

1 **TRANSPORTATION CORRIDOR**

2 **PRESERVATION ACT**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Marda Dillree**

6 AN ACT RELATING TO TRANSPORTATION; PROVIDING DEFINITIONS; PROVIDING
7 TRANSPORTATION CORRIDOR PRESERVATION POWERS; AMENDING OFFICIAL MAP
8 AND GENERAL PLAN PROVISIONS; AND PROVIDING RULEMAKING.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **10-9-103**, as last amended by Chapter 291, Laws of Utah 1999

12 **10-9-301**, as last amended by Chapters 23 and 93, Laws of Utah 1992

13 **10-9-306**, as enacted by Chapter 23, Laws of Utah 1992

14 **17-27-103**, as last amended by Chapters 139 and 291, Laws of Utah 1999

15 **17-27-301**, as last amended by Chapter 257, Laws of Utah 1994

16 **17-27-306**, as enacted by Chapter 23, Laws of Utah 1992

17 **72-2-117**, as last amended by Chapter 286, Laws of Utah 1999

18 **72-5-111**, as renumbered and amended by Chapter 270, Laws of Utah 1998

19 ENACTS:

20 **72-5-401**, Utah Code Annotated 1953

21 **72-5-402**, Utah Code Annotated 1953

22 **72-5-403**, Utah Code Annotated 1953

23 **72-5-404**, Utah Code Annotated 1953

24 **72-5-405**, Utah Code Annotated 1953

25 **72-5-406**, Utah Code Annotated 1953

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

27 Section 1. Section **10-9-103** is amended to read:

HB0165

28 **10-9-103. Definitions -- Notice.**

29 (1) As used in this chapter:

30 (a) "Billboard" means a freestanding ground sign located on industrial, commercial, or
31 residential property if the sign is designed or intended to direct attention to a business, product, or
32 service that is not sold, offered, or existing on the property where the sign is located.

33 (b) "Chief executive officer" means:

34 (i) the mayor in municipalities operating under all forms of municipal government except
35 the council-manager form; or

36 (ii) the city manager in municipalities operating under the council-manager form of
37 municipal government.

38 (c) "Conditional use" means a land use that, because of its unique characteristics or
39 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
40 compatible in some areas or may be compatible only if certain conditions are required that mitigate
41 or eliminate the detrimental impacts.

42 (d) "Constitutional taking" has the meaning as defined in Section 63-34-13.

43 (e) "County" means the unincorporated area of the county.

44 (f) "Elderly person" means a person who is 60 years old or older, who desires or needs to
45 live with other elderly persons in a group setting, but who is capable of living independently.

46 (g) (i) "General plan" means a document that a municipality adopts that sets forth general
47 guidelines for proposed future development of the land within the municipality, as set forth in
48 Sections 10-9-301 and 10-9-302.

49 (ii) "General plan" includes what is also commonly referred to as a "master plan."

50 (h) "Legislative body" means the city council or city commission.

51 (i) "Lot line adjustment" in a subdivision means the relocation of the property boundary
52 line between two adjoining lots with the consent of the owners of record.

53 (j) "Municipality" means a city or town.

54 (k) "Nonconforming structure" means a structure that:

55 (i) legally existed before its current zoning designation; and

56 (ii) because of subsequent zoning changes, does not conform with the zoning regulation's
57 setback, height restrictions, or other regulations that govern the structure.

58 (l) "Nonconforming use" means a use of land that:

- 59 (i) legally existed before its current zoning designation;
- 60 (ii) has been maintained continuously since the time the zoning regulation governing the
61 land changed; and
- 62 (iii) because of subsequent zoning changes, does not conform with the zoning regulations
63 that now govern the land.
- 64 (m) "Official map" [~~means a map of proposed streets that has the legal effect of prohibiting~~
65 ~~development of the property until the municipality develops the proposed street~~] has the same
66 meaning as provided in Section 72-5-401.
- 67 (n) (i) "Residential facility for elderly persons" means a single-family or multiple-family
68 dwelling unit that meets the requirements of Part 5 and any ordinance adopted under authority of
69 that part.
- 70 (ii) "Residential facility for elderly persons" does not include a health care facility as
71 defined by Section 26-21-2.
- 72 (o) "Special district" means all entities established under the authority of Title 17A,
73 Special Districts, and any other governmental or quasi-governmental entity that is not a county,
74 municipality, school district, or unit of the state.
- 75 (p) "Street" means public rights-of-way, including highways, avenues, boulevards,
76 parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and
77 other ways.
- 78 (q) (i) "Subdivision" means any land that is divided, resubdivided or proposed to be
79 divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose,
80 whether immediate or future, for offer, sale, lease, or development either on the installment plan
81 or upon any and all other plans, terms, and conditions.
- 82 (ii) "Subdivision" includes:
- 83 (A) the division or development of land whether by deed, metes and bounds description,
84 devise and testacy, lease, map, plat, or other recorded instrument; and
- 85 (B) except as provided in Subsection (1)(q)(iii), divisions of land for all residential and
86 nonresidential uses, including land used or to be used for commercial, agricultural, and industrial
87 purposes.
- 88 (iii) "Subdivision" does not include:
- 89 (A) a bona fide division or partition of agricultural land for the purpose of joining one of

