

TRANSPORTATION FUNDING REVISIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

Senate Sponsor: Kevin T. Van Tassell

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ authorizes money in the Local Highway and Transportation Corridor Preservation Fund to be used for construction, maintenance, and operation of class B and class C roads with limitations; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-1222, as last amended by Laws of Utah 2015, Chapter 421

59-12-2217, as last amended by Laws of Utah 2015, Chapter 421

59-12-2218, as last amended by Laws of Utah 2016, Chapter 348

72-2-117.5, as last amended by Laws of Utah 2015, Chapters 395 and 410



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

29 Section 1. Section **41-1a-1222** is amended to read:

30 **41-1a-1222. Local option highway construction and transportation corridor**
31 **preservation fee -- Exemptions -- Deposit -- Transfer -- County ordinance -- Notice.**

32 (1) (a) (i) Except as provided in Subsection (1)(a)(ii), a county legislative body may
33 impose a local option highway construction and transportation corridor preservation fee of up
34 to \$10 on each motor vehicle registration within the county.

35 (ii) A county legislative body may impose a local option highway construction and
36 transportation corridor preservation fee of up to \$7.75 on each motor vehicle registration for a
37 six-month registration period under Section **41-1a-215.5** within the county.

38 (iii) A fee imposed under Subsection (1)(a)(i) or (ii) shall be set in whole dollar
39 increments.

40 (b) If imposed under Subsection (1)(a), at the time application is made for registration
41 or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local
42 option highway construction and transportation corridor preservation fee established by the
43 county legislative body.

44 (c) The following are exempt from the fee required under Subsection (1)(a):

45 (i) a motor vehicle that is exempt from the registration fee under Section **41-1a-1209** or
46 Subsection **41-1a-419(3)**;

47 (ii) a commercial vehicle with an apportioned registration under Section **41-1a-301**;
48 and

49 (iii) a motor vehicle with a Purple Heart special group license plate issued in
50 accordance with Section **41-1a-421**.

51 (2) (a) Except as provided in Subsection (2)(b), the revenue generated under this
52 section shall be:

53 (i) deposited in the Local Highway and Transportation Corridor Preservation Fund
54 created in Section **72-2-117.5**;

55 (ii) credited to the county from which it is generated; and

56 (iii) used and distributed in accordance with Section **72-2-117.5**.

57 (b) The revenue generated by a fee imposed under this section in a county of the first
58 class shall be deposited or transferred as follows:

59 (i) 50% of the revenue shall be:
60 (A) deposited in the County of the First Class Highway Projects Fund created in
61 Section 72-2-121; and
62 (B) used in accordance with Section 72-2-121;
63 (ii) 20% of the revenue shall be:
64 (A) transferred to the legislative body of a city of the first class:
65 (I) located in a county of the first class; and
66 (II) that has:
67 (Aa) an international airport within its boundaries; and
68 (Bb) a United States customs office on the premises of the international airport
69 described in Subsection (2)(b)(ii)(A)(II)(Aa); and
70 (B) used by the city described in Subsection (2)(b)(ii)(A) for highway construction,
71 reconstruction, or maintenance projects; and
72 (iii) 30% of the revenue shall be deposited, credited, and used as provided in
73 Subsection (2)(a).
74 (3) To impose or change the amount of a fee under this section, the county legislative
75 body shall pass an ordinance:
76 (a) approving the fee;
77 (b) setting the amount of the fee; and
78 (c) providing an effective date for the fee as provided in Subsection (4).
79 (4) (a) If a county legislative body enacts, changes, or repeals a fee under this section,
80 the enactment, change, or repeal shall take effect on July 1 if the commission receives notice
81 meeting the requirements of Subsection (4)(b) from the county prior to April 1.
82 (b) The notice described in Subsection (4)(a) shall:
83 (i) state that the county will enact, change, or repeal a fee under this part;
84 (ii) include a copy of the ordinance imposing the fee; and
85 (iii) if the county enacts or changes the fee under this section, state the amount of the
86 fee.
87 Section 2. Section 59-12-2217 is amended to read:
88 **59-12-2217. County option sales and use tax for transportation -- Base -- Rate --**
89 **Written prioritization process -- Approval by county legislative body.**

90 (1) Subject to the other provisions of this part, a county legislative body may impose a
91 sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1)
92 within the county, including the cities and towns within the county.

