

26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **57-13a-101**, as enacted by Laws of Utah 1997, Chapter 175

33 **57-13a-104**, as last amended by Laws of Utah 2023, Chapter 435

34 **72-1-304**, as last amended by Laws of Utah 2023, Chapters 22, 88 and 219

35 **72-2-117.5**, as last amended by Laws of Utah 2019, Chapter 479

36 **72-5-403**, as last amended by Laws of Utah 2023, Chapter 39

37 ENACTS:

38 **72-1-218**, Utah Code Annotated 1953

39 **79-2-409**, Utah Code Annotated 1953



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

42 Section 1. Section **57-13a-101** is amended to read:

43 **57-13a-101. Definitions.**

44 As used in this chapter:

45 (1) "Department of Transportation" means the Department of Transportation created in

46 Section 72-1-201.

47 (2) "Metropolitan planning organization" means the same as that term is defined in

48 Section 72-1-208.5.

49 (3) "Water conveyance" means a canal, ditch, pipeline, or other means of conveying
50 water.

51 [~~(2)~~] (4) "Water user" means a water user or the water user's predecessor whose water
52 being conveyed is represented by a water right recognized under state law or by shares in a
53 mutual irrigation company.

54 Section 2. Section **57-13a-104** is amended to read:

55 **57-13a-104. Abandonment of prescriptive easement for water conveyance.**

56 (1) A holder of a prescriptive easement for a water conveyance established under

57 Section 57-13a-102 may, in accordance with this section, abandon all or part of the easement.

58 (2) (a) A holder of a prescriptive easement for a water conveyance established under
59 Section 57-13a-102 who seeks to abandon the easement or part of the easement shall, in each
60 county where the easement or part of the easement is located, file in the office of the county
61 recorder a notice of intent to abandon the prescriptive easement that describes the easement or
62 part of the easement to be abandoned.

63 (b) A county recorder who receives a notice of intent to abandon a prescriptive
64 easement shall:

65 (i) publish copies of the notice for the area generally served by the water conveyance
66 that utilizes the easement, as a class A notice under Section 63G-30-102, for at least 45 days;
67 and

68 (ii) mail a copy of the notice of intent to abandon the prescriptive easement to:

69 (A) each ~~[municipal and]~~ county government, municipal government, and, if
70 applicable, metropolitan planning organization where the easement or part of the easement is
71 located [-]; and

72 (B) the Department of Transportation.

73 (3) After meeting the requirements of Subsection (2)(a) and at least 45 days after the
74 last day on which the county recorder posts the notice of intent to abandon the prescriptive
75 easement in accordance with Subsection (2)(b), the holder of the prescriptive easement shall
76 file in the office of the county recorder for each county where the easement or part of the
77 easement is located a notice of abandonment that contains the same description required by
78 Subsection (2)(a).

79 (4) (a) Upon completion of the requirements described in Subsection (2):

80 (i) all interest to the easement or part of the easement abandoned by the holder of the
81 easement is extinguished; and

82 (ii) subject to each legal right that exists as described in Subsection (4)(b), the owner of
83 a servient estate whose land was encumbered by the easement or part of the easement
84 abandoned may reclaim the land area occupied by the former easement or part of the easement
85 and resume full utilization of the land without liability to the former holder of the easement.

86 (b) Abandonment of a prescriptive easement under this section does not affect a legal
87 right to have water delivered or discharged through the water conveyance and easement

88 established by a person other than the holder of the easement who abandons an easement as
89 provided in this section.

90 (5) A county recorder may bill the holder of the prescriptive easement for the cost of
91 preparing, printing, and publishing the notice required under Subsection (2)(b).

92 Section 3. Section **72-1-218** is enacted to read:

93 **72-1-218. Canal trails.**

94 (1) As used in this section, "political subdivision" means a municipality, city, town,
95 county, or metro township as defined in Section [10-2a-403](#).