90 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither
91 the resulting combined parcel nor the parcel remaining from the division or partition violates an
92 applicable zoning ordinance;

93 (B) a recorded agreement between owners of adjoining properties adjusting their mutual
94 boundary if:

95 (I) no new lot is created; and

96 (II) the adjustment does not result in a violation of applicable zoning ordinances; or

97 (C) a recorded document, executed by the owner of record, revising the legal description
98 of more than one contiguous parcel of property into one legal description encompassing all such
99 parcels of property.

100 (iv) The joining of a subdivided parcel of property to another parcel of property that has
101 not been subdivided does not constitute a "subdivision" under this Subsection (1)(q) as to the
102 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
103 subdivision ordinance.

104 (r) "Unincorporated" means the area outside of the incorporated boundaries of cities and
105 towns.

106 (2) (a) A municipality meets the requirements of reasonable notice required by this chapter
107 if it:

108 (i) posts notice of the hearing or meeting in at least three public places within the
109 jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation
110 in the jurisdiction, if one is available; or

111 (ii) gives actual notice of the hearing or meeting.

112 (b) A municipal legislative body may enact an ordinance establishing stricter notice
113 requirements than those required by this subsection.

114 (c) (i) Proof that one of the two forms of notice authorized by this subsection was given
115 is prima facie evidence that notice was properly given.

116 (ii) If notice given under authority of this section is not challenged as provided in Section
117 10-9-1001 within 30 days from the date of the meeting for which the notice was given, the notice
118 is considered adequate and proper.

119 Section 2. Section **10-9-301** is amended to read:

120 **10-9-301. General plan.**

121 (1) In order to accomplish the purposes set forth in this chapter, each municipality shall
 122 prepare and adopt a comprehensive, long-range general plan for:

123 (a) present and future needs of the municipality; and

124 (b) growth and development of the land within the municipality or any part of the
 125 municipality.

126 (2) The plan may provide for:

127 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
 128 activities, aesthetics, and recreational, educational, and cultural opportunities;

129 (b) the reduction of the waste of physical, financial, or human resources that result from
 130 either excessive congestion or excessive scattering of population;

131 (c) the efficient and economical use, conservation, and production of the supply of:

132 (i) food and water; and

133 (ii) drainage, sanitary, and other facilities and resources;

134 (d) the use of energy conservation and solar and renewable energy resources;

135 (e) the protection of urban development; [~~and~~]

136 (f) the protection and promotion of air quality[-]; and

137 (g) an official map, pursuant to Title 72, Chapter 5, Part 4, Transportation Corridor

138 Preservation.

139 (3) The municipality may determine the comprehensiveness, extent, and format of the
 140 general plan.

141 Section 3. Section **10-9-306** is amended to read:

142 **10-9-306. Effect of official maps.**

143 (1) Municipalities may [~~not~~] adopt an official map [~~under this chapter~~] in accordance with
 144 the provisions of Title 72, Chapter 5, Part 4, Transportation Corridor Preservation.

145 (2) (a) An official map [~~adopted under the previous enabling statute~~] does not:

146 (i) require a landowner to dedicate and construct a street as a condition of development
 147 approval, except under circumstances provided in Subsection (b)(iii); or

148 (ii) require a municipality to immediately acquire property it has designated for eventual
 149 use as a public street.

150 (b) This section does not prohibit a municipality from:

151 (i) requiring a landowner to take into account the proposed streets in the planning of a

152 development proposal;

153 (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent domain;

154 or

155 (iii) requiring the dedication and improvement of a street if the street is found necessary

156 by the municipality because of a proposed development.

