

SB0115S03 compared with SB0115S02

~~{deleted text}~~ shows text that was in SB0115S02 but was deleted in SB0115S03.

inserted text shows text that was not in SB0115S02 but was inserted into SB0115S03.

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~~{Representative Brady Brammer}~~Senator Kirk A. Cullimore proposes the following substitute bill:

BONDING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies state and local general obligation bond provisions.

Highlighted Provisions:

This bill:

- ▶ provides that a first lien is created on ad valorem taxes for the payment of principal and interest on the local political subdivision's general obligation bonds;
- ▶ provides that a local school board may use revenues remaining from an ad valorem tax levied for school district technology programs or projects after the principal, premium, and interest on the district's bonds have been paid for the applicable period for which the taxes were levied;
- ▶ provides that a lien does not attach to any technology programs or projects paid for

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from the remaining tax revenues;

- ▶ provides that a general obligation bond issued and sold by or on behalf of a local political subdivision is secured by a first statutory lien on all revenues received pursuant to the levy and collection of ad valorem taxes, that:
 - arises and attaches immediately to the ad valorem tax revenues without the need for any action or authorization by the local political subdivision;
 - is valid and binding from the time the general obligation bonds are executed and delivered; and
 - is effective, binding, and enforceable against the local political subdivision, its successors, transferees, and creditors, and all others asserting rights to the ad valorem tax revenues;
- ▶ requires that amounts appropriated or added to the tax levy to pay principal of, premium, and interest on general obligation bonds be applied to the payment of those bonds;
- ▶ modifies a provision relating to the Legislature's appropriation of money each fiscal year to pay the principal, premium, and interest due on the State's outstanding general obligation bonds;
- ▶ modifies amounts related to bond proceeds provided to the State Infrastructure Bank Fund;
- ▶ modifies provisions related to the State Infrastructure Bank Fund;
- ▶ authorizes the issuance of general obligation bonds for Department of Transportation projects; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-14-310, as last amended by Laws of Utah 2018, Chapter 288

11-14-501, as last amended by Laws of Utah 2007, Chapter 272

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63B-27-101, as last amended by Laws of Utah 2019, Chapters 327, 479, and 497

63J-1-205.1, as enacted by Laws of Utah 2015, Chapter 175

72-2-121, as last amended by Laws of Utah 2019, Chapters 479 and 497

72-2-121.3, as last amended by Laws of Utah 2015, Chapter 421

72-2-121.4, as last amended by Laws of Utah 2015, Chapter 421

72-2-124, as last amended by Laws of Utah 2019, Chapters 327 and 479

72-2-201, as last amended by Laws of Utah 2019, Chapter 479

72-2-203, as last amended by Laws of Utah 2019, Chapter 479

72-2-204, as last amended by Laws of Utah 2019, Chapter 479

ENACTS:

63B-30-101, Utah Code Annotated 1953

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

Section 1. Section 11-14-310 is amended to read:

11-14-310. General obligation bonds -- Levy and collection of taxes.

(1) (a) (i) Any bonds issued under this chapter [~~in such manner~~] that [~~they~~] are not payable solely from revenues other than those derived from ad valorem taxes are full general obligations of the local political subdivision[~~, for~~].

(ii) The local political subdivision's full faith and credit is pledged for the prompt and punctual payment of principal of and interest on [which the full faith and credit of the local political subdivision are pledged, and the] the local political subdivision's general obligation bonds.

(iii) A local political subdivision is [hereby expressly] required, regardless of any limitations [which] that may otherwise exist on the amount of taxes [which] that the local political subdivision may levy, to provide for the annual levy and collection [annually] of ad valorem taxes, without limitation as to the rate or amount, on all taxable property in the local political subdivision fully sufficient for [such purpose] the payment of principal and interest on the local political subdivision's general obligation bonds as the principal and interest become due.

