

## SB0277S01 compared with SB0277

~~text~~ shows text that was in SB0277 but was deleted in SB0277S01.

Inserted text shows text that was not in SB0277 but was inserted into SB0277S01.

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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: \_\_\_\_\_

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#### 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;

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- ▶ 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.

### Utah Code Sections Affected:

AMENDS:

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

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

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

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

ENACTS:

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

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

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

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

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

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

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

(2) (a) No authority obligations incurred under this section may be issued in an amount exceeding the difference between the total indebtedness of the state and an amount equal to

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1-1/2% of the value of the taxable property of the state.

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

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

Authorization;

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

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

Authorization;

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

Authorization;

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

Authorization;

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

Authorization;

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

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

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

Anticipation Notes Authorization;

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

Lake County;

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

Anticipation Notes for Salt Lake County;

(xii) Section 63B-13-102;

(xiii) Section 63B-16-101;

(xiv) Section 63B-16-102;

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

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

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

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

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(2).

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

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

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

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

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

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

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

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

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

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

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

(k) bear facsimile signatures and seals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) address significant needs for congestion mitigation.

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

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

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

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

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

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

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

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

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

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

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed ~~50~~47,000,000.

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

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

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(2) (a) Proceeds from the bonds issued under this section 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 highways, ~~transportation facilities, or multimodal transportation projects~~ described in Subsection (2)(b).

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

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

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

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

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

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

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

### **Exceptions.**

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

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

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

Authorization;

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

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

Authorization;

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

Authorization;

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

Authorization;

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

Authorization;

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

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

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

Anticipation Notes Authorization;

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

Lake County;

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

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

(xii) Section 63B-13-102;

(xiii) Section 63B-16-101;

(xiv) Section 63B-16-102;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) an active transportation facility for nonmotorized vehicles;

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

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to

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42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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- (b) appropriations made to the fund by the Legislature;
  - (c) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103;
  - (d) registration fees designated under Section 41-1a-1201; and
  - (e) revenues transferred to the fund in accordance with Section 72-2-106.
- (3) (a) The fund shall earn interest.
- (b) All interest earned on fund money shall be deposited into the fund.
- (4) (a) Except as provided in Subsection (4)(b), the executive director may use fund money only to pay:
- (i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;
  - (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);
  - (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(f);
  - (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;
  - (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;
  - (vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118; and
  - (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121.
- (b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).
- (5) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued

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in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(~~3~~2) for the current or next fiscal year.

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

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

Section 7. **Effective date.**

This bill takes effect on July 1, 2017.

†

**Legislative Review Note**

**Office of Legislative Research and General Counsel†**