

Senator J. Stuart Adams proposes the following substitute bill:

TRANSPORTATION FUNDING MODIFICATIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: Ralph Okerlund

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, 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:



26 None

27 **Other Special Clauses:**

28 This bill takes effect on July 1, 2012.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-12-2217**, as enacted by Laws of Utah 2010, Chapter 263

32 **63B-18-401**, as enacted by Laws of Utah 2009, Chapter 241

33 **72-2-121**, as last amended by Laws of Utah 2010, Chapters 168, 263, and 278

34 **72-2-121.3**, as enacted by Laws of Utah 2010, Chapter 168

35 **72-2-124**, as last amended by Laws of Utah 2011, Chapter 189



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

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

39 **59-12-2217. County option sales and use tax for transportation -- Base -- Rate --**
40 **Written prioritization process -- Approval by county legislative body.**

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

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

46 (a) a project or service:

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

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

51 (A) of the first or second class; or

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

53 (iii) that is on a priority list:

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

55 and

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

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

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

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

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

65 (i) county and municipal master plan; and

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

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

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

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

76 (a) a principal arterial highway;

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

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

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

80 (5) Of the revenues collected from a sales and use tax imposed under this section
81 within a county of the first or second class, 25% or more shall be expended for the purpose
82 described in Subsection (2)(b).

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

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

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

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

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

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

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

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

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

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

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

102 (i) the cost effectiveness of a project;

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

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

105 (iv) the economic impact of a project;

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

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

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

112 (i) the written prioritization process; or

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

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

118 (b) Before a council of governments may finalize a priority list or the funding level of a

119 project, the council of governments shall conduct a public meeting on:

120 (i) the written prioritization process; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

149 (i) deposited in or transferred to the County of the First Class State Highway Projects

150 Fund created by Section 72-2-121; and

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

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

153 **63B-18-401. Highway bonds -- Maximum amount -- Use of proceeds for highway**
154 **projects.**

155 (1) (a) The total amount of bonds issued under this section may not exceed
156 [~~\$2,207,000,000~~] \$2,077,000,000.

157 (b) [~~When~~] Subject to the restriction in Subsection (8) and when the Department of
158 Transportation certifies to the commission that the requirements of Subsection 72-2-124(6)
159 have been met and certifies the amount of bond proceeds that it needs to provide funding for
160 the projects described in Subsection (2) for the next fiscal year, the commission may issue and
161 sell general obligation bonds in an amount equal to the certified amount plus costs of issuance.

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

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

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

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

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

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

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

173 (3) (a) Subject to the restrictions and requirements in Subsection (8), \$70,000,000 of
174 the bond proceeds issued under this section shall be provided to the Department of
175 Transportation.

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

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

- 181 (ii) \$28 million for improvements to Riverdale Road in Ogden;
- 182 (iii) \$1 million for intersection improvements on S.R. 36 at South Mountain Road;
- 183 (iv) \$2 million for capacity enhancements on S.R. 248 between Sidewinder Drive and
- 184 Richardson Flat Road;
- 185 (v) \$12 million for Vineyard Connector from 800 North Geneva Road to Lake Shore
- 186 Road;
- 187 (vi) \$7 million for 2600 South interchange modifications in Woods Cross;
- 188 (vii) \$9 million for reconfiguring the 1100 South interchange on I-15 in Box Elder
- 189 County;
- 190 (viii) \$18 million for the Provo west-side connector; and
- 191 (ix) \$8 million for interchange modifications on I-15 in the Layton area.
- 192 (4) (a) Subject to the restrictions and requirements in Subsection (8), \$30,000,000 of
- 193 the bond proceeds issued under this section shall be provided to the Department of
- 194 Transportation.
- 195 (b) The Department of Transportation shall use bond proceeds and the funds under
- 196 Section 72-2-121 to pay for, or to provide funds to, a municipality or county to pay for the
- 197 costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to
- 198 the following highway or transit projects in Salt Lake County:
- 199 (i) \$4,000,000 to Taylorsville City for bus rapid transit planning on 4700 South;
- 200 (ii) \$1,250,000 to Herriman City for highway improvements to the Salt Lake
- 201 Community College Road;
- 202 (iii) \$5,300,000 to West Jordan City for highway improvements on 5600 West from
- 203 6200 South to 8600 South;
- 204 (iv) \$2,300,000 to Sandy City for highway improvements on Monroe Street;
- 205 (v) \$3,000,000 to Draper City for highway improvements to 13490 South from 200
- 206 West to 700 West;
- 207 (vi) \$1,200,000 to Murray City for highway improvements to 5900 South from State
- 208 Street to 900 East;
- 209 (vii) \$1,500,000 to South Salt Lake City for intersection improvements on West
- 210 Temple, Main Street, and State Street;
- 211 (viii) \$2,000,000 to Salt Lake County for highway improvements to 5400 South from

212 5600 West to Mountain View Corridor;

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

214 Parkway Boulevard to SR-201 Frontage Road;

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

216 West to 5600 West;

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

218 South to Riverton Boulevard; and

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

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

221 (c) (i) Before providing funds to a municipality or county under this Subsection (4), the

222 Department of Transportation shall obtain from the municipality or county:

223 (A) a written certification signed by the county or city mayor or the mayor's designee

224 certifying that the municipality or county will use the funds provided under this Subsection (4)

225 solely for the projects described in Subsection (4)(b); and

226 (B) other documents necessary to protect the state and the bondholders and to ensure

227 that all legal requirements are met.