93 (2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues
94 collected from a sales and use tax under this section may only be expended for:

95 (a) a project or service:

96 (i) relating to a regionally significant transportation facility for the portion of the
97 project or service that is performed within the county;

98 (ii) for new capacity or congestion mitigation if the project or service is performed
99 within a county:

100 (A) of the first or second class; or

101 (B) if that county is part of an area metropolitan planning organization; and

102 (iii) that is on a priority list:

103 (A) created by the county's council of governments in accordance with Subsection (7);

104 and

105 (B) approved by the county legislative body in accordance with Subsection (7);

106 (b) corridor preservation for a project or service described in Subsection (2)(a) as
107 provided in Subsection (8); or

108 (c) debt service or bond issuance costs related to a project or service described in
109 Subsection (2)(a)(i) or (ii).

110 (3) If a project or service described in Subsection (2) is for:

111 (a) a principal arterial highway or a minor arterial highway in a county of the first or
112 second class or a collector road in a county of the second class, that project or service shall be
113 part of the:

114 (i) county and municipal master plan; and

115 (ii) (A) statewide long-range plan; or

116 (B) regional transportation plan of the area metropolitan planning organization if a
117 metropolitan planning organization exists for the area; or

118 (b) a fixed guideway or an airport, that project or service shall be part of the regional
119 transportation plan of the area metropolitan planning organization if a metropolitan planning
120 organization exists for the area.

121 (4) In a county of the first or second class, a regionally significant transportation
122 facility project or service described in Subsection (2)(a)(i) shall have a funded year priority
123 designation on a Statewide Transportation Improvement Program and Transportation
124 Improvement Program if the project or service described in Subsection (2)(a)(i) is:

- 125 (a) a principal arterial highway;
- 126 (b) a minor arterial highway;
- 127 (c) a collector road in a county of the second class; or
- 128 (d) a major collector highway in a rural area.

129 (5) Of the revenues collected from a sales and use tax imposed under this section
130 within a county of the first or second class, 25% or more shall be expended for the purpose
131 described in Subsection (2)(b).

132 (6) (a) As provided in this Subsection (6), a council of governments shall:

133 (i) develop a written prioritization process for the prioritization of projects to be funded
134 by revenues collected from a sales and use tax under this section;

135 (ii) create a priority list of regionally significant transportation facility projects or
136 services described in Subsection (2)(a)(i) in accordance with Subsection (7); and

137 (iii) present the priority list to the county legislative body for approval in accordance
138 with Subsection (7).

139 (b) The written prioritization process described in Subsection (6)(a)(i) shall include:

140 (i) a definition of the type of projects to which the written prioritization process
141 applies;

142 (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the
143 council of governments will use to rank proposed projects and how that weighted criteria
144 system will be used to determine which proposed projects will be prioritized;

145 (iii) the specification of data that is necessary to apply the weighted criteria system;

146 (iv) application procedures for a project to be considered for prioritization by the
147 council of governments; and

148 (v) any other provision the council of governments considers appropriate.

149 (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the
150 following:

151 (i) the cost effectiveness of a project;

- 152 (ii) the degree to which a project will mitigate regional congestion;
- 153 (iii) the compliance requirements of applicable federal laws or regulations;
- 154 (iv) the economic impact of a project;
- 155 (v) the degree to which a project will require tax revenues to fund maintenance and
- 156 operation expenses; and
- 157 (vi) any other provision the council of governments considers appropriate.

