

**TRANSPORTATION CORRIDOR PRESERVATION
AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Alvin B. Jackson

LONG TITLE

General Description:

This bill modifies provisions relating to the Local Transportation Corridor Preservation Fund.

Highlighted Provisions:

This bill:

- ▶ provides an exception to the provision that the state will not be charged for any asset purchased with the money allocated to a county, city, or town from the Local Transportation Corridor Preservation Fund; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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



28 **72-2-117.5. Definitions -- Local Transportation Corridor Preservation Fund --**
29 **Disposition of fund money.**

30 (1) As used in this section:

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

33 (b) "Metropolitan planning organization" has the same meaning as defined in Section
34 [72-1-208.5](#).

35 (2) There is created the Local Transportation Corridor Preservation Fund within the
36 Transportation Fund.

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

38 (a) a local option highway construction and transportation corridor preservation fee
39 imposed under Section [41-1a-1222](#);

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

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

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

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

45 (f) the portion of the sales and use tax described in Subsection [59-12-2217\(2\)\(b\)](#) and
46 required by Subsection [59-12-2217\(8\)\(a\)](#) to be deposited into the fund; and

47 (g) sales and use tax revenues deposited into the fund in accordance with Section
48 [59-12-2218](#).

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

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

51 (c) The State Tax Commission shall provide the department with sufficient data for the
52 department to allocate the revenues:

53 (i) provided under Subsection (3)(a) to each county imposing a local option highway
54 construction and transportation corridor preservation fee under Section [41-1a-1222](#);

55 (ii) provided under Subsection [59-12-2217\(2\)\(b\)](#) to each county imposing a county
56 option sales and use tax for transportation; and

57 (iii) provided under Subsection (3)(g) to each county of the second class or city or town
58 within a county of the second class that imposes the sales and use tax authorized by Section

59 59-12-2218.

60 (d) (i) The department shall annually allocate the interest earned on fund money to each
61 county based on the proportionate amount of interest earned on each county's allocation of
62 funds under Subsection (4)(c) on an average monthly balance basis.

63 (ii) The initial annual allocation of fund interest shall include all interest earned on
64 fund money since the creation of the fund.

65 (e) The money allocated under Subsection (4)(c):

66 (i) shall be used for the purposes provided in this section for each county, city, or town;

67 (ii) is allocated to each county, city, or town as provided in this section with the
68 condition that the state will not be charged for any asset purchased with the money allocated
69 under Subsections (4)(c) and (d), unless there is a written agreement in place with the
70 department prior to the purchase of the asset stipulating a reimbursement by the state to the
71 county, city, or town; and

72 (iii) is considered a local matching contribution for the purposes described under
73 Section 72-2-123 if used on a state highway.

74 (f) Administrative costs of the department to implement this section shall be paid from
75 the fund.

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

79 (i) money available in the fund to each county under Subsections (4)(c) and (d); and

80 (ii) the provisions of this section.

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

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

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

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

89 (ii) Fund money may be used to pay direct costs of acquisition of properties acquired

90 under this section.

91 (d) Fund money allocated under Subsections (4)(c) and (d) may be used by a county
92 highway authority for countywide transportation planning if:

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

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

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

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

102 (e) (i) Subject to Subsection (11), fund money allocated under Subsections (4)(c) and
103 (d) may be used by a county highway authority for transportation corridor planning that is part
104 of the corridor elements of an ongoing work program of transportation projects.

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

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

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

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

114 (ii) If a county, city, or town elects to administer the funds allocated to that county,
115 city, or town under Subsection (4)(c) as a revolving loan fund, a local highway authority shall:

116 (A) apply to the department as required under this section for money from the fund
117 created in this section for a specified transportation corridor project; and

118 (B) repay the fund money authorized for the project to the fund.

119 (iii) A county, city, or town that elects to administer the funds allocated to that county,
120 city, or town under Subsection (4)(c) as a revolving loan fund shall establish repayment

121 conditions of the money to the fund from the specified project funds.

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

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

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

129 (I) a state highway;

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

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

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

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

134 (I) a state highway;

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

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

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

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

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

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

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

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

151 (i) made by a highway authority;

152 (ii) endorsed by the council of governments; and
153 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

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

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

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

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

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

165 (i) areas with rapidly expanding population;

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

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

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

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

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

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

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

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

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

177 (c) The council of governments shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

209 (11) (a) The department shall, in expending or authorizing the expenditure of fund
210 money, ensure to the extent possible that the fund money allocated to a city or town in
211 accordance with Subsection (4) is expended:

212 (i) to fund a project or service as allowed by this section within the city or town to
213 which the fund money is allocated;

214 (ii) to pay debt service, principal, or interest on a bond or other obligation as allowed
215 by this section if that bond or other obligation is:

216 (A) secured by money allocated to the city or town; and

217 (B) issued to finance a project or service as allowed by this section within the city or
218 town to which the fund money is allocated;

219 (iii) to fund transportation planning as allowed by this section within the city or town
220 to which the fund money is allocated; or

221 (iv) for another purpose allowed by this section within the city or town to which the
222 fund money is allocated.

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

Legislative Review Note
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Office of Legislative Research and General Counsel