

1 **LOCAL OPTION TRANSPORTATION**
2 **CORRIDOR PRESERVATION FUND**
3 **AMENDMENTS**

4 2009 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Ralph Okerlund**

7 House Sponsor: Brad L. Dee

8
9 **LONG TITLE**

10 **General Description:**

11 This bill modifies the Transportation Finances Act by amending provisions relating to
12 the Local Option Transportation Corridor Preservation Fund.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ provides that monies in the Local Option Transportation Corridor Preservation
16 Fund shall earn interest and that all interest earned on fund monies shall be
17 deposited into the fund;

18 ▶ requires the Department of Transportation to annually allocate the interest earned
19 on fund monies to each county based on the proportionate amount of interest
20 earned on each county's allocation of funds on an average monthly balance basis;

21 ▶ provides that the initial allocation of fund interest shall include all interest earned
22 on fund monies since the creation of the fund; and

23 ▶ makes technical changes.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 72-2-117.5, as last amended by Laws of Utah 2008, Chapter 286



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section 72-2-117.5 is amended to read:

34 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

35 (1) As used in this section:

36 (a) "Council of governments" means a decision-making body in each county
37 composed of the county governing body and the mayors of each municipality in the county.

38 (b) "Metropolitan planning organization" has the same meaning as defined in Section
39 72-1-208.5.

40 (2) There is created the Local Transportation Corridor Preservation Fund within the
41 Transportation Fund.

42 (3) The fund shall be funded from the following sources:

43 (a) a local option highway construction and transportation corridor preservation fee
44 imposed under Section 41-1a-1222;

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

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

47 [~~(d)~~ interest earnings on cash balances;]

48 [~~(e)~~ (d) all monies collected from rents and sales of real property acquired with fund
49 monies;

50 [~~(f)~~ (e) proceeds from general obligation bonds, revenue bonds, or other obligations
51 issued as authorized by Title 63B, Bonds;

52 [~~(g)~~ (f) the portion of the sales and use tax described in Subsection
53 59-12-1703(4)(a)(ii) and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the
54 fund; and

55 [~~(h)~~ (g) sales and use tax revenues required by Section 59-12-1903 to be deposited
56 into the fund.

57 (4) (a) The fund shall earn interest.

58 (b) All interest earned on fund monies shall be deposited into the fund.
59 ~~[(4)-(a)]~~ (c) All monies appropriated to the Local Transportation Corridor Preservation
60 Fund are nonlapsing.
61 ~~[(b)]~~ (d) The State Tax Commission shall provide the department with sufficient data
62 for the department to allocate the revenues:
63 (i) provided under Subsection (3)(a) to each county imposing a local option highway
64 construction and transportation corridor preservation fee under Section 41-1a-1222;
65 (ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county
66 option sales and use tax for transportation; and
67 (iii) provided under Subsection (3)~~[(h)]~~ (g) to each county of the second class
68 imposing the sales and use tax authorized by Section 59-12-1903.
69 (e) (i) The department shall annually allocate the interest earned on fund monies to
70 each county based on the proportionate amount of interest earned on each county's allocation
71 of funds under Subsection (4)(d) on an average monthly balance basis.
72 (ii) The initial annual allocation of fund interest shall include all interest earned on
73 fund monies since the creation of the fund.
74 ~~[(e)]~~ (f) The monies allocated under Subsection (4)~~[(b)]~~(d):
75 (i) shall be used for the purposes provided in this section for each county; and
76 (ii) are allocated to each county as provided in this section:
77 (A) with the condition that the state will not be charged for any asset purchased with
78 the monies allocated under ~~[Subsection]~~ Subsections (4)~~[(b)]~~(d) and (e); and
79 (B) are considered a local matching contribution for the purposes described under
80 Section 72-2-123 if used on a state highway.
81 ~~[(d)]~~ (g) Administrative costs of the department to implement this section shall be paid
82 from the fund.
83 (5) (a) The department shall authorize the expenditure of fund monies to allow a
84 highway authority to acquire real property or any interests in real property for state, county,
85 and municipal highway corridors subject to:

86 (i) monies available in the fund to each county under [~~Subsection~~] Subsections
87 (4)(b)(d) and (e); and

88 (ii) the provisions of this section.

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

91 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired
92 under this section but limited to a total of 5% of the purchase price of the property.

93 (B) Any additional maintenance cost shall be paid from funds other than under this
94 section.

95 (C) Revenue generated by any property acquired under this section is excluded from
96 the limitations under this Subsection (5)(c)(i).

97 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired
98 under this section.

99 (d) Fund monies allocated under [~~Subsection~~] Subsections (4)(b)(d) and (e) may be
100 used by a county highway authority for countywide transportation planning if:

101 (i) the county is not included in a metropolitan planning organization;

102 (ii) the transportation planning is part of the county's continuing, cooperative, and
103 comprehensive process for transportation planning, corridor preservation, right-of-way
104 acquisition, and project programming;

105 (iii) no more than four years allocation every 20 years to each county is used for
106 transportation planning under this Subsection (5)(d); and

107 (iv) the county otherwise qualifies to use the fund monies as provided under this
108 section.

