

HIGHWAY GENERAL OBLIGATION BONDS

AUTHORIZATION

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Francis D. Gibson

7	Cosponsors:	David P. Hinkins	Ralph Okerlund
8	J. Stuart Adams	Don L. Ipson	Daniel W. Thatcher
9	Jacob L. Anderegg	Peter C. Knudson	Kevin T. Van Tassell
10	D. Gregg Buxton	Karen Mayne	Evan J. Vickers
11	Lincoln Fillmore	Wayne L. Niederhauser	
	Daniel Hemmert		

LONG TITLE

General Description:

This bill enacts and amends provisions relating to transportation funding.

Highlighted Provisions:

This bill:

- ▶ authorizes the issuance of general obligation bonds to pay for certain state highway construction or reconstruction projects;
- ▶ authorizes the issuance of general obligation bonds to pay for certain state or local highway construction or reconstruction projects, transportation facilities, or multimodal transportation projects in a county of the first class;
- ▶ specifies the use of general obligation bond proceeds and the manner of issuance;
- ▶ exempts certain general obligation bonds from certain debt limitation provisions;
- ▶ requires the Department of Transportation and the Transportation Commission to report the amount of bonds needed to fund certain projects in the next fiscal year to

27 the Executive Appropriations Committee of the Legislature before the bonds may be issued;
28 and

29 ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill provides a special effective date.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **63B-1-306**, as last amended by Laws of Utah 2009, Chapters 241 and 275

37 **63J-3-402**, as last amended by Laws of Utah 2009, Chapters 241 and 275

38 **72-2-121**, as last amended by Laws of Utah 2016, Chapter 12

39 **72-2-124**, as last amended by Laws of Utah 2016, Chapters 137 and 291

40 ENACTS:

41 **63B-27-101**, Utah Code Annotated 1953

42 **63B-27-102**, Utah Code Annotated 1953



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

45 Section 1. Section **63B-1-306** is amended to read:

46 **63B-1-306. Obligations issued by authority -- Limitation of liability on**
47 **obligations -- Limitation on amount of obligations issued.**

48 (1) (a) All obligations issued by the authority under this part shall be limited
49 obligations of the authority and may not constitute, nor give rise to, a general obligation or
50 liability of, nor a charge against the general credit or taxing power of, this state or any of its
51 political subdivisions.

52 (b) This limitation shall be plainly stated upon all obligations.

53 (2) (a) No authority obligations incurred under this section may be issued in an amount

54 exceeding the difference between the total indebtedness of the state and an amount equal to
55 1-1/2% of the value of the taxable property of the state.

56 (b) Debt issued under authority of the following parts or sections may not be included
57 as part of the total indebtedness of the state of Utah in determining the debt limit established by
58 this Subsection (2):

59 (i) Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond
60 Authorization;

61 (ii) Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization;

62 (iii) Title 63B, Chapter 7, Part 2, 1998 Highway General Obligation Bond
63 Authorization;

64 (iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note
65 Authorization;

66 (v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond
67 Authorization;

68 (vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note
69 Authorization;

70 (vii) Title 63B, Chapter 9, Part 2, 2000 Highway General Obligation Bond;

71 (viii) Title 63B, Chapter 10, Part 1, 2001 Highway General Obligation Bonds;

72 (ix) Title 63B, Chapter 10, Part 2, 2001 Highway General Obligation Bond
73 Anticipation Notes Authorization;

74 (x) Title 63B, Chapter 11, Part 5, 2002 Highway General Obligation Bonds for Salt
75 Lake County;

76 (xi) Title 63B, Chapter 11, Part 6, 2002 Highway General Obligation Bond
77 Anticipation Notes for Salt Lake County;

78 (xii) Section [63B-13-102](#);

79 (xiii) Section [63B-16-101](#);

80 (xiv) Section [63B-16-102](#);

81 (xv) Section 63B-18-401; [~~and~~]
82 (xvi) Section 63B-18-402[~~-~~]; and
83 (xvii) Title 63B, Chapter 27, Part 1, 2017 Highway General Obligation Bonds.

