

1                   **LOCAL TRANSPORTATION CORRIDOR PRESERVATION**

2                                   **FUND AMENDMENTS**

3   2015 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Michael S. Kennedy**

6                                   Senate Sponsor: Kevin T. Van Tassell

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill modifies the Transportation Code by amending provisions relating to the Local  
11                   Transportation Corridor Preservation Fund.

12                   **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ provides that the expenditure of revenues from the Local Transportation Corridor  
15                   Preservation Fund shall be authorized and managed by the local highway authority  
16                   rather than the Department of Transportation;
- 17                   ▶ requires the State Tax Commission to allocate the revenues provided to each  
18                   county, city, or town imposing certain fees and taxes of funds;
- 19                   ▶ requires the Department of Transportation to distribute the funds allocated to each  
20                   county, city, or town;
- 21                   ▶ provides that a highway authority may not expend money to purchase a right-of-way  
22                   for a state highway unless the highway authority has a transportation corridor  
23                   property acquisition policy or ordinance in effect that meets Department of  
24                   Transportation requirements for the acquisition of real property or any interests in  
25                   real property except in certain circumstances; and
- 26                   ▶ makes technical and conforming changes.

27                   **Money Appropriated in this Bill:**

28                   None

29                   **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **72-2-117.5**, as last amended by Laws of Utah 2013, Chapter 35



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

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

37 **72-2-117.5. Definitions -- Local Transportation Corridor Preservation Fund --**

38 **Disposition of fund money.**

39 (1) As used in this section:

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

42 (b) "Metropolitan planning organization" has the same meaning as defined in Section  
43 **72-1-208.5**.

44 (2) There is created the Local Transportation Corridor Preservation Fund within the  
45 Transportation Fund.

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

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

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

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

51 (d) all money collected from rents and sales of real property acquired with fund money;

52 (e) proceeds from general obligation bonds, revenue bonds, or other obligations issued  
53 as authorized by Title 63B, Bonds;

54 (f) the portion of the sales and use tax described in Subsection **59-12-2217(2)(b)** and  
55 required by Subsection **59-12-2217(8)(a)** to be deposited into the fund; and

56 (g) sales and use tax revenues deposited into the fund in accordance with Section  
57 **59-12-2218**.

- 58 (4) (a) The fund shall earn interest.
- 59 (b) All interest earned on fund money shall be deposited into the fund.
- 60 (c) The State Tax Commission shall ~~[provide the department with sufficient data for~~  
61 ~~the department to]~~ allocate the revenues:
- 62 (i) provided under Subsection (3)(a) to each county imposing a local option highway  
63 construction and transportation corridor preservation fee under Section [41-1a-1222](#);
- 64 (ii) provided under Subsection [59-12-2217](#)(2)(b) to each county imposing a county  
65 option sales and use tax for transportation; and
- 66 (iii) provided under Subsection (3)(g) to each county of the second class or city or town  
67 within a county of the second class that imposes the sales and use tax authorized by Section  
68 [59-12-2218](#).
- 69 ~~[(d) (i) The department shall annually allocate the interest earned on fund money to~~  
70 ~~each county based on the proportionate amount of interest earned on each county's allocation of~~  
71 ~~funds under Subsection (4)(c) on an average monthly balance basis.]~~
- 72 ~~[(ii) The initial annual allocation of fund interest shall include all interest earned on~~  
73 ~~fund money since the creation of the fund.]~~
- 74 (d) The department shall distribute the funds allocated to each county, city, or town  
75 under Subsection (4)(c) to each county, city, or town.
- 76 (e) The money allocated and distributed under this Subsection (4)~~(e)~~:
- 77 (i) shall be used for the purposes provided in this section for each county, city, or town;
- 78 (ii) is allocated to each county, city, or town as provided in this section with the  
79 condition that the state will not be charged for any asset purchased with the money allocated  
80 ~~[under Subsections (4)(c) and (d)]~~ and distributed under this Subsection (4); and
- 81 (iii) is considered a local matching contribution for the purposes described under  
82 Section [72-2-123](#) if used on a state highway.
- 83 (f) Administrative costs of the department to implement this section shall be paid from  
84 the fund.
- 85 (5) (a) ~~[The department shall authorize the expenditure of fund money to allow a]~~ Δ

86 highway authority ~~[to]~~ may acquire real property or any interests in real property for state,  
87 county, and municipal highway corridors subject to:

88 (i) money available in the fund to each county under ~~[Subsections]~~ Subsection (4)~~[(c)~~  
89 ~~and (d)]~~; and

90 (ii) the provisions of this section.

91 (b) Fund money may be used to pay interest on debts incurred in accordance with this  
92 section.

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

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

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

99 (ii) Fund money may be used to pay direct costs of acquisition of properties acquired  
100 under this section.

101 (d) Fund money allocated ~~[under Subsections (4)(c) and (d)]~~ and distributed under  
102 Subsection (4) may be used by a county highway authority for countywide transportation  
103 planning if:

104 (i) the county's planning focus area is outside the boundaries of a metropolitan  
105 planning organization;

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

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

111 (iv) the county otherwise qualifies to use the fund money as provided under this  
112 section.