157 (3) An official map may not be used to unconstitutionally prohibit the development of

158 property designated for eventual use as a public street.

159 Section 4. Section **17-27-103** is amended to read:

160 **17-27-103. Definitions -- Notice.**

161 (1) As used in this chapter:

162 (a) "Billboard" means a freestanding ground sign located on industrial, commercial, or

163 residential property if the sign is designed or intended to direct attention to a business, product, or

164 service that is not sold, offered, or existing on the property where the sign is located.

165 (b) "Chief executive officer" means the county executive, or if the county has adopted an

166 alternative form of government, the official who exercises the executive powers.

167 (c) "Conditional use" means a land use that, because of its unique characteristics or

168 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be

169 compatible in some areas or may be compatible only if certain conditions are required that mitigate

170 or eliminate the detrimental impacts.

171 (d) "Constitutional taking" has the meaning as defined in Section 63-34-13.

172 (e) "County" means the unincorporated area of the county.

173 (f) "Elderly person" means a person who is 60 years old or older, who desires or needs to

174 live with other elderly persons in a group setting, but who is capable of living independently.

175 (g) "Gas corporation" has the same meaning as defined in Section 54-2-1.

176 (h) (i) "General plan" means a document that a county adopts that sets forth general

177 guidelines for proposed future development of the land within the county, as set forth in Sections

178 17-27-301 and 17-27-302.

179 (ii) "General plan" includes what is also commonly referred to as a "master plan."

180 (i) "Interstate pipeline company" means a person or entity engaged in natural gas

181 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the

182 Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

183 (j) "Intrastate pipeline company" means a person or entity engaged in natural gas
184 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission
185 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

186 (k) "Legislative body" means the county legislative body, or for a county that has adopted
187 an alternative form of government, the body exercising legislative powers.

188 (l) "Lot line adjustment" means the relocation of the property boundary line between two
189 adjoining lots with the consent of the owners of record.

190 (m) "Municipality" means a city or town.

191 (n) "Nonconforming structure" means a structure that:

192 (i) legally existed before its current zoning designation; and

193 (ii) because of subsequent zoning changes, does not conform with the zoning regulation's
194 setback, height restrictions, or other regulations that govern the structure.

195 (o) "Nonconforming use" means a use of land that:

196 (i) legally existed before its current zoning designation;

197 (ii) has been maintained continuously since the time the zoning regulation governing the
198 land changed; and

199 (iii) because of subsequent zoning changes, does not conform with the zoning regulations
200 that now govern the land.

201 (p) "Official map" [~~means a map of proposed streets that has the legal effect of prohibiting~~
202 ~~development of the property until the county develops the proposed street~~] has the same meaning
203 as provided in Section 72-5-401.

204 (q) (i) "Residential facility for elderly persons" means a single-family or multiple-family
205 dwelling unit that meets the requirements of Part 5 and any ordinance adopted under authority of
206 that part.

207 (ii) "Residential facility for elderly persons" does not include a health care facility as
208 defined by Section 26-21-2.

209 (r) "Special district" means all entities established under the authority of Title 17A, Special
210 Districts, and any other governmental or quasi-governmental entity that is not a county,
211 municipality, school district, or unit of the state.

212 (s) "Street" means public rights-of-way, including highways, avenues, boulevards,
213 parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and

214 other ways.

215 (t) (i) "Subdivision" means any land that is divided, resubdivided or proposed to be divided
216 into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether
217 immediate or future, for offer, sale, lease, or development either on the installment plan or upon
218 any and all other plans, terms, and conditions.

219 (ii) "Subdivision" includes the division or development of land whether by deed, metes
220 and bounds description, devise and testacy, lease, map, plat, or other recorded instrument.

221 (iii) "Subdivision" does not include:

222 (A) a bona fide division or partition of agricultural land for agricultural purposes;

223 (B) a recorded agreement between owners of adjoining properties adjusting their mutual
224 boundary if:

225 (I) no new lot is created; and

226 (II) the adjustment does not result in a violation of applicable zoning ordinances;

227 (C) a recorded document, executed by the owner of record, revising the legal description
228 of more than one contiguous parcel of property into one legal description encompassing all such
229 parcels of property; or

230 (D) a bona fide division or partition of land in a county other than a first class county for
231 the purpose of siting, on one or more of the resulting separate parcels, an unmanned facility
232 appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or
233 intrastate pipeline company.