84 (c) Debt issued under authority of Section 63B-7-503 may not be included as part of
85 the total indebtedness of the state in determining the debt limit established by this Subsection
86 (2).

87 (3) The obligations shall be authorized by resolution of the authority, following
88 approval of the Legislature, and may:

89 (a) be executed and delivered at any time, and from time to time, as the authority may
90 determine;

91 (b) be sold at public or private sale in the manner and at the prices, either at, in excess
92 of, or below their face value and at the times that the authority determines;

93 (c) be in the form and denominations that the authority determines;

94 (d) be of the tenor that the authority determines;

95 (e) be in registered or bearer form either as to principal or interest or both;

96 (f) be payable in those installments and at the times that the authority determines;

97 (g) be payable at the places, either within or without this state, that the authority
98 determines;

99 (h) bear interest at the rate or rates, payable at the place or places, and evidenced in the
100 manner, that the authority determines;

101 (i) be redeemable before maturity, with or without premium;

102 (j) contain any other provisions not inconsistent with this part that are considered to be
103 for the best interests of the authority and provided for in the proceedings of the authority under
104 which the bonds are authorized to be issued; and

105 (k) bear facsimile signatures and seals.

106 (4) The authority may pay any expenses, premiums, or commissions, that it considers
107 necessary or advantageous in connection with the authorization, sale, and issuance of these

108 obligations, from the proceeds of the sale of the obligations or from the revenues of the projects
109 involved.

110 Section 2. Section **63B-27-101** is enacted to read:

111 **CHAPTER 27. 2017 BONDING AND FINANCING AUTHORIZATIONS**

112 **Part 1. 2017 Highway General Obligation Bonds**

113 **63B-27-101. Highway bonds -- Maximum amount -- Use of proceeds for highway**
114 **projects.**

115 (1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued
116 under this section may not exceed \$1,000,000,000.

117 (b) When the Department of Transportation certifies to the commission that the
118 requirements of Subsection [72-2-124](#)(5) have been met and certifies the amount of bond
119 proceeds that the commission needs to provide funding for the projects described in Subsection
120 (2) for the current or next fiscal year, the commission may issue and sell general obligation
121 bonds in an amount equal to the certified amount plus costs of issuance.

122 (c) The commission may not issue general obligation bonds authorized under this
123 section if the issuance of the general obligation bonds would result in the total current
124 outstanding general obligation debt of the state exceeding 50% of the limitation described in
125 the Utah Constitution, Article XIV, Section 1.

126 (2) Except as provided in Subsection (3), proceeds from the issuance of bonds shall be
127 provided to the Department of Transportation to pay all or part of the costs of the following
128 state highway construction or reconstruction projects:

129 (a) state and federal highways prioritized by the Transportation Commission through
130 the prioritization process for new transportation capacity projects adopted under Section
131 [72-1-304](#), giving priority consideration for projects with a regional significance or that support
132 economic development within the state, including:

133 (i) projects that are prioritized but exceed available cash flow beyond the normal
134 programming horizon; or

135 (ii) projects prioritized in the state highway construction program; and
136 (b) \$100,000,000 to be used by the Department of Transportation for transportation
137 improvements as prioritized by the Transportation Commission for projects that:

138 (i) have a significant economic development impact associated with recreation and
139 tourism within the state; and

140 (ii) address significant needs for congestion mitigation.

141 (3) Nineteen million dollars of the bond proceeds issued under this section shall be
142 provided to the Transportation Infrastructure Loan Fund created by Section [72-2-202](#) to make
143 funds available for a transportation infrastructure loan or transportation infrastructure
144 assistance under Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, as
145 follows:

146 (a) \$10,000,000 to the military installation development authority created in Section
147 [63H-1-201](#);

148 (b) \$5,000,000 for right-of-way acquisition and highway construction in Davis County;
149 and

150 (c) \$4,000,000 for pedestrian access and crossings by a public transit fixed guideway
151 rail station and an institution of higher education.