96 (2) The department, in coordination with the Department of Agriculture and Food and
97 the Department of Natural Resources, shall:

98 (a) develop a toolkit for a political subdivision to develop and maintain a canal trail,
99 including:

100 (i) sample license agreements;

101 (ii) available resources that can assist the political subdivision in funding a canal trail;

102 and

103 (iii) best methods, modes, and practices in developing and maintaining a canal trail;

104 (b) make the toolkit described in Subsection (2)(a) publicly available on the
105 department's website;

106 (c) receive the list of canals described in Section [79-2-409](#) from the Department of
107 Natural Resources created in Section [79-2-201](#);

108 (d) identify each canal on the list described in Subsection (2)(c) that the department
109 considers to be a high priority corridor as described in Section [72-5-403](#); and

110 (e) create an inventory of each canal the department identifies as a high priority
111 corridor as described in Subsection (2)(d) that includes:

112 (i) the type of land ownership held by each owner of a canal or portion of a canal;

113 (ii) whether an easement exists pertaining to the canal and the type of easement;

114 (iii) feasibility and cost estimates to acquire rights for an active transportation trail;

115 (iv) whether the owner of a canal or owner of a portion of a canal is willing to allow
116 pipng of the canal or allow construction of a trail on or along the canal; and

117 (v) the maximum operating flow rate of the canal.

118 (3) As the department develops the active transportation plan as required in Subsection

119 72-2-124(11)(d)(ii), the department shall consider developing a canal trail along or on an
120 existing canal right-of-way.

121 Section 4. Section **72-1-304** is amended to read:

122 **72-1-304. Written project prioritization process for new transportation capacity**
123 **projects -- Rulemaking.**

124 (1) (a) The Transportation Commission, in consultation with the department and the
125 metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written
126 prioritization process for the prioritization of:

127 (i) new transportation capacity projects that are or will be part of the state highway
128 system under Chapter 4, Part 1, State Highways;

129 (ii) paved pedestrian or paved nonmotorized transportation projects described in
130 Section 72-2-124;

131 (iii) public transit projects that directly add capacity to the public transit systems within
132 the state, not including facilities ancillary to the public transit system; and

133 (iv) pedestrian or nonmotorized transportation projects that provide connection to a
134 public transit system.

135 (b) (i) A local government or district may nominate a project for prioritization in
136 accordance with the process established by the commission in rule.

137 (ii) If a local government or district nominates a project for prioritization by the
138 commission, the local government or district shall provide data and evidence to show that:

139 (A) the project will advance the purposes and goals described in Section 72-1-211;

140 (B) for a public transit project, the local government or district has an ongoing funding
141 source for operations and maintenance of the proposed development; and

142 (C) the local government or district will provide the percentage of the costs for the
143 project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

144 (2) The following shall be included in the written prioritization process under
145 Subsection (1):

146 (a) a description of how the strategic initiatives of the department adopted under
147 Section 72-1-211 are advanced by the written prioritization process;

148 (b) a definition of the type of projects to which the written prioritization process
149 applies;

- 150 (c) specification of a weighted criteria system that is used to rank proposed projects
151 and how it will be used to determine which projects will be prioritized;
- 152 (d) specification of the data that is necessary to apply the weighted ranking criteria; and
153 (e) any other provisions the commission considers appropriate, which may include
154 consideration of:
- 155 (i) regional and statewide economic development impacts, including improved local
156 access to:
- 157 (A) employment;
158 (B) educational facilities;
159 (C) recreation;
160 (D) commerce; and
161 (E) residential areas, including moderate income housing as demonstrated in the local
162 government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;
- 163 (ii) the extent to which local land use plans relevant to a project support and
164 accomplish the strategic initiatives adopted under Section 72-1-211; and
- 165 (iii) any matching funds provided by a political subdivision or public transit district in
166 addition to the percentage of costs required by Subsections 72-2-124(4)(a)(viii) and
167 72-2-124(9)(e).
- 168 (3) (a) When prioritizing a public transit project that increases capacity, the
169 commission:
- 170 (i) may give priority consideration to projects that are part of a transit-oriented
171 development or transit-supportive development as defined in Section 17B-2a-802; and
172 (ii) shall give priority consideration to projects that are within the boundaries of a
173 housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6,
174 Housing and Transit Reinvestment Zone Act.
- 175 (b) When prioritizing a transportation project that increases capacity, the commission
176 may give priority consideration to projects that are:
- 177 (i) part of a transportation reinvestment zone created under Section 11-13-227 if:
178 (A) the state is a participant in the transportation reinvestment zone; or
179 (B) the commission finds that the transportation reinvestment zone provides a benefit
180 to the state transportation system; or