234 (iv) The joining of a subdivided parcel of property to another parcel of property that has
235 not been subdivided does not constitute a "subdivision" under this Subsection (1)(t) as to the
236 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
237 ordinance.

238 (u) "Unincorporated" means the area outside of the incorporated boundaries of cities and
239 towns.

240 (2) (a) A county meets the requirements of reasonable notice required by this chapter if
241 it:

242 (i) posts notice of the hearing or meeting in at least three public places within the
243 jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation
244 in the jurisdiction, if one is available; or

245 (ii) gives actual notice of the hearing or meeting.

246 (b) A county legislative body may enact an ordinance establishing stricter notice
247 requirements than those required by this Subsection (2).

248 (c) (i) Proof that one of the two forms of notice authorized by this subsection was given
249 is prima facie evidence that notice was properly given.

250 (ii) If notice given under authority of this section is not challenged as provided in Section
251 17-27-1001 within 30 days from the date of the meeting for which the notice was given, the notice
252 is considered adequate and proper.

253 Section 5. Section **17-27-301** is amended to read:

254 **17-27-301. General plan.**

255 (1) In order to accomplish the purposes set forth in this chapter, each county shall prepare
256 and adopt a comprehensive general plan for:

257 (a) the present and future needs of the county; and

258 (b) the growth and development of the land within the county or any part of the county,
259 including uses of land for urbanization, trade, industry, residential, agricultural, wildlife habitat,
260 and other purposes.

261 (2) The plan may provide for:

262 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
263 activities, aesthetics, and recreational, educational, and cultural opportunities;

264 (b) the reduction of the waste of physical, financial, or human resources that result from
265 either excessive congestion or excessive scattering of population;

266 (c) the efficient and economical use, conservation, and production of the supply of:

267 (i) food and water; and

268 (ii) drainage, sanitary, and other facilities and resources;

269 (d) the use of energy conservation and solar and renewable energy resources;

270 (e) the protection of urban development; [and]

271 (f) the protection and promotion of air quality[-]; and

272 (g) an official map, pursuant to Title 72, Chapter 5, Part 4, Transportation Corridor
273 Preservation.

274 (3) The plan may define the county's local customs, local culture, and the components
275 necessary for the county's economic stability.

276 (4) The county may determine the comprehensiveness, extent, and format of the general
277 plan.

278 Section 6. Section **17-27-306** is amended to read:

279 **17-27-306. Effect of official maps.**

280 (1) Counties may [not] adopt an official map [~~under this chapter~~] in accordance with the
281 provisions of Title 72, Chapter 5, Part 4, Transportation Corridor Preservation.

282 (2) (a) An official map [~~adopted under the previous enabling statute~~] does not:

283 (i) require a landowner to dedicate and construct a street as a condition of development
284 approval, except under circumstances provided in Subsection (b)(iii); or

285 (ii) require a county to immediately acquire property it has designated for eventual use as
286 a public street.

287 (b) This section does not prohibit a county from:

288 (i) requiring a landowner to take into account the proposed streets in the planning of a
289 development proposal;

290 (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent domain;
291 or

292 (iii) requiring the dedication and improvement of a street if the street is found necessary
293 by the county because of a proposed development.

294 (3) An official map may not be used to unconstitutionally prohibit the development of
295 property designated for eventual use as a public street.

296 Section 7. Section **72-2-117** is amended to read:

297 **72-2-117. Transportation Corridor Preservation Revolving Loan Fund --**
298 **Distribution -- Repayment -- Rulemaking.**

299 (1) There is created the Transportation Corridor Preservation Revolving Loan Fund within
300 the Transportation Fund.

301 (2) The fund shall be funded from the following sources:

302 (a) motor vehicle rental tax imposed under Section 59-12-1201;

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

304 (c) contributions from other public and private sources for deposit into the fund;

305 (d) interest earnings on cash balances;

306 (e) all monies collected for repayments and interest on fund monies;

307 (f) all monies collected from rents and sales of real property acquired with fund monies;
308 and

309 (g) proceeds from revenue bonds or other obligations issued in accordance with Title 63,
310 Chapter 9a, State Building Ownership, and Title 63B, Bonds.

311 (3) All monies appropriated to the Transportation Corridor Preservation Revolving Loan
312 Fund are nonlapsing.