152 (4) The bond proceeds issued under this section shall be provided to the Department of
153 Transportation.

154 (5) The costs under Subsection (2) may include the costs of studies necessary to make
155 transportation infrastructure improvements, the costs of acquiring land, interests in land, and
156 easements and rights-of-way, the costs of improving sites, and making all improvements
157 necessary, incidental, or convenient to the facilities, and the costs of interest estimated to
158 accrue on these bonds during the period to be covered by construction of the projects plus a
159 period of six months after the end of the construction period, interest estimated to accrue on
160 any bond anticipation notes issued under the authority of this title, and all related engineering,
161 architectural, and legal fees.

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

164 (7) The Department of Transportation may enter into agreements related to the projects
165 described in Subsection (2) before the receipt of proceeds of bonds issued under this section.

166 Section 3. Section **63B-27-102** is enacted to read:

167 **63B-27-102. Highway bonds -- Maximum amount -- Use of proceeds for highway**
168 **projects.**

169 (1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued
170 under this section may not exceed \$47,000,000.

171 (b) When the Department of Transportation certifies to the commission the amount of
172 bond proceeds that the commission needs to provide funding for the projects described in
173 Subsection (2), the commission may issue and sell general obligation bonds in an amount equal
174 to the certified amount plus costs of issuance.

175 (c) The commission may not issue general obligation bonds authorized under this
176 section if the issuance of the general obligation bonds would result in the total current
177 outstanding general obligation debt of the state exceeding 50% of the limitation described in
178 the Utah Constitution, Article XIV, Section 1.

179 (2) (a) Proceeds from the bonds issued under this section shall be provided to the
180 Department of Transportation to pay for or to provide funds to a municipality or county to pay
181 for the costs of right-of-way acquisition, construction, reconstruction, renovations, or
182 improvements to highways, transportation facilities, or multimodal transportation projects
183 described in Subsection (2)(b).

184 (b) Bond proceeds described under Subsection (2)(a) shall be used to pay for state and
185 local highway projects or transportation facilities or multimodal transportation projects
186 described in Subsection 72-2-121(4)(c) in Salt Lake County prioritized by the county.

187 (c) The costs under this Subsection (2) may include the costs of acquiring land,
188 interests in land, and easements and rights-of-way, the costs of improving sites, and making all

189 improvements necessary, incidental, or convenient to the facilities, and the costs of interest
190 estimated to accrue on these bonds during the period to be covered by construction of the
191 projects plus a period of six months after the end of the construction period, interest estimated
192 to accrue on any bond anticipation notes issued under the authority of this title, and all related
193 engineering, architectural, and legal fees.

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

196 (4) The Department of Transportation may enter into agreements related to the project
197 before the receipt of proceeds of bonds issued under this chapter.

198 Section 4. Section **63J-3-402** is amended to read:

199 **63J-3-402. Debt limitation -- Vote requirement needed to exceed limitation --**
200 **Exceptions.**

201 (1) (a) Except as provided in Subsection (1)(b), the outstanding general obligation debt
202 of the state may not exceed 45% of the maximum allowable appropriations limit unless
203 approved by more than a two-thirds vote of both houses of the Legislature.

