subsection (6), a council of governments shall:

(i) develop a written prioritization process for the prioritization of projects to be funded by revenues collected from a sales and use tax under this section;

(ii) create a priority list of regionally significant transportation facility projects or services described in Subsection (2)(a)(i) in accordance with Subsection (7); and

(iii) present the priority list to the county legislative body for approval in accordance with Subsection (7).

(b) The written prioritization process described in Subsection (6)(a)(i) shall include:

(i) a definition of the type of projects to which the written prioritization process applies;

(ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the council of governments will use to rank proposed projects and how that weighted criteria system will be used to determine which proposed projects will be prioritized;

(iii) the specification of data that is necessary to apply the weighted criteria system;

(iv) application procedures for a project to be considered for prioritization by the council of governments; and

(v) any other provision the council of governments considers appropriate.

(c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the following:

(i) the cost effectiveness of a project;

(ii) the degree to which a project will mitigate regional congestion;

(iii) the compliance requirements of applicable federal laws or regulations;

(iv) the economic impact of a project;

(v) the degree to which a project will require tax revenues to fund maintenance and operation expenses; and

(vi) any other provision the council of governments considers appropriate.

(d) A council of governments of a county of the first or second class shall submit the written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations Committee for approval prior to taking final action on:

(i) the written prioritization process; or

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(ii) any proposed amendment to the written prioritization process.

(7) (a) A council of governments shall use the weighted criteria system adopted in the written prioritization process developed in accordance with Subsection (6) to create a priority list of regionally significant transportation facility projects or services for which revenues collected from a sales and use tax under this section may be expended.

(b) Before a council of governments may finalize a priority list or the funding level of a project, the council of governments shall conduct a public meeting on:

(i) the written prioritization process; and

(ii) the merits of the projects that are prioritized as part of the written prioritization process.

(c) A council of governments shall make the weighted criteria system ranking for each project prioritized as part of the written prioritization process publicly available before the public meeting required by Subsection (7)(b) is held.

(d) If a council of governments prioritizes a project over another project with a higher rank under the weighted criteria system, the council of governments shall:

(i) identify the reasons for prioritizing the project over another project with a higher rank under the weighted criteria system at the public meeting required by Subsection (7)(b); and

(ii) make the reasons described in Subsection (7)(d)(i) publicly available.

(e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a priority list in accordance with this Subsection (7), the council of governments shall:

(i) submit the priority list to the county legislative body for approval; and

(ii) obtain approval of the priority list from a majority of the members of the county legislative body.

(f) A council of governments may only submit one priority list per calendar year to the county legislative body.

(g) A county legislative body may only consider and approve one priority list submitted under Subsection (7)(e) per calendar year.

(8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:

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(i) deposited in or transferred to the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; and

(ii) expended as provided in Section 72-2-117.5.

(b) In a county of the first class, revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:

(i) deposited in or transferred to the County of the First Class State Highway Projects Fund created by Section 72-2-121; and

(ii) expended as provided in Section 72-2-121.

Section 2. Section **63B-18-401** is amended to read:

63B-18-401. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.

(1) (a) The total amount of bonds issued under this section may not exceed [~~\$2,207,000,000~~] \$2, ~~127,077~~,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(6) have been met and certifies the amount of bond proceeds that it needs to provide funding for the projects described in Subsection (2) for the next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount plus costs of issuance.

(2) [~~(a) Proceeds~~] Except as provided in Subsections (3)(b) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

[~~(i)~~] (a) Interstate 15 reconstruction in Utah County;

[~~(ii)~~] (b) the Mountain View Corridor;

[~~(iii)~~] (c) the Southern Parkway; and

[~~(iv)~~] (d) state and federal highways prioritized by the Transportation Commission through:

[~~(A)~~] (i) the prioritization process for new transportation capacity projects adopted under Section 72-1-304; or

[~~(B)~~] (ii) the state highway construction program.

(3) ~~One hundred twenty~~ (a) Seventy million dollars of the bond proceeds issued under this section shall be provided to the Department of Transportation ~~and funds under~~

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~~Section 72-2-124 shall be used by the~~.