(iv) If by law ad valorem taxes for the local political subdivision are levied by a board other than its governing body[~~;~~]:

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(A) the taxes [~~for which provision is herein made~~] shall be levied by [~~such~~] the other board; and

(B) the local political subdivision shall [~~be under the duty in due season in~~], each year, [~~to~~] provide [~~such other~~] the levying board with all information necessary to [~~the~~] levy [~~of~~] the taxes in the required amount.

(v) [~~Such taxes~~] Taxes levied under Subsection (1)(a)(iv) shall be levied and collected by the same officers, at the same time, and in the same manner as are other taxes levied for the local political subdivision.

(b) The pledge of the taxes levied under this section shall constitute an automatically arising first lien on the taxes as provided in Section 11-14-501.

~~(b)~~ (c) (i) A local school board may use revenues remaining from a tax levied under this section for school district technology programs or projects after the principal of and premium and interest on the district's general obligation bonds have been paid for the applicable period for which the taxes were levied.

(ii) A lien created pursuant to Section 11-14-501 does not attach to any technology programs or projects paid for from the remaining tax revenues under Subsection (1)(c)(i).

(2) (a) If [~~any~~] a local political subdivision [~~shall neglect~~] neglects or [~~fail~~] fails for any reason to levy or collect or to cause to be levied or collected sufficient taxes for the prompt and punctual payment of such principal and interest, [~~any~~] a person in interest may enforce levy and collection [~~thereof in any~~] of sufficient taxes in a court having jurisdiction of the subject matter[~~, and any~~].

(b) A suit, action, or proceeding brought by [~~such~~] a person in interest under Subsection (2)(a) shall be a preferred cause and shall be heard and disposed of without delay.

(c) All provisions of the constitution and laws relating to the collection of county and municipal taxes and tax sales [~~shall also~~] apply to and regulate the collection of the taxes levied pursuant to this section, through the officer whose duty it is to collect the taxes and money due the local political subdivision.

Section 2. Section **11-14-501** is amended to read:

11-14-501. Creation and perfection of government security interests.

(1) As used in this section:

(a) "Bonds" means any bond, note, lease, or other obligation of a governmental unit.

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(b) (i) "General obligation bond" means a bond, note, warrant, certificate of indebtedness, or other obligation of a local political subdivision that:

(A) is payable in whole or in part from revenues derived from ad valorem taxes; and

(B) constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(ii) "General obligation bond" includes a general obligation tax, revenue, or bond anticipation note issued by a local political subdivision that is payable in whole or in part from revenues derived from ad valorem taxes.

~~(b)~~ (c) "Governmental unit" has the meaning assigned in Section 70A-9a-102.

~~(c)~~ (d) "Pledge" means the creation of a security interest of any kind.

~~(d)~~ (e) "Property" means any property or interests in property, other than real property.

~~(e)~~ (f) "Security agreement" means any resolution, ordinance, indenture, document, or other agreement or instrument under which the revenues, fees, rents, charges, taxes, or other property are pledged to secure the bonds.

(2) This section expressly governs the creation, perfection, priority, and enforcement of a security interest created by the state or a governmental unit of the state, notwithstanding anything in Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, to the contrary.

(3) (a) The revenues, fees, rents, charges, taxes, or other property pledged by a governmental unit for the purpose of securing its bonds are immediately subject to the lien of the pledge.

(b) (i) The lien is a perfected lien upon the effective date of the security agreement.

(ii) The physical delivery, filing, or recording of a security agreement or financing statement under the Uniform Commercial Code or otherwise, or any other similar act, is not necessary to perfect the lien.

(c) The lien of any pledge is valid, binding, perfected, and enforceable from the time the pledge is made.

(d) The lien of the pledge has priority:

(i) based on the time of the creation of the pledge unless otherwise provided in the security agreement; and

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(ii) as against all parties having claims of any kind in tort, contract, or otherwise against the governmental unit, regardless of whether or not the parties have notice of the lien.

(e) Each pledge and security agreement made for the benefit or security of any of the bonds shall continue to be effective until:

(i) the principal, interest, and premium, if any, on the bonds have been fully paid;

(ii) provision for payment has been made; or

(iii) the lien created by the security agreement has been released by agreement of the parties in interest or as provided by the security agreement that created the lien.