158 (d) A council of governments of a county of the first or second class shall submit the
159 written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations
160 Committee for approval prior to taking final action on:

- 161 (i) the written prioritization process; or
- 162 (ii) any proposed amendment to the written prioritization process.

163 (7) (a) A council of governments shall use the weighted criteria system adopted in the
164 written prioritization process developed in accordance with Subsection (6) to create a priority
165 list of regionally significant transportation facility projects or services for which revenues
166 collected from a sales and use tax under this section may be expended.

167 (b) Before a council of governments may finalize a priority list or the funding level of a
168 project, the council of governments shall conduct a public meeting on:

- 169 (i) the written prioritization process; and
- 170 (ii) the merits of the projects that are prioritized as part of the written prioritization
171 process.

172 (c) A council of governments shall make the weighted criteria system ranking for each
173 project prioritized as part of the written prioritization process publicly available before the
174 public meeting required by Subsection (7)(b) is held.

175 (d) If a council of governments prioritizes a project over another project with a higher
176 rank under the weighted criteria system, the council of governments shall:

- 177 (i) identify the reasons for prioritizing the project over another project with a higher
178 rank under the weighted criteria system at the public meeting required by Subsection (7)(b);
- 179 and

180 (ii) make the reasons described in Subsection (7)(d)(i) publicly available.

181 (e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a
182 priority list in accordance with this Subsection (7), the council of governments shall:

- 183 (i) submit the priority list to the county legislative body for approval; and
184 (ii) obtain approval of the priority list from a majority of the members of the county
185 legislative body.
- 186 (f) A council of governments may only submit one priority list per calendar year to the
187 county legislative body.
- 188 (g) A county legislative body may only consider and approve one priority list submitted
189 under Subsection (7)(e) per calendar year.
- 190 (8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and use
191 tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall
192 be:
- 193 (i) deposited in or transferred to the Local Highway and Transportation Corridor
194 Preservation Fund created by Section [72-2-117.5](#); and
195 (ii) expended as provided in Section [72-2-117.5](#).
- 196 (b) In a county of the first class, revenues collected from a sales and use tax under this
197 section that a county allocates for a purpose described in Subsection (2)(b) shall be:
- 198 (i) deposited in or transferred to the County of the First Class Highway Projects Fund
199 created by Section [72-2-121](#); and
200 (ii) expended as provided in Section [72-2-121](#).
- 201 Section 3. Section **59-12-2218** is amended to read:
- 202 **59-12-2218. County, city, or town option sales and use tax for airports, highways,**
203 **and systems for public transit -- Base -- Rate -- Administration of sales and use tax --**
204 **Voter approval exception.**
- 205 (1) Subject to the other provisions of this part, the following may impose a sales and
206 use tax under this section:
- 207 (a) if, on April 1, 2009, a county legislative body of a county of the second class
208 imposes a sales and use tax under this section, the county legislative body of the county of the
209 second class may impose the sales and use tax on the transactions:
- 210 (i) described in Subsection [59-12-103](#)(1); and
211 (ii) within the county, including the cities and towns within the county; or
212 (b) if, on April 1, 2009, a county legislative body of a county of the second class does
213 not impose a sales and use tax under this section:

214 (i) a city legislative body of a city within the county of the second class may impose a
215 sales and use tax under this section on the transactions described in Subsection 59-12-103(1)
216 within that city;

217 (ii) a town legislative body of a town within the county of the second class may impose
218 a sales and use tax under this section on the transactions described in Subsection 59-12-103(1)
219 within that town; and

220 (iii) the county legislative body of the county of the second class may impose a sales
221 and use tax on the transactions described in Subsection 59-12-103(1):

222 (A) within the county, including the cities and towns within the county, if on the date
223 the county legislative body provides the notice described in Section 59-12-2209 to the
224 commission stating that the county will enact a sales and use tax under this section, no city or
225 town within that county imposes a sales and use tax under this section or has provided the
226 notice described in Section 59-12-2209 to the commission stating that the city or town will
227 enact a sales and use tax under this section; or

228 (B) within the county, except for within a city or town within that county, if, on the
229 date the county legislative body provides the notice described in Section 59-12-2209 to the
230 commission stating that the county will enact a sales and use tax under this section, that city or
231 town imposes a sales and use tax under this section or has provided the notice described in
232 Section 59-12-2209 to the commission stating that the city or town will enact a sales and use
233 tax under this section.