(b) The Department of Transportation shall use bond proceeds and the funds provided to it under Section 72-2-124 to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to the following highways:

(~~f~~a*i*) \$35 million to add highway capacity on I-15 south of the Spanish Fork Main Street interchange to Payson;

(~~f~~b*ii*) \$28 million for improvements to Riverdale Road in Ogden;

(~~f~~c*iii*) \$1 million for intersection improvements on S.R. 36 at South Mountain Road;

(~~f~~d*iv*) \$2 million for capacity enhancements on S.R. 248 between Sidwinder Drive and Richardson Flat Road;

(~~f~~e*v*) \$12 million for Vineyard Connector from 800 North Geneva Road to Lake Shore Road;

(~~f~~f*vi*) \$7 million for 2600 South interchange modifications in Woods Cross;

(~~f~~g*vii*) \$9 million for reconfiguring the 1100 South interchange on I-15 in Box Elder County;

(~~f~~h*viii*) \$18 million for the Provo west-side connector; and

(~~f~~i*ix*) \$8 million for interchange modifications on I-15 in the Layton area.

(4) (a) Thirty million dollars of the bond proceeds issued under this section shall be provided to the Department of Transportation; ~~and funds under Section 72-2-121 shall be used by the~~.

(b) The Department of Transportation shall use bond proceeds and the funds under Section 72-2-121 to pay for, or to provide funds to, a municipality or county to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to ~~highways described in Subsection (4)(b)~~.

~~(b) Bond proceeds described under Subsection (4)(a) and funds under Section 72-2-121 shall be used to pay the amounts described in this Subsection (4)(b) for~~ the following highway or transit projects in Salt Lake County:

(i) \$4,000,000 to Taylorsville City for bus rapid transit planning on 4700 South;

(ii) \$1,250,000 to Herriman City for highway improvements to the Salt Lake Community College Road;

(iii) \$5,300,000 to West Jordan City for highway improvements on 5600 West from

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6200 South to 8600 South:

(iv) \$2,300,000 to Sandy City for highway improvements on Monroe Street;

(v) \$3,000,000 to Draper City for highway improvements to 13490 South from 200

West to 700 West:

(vi) \$1,200,000 to Murray City for highway improvements to 5900 South from State

Street to 900 East:

(vii) \$1,500,000 to South Salt Lake City for intersection improvements on West

Temple, Main Street, and State Street;

(viii) \$2,000,000 to Salt Lake County for highway improvements to 5400 South from

5600 West to Mountain View Corridor:

(ix) \$3,000,000 to West Valley City for highway improvements to 6400 West from

~~the extension at Lake View~~ Parkway ~~Boulevard~~ to SR-201 Frontage ~~Road~~;

(x) \$4,000,000 to Salt Lake City for highway improvements to 700 South from 2800

West to 5600 West:

(xi) \$1,250,000 to Riverton City for highway improvements to 4570 West from 12600

South to Riverton Boulevard; and

(xii) \$1,200,000 to Cottonwood Heights for improvements to Union Park Avenue from

I-215 exit south to Creek Road and Wasatch Boulevard and Big Cottonwood Canyon.

(c) (i) ~~Prior~~ ~~Before providing funds~~ to a municipality or county ~~receiving funds~~
~~under this Subsection (4), the municipality or county shall sign and file a written certification~~
~~with the~~ Department of Transportation ~~shall obtain from the municipality or county:~~

(A) a written certification signed by the county or city mayor or the mayor's designee
certifying that ~~it~~ ~~the municipality or county~~ will use the funds provided under this Subsection
(4) solely for the projects described in Subsection (4)(b); and

(B) other documents necessary to protect the state, the bondholders, and to ensure that
all legal requirements are met.

(ii) ~~By~~ ~~Except as provided in Subsection (4)(d), by~~ January 1 of each year, the
municipality or county receiving funds described in this Subsection (4) shall submit to the
Department of Transportation a statement of cash flow for the current fiscal year detailing the
funds necessary to pay project costs for the projects described in Subsection (4)(b).

(iii) ~~After~~ ~~Except as provided in Subsection (4)(a), after~~ receiving the statement

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required under Subsection (4)(c)(ii) and after July 1, the Department of Transportation shall provide funds to the {county or }municipality or county necessary to pay project costs for the current fiscal year based upon the statement of cash flow submitted by the municipality or county.

(iv) Upon the financial close of each project described in Subsection (4)(b), the {county or }municipality or county receiving funds under this Subsection (4) shall submit a statement to the Department of Transportation detailing the expenditure of funds received for each project.

(d) ~~{The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law}~~For calendar year 2012 only:

(i) the municipality or county shall submit to the Department of Transportation a statement of cash flow as provided in Subsection (4)(c)(ii) as soon as possible; and

(ii) the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs based upon the statement of cash flow.

~~[(b)]~~ (5) The costs under ~~[Subsection (2)(a)]~~ Subsections (2), (3), and (4) may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

~~[(3)]~~ (6) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

~~[(4)]~~ (7) The Department of Transportation may enter into agreements related to the projects described in ~~[Subsection (2)]~~ Subsections (2), (3), and (4) before the receipt of proceeds of bonds issued under this section.