181 (ii) within the boundaries of a housing and transit reinvestment zone created pursuant
182 to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

183 (c) If the department receives a notice of prioritization for a municipality as described
184 in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection
185 17-27a-408(5), the commission may give priority consideration to transportation projects that
186 are within the boundaries of the municipality or the unincorporated areas of the county until the
187 department receives notification from the Housing and Community Development Division
188 within the Department of Workforce Services that the municipality or county no longer
189 qualifies for prioritization under this Subsection (3)(c).

190 (d) When prioritizing funding from the Active Transportation Investment Fund created
191 under Subsection 72-2-124(11):

192 (i) the department shall provide the commission with information on a project's
193 potential to save water or improve canal infrastructure; and

194 (ii) the commission may consider the information the department provides the
195 commission on a project's potential to save water or improve canal infrastructure.

196 (4) In developing the written prioritization process, the commission:

197 (a) shall seek and consider public comment by holding public meetings at locations
198 throughout the state; and

199 (b) may not consider local matching dollars as provided under Section 72-2-123 unless
200 the state provides an equal opportunity to raise local matching dollars for state highway
201 improvements within each county.

202 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
203 Transportation Commission, in consultation with the department, shall make rules establishing
204 the written prioritization process under Subsection (1).

205 (6) The commission shall submit the proposed rules under this section to a committee
206 or task force designated by the Legislative Management Committee for review prior to taking
207 final action on the proposed rules or any proposed amendment to the rules described in
208 Subsection (5).

209 Section 5. Section 72-2-117.5 is amended to read:

210 **72-2-117.5. Definitions -- Local Highway and Transportation Corridor**
211 **Preservation Fund -- Disposition of fund money.**

212 (1) As used in this section:

213 (a) "Council of governments" means a decision-making body in each county composed
214 of membership including the county governing body and the mayors of each municipality in the
215 county.

216 (b) "Metropolitan planning organization" has the same meaning as defined in Section
217 [72-1-208.5](#).

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

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

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

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

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

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

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

228 (f) sales and use tax revenues deposited into the fund in accordance with Title 59,
229 Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act.

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

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

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

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

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

237 (iii) provided under Subsection (3)(f) to each county of the second class or city or town
238 within a county of the second class that imposes the sales and use tax authorized by Section
239 [59-12-2218](#).

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

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

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

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

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

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

254 (5) (a) A highway authority may acquire real property or any interests in real property
255 for state, county, and municipal highway [~~or~~] corridors, public transit corridors, or active
256 transportation corridors, subject to:

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

258 (ii) the provisions of this section.

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

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

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

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

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

269 (d) Fund money allocated and distributed under Subsection (4) may be used by a
270 county highway authority for countywide transportation or public transit planning if:

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

273 (ii) the transportation planning is part of the county's continuing, cooperative, and

274 comprehensive process for transportation or public transit planning, corridor preservation,
275 right-of-way acquisition, and project programming;

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

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

280 (e) (i) Subject to Subsection (11), fund money allocated and distributed under
281 Subsection (4) may be used by a county highway authority for transportation or public transit
282 corridor planning that is part of the corridor elements of an ongoing work program of
283 transportation or public transit projects.

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

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

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

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

294 (ii) If a county, city, or town elects to administer the funds allocated and distributed to
295 that county, city, or town under Subsection (4) as a revolving loan fund, a local highway
296 authority shall repay the fund money authorized for the project to the fund.

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

300 (g) (i) Subject to the restrictions in Subsections (5)(g)(ii) and (iii), fund money may be
301 used by a county of the third, fourth, fifth, or sixth class or by a city or town within a county of
302 the third, fourth, fifth, or sixth class for:

303 (A) the construction, operation, or maintenance of a class B road or class C road; or

304 (B) the restoration or repair of survey monuments associated with transportation

305 infrastructure.