(4) (a) General obligation bonds issued and sold by or on behalf of a local political subdivision shall be secured by a first statutory lien on all revenues received pursuant to the levy and collection of ad valorem taxes.

(b) The lien described in Subsection (4)(a):

(i) arises and attaches immediately to the ad valorem tax revenues without the need for any action or authorization by the local political subdivision;

(ii) is valid and binding from the time the general obligation bonds are executed and delivered; and

(iii) is effective, binding, and enforceable against the local political subdivision, its successors, transferees, and creditors, and all others asserting rights to the ad valorem tax revenues.

(c) A lien described in Subsection (4)(a) is enforceable against the parties described in Subsection (4)(b)(iii):

(i) regardless of whether the parties described in Subsection (4)(b)(iii) have notice of the lien; and

(ii) without the need for any physical delivery, recordation, filing, or further action.

(5) Any amounts appropriated or added to the tax levy to pay principal of and premium and interest on general obligation bonds:

(a) shall be applied solely to the payment of those general obligation bonds; and

(b) may not be used for any other purpose, except as provided by law.

(6) This section applies to all revenues received pursuant to the levy and collection of the ad valorem tax regardless of the date on which the general obligation bonds were issued.

(7) This section applies to all bonds, including bonds issued before or after the

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effective date of this section.

Section 3. Section 63B-27-101 is amended to read:

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 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$1,010,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(7) 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 additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed 1% of the certified amount.

(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 (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

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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) ~~Fifty-six~~ Forty-six million dollars of the bond proceeds issued under this section shall be provided to the State Infrastructure Bank 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, State Infrastructure Bank Fund, including the amounts as follows:

(a) ~~\$24,000,000~~ \$14,000,000 to the military installation development authority created in Section 63H-1-201;

(b) \$5,000,000 to the Inland Port Authority created in Section 11-58-201, for highway, infrastructure, and rail right-of-way acquisition, design, engineering, and construction, to be repaid through tax differential; and

(c) \$7,000,000 to Midvale City for a parking structure in proximity to an intermodal transportation facility that enhances economic development within the city.

(4) (a) Four million dollars of the bond proceeds issued under this section shall be used for a public transit fixed guideway rail station associated with or adjacent to an institution of higher education.

(b) Nineteen million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for the design, engineering, construction, or reconstruction of underpasses under a state highway connecting a state park and a project area created by a military installation development authority created in Section 63H-1-201.

(c) Nine million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for infrastructure improvements related to the Provo Airport.

(d) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in this section, the Department of Transportation may use available funding to study, design, engineer, and construct rail access through I-80 in western Salt Lake County.

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

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(6) 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.

(7) 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.

(8) 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~~4. Section **63B-30-101** is enacted to read:

Part 3. General Obligation Bonds

63B-30-101. General obligation bonds for transportation projects.

(1) As used in this section, "transportation projects" means Department of Transportation projects described in Subsection 63B-27-101(2).

(2) (a) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(7) have been met and certifies the amount of bond proceeds that the commission needs to provide funding for the transportation projects 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 additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed 1% of the certified amount.

(b) 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.

(3) The commission may issue general obligation bonds as provided in this section.

(4) ~~+(a)+~~ The total amount of bonds to be issued under this section may not exceed \$89,510,000 for acquisition and construction proceeds, plus additional amounts necessary to

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pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$92,000,000.

(5) The commission shall ensure that proceeds from the issuance of bonds under this section are provided to the Department of Transportation for use by the Department of Transportation to pay all or part of the cost of the transportation projects, including:

(a) interest estimated to accrue on the bonds authorized in this section until the completion of construction of the transportation project, plus a period of 12 months after the end of construction; and

(b) all related engineering, architectural, and legal fees.

(6) The Department of Transportation shall transfer \$20,000,000 of bond proceeds under this section to the Governor's Office of Economic Development for a transportation-related project in a project area created by the military installation development authority, created in Section 63H-1-201.