228 (ii) Except as provided in Subsection (4)(d), by January 1 of each year, the

229 municipality or county receiving funds described in this Subsection (4) shall submit to the

230 Department of Transportation a statement of cash flow for the next fiscal year detailing the

231 funds necessary to pay project costs for the projects described in Subsection (4)(b).

232 (iii) Except as provided in Subsection (4)(a), after receiving the statement required

233 under Subsection (4)(c)(ii) and after July 1, the Department of Transportation shall provide

234 funds to the municipality or county necessary to pay project costs for the next fiscal year based

235 upon the statement of cash flow submitted by the municipality or county.

236 (iv) Upon the financial close of each project described in Subsection (4)(b), the

237 municipality or county receiving funds under this Subsection (4) shall submit a statement to the

238 Department of Transportation detailing the expenditure of funds received for each project.

239 (d) For calendar year 2012 only:

240 (i) the municipality or county shall submit to the Department of Transportation a

241 statement of cash flow as provided in Subsection (4)(c)(ii) as soon as possible; and

242 (ii) the Department of Transportation shall provide funds to the municipality or county

243 necessary to pay project costs based upon the statement of cash flow.

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

251 ~~[(3)]~~ (6) The commission or the state treasurer may make any statement of intent
252 relating to a reimbursement that is necessary or desirable to comply with federal tax law.

253 ~~[(4)]~~ (7) The Department of Transportation may enter into agreements related to the
254 projects described in ~~[Subsection (2)]~~ Subsections (2), (3), and (4) before the receipt of
255 proceeds of bonds issued under this section.

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

259 (b) For fiscal year 2012-13 only, the commission may not issue and sell general
260 obligation bonds to pay all or part of the costs of the highway construction or reconstruction
261 projects described in Subsections (3) and (4).

262 (c) The Department of Transportation is responsible for the management of the cash
263 flow for all the highway construction or reconstruction projects and project phases described in
264 Subsections (3) and (4) and shall determine when those projects will be constructed based on
265 revenues available:

266 (i) from the bonds issued under this section;

267 (ii) in the Transportation Investment Fund of 2005 created by Section 72-2-124; and

268 (ii) in the County of the First Class State Highways Fund created by Section 72-2-121.

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

270 **72-2-121. County of the First Class State Highway Projects Fund.**

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

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

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

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

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

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

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

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

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

286 (a) to pay debt service and bond issuance costs for bonds issued under Sections
287 63B-16-102 and 63B-18-402;

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

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

294 [~~(d) for fiscal year 2009-10 only, to pay for or to provide funds to a municipality or
295 county to pay for right-of-way acquisition, construction, reconstruction, renovations, and
296 improvements to highways described in Subsection 63B-18-402(2).]~~

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

300 (d) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond
301 issuance costs for \$30,000,000 of the bonds issued under Sections 63B-18-401 for the projects
302 described in Subsection 63B-18-401(4)(b).

303 (5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the
304 fund and bond proceeds from bonds issued under Sections 63B-16-102 and 63B-18-402 are

305 considered a local matching contribution for the purposes described under Section 72-2-123.

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

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

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

312 **72-2-121.3. Special revenue fund -- 2010 Salt Lake County Revenue Bonds**

313 **Sinking Fund.**

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

316 (2) The fund consists of:

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

319 (b) for a fiscal year beginning on or after July 1, 2013, money transferred into the fund
320 from the Transportation Investment Fund of 2005 in accordance with Subsection
321 72-2-124(5)(a)(iv).

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

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

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

326 (b) The director of the Division of Finance may not distribute any money from the fund
327 under this section until the director has received a formal opinion from the attorney general that
328 Salt Lake County has entered into a binding agreement with the state of Utah containing all of
329 the terms required by Section 72-2-121.4.

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

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

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

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

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

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

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

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

353 **72-2-124. Transportation Investment Fund of 2005.**

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

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

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

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

360 (c) the sales and use tax revenues deposited into the fund in accordance with Section
361 59-12-103; and

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

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

367 following sources:

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

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

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

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

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

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

377 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
378 projects described in ~~[Subsection]~~ Subsections 63B-18-401(2), (3), and (4); [and]

379 (iii) principal, interest, and issuance costs of bonds authorized by Section
380 63B-18-401[-] minus the costs paid from the County of the First Class State Highway Projects
381 Fund in accordance with Subsection 72-2-121(4)(d); and

382 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
383 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified
384 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the
385 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County.

386 (b) The executive director may use fund money to exchange for an equal or greater
387 amount of federal transportation funds to be used as provided in Subsection (5)(a).

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

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

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

398 Section 6. **Effective date.**

399 This bill takes effect on July 1, 2012.