

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

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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 Fund  
16                                  shall earn interest and that all interest earned on fund monies shall be deposited into  
17                                  the fund;

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

21                                  ▶ makes technical changes.

22                                  **Monies Appropriated in this Bill:**

23                                  None

24                                  **Other Special Clauses:**

25                                  None

26                                  **Utah Code Sections Affected:**

27                                  AMENDS:



28 72-2-117.5, as last amended by Laws of Utah 2008, Chapter 286



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

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

32 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

33 (1) As used in this section:

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

36 (b) "Metropolitan planning organization" has the same meaning as defined in Section  
37 72-1-208.5.

38 (2) There is created the Local Transportation Corridor Preservation Fund within the  
39 Transportation Fund.

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

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

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

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

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

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

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

50 [~~(g)~~] (f) the portion of the sales and use tax described in Subsection  
51 59-12-1703(4)(a)(ii) and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the  
52 fund; and

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

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

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

57 [~~(4) (a)~~] (c) All monies appropriated to the Local Transportation Corridor Preservation  
58 Fund are nonlapsing.

59           ~~(b)~~ (d) The State Tax Commission shall provide the department with sufficient data  
60 for the department to allocate the revenues:

61           (i) provided under Subsection (3)(a) to each county imposing a local option highway  
62 construction and transportation corridor preservation fee under Section 41-1a-1222;

63           (ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county  
64 option sales and use tax for transportation; and

65           (iii) provided under Subsection (3)~~(h)~~ (g) to each county of the second class imposing  
66 the sales and use tax authorized by Section 59-12-1903.

67           (e) The department shall allocate the interest earned on fund monies to each county  
68 based on the proportionate amount of interest earned on each county's allocation of funds under  
69 Subsection (4)(d) on an average monthly balance basis.

70           ~~(e)~~ (f) The monies allocated under Subsection (4)~~(b)~~(d):

71           (i) shall be used for the purposes provided in this section for each county; and

72           (ii) are allocated to each county as provided in this section:

73           (A) with the condition that the state will not be charged for any asset purchased with  
74 the monies allocated under ~~Subsection~~ Subsections (4)~~(b)~~(d) and (e); and

75           (B) are considered a local matching contribution for the purposes described under  
76 Section 72-2-123 if used on a state highway.

77           ~~(d)~~ (g) Administrative costs of the department to implement this section shall be paid  
78 from the fund.

79           (5) (a) The department shall authorize the expenditure of fund monies to allow a  
80 highway authority to acquire real property or any interests in real property for state, county, and  
81 municipal highway corridors subject to:

82           (i) monies available in the fund to each county under ~~Subsection~~ Subsections  
83 (4)~~(b)~~(d) and (e); and

84           (ii) the provisions of this section.

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

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

89           (B) Any additional maintenance cost shall be paid from funds other than under this

90 section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 121 (I) state highway;
- 122 (II) a principal arterial highway as defined in Section 72-4-102.5;
- 123 (III) a minor arterial highway as defined in Section 72-4-102.5; or
- 124 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or
- 125 (B) in a county of the third, fourth, fifth, or sixth class for a:
  - 126 (I) state highway;
  - 127 (II) a principal arterial highway as defined in Section 72-4-102.5;
  - 128 (III) a minor arterial highway as defined in Section 72-4-102.5;
  - 129 (IV) a major collector highway as defined in Section 72-4-102.5; or
  - 130 (V) a minor collector road as defined in Section 72-4-102.5.
- 131 (iii) The Local Transportation Corridor Preservation Fund may not be used for a
- 132 highway corridor that is primarily a recreational trail as defined under Section 63-11a-101.
- 133 (b) (i) The department shall develop and implement a program to educate highway
- 134 authorities on the objectives, application process, use, and responsibilities of the Local
- 135 Transportation Corridor Preservation Fund as provided under this section to promote the most
- 136 efficient and effective use of fund monies including priority use on designated high priority
- 137 corridor preservation projects.
- 138 (ii) The department shall develop a model transportation corridor property acquisition
- 139 policy or ordinance that meets federal requirements for the benefit of a highway authority to
- 140 acquire real property or any interests in real property under this section.
- 141 (c) The department shall authorize the expenditure of fund monies after determining
- 142 that the expenditure is being made in accordance with this section from applications that are:
  - 143 (i) made by a highway authority;
  - 144 (ii) endorsed by the council of governments; and
  - 145 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).
- 146 (7) (a) (i) A council of governments shall establish a council of governments
- 147 endorsement process which includes prioritization and application procedures for use of the
- 148 monies allocated to each county under this section.
- 149 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
- 150 endorsement of the preservation project by the:
  - 151 (A) metropolitan planning organization if the county is within the boundaries of a

152 metropolitan planning organization; or

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

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

157 (i) areas with rapidly expanding population;

158 (ii) the willingness of local governments to complete studies and impact statements  
159 that meet department standards;

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

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

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

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

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

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

166 (B) (I) the statewide long range plan; or

167 (II) the regional transportation plan of the area metropolitan planning organization if  
168 one exists for the area.

169 (c) The council of governments shall:

170 (i) establish a priority list of highway corridor preservation projects within the county;

171 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for  
172 approval; and

173 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the  
174 members of the county legislative body.

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

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

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

182 (b) The transfer of ownership for property acquired under this section from one

183 highway authority to another shall include a recorded deed for the property and a written  
184 agreement between the highway authorities.

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

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

191 (10) (a) A highway authority may not apply for monies under this section to purchase a  
192 right-of-way for a state highway unless the highway authority has:

193 (i) a transportation corridor property acquisition policy or ordinance in effect that  
194 meets federal requirements for the acquisition of real property or any interests in real property  
195 under this section; and

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

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

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**Legislative Review Note**  
as of 1-30-09 2:17 PM

**Office of Legislative Research and General Counsel**