313 (4) (a) The commission shall authorize the expenditure of fund monies to allow the
314 department to acquire real property or any interests in real property for state, county, and municipal
315 transportation corridors subject to:

- 316 (i) monies available in the fund;
- 317 (ii) rules made under Subsection (7); and
- 318 (iii) Subsection (9).

319 (b) Fund monies may be used to pay interest on debts incurred in accordance with this
320 section.

321 (5) Administrative costs of the Transportation Corridor Preservation Revolving Loan Fund
322 shall be paid from the fund.

323 (6) The department:

324 (a) may apply to the commission under this section for monies from the Transportation
325 Corridor Preservation Revolving Loan Fund for a specified transportation corridor project,
326 including for county and municipal projects; and

327 (b) shall repay the fund monies authorized for the project to the fund as required under
328 Subsection (7).

329 (7) The commission shall:

330 (a) administer the Transportation Corridor Preservation Revolving Loan Fund to preserve
331 transportation corridors, promote long-term statewide transportation planning, save on acquisition
332 costs, and promote the best interests of the state in a manner which minimizes impact on prime
333 agricultural land;

334 (b) prioritize fund monies based on considerations, including:

- 335 (i) areas with rapidly expanding population;
- 336 (ii) the willingness of local governments to complete studies and impact statements that
337 meet department standards;

338 (iii) the preservation of corridors by the use of local planning and zoning processes; and
339 (iv) the availability of other public and private matching funds for a project; and
340 (c) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
341 Act, establishing [~~the~~]:

- 342 (i) the procedures for the awarding of fund monies;
- 343 (ii) the procedures for the department to apply for transportation corridor preservation
344 monies for projects; [~~and~~]
- 345 (iii) repayment conditions of the monies to the fund from the specified project funds[-];
346 and
- 347 (iv) an advisory council to assist with and help coordinate the corridor preservation efforts
348 of the department and local governments and to provide recommendations and priorities
349 concerning corridor preservation and the use of fund monies to the department and to the
350 commission.

351 (8) (a) The proceeds from the revenue bonds or other obligations issued on revenues of
352 the Transportation Corridor Preservation Revolving Loan Fund shall be used for:

- 353 (i) the acquisition of real property in hardship cases; and
- 354 (ii) any of the purposes authorized for funds in the Transportation Corridor Preservation
355 Revolving Loan Fund under this section.

356 (b) The commission shall pledge the necessary part of the revenues of the Transportation
357 Corridor Preservation Revolving Loan Fund to the payment of principal of and interest on the
358 revenue bonds or other obligations.

359 (9) (a) The department may not apply for monies under this section for a highway authority
360 that does not have an access management policy or ordinance in effect that meets the requirements
361 under Subsection (9)(b).

362 (b) The access management policy or ordinance shall:

363 (i) be for the purpose of balancing the need for reasonable access to land uses with the
364 need to preserve the smooth flow of traffic on the highway system in terms of safety, capacity, and
365 speed; and

366 (ii) include provisions:

- 367 (A) limiting the number of conflict points at driveway locations;
- 368 (B) separating conflict areas;

- 369 (C) reducing the interference of through traffic;
 370 (D) spacing at-grade signalized intersections; and
 371 (E) providing for adequate on-site circulation and storage.
 372 (c) The department shall develop a model access management policy or ordinance that
 373 meets the requirements of this Subsection (9) for the benefit of a county or municipality under this
 374 section.

375 Section 8. Section **72-5-111** is amended to read:

376 **72-5-111. Disposal of real property.**

377 (1) (a) If the department determines that any real property or interest in real property,
 378 acquired for a highway purpose, is no longer necessary for the purpose, the department may lease,
 379 sell, exchange, or otherwise dispose of the real property or interest in the real property.

380 (b) (i) Real property may be sold at private or public sale [~~and the~~].

381 (ii) The proceeds of [the] any sale shall be [turned over to] deposited with the state
 382 treasurer and credited to the Transportation Fund.

383 (2) In the disposition of land at any private sale, first consideration [may] shall be given
 384 to the original grantor or his successor-in-interest.

385 (3) (a) Any sale, exchange, or disposal of real property or interest in real property made
 386 by the department [~~pursuant to~~] under this section, is exempt from the mineral reservation
 387 provisions of Title 65A, Chapter 6, Mineral Leases[~~, and any~~].

388 (b) Any deed made and delivered by the department [~~pursuant to~~] under this section
 389 without specific reservations in the deed is a conveyance of all the state's right, title, and interest
 390 in the real property or interest in the real property.