(8) The Department of Transportation may enter into a new or amend an existing interlocal agreement related to the projects described in Subsections (3) and (4) to establish any necessary covenants or requirements not otherwise provided for by law.

Section 3. Section **72-2-121** is amended to read:

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72-2-121. County of the First Class State Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class State Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to state highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) and required by Subsection 59-12-2217(8)(b) to be deposited in or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or transferred to the fund.

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

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

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102 and 63B-18-402;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to state highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects;

~~[(c) for fiscal year 2008-09 only, to pay for or to provide funds to a municipality or county to pay for right-of-way acquisition, construction, reconstruction, renovations, and improvements to highways described in Subsection 63B-16-102(3); and]~~

~~{ (c) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(5)(a)(iv);~~

~~_____ (d) to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Sections 63B-18-401 for the projects described in Subsection 63B-18-401(4)(b); and~~

~~‡ [(d) ~~{~~ (c) for fiscal year 2009-10 only, to pay for or to provide funds to a municipality or county to pay for right-of-way acquisition, construction, reconstruction, renovations, and~~

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improvements to highways described in Subsection 63B-18-402(2).¹

(c) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(5)(a)(iv); and

(d) to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Sections 63B-18-401 for the projects described in Subsection 63B-18-401(4)(b).

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102 and 63B-18-402 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

Section 4. Section **72-2-121.3** is amended to read:

72-2-121.3. Special revenue fund -- 2010 Salt Lake County Revenue Bonds

Sinking Fund.

(1) There is created a special revenue fund within the County of the First Class State Highway Projects Fund entitled "2010 Salt Lake County Revenue Bond Sinking Fund."

(2) The fund consists of:

(a) money transferred into the fund from the County of the First Class State Highway Projects Fund in accordance with Subsection 72-2-121(~~3~~4)(c); and

(b) money transferred into the fund from the Transportation Investment Fund of 2005 in accordance with Subsection 72-2-124(5)(a)(iv).

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

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

(4) (a) The director of the Division of Finance may use fund money only as provided in this section.

(b) The director of the Division of Finance may not distribute any money from the fund under this section until the director has received a formal opinion from the attorney general that Salt Lake County has entered into a binding agreement with the state of Utah containing all of

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the terms required by Section 72-2-121.4.

(c) Except as provided in Subsection (4)(b), and until the bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4 are paid off, on July 1 of each year beginning July 1, 2011, the director of the Division of Finance shall transfer from the County of the First Class State Highway Projects Fund and the Transportation Investment Fund of 2005 to the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County that is necessary to pay:

(i) up to two times the debt service requirement necessary to pay debt service on the revenue bonds issued by Salt Lake County for that fiscal year; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(d) Except as provided in Subsection (4)(b), and until the bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4 are paid off, the director of the Division of Finance shall, upon request from Salt Lake County, transfer to Salt Lake County or its designee from the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County as necessary to pay:

(i) the debt service on the revenue bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(5) Any money remaining in the 2010 Salt Lake County Revenue Bond Sinking Fund at the end of the fiscal year lapses to the County of the First Class State Highway Projects Fund.

Section 5. Section **72-2-124** is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a special revenue fund entitled the Transportation Investment Fund of 2005.

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

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

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

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

(d) registration fees designated under Subsection 41-1a-1201(7).

(3) When the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the fund shall also consist of money generated from the following sources:

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

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

(4) (a) The fund shall earn interest.

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

(5) (a) Except as provided in Subsection (5)(b), the executive director may use fund money only to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in ~~[Subsection]~~ Subsections 63B-18-401(2) and (3); [and]

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401[-] minus the costs paid from the County of the First Class State Highway Projects Fund in accordance with Subsection 72-2-121(~~3~~4)(d); and

(iv) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay:

~~—— (A) } the debt service on } \$30,000,000 of the revenue bonds issued by Salt Lake County; and~~

~~—— (B) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements associated with } \$30,000,000 of the revenue bonds issued by Salt Lake County.~~

(b) The executive director may use fund money to exchange for an equal or greater

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amount of federal transportation funds to be used as provided in Subsection (5)(a).

(6) (a) Before bonds authorized by Section 63B-18-401 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsection 63B-18-401(2) for the next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(7) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 in the current fiscal year to the appropriate debt service or sinking fund.

Section 6. **Effective date.**

This bill takes effect on July 1, 2012.

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Legislative Review Note

~~as of 2-21-12 3:45 PM~~

~~Office of Legislative Research and General Counsel~~