204 (b) Notwithstanding the limitation contained in Subsection (1)(a), debt issued under the
205 authority of the following parts or sections is not subject to the debt limitation established by
206 this section:

207 (i) Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond
208 Authorization;

209 (ii) Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization;

210 (iii) Title 63B, Chapter 7, Part 2, 1998 Highway General Obligation Bond
211 Authorization;

212 (iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note
213 Authorization;

214 (v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond
215 Authorization;

- 216 (vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note
- 217 Authorization;
- 218 (vii) Title 63B, Chapter 9, Part 2, 2000 Highway General Obligation Bond;
- 219 (viii) Title 63B, Chapter 10, Part 1, 2001 Highway General Obligation Bonds;
- 220 (ix) Title 63B, Chapter 10, Part 2, 2001 Highway General Obligation Bond
- 221 Anticipation Notes Authorization;
- 222 (x) Title 63B, Chapter 11, Part 5, 2002 Highway General Obligation Bonds for Salt
- 223 Lake County;
- 224 (xi) Title 63B, Chapter 11, Part 6, 2002 Highway General Obligation Bond
- 225 Anticipation Notes for Salt Lake County [~~Authorization~~];
- 226 (xii) Section [63B-13-102](#);
- 227 (xiii) Section [63B-16-101](#);
- 228 (xiv) Section [63B-16-102](#);
- 229 (xv) Section [63B-18-401](#); [~~and~~]
- 230 (xvi) Section [63B-18-402](#)[~~-~~]; and
- 231 (xvii) Title 63B, Chapter 27, Part 1, 2017 Highway General Obligation Bonds.
- 232 (2) This section does not apply if contractual rights will be impaired.
- 233 Section 5. Section **72-2-121** is amended to read:
- 234 **72-2-121. County of the First Class Highway Projects Fund.**
- 235 (1) There is created a special revenue fund within the Transportation Fund known as
- 236 the "County of the First Class Highway Projects Fund."
- 237 (2) The fund consists of money generated from the following revenue sources:
- 238 (a) any voluntary contributions received for new construction, major renovations, and
- 239 improvements to highways within a county of the first class;
- 240 (b) the portion of the sales and use tax described in Subsection [59-12-2214](#)(3)(b)
- 241 deposited in or transferred to the fund;
- 242 (c) the portion of the sales and use tax described in Subsection [59-12-2217](#)(2)(b) and

243 required by Subsection 59-12-2217(8)(b) to be deposited in or transferred to the fund; and
244 (d) a portion of the local option highway construction and transportation corridor
245 preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or
246 transferred to the fund.

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

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

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

250 (a) to pay debt service and bond issuance costs for bonds issued under Sections
251 63B-16-102 [and], 63B-18-402, and 63B-27-102;

252 (b) for right-of-way acquisition, new construction, major renovations, and
253 improvements to highways within a county of the first class and to pay any debt service and
254 bond issuance costs related to those projects, including improvements to a highway located
255 within a municipality in a county of the first class where the municipality is located within the
256 boundaries of more than a single county;

257 (c) for the construction, acquisition, use, maintenance, or operation of:

258 (i) an active transportation facility for nonmotorized vehicles;

259 (ii) multimodal transportation that connects an origin with a destination; or

260 (iii) a facility that may include a:

261 (A) pedestrian or nonmotorized vehicle trail;

262 (B) nonmotorized vehicle storage facility;

263 (C) pedestrian or vehicle bridge; or

264 (D) vehicle parking lot or parking structure;

265 (d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or
266 county to pay for a portion of right-of-way acquisition, construction, reconstruction,
267 renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and
268 (9);

269 (e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by

270 Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts
271 transferred in accordance with Subsection 72-2-124(4)(a)(iv);

272 (f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond
273 issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects
274 described in Subsection 63B-18-401(4)(a);

275 (g) for a fiscal year beginning on or after July 1, 2013, and after the department has
276 verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to
277 transfer an amount equal to 50% of the revenue generated by the local option highway
278 construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in
279 a county of the first class:

280 (i) to the legislative body of a county of the first class; and

281 (ii) to be used by a county of the first class for:

282 (A) highway construction, reconstruction, or maintenance projects; or

283 (B) the enforcement of state motor vehicle and traffic laws;

284 (h) for fiscal year 2015 only, and after the department has verified that the amount
285 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under
286 Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue
287 available in the fund for the 2015 fiscal year:

