

Senator Wayne A. Harper proposes the following substitute bill:

HIGHWAY GENERAL OBLIGATION BONDS

AUTHORIZATION

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Francis D. Gibson

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

- ▶ makes technical changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63B-1-306**, as last amended by Laws of Utah 2009, Chapters 241 and 275

32 **63J-3-402**, as last amended by Laws of Utah 2009, Chapters 241 and 275

33 **72-2-121**, as last amended by Laws of Utah 2016, Chapter 12

34 **72-2-124**, as last amended by Laws of Utah 2016, Chapters 137 and 291

35 ENACTS:

36 **63B-27-101**, Utah Code Annotated 1953

37 **63B-27-102**, Utah Code Annotated 1953



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

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

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

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

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

48 (2) (a) No authority obligations incurred under this section may be issued in an amount
49 exceeding the difference between the total indebtedness of the state and an amount equal to
50 1-1/2% of the value of the taxable property of the state.

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

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

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

- 57 (iii) Title 63B, Chapter 7, Part 2, 1998 Highway General Obligation Bond
58 Authorization;
- 59 (iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note
60 Authorization;
- 61 (v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond
62 Authorization;
- 63 (vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note
64 Authorization;
- 65 (vii) Title 63B, Chapter 9, Part 2, 2000 Highway General Obligation Bond;
66 (viii) Title 63B, Chapter 10, Part 1, 2001 Highway General Obligation Bonds;
67 (ix) Title 63B, Chapter 10, Part 2, 2001 Highway General Obligation Bond
68 Anticipation Notes Authorization;
- 69 (x) Title 63B, Chapter 11, Part 5, 2002 Highway General Obligation Bonds for Salt
70 Lake County;
- 71 (xi) Title 63B, Chapter 11, Part 6, 2002 Highway General Obligation Bond
72 Anticipation Notes for Salt Lake County;
- 73 (xii) Section [63B-13-102](#);
- 74 (xiii) Section [63B-16-101](#);
- 75 (xiv) Section [63B-16-102](#);
- 76 (xv) Section [63B-18-401](#); **[and]**
- 77 (xvi) Section [63B-18-402](#)~~[;]~~; and
- 78 (xvii) Title 63B, Chapter 27, Part 1, 2017 Highway General Obligation Bonds.
- 79 (c) Debt issued under authority of Section [63B-7-503](#) may not be included as part of
80 the total indebtedness of the state in determining the debt limit established by this Subsection
81 (2).
- 82 (3) The obligations shall be authorized by resolution of the authority, following
83 approval of the Legislature, and may:
- 84 (a) be executed and delivered at any time, and from time to time, as the authority may
85 determine;
- 86 (b) be sold at public or private sale in the manner and at the prices, either at, in excess
87 of, or below their face value and at the times that the authority determines;

- 88 (c) be in the form and denominations that the authority determines;
- 89 (d) be of the tenor that the authority determines;
- 90 (e) be in registered or bearer form either as to principal or interest or both;
- 91 (f) be payable in those installments and at the times that the authority determines;
- 92 (g) be payable at the places, either within or without this state, that the authority
- 93 determines;

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

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

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

100 (k) bear facsimile signatures and seals.

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

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

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

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

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

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

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

117 (c) The commission may not issue general obligation bonds authorized under this
 118 section if the issuance of the general obligation bonds would result in the total current

119 outstanding general obligation debt of the state exceeding 50% of the limitation described in
120 the Utah Constitution, Article XIV, Section 1.

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

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

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

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

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

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

135 (ii) address significant needs for congestion mitigation.

136 (3) Nineteen million dollars of the bond proceeds issued under this section shall be
137 provided to the Transportation Infrastructure Loan Fund created by Section 72-2-202 to make
138 funds available for a transportation infrastructure loan or transportation infrastructure
139 assistance under Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, as
140 follows:

141 (a) \$10,000,000 to the military installation development authority created in Section
142 63H-1-201;

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

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

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

149 (5) The costs under Subsection (2) may include the costs of studies necessary to make

150 transportation infrastructure improvements, the costs of acquiring land, interests in land, and
151 easements and rights-of-way, the costs of improving sites, and making all improvements
152 necessary, incidental, or convenient to the facilities, and the costs of interest estimated to
153 accrue on these bonds during the period to be covered by construction of the projects plus a
154 period of six months after the end of the construction period, interest estimated to accrue on
155 any bond anticipation notes issued under the authority of this title, and all related engineering,
156 architectural, and legal fees.

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

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

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

162 **63B-27-102. Highway bonds -- Maximum amount -- Use of proceeds for highway**
163 **projects.**

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

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

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

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

179 (b) Bond proceeds described under Subsection (2)(a) shall be used to pay for state and
180 local highway projects or transportation facilities or multimodal transportation projects

181 described in Subsection 72-2-121(4)(c) in Salt Lake County prioritized by the county.