~~(67)~~ (a) The Department of Transportation may enter into agreements related to the transportation projects before the receipt of proceeds of bonds issued under this section.

(b) The state intends to use proceeds of tax-exempt bonds to reimburse itself for expenditures for costs of the transportation projects.

Section ~~(4)~~5. Section **63J-1-205.1** is amended to read:

63J-1-205.1. Legislature to pay debt service first.

~~[In appropriating money from the General Fund, the]~~ The Legislature shall appropriate money each fiscal year sufficient to ~~[debt service]~~ pay the principal, premium, and interest due on the state's outstanding general obligation bonds before making any other appropriation in the fiscal year.

Section 6. 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:

(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)

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deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 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, 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);]~~

~~[(e)]~~ (d) 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);

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~~[(f)](e)~~ 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)](f)~~ 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)](g)~~ 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)](e)~~ 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)](h)~~ 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)](e)~~ has been made, 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) to:

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

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Section 63B-27-102; and

(ii) the Transportation Fund created in Section 72-2-102 until \$28,079,000 has been deposited into the Transportation Fund;

~~[(k)]~~ [(i)] for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4) ~~[(e)]~~ [(d)], the payment under Subsection (4) ~~[(f)]~~ [(e)], and the transfers under Subsections (4) ~~[(j)]~~ [(h)] (i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b) to a public transit district in a county of the first class to fund a system for public transit;

~~[(f)]~~ [(i)] for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4) ~~[(e)]~~ [(d)], the payment under Subsection (4) ~~[(f)]~~ [(e)], and the transfers under Subsections (4) ~~[(j)]~~ [(h)] (i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

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

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

~~[(m)]~~ [(k)] for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4) ~~[(e)]~~ [(d)], the payment under Subsection (4) ~~[(f)]~~ [(e)], and the transfers under Subsections ~~[(4)(j) through (h)]~~ [(4)(h), (i), and (j)] have been made, to transfer \$12,000,000 to the ~~Department of Transportation~~ department to distribute for the following projects:

(i) \$2,000,000 to West Valley City for highway improvement to 4100 South;

(ii) \$1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;

(iii) \$1,100,000 to South Jordan for highway improvements to Grandville Avenue;

(iv) \$1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;

(v) \$1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;

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(vi) \$1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;

(vii) \$1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;

(viii) \$900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;

(ix) \$1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;

(x) \$700,000 to South Jordan right-of-way improvements to 10550 South; and

(xi) \$500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and

~~(m)~~(l) for a fiscal year beginning after the amount described in Subsection (4)~~(j)~~(h) has been repaid to the Transportation Fund until fiscal year 2030, or sooner if the amount described in Subsection (4)~~(j)~~(h)(ii) has been repaid, 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)~~(e) 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, 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).

(8) (a) For a fiscal year beginning on or after July 1, 2018, at the end of each fiscal year, after all programmed payments and transfers authorized or required under this section

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have been made, on July 30 the department shall transfer the remainder of the money in the fund to the Transportation Fund to reduce the amount owed to the Transportation Fund under Subsection (4)(j)(ii).

(b) The department shall provide notice to a county of the first class of the amount transferred in accordance with this Subsection (8).

(9) (a) Any revenue in the fund that is not specifically allocated and obligated under ~~[this section]~~ Subsections (4) through (8) is subject to the review process described in this Subsection (9).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection (9)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection (9)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory council of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

(ii) seven members nominated by the county executive, and confirmed by the county legislative body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

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(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

- (i) employment;
- (ii) recreation;
- (iii) commerce; and
- (iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection (9)(f).

(h) (i) After the review and ranking of each project as described in this section, the county transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process, the county executive shall review the list of projects and may include in the proposed budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

- (i) the amount of revenue received into the fund during the past year;
- (ii) any funds available for allocation;
- (iii) funds obligated for debt service; and
- (iv) the outstanding balance of transportation-related debt.