234 (2) For purposes of Subsection (1) and subject to the other provisions of this section, a
235 county, city, or town legislative body that imposes a sales and use tax under this section may
236 impose the tax at a rate of:

237 (a) .10%; or

238 (b) .25%.

239 (3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be
240 expended as determined by the county, city, or town legislative body as follows:

241 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class
242 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
243 Section 72-2-121.2;

244 (b) expended for a project or service relating to an airport facility for the portion of the

245 project or service that is performed within the county, city, or town within which the tax is
246 imposed:

247 (i) for a county legislative body that imposes the sales and use tax, if that airport
248 facility is part of the regional transportation plan of the area metropolitan planning organization
249 if a metropolitan planning organization exists for the area; or

250 (ii) for a city or town legislative body that imposes the sales and use tax, if:

251 (A) that city or town owns or operates the airport facility; and

252 (B) an airline is headquartered in that city or town; or

253 (c) deposited or expended for a combination of Subsections (3)(a) and (b).

254 (4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate
255 described in Subsection (2)(b) shall be expended as determined by the county, city, or town
256 legislative body as follows:

257 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class
258 State Highway Projects Fund created by Section [72-2-121.2](#) and expended as provided in
259 Section [72-2-121.2](#);

260 (b) expended for:

261 (i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;

262 (ii) a local highway that is a principal arterial highway, minor arterial highway, major
263 collector highway, or minor collector road; or

264 (iii) a combination of Subsections (4)(b)(i) and (ii);

265 (c) expended for a project or service relating to a system for public transit for the
266 portion of the project or service that is performed within the county, city, or town within which
267 the sales and use tax is imposed;

268 (d) expended for a project or service relating to an airport facility for the portion of the
269 project or service that is performed within the county, city, or town within which the sales and
270 use tax is imposed:

271 (i) for a county legislative body that imposes the sales and use tax, if that airport
272 facility is part of the regional transportation plan of the area metropolitan planning organization
273 if a metropolitan planning organization exists for the area; or

274 (ii) for a city or town legislative body that imposes the sales and use tax, if:

275 (A) that city or town owns or operates the airport facility; and

276 (B) an airline is headquartered in that city or town;
277 (e) expended for:
278 (i) a class B road, as defined in Section 72-3-103;
279 (ii) a class C road, as defined in Section 72-3-104; or
280 (iii) a combination of Subsections (4)(e)(i) and (ii);
281 (f) expended for traffic and pedestrian safety, including:
282 (i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in
283 Section 72-3-104, for:
284 (A) a sidewalk;
285 (B) curb and gutter;
286 (C) a safety feature;
287 (D) a traffic sign;
288 (E) a traffic signal;
289 (F) street lighting; or
290 (G) a combination of Subsections (4)(f)(i)(A) through (F);
291 (ii) the construction of an active transportation facility that:
292 (A) is for nonmotorized vehicles and multimodal transportation; and
293 (B) connects an origin with a destination; or
294 (iii) a combination of Subsections (4)(f)(i) and (ii); or
295 (g) deposited or expended for a combination of Subsections (4)(a) through (f).
296 (5) A county, city, or town legislative body may not expend revenue collected within a
297 county, city, or town from a tax under this section for a purpose described in Subsections (4)(b)
298 through (f) unless the purpose is recommended by:
299 (a) for a county that is part of a metropolitan planning organization, the metropolitan
300 planning organization of which the county is a part; or
301 (b) for a county that is not part of a metropolitan planning organization, the council of
302 governments of which the county is a part.
303 (6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes
304 a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05%
305 as provided in Subsection (9)(b)(i) into the Local Highway and Transportation Corridor
306 Preservation Fund created by Section 72-2-117.5.