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

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

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

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

194 **63J-3-402. Debt limitation -- Vote requirement needed to exceed limitation --**
195 **Exceptions.**

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

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

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

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

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

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

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

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

212 Authorization;

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

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

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

216 Anticipation Notes Authorization;

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

218 Lake County;

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

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

221 (xii) Section 63B-13-102;

222 (xiii) Section 63B-16-101;

223 (xiv) Section 63B-16-102;

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

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

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

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

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

229 **72-2-121. County of the First Class Highway Projects Fund.**

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

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

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

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

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

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

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

- 243 (b) All interest earned on fund money shall be deposited into the fund.
- 244 (4) The executive director shall use the fund money only:
- 245 (a) to pay debt service and bond issuance costs for bonds issued under Sections
- 246 [63B-16-102](#) [and], [63B-18-402](#), and [63B-27-102](#);
- 247 (b) for right-of-way acquisition, new construction, major renovations, and
- 248 improvements to highways within a county of the first class and to pay any debt service and
- 249 bond issuance costs related to those projects, including improvements to a highway located
- 250 within a municipality in a county of the first class where the municipality is located within the
- 251 boundaries of more than a single county;
- 252 (c) for the construction, acquisition, use, maintenance, or operation of:
- 253 (i) an active transportation facility for nonmotorized vehicles;
- 254 (ii) multimodal transportation that connects an origin with a destination; or
- 255 (iii) a facility that may include a:
- 256 (A) pedestrian or nonmotorized vehicle trail;
- 257 (B) nonmotorized vehicle storage facility;
- 258 (C) pedestrian or vehicle bridge; or
- 259 (D) vehicle parking lot or parking structure;
- 260 (d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or
- 261 county to pay for a portion of right-of-way acquisition, construction, reconstruction,
- 262 renovations, and improvements to highways described in Subsections [72-2-121.4\(7\)](#), (8), and
- 263 (9);
- 264 (e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by
- 265 Section [72-2-121.3](#) the amount required in Subsection [72-2-121.3\(4\)\(c\)](#) minus the amounts
- 266 transferred in accordance with Subsection [72-2-124\(4\)\(a\)\(iv\)](#);
- 267 (f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond
- 268 issuance costs for \$30,000,000 of the bonds issued under Section [63B-18-401](#) for the projects
- 269 described in Subsection [63B-18-401\(4\)\(a\)](#);
- 270 (g) for a fiscal year beginning on or after July 1, 2013, and after the department has
- 271 verified that the amount required under Subsection [72-2-121.3\(4\)\(c\)](#) is available in the fund, to
- 272 transfer an amount equal to 50% of the revenue generated by the local option highway
- 273 construction and transportation corridor preservation fee imposed under Section [41-1a-1222](#) in

274 a county of the first class:

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

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

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

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

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

280 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under

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

282 available in the fund for the 2015 fiscal year:

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

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

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

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

287 (i) for fiscal year 2015-16 only, and after the department has verified that the amount

288 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under

289 Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

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

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

292 (j) for a fiscal year beginning on or after July 1, 2015, after the department has verified

293 that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the

294 transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to

295 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into

296 the fund in accordance with Subsection 59-12-2214(3)(b) to:

297 (i) the appropriate debt service or sinking fund for the repayment of bonds issued under

298 Section 63B-27-102; and

299 (ii) the Transportation Investment Fund of 2005 created in Section 72-2-124 until

300 \$28,079,000 has been deposited into the Transportation Investment Fund of 2005; and

301 (k) for a fiscal year beginning after the amount described in Subsection (4)(j) has been

302 repaid to the Transportation Investment Fund of 2005 until fiscal year 2030, [~~and~~] after the

303 department has verified that the amount required under Subsection 72-2-121.3(4)(c) is

304 available in the fund and the transfer under Subsection (4)(f) has been made, and after the

305 bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up
306 to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited
307 into the fund in accordance with Subsection 59-12-2214(3)(b):

- 308 (i) to the legislative body of a county of the first class; and
- 309 (ii) to be used by the county for the purposes described in this section.

310 (5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the
311 fund and bond proceeds from bonds issued under Sections 63B-16-102 [~~and~~], 63B-18-402, and
312 63B-27-102 are considered a local matching contribution for the purposes described under
313 Section 72-2-123.

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

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

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

320 **72-2-124. Transportation Investment Fund of 2005.**

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

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

- 324 (a) any voluntary contributions received for the maintenance, construction,
325 reconstruction, or renovation of state and federal highways;
- 326 (b) appropriations made to the fund by the Legislature;
- 327 (c) the sales and use tax revenues deposited into the fund in accordance with Section
328 59-12-103;
- 329 (d) registration fees designated under Section 41-1a-1201; and
- 330 (e) revenues transferred to the fund in accordance with Section 72-2-106.

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

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

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

- 335 (i) the costs of maintenance, construction, reconstruction, or renovation to state and

336 federal highways prioritized by the Transportation Commission through the prioritization
337 process for new transportation capacity projects adopted under Section 72-1-304;

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

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

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

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

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

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

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

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

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

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

367 Section 7. **Effective date.**

368 This bill takes effect on July 1, 2017.