109 (e) (i) Fund monies allocated under [~~Subsection~~] Subsections (4)(b)(d) and (e) may
110 be used by a county highway authority for transportation corridor planning that is part of the
111 corridor elements of an ongoing work program of transportation projects.

112 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
113 direction of:

114 (A) the metropolitan planning organization if the county is within the boundaries of a
115 metropolitan planning organization; or

116 (B) the department if the county is not within the boundaries of a metropolitan
117 planning organization.

118 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to
119 preserve highway corridors, promote long-term statewide transportation planning, save on
120 acquisition costs, and promote the best interests of the state in a manner which minimizes
121 impact on prime agricultural land.

122 (ii) The Local Transportation Corridor Preservation Fund shall only be used to
123 preserve a highway corridor that is right-of-way:

124 (A) in a county of the first or second class for a:

125 (I) state highway;

126 (II) a principal arterial highway as defined in Section 72-4-102.5;

127 (III) a minor arterial highway as defined in Section 72-4-102.5; or

128 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

129 (B) in a county of the third, fourth, fifth, or sixth class for a:

130 (I) state highway;

131 (II) a principal arterial highway as defined in Section 72-4-102.5;

132 (III) a minor arterial highway as defined in Section 72-4-102.5;

133 (IV) a major collector highway as defined in Section 72-4-102.5; or

134 (V) a minor collector road as defined in Section 72-4-102.5.

135 (iii) The Local Transportation Corridor Preservation Fund may not be used for a
136 highway corridor that is primarily a recreational trail as defined under Section 63-11a-101.

137 (b) (i) The department shall develop and implement a program to educate highway
138 authorities on the objectives, application process, use, and responsibilities of the Local
139 Transportation Corridor Preservation Fund as provided under this section to promote the most
140 efficient and effective use of fund monies including priority use on designated high priority
141 corridor preservation projects.

142 (ii) The department shall develop a model transportation corridor property acquisition
143 policy or ordinance that meets federal requirements for the benefit of a highway authority to
144 acquire real property or any interests in real property under this section.

145 (c) The department shall authorize the expenditure of fund monies after determining
146 that the expenditure is being made in accordance with this section from applications that are:

- 147 (i) made by a highway authority;
- 148 (ii) endorsed by the council of governments; and
- 149 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

150 (7) (a) (i) A council of governments shall establish a council of governments
151 endorsement process which includes prioritization and application procedures for use of the
152 monies allocated to each county under this section.

153 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
154 endorsement of the preservation project by the:

155 (A) metropolitan planning organization if the county is within the boundaries of a
156 metropolitan planning organization; or

157 (B) the department if the county is not within the boundaries of a metropolitan
158 planning organization.

159 (b) All fund monies shall be prioritized by each highway authority and council of
160 governments based on considerations, including:

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

164 (iii) the preservation of corridors by the use of local planning and zoning processes;

165 (iv) the availability of other public and private matching funds for a project;

166 (v) the cost-effectiveness of the preservation projects;

167 (vi) long and short-term maintenance costs for property acquired; and

168 (vii) whether the transportation corridor is included as part of:

169 (A) the county and municipal master plan; and

170 (B) (I) the statewide long range plan; or
171 (II) the regional transportation plan of the area metropolitan planning organization if
172 one exists for the area.

173 (c) The council of governments shall:
174 (i) establish a priority list of highway corridor preservation projects within the county;
175 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for
176 approval; and
177 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the
178 members of the county legislative body.

179 (d) A county's council of governments may only submit one priority list described in
180 Subsection (7)(c)(i) per calendar year.

181 (e) A county legislative body may only consider and approve one priority list
182 described in Subsection (7)(c)(i) per calendar year.

183 (8) (a) Unless otherwise provided by written agreement with another highway
184 authority, the highway authority that holds the deed to the property is responsible for
185 maintenance of the property.

186 (b) The transfer of ownership for property acquired under this section from one
187 highway authority to another shall include a recorded deed for the property and a written
188 agreement between the highway authorities.

189 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the
190 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for
191 funds under this section.

192 (b) The highway authority shall pledge the necessary part of the revenues of the Local
193 Transportation Corridor Preservation Fund to the payment of principal and interest on the
194 bonds or other obligations.

195 (10) (a) A highway authority may not apply for monies under this section to purchase
196 a right-of-way for a state highway unless the highway authority has:
197 (i) a transportation corridor property acquisition policy or ordinance in effect that

198 meets federal requirements for the acquisition of real property or any interests in real property
199 under this section; and

200 (ii) an access management policy or ordinance in effect that meets the requirements
201 under Subsection 72-2-117(9).

202 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a
203 written agreement with the department for the acquisition of real property or any interests in
204 real property under this section.