113 (e) (i) Subject to Subsection (11), fund money allocated ~~[under Subsections (4)(c) and~~

114 ~~(d)~~ and distributed under Subsection (4) may be used by a county highway authority for  
115 transportation corridor planning that is part of the corridor elements of an ongoing work  
116 program of transportation projects.

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

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

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

123 (f) (i) A county, city, or town that imposes a local option highway construction and  
124 transportation corridor preservation fee under Section [41-1a-1222](#) may elect to administer the  
125 funds allocated and distributed to that county, city, or town under Subsection (4)~~(e)~~ as a  
126 revolving loan fund.

127 (ii) If a county, city, or town elects to administer the funds allocated and distributed to  
128 that county, city, or town under Subsection (4)~~(e)~~ as a revolving loan fund, a local highway  
129 authority shall ~~[(A) apply to the department as required under this section for money from the~~  
130 ~~fund created in this section for a specified transportation corridor project; and (B)]~~ repay the  
131 fund money authorized for the project to the fund.

132 (iii) A county, city, or town that elects to administer the funds allocated and distributed  
133 to that county, city, or town under Subsection (4)~~(e)~~ as a revolving loan fund shall establish  
134 repayment conditions of the money to the fund from the specified project funds.

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

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

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

- 142 (I) a state highway;
- 143 (II) a principal arterial highway as defined in Section 72-4-102.5;
- 144 (III) a minor arterial highway as defined in Section 72-4-102.5; or
- 145 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or
- 146 (B) in a county of the third, fourth, fifth, or sixth class for:
- 147 (I) a state highway;
- 148 (II) a principal arterial highway as defined in Section 72-4-102.5;
- 149 (III) a minor arterial highway as defined in Section 72-4-102.5;
- 150 (IV) a major collector highway as defined in Section 72-4-102.5; or
- 151 (V) a minor collector road as defined in Section 72-4-102.5.

152 (iii) The Local Transportation Corridor Preservation Fund may not be used for a  
 153 highway corridor that is primarily a recreational trail as defined under Section 79-5-102.

154 ~~[(b)(i) The department shall develop and implement a program to educate highway  
 155 authorities on the objectives, application process, use, and responsibilities of the Local  
 156 Transportation Corridor Preservation Fund as provided under this section to promote the most  
 157 efficient and effective use of fund money including priority use on designated high priority  
 158 corridor preservation projects.]~~

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

162 ~~[(c) The department]~~

163 (b) A highway authority shall authorize the expenditure of fund money after  
 164 determining that the expenditure is being made in accordance with this section from  
 165 applications that are:

- 166 ~~[(i) made by a highway authority;]~~
- 167 ~~[(ii)]~~ (i) endorsed by the council of governments; and
- 168 ~~[(iii)]~~ (ii) for a right-of-way purchase for a highway authorized under Subsection  
 169 (6)(a)(ii).

170 (7) (a) (i) A council of governments shall establish a council of governments  
171 endorsement process which includes prioritization and application procedures for use of the  
172 money allocated to each county under this section.

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

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

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

179 (b) All fund money shall be prioritized by each highway authority and council of  
180 governments based on considerations, including:

181 (i) areas with rapidly expanding population;

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

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

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

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

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

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

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

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

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

193 (c) The council of governments shall:

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

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

197 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the

198 members of the county legislative body.

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

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

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

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

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

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

215 (10) (a) A highway authority may not [~~apply for~~] expend money under this section to  
216 purchase a right-of-way for a state highway unless the highway authority has:

217 (i) a transportation corridor property acquisition policy or ordinance in effect that  
218 meets [~~federal~~] department requirements for the acquisition of real property or any interests in  
219 real property under this section; and

220 (ii) an access management policy or ordinance in effect that meets the requirements  
221 under Subsection [72-2-117\(8\)](#).

222 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a  
223 written agreement with the department for [~~the acquisition of~~] the department to acquire real  
224 property or any interests in real property on behalf of the local highway authority under this  
225 section.



226           (11) ~~[(a)]~~ The ~~[department]~~ county shall~~[, in expending or authorizing the expenditure~~  
227 ~~of fund money,]~~ ensure, to the extent possible, that the fund money allocated and distributed to  
228 a city or town in accordance with Subsection (4) is expended:

229           ~~[(i)]~~ (a) to fund a project or service as allowed by this section within the city or town to  
230 which the fund money is allocated;

231           ~~[(ii)]~~ (b) to pay debt service, principal, or interest on a bond or other obligation as  
232 allowed by this section if that bond or other obligation is:

233           ~~[(A)]~~ (i) secured by money allocated to the city or town; and

234           ~~[(B)]~~ (ii) issued to finance a project or service as allowed by this section within the city  
235 or town to which the fund money is allocated;

236           ~~[(iii)]~~ (c) to fund transportation planning as allowed by this section within the city or  
237 town to which the fund money is allocated; or

238           ~~[(iv)]~~ (d) for another purpose allowed by this section within the city or town to which  
239 the fund money is allocated.

240           ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
241 ~~the department may make rules to implement the requirements of Subsection (11)(a).]~~