307 (ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and
308 distributed in accordance with Section 72-2-117.5.

309 (b) A county, city, or town is not required to make the deposit required by Subsection
310 (6)(a)(i) if the county, city, or town:

311 (i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or

312 (ii) has continuously imposed a tax described in Subsection (2)(b):

313 (A) beginning after July 1, 2010; and

314 (B) for a five-year period.

315 (7) (a) Subject to the other provisions of this Subsection (7), a city or town within
316 which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:

317 (i) expend the revenues in accordance with Subsection (4); or

318 (ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:

319 (A) that city or town owns or operates an airport facility; and

320 (B) an airline is headquartered in that city or town.

321 (b) (i) A city or town legislative body of a city or town within which a sales and use tax
322 is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected
323 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of
324 .25% for a purpose described in Subsection (7)(b)(ii) if:

325 (A) that city or town owns or operates an airport facility; and

326 (B) an airline is headquartered in that city or town.

327 (ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected
328 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of
329 .25% for:

330 (A) a project or service relating to the airport facility; and

331 (B) the portion of the project or service that is performed within the city or town
332 imposing the sales and use tax.

333 (c) If a city or town legislative body described in Subsection (7)(b)(i) determines to
334 expend the revenues collected from a tax rate of greater than .10% but not to exceed the
335 revenues collected from a tax rate of .25% for a project or service relating to an airport facility
336 as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use
337 tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or

338 service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as
339 follows:

340 (i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c)
341 into the County of the Second Class State Highway Projects Fund created by Section
342 72-2-121.2 and expended as provided in Section 72-2-121.2; and

343 (ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c)
344 into the Local Highway and Transportation Corridor Preservation Fund created by Section
345 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.

346 (d) A city or town legislative body that expends the revenues collected from a sales and
347 use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections
348 (7)(b) and (c):

349 (i) shall, on or before the date the city or town legislative body provides the notice
350 described in Section 59-12-2209 to the commission stating that the city or town will enact a
351 sales and use tax under this section:

352 (A) determine the tax rate, the percentage of which is greater than .10% but does not
353 exceed .25%, the collections from which the city or town legislative body will expend for a
354 project or service relating to an airport facility as allowed by Subsection (7)(b); and

355 (B) notify the commission in writing of the tax rate the city or town legislative body
356 determines in accordance with Subsection (7)(d)(i)(A);

357 (ii) shall, on or before the April 1 immediately following the date the city or town
358 legislative body provides the notice described in Subsection (7)(d)(i) to the commission:

359 (A) determine the tax rate, the percentage of which is greater than .10% but does not
360 exceed .25%, the collections from which the city or town legislative body will expend for a
361 project or service relating to an airport facility as allowed by Subsection (7)(b); and

362 (B) notify the commission in writing of the tax rate the city or town legislative body
363 determines in accordance with Subsection (7)(d)(ii)(A);

364 (iii) shall, on or before April 1 of each year after the April 1 described in Subsection
365 (7)(d)(ii):

366 (A) determine the tax rate, the percentage of which is greater than .10% but does not
367 exceed .25%, the collections from which the city or town legislative body will expend for a
368 project or service relating to an airport facility as allowed by Subsection (7)(b); and

369 (B) notify the commission in writing of the tax rate the city or town legislative body
370 determines in accordance with Subsection (7)(d)(iii)(A); and

371 (iv) may not change the tax rate the city or town legislative body determines in
372 accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by
373 Subsections (7)(d)(i) through (iii).

374 (8) Before a city or town legislative body may impose a sales and use tax under this
375 section, the city or town legislative body shall provide a copy of the notice described in Section
376 59-12-2209 that the city or town legislative body provides to the commission:

377 (a) to the county legislative body within which the city or town is located; and

378 (b) at the same time as the city or town legislative body provides the notice to the
379 commission.