288 (i) to the legislative body of a county of the first class; and

289 (ii) to be used by a county of the first class for:

290 (A) highway construction, reconstruction, or maintenance projects; or

291 (B) the enforcement of state motor vehicle and traffic laws;

292 (i) for fiscal year 2015-16 only, and after the department has verified that the amount
293 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under
294 Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

295 (i) to the legislative body of a county of the first class; and

296 (ii) to be used by the county for the purposes described in this section;

297 (j) for a fiscal year beginning on or after July 1, 2015, after the department has verified
298 that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the
299 transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to
300 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into
301 the fund in accordance with Subsection 59-12-2214(3)(b) to:

302 (i) the appropriate debt service or sinking fund for the repayment of bonds issued under
303 Section 63B-27-102; and

304 (ii) the Transportation Investment Fund of 2005 created in Section 72-2-124 until
305 \$28,079,000 has been deposited into the Transportation Investment Fund of 2005; and

306 (k) for a fiscal year beginning after the amount described in Subsection (4)(j) has been
307 repaid to the Transportation Investment Fund of 2005 until fiscal year 2030, [~~and~~] after the
308 department has verified that the amount required under Subsection 72-2-121.3(4)(c) is
309 available in the fund and the transfer under Subsection (4)(f) has been made, and after the
310 bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up
311 to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited
312 into the fund in accordance with Subsection 59-12-2214(3)(b):

313 (i) to the legislative body of a county of the first class; and

314 (ii) to be used by the county for the purposes described in this section.

315 (5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the
316 fund and bond proceeds from bonds issued under Sections 63B-16-102 [~~and~~], 63B-18-402, and
317 63B-27-102 are considered a local matching contribution for the purposes described under
318 Section 72-2-123.

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

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

324 Section 6. Section 72-2-124 is amended to read:

325 **72-2-124. Transportation Investment Fund of 2005.**

326 (1) There is created a capital projects fund entitled the Transportation Investment Fund
327 of 2005.

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

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

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

332 (c) the sales and use tax revenues deposited into the fund in accordance with Section
333 59-12-103;

334 (d) registration fees designated under Section 41-1a-1201; and

335 (e) revenues transferred to the fund in accordance with Section 72-2-106.

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

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

338 (4) (a) Except as provided in Subsection (4)(b), the executive director may use fund
339 money only to pay:

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

343 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
344 projects described in Subsections 63B-18-401(2), (3), and (4);

345 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401
346 minus the costs paid from the County of the First Class Highway Projects Fund in accordance
347 with Subsection 72-2-121(4)(f);

348 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
349 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified
350 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the

351 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

352 (v) principal, interest, and issuance costs of bonds authorized by Section [63B-16-101](#)
353 for projects prioritized in accordance with Section [72-2-125](#);

354 (vi) all highway general obligation bonds that are intended to be paid from revenues in
355 the Centennial Highway Fund created by Section [72-2-118](#); and

356 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First
357 Class Highway Projects Fund created in Section [72-2-121](#) to be used for the purposes described
358 in Section [72-2-121](#).

359 (b) The executive director may use fund money to exchange for an equal or greater
360 amount of federal transportation funds to be used as provided in Subsection (4)(a).

361 (5) (a) Before bonds authorized by Section [63B-18-401](#) or [63B-27-101](#) may be issued
362 in any fiscal year, the department and the commission shall appear before the Executive
363 Appropriations Committee of the Legislature and present the amount of bond proceeds that the
364 department needs to provide funding for the projects identified in Subsections [63B-18-401](#)(2),
365 (3), and (4) or Subsection [63B-27-101](#)(2) for the current or next fiscal year.

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

368 (6) The Division of Finance shall, from money deposited into the fund, transfer the
369 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
370 Section [63B-18-401](#) or [63B-27-101](#) in the current fiscal year to the appropriate debt service or
371 sinking fund.

372 **Section 7. Effective date.**

373 This bill takes effect on July 1, 2017.