

HIGHWAY GENERAL OBLIGATION BONDS

AUTHORIZATION

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

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 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 the Executive Appropriations Committee of the Legislature before the bonds may be issued; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63B-1-306**, as last amended by Laws of Utah 2009, Chapters 241 and 275

31 **63J-3-402**, as last amended by Laws of Utah 2009, Chapters 241 and 275

32 **72-2-121**, as last amended by Laws of Utah 2016, Chapter 12

33 **72-2-124**, as last amended by Laws of Utah 2016, Chapters 137 and 291

34 ENACTS:

35 **63B-27-101**, Utah Code Annotated 1953

36 **63B-27-102**, Utah Code Annotated 1953



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

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

40 **63B-1-306. Obligations issued by authority -- Limitation of liability on**
41 **obligations -- Limitation on amount of obligations issued.**

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

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

47 (2) (a) No authority obligations incurred under this section may be issued in an amount
48 exceeding the difference between the total indebtedness of the state and an amount equal to
49 1-1/2% of the value of the taxable property of the state.

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

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

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

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

58 (iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note

59 Authorization;

60 (v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond

61 Authorization;

62 (vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note

63 Authorization;

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

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

66 (ix) Title 63B, Chapter 10, Part 2, 2001 Highway General Obligation Bond

67 Anticipation Notes Authorization;

68 (x) Title 63B, Chapter 11, Part 5, 2002 Highway General Obligation Bonds for Salt

69 Lake County;

70 (xi) Title 63B, Chapter 11, Part 6, 2002 Highway General Obligation Bond

71 Anticipation Notes for Salt Lake County;

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

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

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

75 (xv) Section [63B-18-401](#); [~~and~~]

76 (xvi) Section [63B-18-402](#)[~~;~~]; and

77 (xvii) Title 63B, Chapter 27, Part 1, 2017 Highway General Obligation Bonds.

78 (c) Debt issued under authority of Section [63B-7-503](#) may not be included as part of
79 the total indebtedness of the state in determining the debt limit established by this Subsection
80 (2).

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

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

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

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

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

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

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

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

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

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

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

99 (k) bear facsimile signatures and seals.

100 (4) The authority may pay any expenses, premiums, or commissions, that it considers
101 necessary or advantageous in connection with the authorization, sale, and issuance of these
102 obligations, from the proceeds of the sale of the obligations or from the revenues of the projects
103 involved.

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

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

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

107 **63B-27-101. Highway bonds -- Maximum amount -- Use of proceeds for highway**
108 **projects.**

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

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

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

120 (2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds

121 shall be provided to the Department of Transportation to pay all or part of the costs of the
122 following state highway construction or reconstruction projects:

123 (a) state and federal highways prioritized by the Transportation Commission through
124 the prioritization process for new transportation capacity projects adopted under Section
125 72-1-304, giving priority consideration for projects with a regional significance or that support
126 economic development within the state, including:

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

129 (ii) projects prioritized in the state highway construction program; and

130 (b) \$100,000,000 to be used by the Department of Transportation for transportation
131 improvements as prioritized by the Transportation Commission for projects that:

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

134 (ii) address significant needs for congestion mitigation.

135 (3) Ten million dollars of the bond proceeds issued under this section shall be provided
136 to the Transportation Infrastructure Loan Fund created by Section 72-2-202 to make funds
137 available for a transportation infrastructure loan or transportation infrastructure assistance
138 under Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, to the military
139 installation development authority created in Section 63H-1-201.

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

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

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

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

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

155 **63B-27-102. Highway bonds -- Maximum amount -- Use of proceeds for highway**
156 **projects.**

157 (1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued
158 under this section may not exceed \$50,000,000.

159 (b) When the Department of Transportation certifies to the commission the amount of
160 bond proceeds that the commission needs to provide funding for the highway construction
161 projects described in Subsection (2), the commission may issue and sell general obligation
162 bonds in an amount equal to the certified amount plus costs of issuance.

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

167 (2) (a) Proceeds from the bonds issued under this section shall be provided to the
168 Department of Transportation to pay for or to provide funds to a municipality or county to pay
169 for the costs of right-of-way acquisition, construction, reconstruction, renovations, or
170 improvements to highways described in Subsection (2)(b).

171 (b) Bond proceeds described under Subsection (2)(a) shall be used to pay for state and
172 local highway projects in Salt Lake County prioritized by the county.

173 (c) Prior to a municipality or county receiving funds described in this Subsection (2),
174 the municipality or county shall certify that it will use the funds provided under this Subsection
175 (2) solely for the projects prioritized by the county.