380 (9) (a) Subject to Subsections (9)(b) through (e) and Section 59-12-2207, the
381 commission shall transmit revenues collected within a county, city, or town from a tax under
382 this part that will be expended for a purpose described in Subsection (3)(b) or Subsections
383 (4)(b) through (f) to the county, city, or town legislative body in accordance with Section
384 59-12-2206.

385 (b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the
386 commission shall deposit revenues collected within a county, city, or town from a sales and use
387 tax under this section that:

388 (i) are required to be expended for a purpose described in Subsection (6)(a) into the
389 Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

390 (ii) a county, city, or town legislative body determines to expend for a purpose
391 described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway
392 Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body
393 provides written notice to the commission requesting the deposit.

394 (c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice
395 to the commission in accordance with Subsection (7)(d), the commission shall:

396 (i) transmit the revenues collected from the tax rate stated on the notice to the city or
397 town legislative body monthly by electronic funds transfer; and

398 (ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with
399 Subsection (7)(c).

400 (d) (i) If a city or town legislative body provides the notice described in Subsection
401 (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected
402 from the sales and use tax:

403 (A) in accordance with Subsection (9)(c);

404 (B) beginning on the date the city or town legislative body enacts the sales and use tax;
405 and

406 (C) ending on the earlier of the June 30 immediately following the date the city or town
407 legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the
408 date the city or town legislative body repeals the sales and use tax.

409 (ii) If a city or town legislative body provides the notice described in Subsection
410 (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues
411 collected from the sales and use tax:

412 (A) in accordance with Subsection (9)(c);

413 (B) beginning on the July 1 immediately following the date the city or town legislative
414 body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

415 (C) ending on the earlier of the June 30 of the year after the date the city or town
416 legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission
417 or the date the city or town legislative body repeals the sales and use tax.

418 (e) (i) If a city or town legislative body that is required to provide the notice described
419 in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the
420 commission on or before the date required by Subsection (7)(d) for providing the notice, the
421 commission shall transmit, transfer, or deposit the revenues collected from the sales and use
422 tax within the city or town in accordance with Subsections (9)(a) and (b).

423 (ii) If a city or town legislative body that is required to provide the notice described in
424 Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or
425 (iii) to the commission on or before the date required by Subsection (7)(d) for providing the
426 notice, the commission shall transmit or deposit the revenues collected from the sales and use
427 tax within the city or town in accordance with:

428 (A) Subsection (9)(c); and

429 (B) the most recent notice the commission received from the city or town legislative
430 body under Subsection (7)(d).

431 Section 4. Section 72-2-117.5 is amended to read:

432 **72-2-117.5. Definitions -- Local Highway and Transportation Corridor**

433 **Preservation Fund -- Disposition of fund money.**

434 (1) As used in this section:

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

437 (b) "Metropolitan planning organization" has the same meaning as defined in Section
438 72-1-208.5.

439 (2) There is created the Local Highway and Transportation Corridor Preservation Fund
440 within the Transportation Fund.

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

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

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

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

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

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

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

451 (g) sales and use tax revenues deposited into the fund in accordance with Section
452 59-12-2218.

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

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

455 (c) The State Tax Commission shall allocate the revenues:

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

458 (ii) provided under Subsection 59-12-2217(2)(b) to each county imposing a county
459 option sales and use tax for transportation; and

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

462 59-12-2218.

463 (d) The department shall distribute the funds allocated to each county, city, or town
464 under Subsection (4)(c) to each county, city, or town.

465 (e) The money allocated and distributed under this Subsection (4):

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

467 (ii) is allocated to each county, city, or town as provided in this section with the
468 condition that the state will not be charged for any asset purchased with the money allocated
469 and distributed under this Subsection (4), unless there is a written agreement in place with the
470 department prior to the purchase of the asset stipulating a reimbursement by the state to the
471 county, city, or town of no more than the original purchase price paid by the county, city, or
472 town; and

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

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

477 (5) (a) A highway authority may acquire real property or any interests in real property
478 for state, county, and municipal highway corridors subject to:

479 (i) money available in the fund to each county under Subsection (4); and

480 (ii) the provisions of this section.