(10) As resources allow, the department shall study in 2020 transportation connectivity in the southwest valley of Salt Lake County, including the feasibility of connecting major east-west corridors to U-111.

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Section 7. Section 72-2-121.3 is amended to read:

72-2-121.3. Special revenue fund -- 2010 Salt Lake County Revenue Bond

Sinking Fund.

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

(2) The fund consists of:

(a) money transferred into the fund from the County of the First Class Highway Projects Fund in accordance with Subsection ~~[72-2-121(4)(e)]~~ 72-2-121(4)(d); and

(b) for a fiscal year beginning on or after July 1, 2013, money transferred into the fund from the Transportation Investment Fund of 2005 in accordance with Subsection 72-2-124(4)(a)(iv).

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

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

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

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

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

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

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

(d) Except as provided in Subsection (4)(b), and until the bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4 are paid off, the

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director of the Division of Finance shall, upon request from Salt Lake County, transfer to Salt Lake County or its designee from the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County as necessary to pay:

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

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

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

Section 8. Section 72-2-121.4 is amended to read:

72-2-121.4. 2010 interlocal agreement governing state highway projects in Salt Lake County.

(1) Under the direction of the attorney general, the state of Utah and Salt Lake County may enter into an interlocal agreement that includes, at minimum, the provisions specified in this section.

(2) The attorney general shall ensure that, in the agreement, Salt Lake County covenants to:

(a) issue revenue bonds in an amount generating proceeds of at least \$77,000,000, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements, and secured by revenues received from the state of Utah under Section 72-2-121.3;

(b) transfer at least \$68,500,000 to the Department of Transportation to be used for state highway projects in Salt Lake County as provided in the interlocal agreement; and

(c) use or transfer to a municipality to use \$8,500,000 to pay all or part of the costs of the following highway construction projects in Salt Lake County in the following amounts:

(i) \$2,000,000 to Salt Lake County for 2300 East in Salt Lake County;

(ii) \$3,500,000 to Salt Lake City for North Temple;

(iii) \$1,500,000 to Murray City for 4800 South; and

(iv) \$1,500,000 to Riverton City for 13400 South -- 4000 West to 4570 West.

(3) The attorney general shall ensure that, in the agreement, the state of Utah covenants to:

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(a) use the money transferred by Salt Lake County under Subsection (2)(b) to pay all or part of the costs of the following state highway construction or reconstruction projects within Salt Lake County:

- (i) 5400 South -- Bangerter Highway to 4000 West;
 - (ii) Bangerter Highway at SR-201;
 - (iii) 12300 South at State Street;
 - (iv) Bangerter Highway at 6200 South;
 - (v) Bangerter Highway at 7000 South;
 - (vi) Bangerter Highway at 3100 South;
 - (vii) 5400 South -- 4000 West to past 4800 West;
 - (viii) 9400 South and Wasatch Boulevard; and
 - (ix) I-215 West Interchange -- 3500 South to 3800 South and ramp work;
- (b) widen and improve US-89 between 7200 South and 9000 South with available

highway funding identified by the commission; and

(c) transfer to Salt Lake County or its designee from the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County as necessary to pay:

- (i) the debt service on the revenue bonds issued by Salt Lake County; and
- (ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(4) The costs under Subsections (2)(c) and (3)(a) may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient to the facilities and all related engineering, architectural, and legal fees.

(5) In preparing the agreement required by this section, the attorney general and Salt Lake County shall:

(a) review each existing interlocal agreement with Salt Lake County concerning Salt Lake County revenues received by the state for state highway projects within Salt Lake County; and

(b) as necessary, modify those agreements or draft a new interlocal agreement encompassing all of the provisions necessary to reflect the state of Utah's and Salt Lake County's obligations for those revenues and projects.