391 Section 9. Section **72-5-401** is enacted to read:

392 **Part 4. Transportation Corridor Preservation**

393 **72-5-401. Definitions.**

394 As used in this part:

395 (1) "Corridor" means the path or proposed path of a transportation facility that exists or
 396 that may exist in the future. A corridor may include the land occupied or to be occupied by a
 397 transportation facility, and any other land that may be needed for expanding a transportation
 398 facility or for controlling access to it.

399 (2) "Corridor preservation" means planning or acquisition processes intended to:

400 (a) protect or enhance the capacity of existing corridors; and
401 (b) protect the availability of proposed corridors in advance of the need for and the actual
402 commencement of the transportation facility construction.

403 (3) "Development" means:

404 (a) the subdividing of land;

405 (b) the construction of improvements, expansions, or additions; or

406 (c) any other action that will appreciably increase the value of and the future acquisition
407 cost of land.

408 (4) "Official map" means a map, drawn by government authorities and usually recorded
409 in county recording offices that:

410 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
411 highways and other transportation facilities;

412 (b) provides a basis for restricting development in designated rights-of-way or between
413 designated setbacks to allow the government authorities time to purchase or otherwise reserve the
414 land; and

415 (c) for counties and municipalities may be adopted as an element of the general plan,
416 pursuant to Title 17, Chapter 27, Part 3, General Plan, or Title 10, Chapter 9, Part 3, General Plan.

417 (5) "Taking" means an act or regulation, either by exercise of eminent domain or other
418 police power, whereby government puts private property to public use or restrains use of private
419 property for public purposes, and that requires compensation to be paid to private property owners.

420 Section 10. Section **72-5-402** is enacted to read:

421 **72-5-402. Public purpose.**

422 The Legislature finds and declares that the planning and preservation of transportation
423 corridors is a public purpose, that the acquisition of public rights in private property for possible
424 use as a transportation corridor up to 25 years in advance is a public purpose, and that acquisition
425 of public rights in private property for possible use as alternative transportation corridors is a
426 public purpose, even if one or more of the transportation corridors is eventually not used for a
427 public purpose, so long as reasonable evidence exists at the time of acquisition that the corridor
428 will be developed within 25 years.

429 Section 11. Section **72-5-403** is enacted to read:

430 **72-5-403. Transportation corridor preservation powers.**

- 431 (1) The department, counties, and municipalities may:
432 (a) act in cooperation with one another and other government entities to promote planning
433 for and enhance the preservation of transportation corridors and to more effectively use the monies
434 available in the Transportation Corridor Preservation Revolving Loan Fund created in Section
435 72-2-117;
436 (b) undertake transportation corridor planning, review, and preservation processes;
437 (c) acquire fee simple rights and other rights of less than fee simple, including easement
438 and development rights, or the rights to limit development, including rights in alternative
439 transportation corridors, and to make these acquisitions up to 25 years in advance of using those
440 rights in actual transportation facility construction; and
441 (d) by rule or ordinance prescribe procedures for approving limited development in
442 transportation corridors until the time transportation facility construction begins.
443 (2) In addition to the powers described under Subsection (1), counties and municipalities
444 may limit development for transportation corridor preservation by land use regulation and by
445 official maps.

446 Section 12. Section **72-5-404** is enacted to read:

447 **72-5-404. Disposition of excess property rights.**

448 If the department has acquired property rights in land in proposed transportation corridors,
449 and some or all of that land is eventually not used for the proposed transportation corridors, the
450 department shall dispose of the rights in accordance with the provisions of Section 72-5-111.

451 Section 13. Section **72-5-405** is enacted to read:

452 **72-5-405. Private owner rights.**

453 (1) The department, counties, and municipalities shall observe all protections conferred
454 on private property rights, including Title 63, Chapter 90, Private Property Protection Act, Title
455 63, Chapter 90a, Constitutional Taking Issues, and compensation for takings.

456 (2) Private property owners from whom less than fee simple rights are obtained for
457 transportation corridors or transportation corridor preservation have the right to petition the
458 department, a county, or a municipality to acquire the entire fee simple interest in the affected
459 property.

460 Section 14. Section **72-5-406** is enacted to read:

461 **72-5-406. Rulemaking.**

462 In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
463 department shall make rules providing for private property owner petition procedures described
464 in Section 72-5-405.

Legislative Review Note
as of 11-17-99 4:51 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Transportation Interim Committee recommended this bill.