176 (d) The costs under this Subsection (2) may include the costs of acquiring land,
177 interests in land, and easements and rights-of-way, the costs of improving sites, and making all
178 improvements necessary, incidental, or convenient to the facilities, and the costs of interest
179 estimated to accrue on these bonds during the period to be covered by construction of the
180 projects plus a period of six months after the end of the construction period, interest estimated
181 to accrue on any bond anticipation notes issued under the authority of this title, and all related
182 engineering, architectural, and legal fees.

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

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

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

188 **63J-3-402. Debt limitation -- Vote requirement needed to exceed limitation --**
189 **Exceptions.**

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

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

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

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

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

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

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

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

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

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

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

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

213 (xi) Title 63B, Chapter 11, Part 6, 2002 Highway General Obligation Bond

214 Anticipation Notes for Salt Lake County [~~Authorization~~];

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

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

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

218 (xv) Section [63B-18-401](#); [~~and~~]

219 (xvi) Section [63B-18-402](#)[~~;~~]; and

220 (xvii) Title 63B, Chapter 27, Part 1, 2017 Highway General Obligation Bonds.

221 (2) This section does not apply if contractual rights will be impaired.

222 Section 5. Section **72-2-121** is amended to read:

223 **72-2-121. County of the First Class Highway Projects Fund.**

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

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

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

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

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

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

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

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

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

239 (a) to pay debt service and bond issuance costs for bonds issued under Sections
240 [63B-16-102](#) [~~and~~], [63B-18-402](#), and [63B-27-102](#);

241 (b) for right-of-way acquisition, new construction, major renovations, and
242 improvements to highways within a county of the first class and to pay any debt service and
243 bond issuance costs related to those projects, including improvements to a highway located
244 within a municipality in a county of the first class where the municipality is located within the

245 boundaries of more than a single county;

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

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

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

249 (iii) a facility that may include a:

250 (A) pedestrian or nonmotorized vehicle trail;

251 (B) nonmotorized vehicle storage facility;

252 (C) pedestrian or vehicle bridge; or

253 (D) vehicle parking lot or parking structure;

254 (d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or

255 county to pay for a portion of right-of-way acquisition, construction, reconstruction,

256 renovations, and improvements to highways described in Subsections [72-2-121.4\(7\)](#), (8), and

257 (9);

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

259 Section [72-2-121.3](#) the amount required in Subsection [72-2-121.3\(4\)\(c\)](#) minus the amounts

260 transferred in accordance with Subsection [72-2-124\(4\)\(a\)\(iv\)](#);

261 (f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond

262 issuance costs for \$30,000,000 of the bonds issued under Section [63B-18-401](#) for the projects

263 described in Subsection [63B-18-401\(4\)\(a\)](#);

264 (g) for a fiscal year beginning on or after July 1, 2013, and after the department has

265 verified that the amount required under Subsection [72-2-121.3\(4\)\(c\)](#) is available in the fund, to

266 transfer an amount equal to 50% of the revenue generated by the local option highway

267 construction and transportation corridor preservation fee imposed under Section [41-1a-1222](#) in

268 a county of the first class:

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

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

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

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

273 (h) for fiscal year 2015 only, and after the department has verified that the amount

274 required under Subsection [72-2-121.3\(4\)\(c\)](#) is available in the fund and the transfer under

275 Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue

276 available in the fund for the 2015 fiscal year:

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

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

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

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

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

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

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

286 (j) for a fiscal year beginning on or after July 1, 2015, after the department has verified
287 that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the
288 transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to
289 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into
290 the fund in accordance with Subsection 59-12-2214(3)(b) to:

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

293 (ii) the Transportation Investment Fund of 2005 created in Section 72-2-124 until
294 \$28,079,000 has been deposited into the Transportation Investment Fund of 2005; and

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

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

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

304 (5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the
305 fund and bond proceeds from bonds issued under Sections 63B-16-102 [~~and~~], 63B-18-402, and
306 63B-27-102 are considered a local matching contribution for the purposes described under

307 Section [72-2-123](#).

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

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

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

314 **72-2-124. Transportation Investment Fund of 2005.**

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

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

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

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

321 (c) the sales and use tax revenues deposited into the fund in accordance with Section
322 [59-12-103](#);

323 (d) registration fees designated under Section [41-1a-1201](#); and

324 (e) revenues transferred to the fund in accordance with Section [72-2-106](#).

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

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

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

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

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

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

337 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt

338 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified
339 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the
340 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

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

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

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

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

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

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

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

361 Section 7. **Effective date.**

362 This bill takes effect on July 1, 2017.