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~~[(6) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,000,000 of the funds described in Subsection (2)(b) to Draper City to pay for highway improvements to 13490 South.]~~

~~[(7) If project savings are identified from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$3,000,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class Highway Projects Fund created by Section 72-2-121 to fund the following highway projects:]~~

~~[(a) \$2,000,000 to West Valley City to pay for highway improvements to SR-201 Frontage Road at Bangerter Highway and associated roads to ease traffic flow onto Bangerter Highway between SR-201 and Lake Park Boulevard; and]~~

~~[(b) \$1,000,000 to West Valley City for improvements to SR-201 Frontage Road at 7200 West.]~~

~~[(8) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,100,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class Highway Projects Fund created by Section 72-2-121 to West Jordan City for highway improvements on 4000 West from 7800 South to Old Bingham Highway.]~~

~~[(9) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,000,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class Highway Projects Fund created by Section 72-2-121 to Midvale City to fund the following highway projects:]~~

~~[(a) \$500,000 to Midvale City for improvements to Union Park Avenue from I-215 exit south to Creek Road and Wasatch Boulevard; and]~~

~~[(b) \$500,000 to Midvale City for improvements to 7200 South from I-15 to 700 West.]~~

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~~[(10)(a)(i) Before providing funds to a municipality or county under Subsections (7), (8), and (9), the Department of Transportation shall obtain from the municipality or county:]~~

~~[(A) a written certification signed by the county or city mayor or the mayor's designee certifying that the municipality or county will use the funds provided under Subsections (7), (8), and (9) solely for the projects described in Subsections (7), (8), and (9); and]~~

~~[(B) other documents necessary to protect the state and the bondholders and to ensure that all legal requirements are met.]~~

~~[(ii) Except as provided in Subsection (10)(b), by January 1 of each year, the municipality or county receiving funds described in Subsections (7), (8), and (9) shall submit to the Department of Transportation a statement of cash flow for the current fiscal year detailing the funds necessary to pay project costs for the projects described in Subsections (7), (8), and (9).]~~

~~[(iii) Except as provided in Subsection (10)(b), after receiving the statement required under Subsection (10)(a)(ii) and after July 1, the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs for the current fiscal year based upon the statement of cash flow submitted by the municipality or county.]~~

~~[(iv) Upon the financial close of each project described in Subsections (7), (8), and (9), the municipality or county receiving funds under Subsections (7), (8), and (9) shall submit a statement to the Department of Transportation detailing the expenditure of funds received for each project.]~~

~~[(b) For calendar year 2012 only:]~~

~~[(i) the municipality or county shall submit to the Department of Transportation a statement of cash flow as provided in Subsection (10)(a)(ii) as soon as possible; and]~~

~~[(ii) the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs based upon the statement of cash flow.]~~

~~[(c) The commission or the state treasurer may make any statement of intent relating to a reimbursement under this Subsection (10) that is necessary or desirable to comply with federal tax law.]~~

Section ~~{5}9~~. 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

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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;

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

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; 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 only use fund money 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)~~ 72-2-121(4)(e);

(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;

(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

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in Section 72-2-121; and

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

- (A) mitigate traffic congestion on the state highway system;
- (B) are part of an active transportation plan approved by the department; and
- (C) are prioritized by the commission through the prioritization process for new

transportation capacity projects adopted under Section 72-1-304.

(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) Except as provided in Subsection (5)(b), the executive director may not use fund money, including fund money from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

- (i) may use fund money in accordance with Subsection (4)(a) for a limited-access facility;
- (ii) may not use fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;
- (iii) may use Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and
- (iv) may not use Transit Transportation Investment Fund money for the construction,

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reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund money, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may use fund money in accordance with Subsection (4)(a) for a limited-access facility;

(ii) may not use fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may use Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not use Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(7) (a) Before bonds authorized by Section 63B-18-401 ~~or~~ 63B-27-101 ~~or~~ ~~63B-30-101~~ may be issued 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(2) ~~or~~ Subsection

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~~63B-30-101(1)~~ 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.

(8) 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 ~~{f}~~ or ~~{j}~~, 63B-27-101 ~~{, or 63B-30-101}~~ in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

- (i) contributions deposited into the fund in accordance with Section 59-12-103;
- (ii) appropriations into the account by the Legislature;
- (iii) private contributions; and
- (iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

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

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

Section 10. Section 72-2-201 is amended to read:

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72-2-201. Definitions.