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

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

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

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

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

491 (d) Fund money allocated and distributed under Subsection (4) may be used by a
492 county highway authority for countywide transportation planning if:

- 493 (i) the county's planning focus area is outside the boundaries of a metropolitan
494 planning organization;
- 495 (ii) the transportation planning is part of the county's continuing, cooperative, and
496 comprehensive process for transportation planning, corridor preservation, right-of-way
497 acquisition, and project programming;
- 498 (iii) no more than four years allocation every 20 years to each county is used for
499 transportation planning under this Subsection (5)(d); and
- 500 (iv) the county otherwise qualifies to use the fund money as provided under this
501 section.
- 502 (e) (i) Subject to Subsection (11), fund money allocated and distributed under
503 Subsection (4) may be used by a county highway authority for transportation corridor planning
504 that is part of the corridor elements of an ongoing work program of transportation projects.
- 505 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
506 direction of:
- 507 (A) the metropolitan planning organization if the county is within the boundaries of a
508 metropolitan planning organization; or
- 509 (B) the department if the county is not within the boundaries of a metropolitan
510 planning organization.
- 511 (f) (i) A county, city, or town that imposes a local option highway construction and
512 transportation corridor preservation fee under Section [41-1a-1222](#) may elect to administer the
513 funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving
514 loan fund.
- 515 (ii) If a county, city, or town elects to administer the funds allocated and distributed to
516 that county, city, or town under Subsection (4) as a revolving loan fund, a local highway
517 authority shall repay the fund money authorized for the project to the fund.
- 518 (iii) A county, city, or town that elects to administer the funds allocated and distributed
519 to that county, city, or town under Subsection (4) as a revolving loan fund shall establish
520 repayment conditions of the money to the fund from the specified project funds.
- 521 (g) (i) Subject to the restrictions in Subsections (5)(g)(ii) and (iii), fund money may be
522 used for the construction, operation, or maintenance of a:
- 523 (A) class B road; or

524 (B) class C road.

525 (ii) A county, city, or town may not use more than 50% of the current balance of fund
526 money allocated to the county, city, or town for the purposes described in Subsection (5)(g)(i).

527 (iii) A county, city, or town may not use more than 50% of the fund revenue collections
528 allocated to a county, city, or town in the current fiscal year for the purposes described in
529 Subsection (5)(g)(i).

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

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

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

537 (I) a state highway;

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

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

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

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

542 (I) a state highway;

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

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

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

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

547 (iii) The Local Highway and Transportation Corridor Preservation Fund may not be
548 used for a highway corridor that is primarily a recreational trail as defined under Section
549 79-5-102.

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

553 (i) endorsed by the council of governments; and

554 (ii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

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

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

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

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

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

566 (i) areas with rapidly expanding population;

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

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

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

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

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

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

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

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

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

578 (c) The council of governments shall:

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

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

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

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

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

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

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

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

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

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

602 (i) a transportation corridor property acquisition policy or ordinance in effect that
603 meets department requirements for the acquisition of real property or any interests in real
604 property under this section; and

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

607 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a
608 written agreement with the department for the department to acquire real property or any
609 interests in real property on behalf of the local highway authority under this section.

610 (11) The county shall ensure, to the extent possible, that the fund money allocated and
611 distributed to a city or town in accordance with Subsection (4) is expended:

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

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

616 (i) secured by money allocated to the city or town; and

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

619 (c) to fund transportation planning as allowed by this section within the city or town to
620 which the fund money is allocated; or

621 (d) for another purpose allowed by this section within the city or town to which the
622 fund money is allocated.

Legislative Review Note
Office of Legislative Research and General Counsel