As used in this part:

(1) "Fund" means the State Infrastructure Bank Fund created under Section 72-2-202.

(2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects, including:

(a) capital reserves and other security for bond or debt instrument financing; or

(b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.

(3) "Infrastructure loan" means a loan of fund money to finance a transportation project.

(4) "Public entity" means a state agency, county, municipality, local district, special service district, an intergovernmental entity organized under state law, or the military installation development authority created in Section 63H-1-201.

(5) "Transportation project":

(a) means a project:

(i) to improve a state or local highway;

(ii) to improve a public transportation facility or nonmotorized transportation facility;

(iii) to construct or improve parking facilities [~~that support an intermodal regional transportation purpose~~]; or

(iv) that is subject to a transportation reinvestment zone agreement pursuant to Section 11-13-227 if the state is party to the agreement;

(b) includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing; and

(c) may only include a project if the project is part of:

(i) the statewide long range plan;

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

(iii) a local government general plan or economic development initiative.

Section 11. Section 72-2-203 is amended to read:

72-2-203. Loans and assistance -- Authority -- Rulemaking.

(1) Money in the fund may be used by the department, as prioritized by the commission

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or as directed by the Legislature, to make infrastructure loans or to provide infrastructure assistance to any public entity for any purpose consistent with any applicable constitutional limitation.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing procedures and standards for making infrastructure loans and providing infrastructure assistance and a process for prioritization of requests for loans and assistance.

(3) The prioritization process, procedures, and standards for making an infrastructure loan or providing infrastructure assistance may include consideration of the following:

(a) availability of money in the fund;

(b) credit worthiness of the project;

(c) demonstration that the project will encourage, enhance, or create economic benefits to the state or political subdivision;

(d) likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible;

(e) the extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment;

(f) demonstration that the project provides a benefit to the state highway system, including safety or mobility improvements;

(g) the amount of proposed assistance as a percentage of the overall project costs with emphasis on local and private participation;

(h) demonstration that the project provides intermodal connectivity with public transportation, pedestrian, or nonmotorized transportation facilities; and

(i) other provisions the commission considers appropriate.

Section 12. Section 72-2-204 is amended to read:

72-2-204. Loan program procedures -- Repayment.

(1) A public entity may obtain an infrastructure loan from the department, upon approval by the commission, by entering into a loan contract with the department secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source controlled by the public entity to the repayment of the loan.

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(2) A loan or assistance from the fund shall bear interest at [or] a rate not to exceed .5% above bond market interest rates available to the state.

(3) A loan shall be repaid no later than [10] 15 years from the date the department issues the loan to the borrower, with repayment commencing no later than:

(a) when the project is completed; or

(b) in the case of a highway project, when the facility has opened to traffic.

(4) The public entity shall repay the infrastructure loan in accordance with the loan contract from any of the following sources:

(a) transportation project revenues, including special assessment revenues;

(b) general funds of the public entity;

(c) money withheld under Subsection (7); or

(d) any other legally available revenues.

(5) An infrastructure loan contract with a public entity may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.

(6) Before obtaining an infrastructure loan, a county or municipality shall:

(a) publish its intention to obtain an infrastructure loan at least once in accordance with the publication of notice requirements under Section 11-14-316; and

(b) adopt an ordinance or resolution authorizing the infrastructure loan.

(7) (a) If a public entity fails to comply with the terms of its infrastructure loan contract, the department may seek any legal or equitable remedy to obtain compliance or payment of damages.

(b) If a public entity fails to make infrastructure loan payments when due, the state shall, at the request of the department, withhold an amount of money due to the public entity and deposit the withheld money in the fund to pay the amounts due under the contract.

(c) The department may elect when to request the withholding of money under this Subsection (7).

(8) All loan contracts, bonds, notes, or other evidence of indebtedness securing the loan contracts shall be held, collected, and accounted for in accordance with Section 63B-1b-202.