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

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

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

315 (ii) The Local Highway and Transportation Corridor Preservation Fund shall only be
316 used to preserve a highway [~~or~~] corridor, a public transit corridor, or an active transportation
317 corridor, that is right-of-way:

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

319 (I) a state highway;

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

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

322 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; [~~or~~]

323 (V) a transit facility as defined in Section 17B-2a-802; or

324 (VI) a facility for active transportation as described in Subsection 72-2-124(11); or

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

326 (I) a state highway;

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

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

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

330 (V) a minor collector road as defined in Section 72-4-102.5; or

331 (VI) a transit facility as defined in Section 17B-2a-802.

332 (iii) The Local Highway and Transportation Corridor Preservation Fund may not be
333 used for a highway corridor that is primarily a recreational trail as defined under Section
334 79-5-102.

335 (b) A highway authority shall authorize the expenditure of fund money after

336 determining that the expenditure is being made in accordance with this section from
337 applications that are:

- 338 (i) endorsed by the council of governments; and
- 339 (ii) for a right-of-way purchase for a highway or public transit corridor authorized
340 under Subsection (6)(a)(ii).

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

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

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

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

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

- 352 (i) areas with rapidly expanding population;
- 353 (ii) the willingness of local governments to complete studies and impact statements
354 that meet department standards;
- 355 (iii) the preservation of corridors by the use of local planning and zoning processes;
- 356 (iv) the availability of other public and private matching funds for a project;
- 357 (v) the cost-effectiveness of the preservation projects;
- 358 (vi) long and short-term maintenance costs for property acquired; and
- 359 (vii) whether the transportation or public transit corridor is included as part of:

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

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

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

364 (c) The council of governments shall:

365 (i) establish a priority list of highway and public transit corridor preservation projects
366 within the county;

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

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

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

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

375 (8) (a) Unless otherwise provided by written agreement with another highway authority
376 or public transit district, the highway authority that holds the deed to the property is responsible
377 for maintenance of the property.

378 (b) The transfer of ownership for property acquired under this section from one
379 highway authority to another shall include a recorded deed for the property and a written
380 agreement between the highway authorities or public transit district.

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

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

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

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

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

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

397 (11) The county shall ensure, to the extent possible, that the fund money allocated and

398 distributed to a city or town in accordance with Subsection (4) is expended:

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

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

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

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

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

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

410 (12) Notwithstanding any other provision in this section, any amounts within the fund
411 allocated to a public transit district or for a public transit corridor may only be derived from the
412 portion of the fund that does not include constitutionally restricted sources related to the
413 operation of a motor vehicle on a public highway or proceeds from an excise tax on liquid
414 motor fuel to propel a motor vehicle.

415 Section 6. Section ~~72-5-403~~ is amended to read:

416 **72-5-403. Transportation corridor preservation powers.**

417 (1) The department, counties, and municipalities may:

418 (a) act in cooperation with one another and other government entities to promote
419 planning for and enhance the preservation of transportation corridors and to more effectively
420 use the money available in the Marda Dillree Corridor Preservation Fund created in Section
421 [72-2-117](#);

422 (b) undertake transportation corridor planning, review, and preservation processes; and

423 (c) acquire fee simple rights and other rights of less than fee simple, including
424 easement and development rights, or the rights to limit development, including rights in
425 alternative transportation corridors, and to make these acquisitions up to a projected 40 years in
426 advance of using those rights in actual transportation facility construction.

427 (2) In addition to the powers described under Subsection (1), counties and
428 municipalities may:

429 (a) limit development for transportation corridor preservation by land use regulation
430 and by official maps; and

431 (b) by ordinance prescribe procedures for approving limited development in
432 transportation corridors until the time transportation facility construction begins.

433 (3) (a) (i) The department shall identify and the commission shall approve
434 transportation corridors as high priority transportation corridors for transportation corridor
435 preservation.

436 (ii) As part of the identification process described in Subsection (3)(a)(i), the
437 department shall identify statewide and regional canal corridors as high priority transportation
438 corridors for transportation corridor preservation.

439 (b) The department shall notify a county or municipality if the county or municipality
440 has land within its boundaries that is located within the boundaries of a high priority
441 transportation corridor.

442 (c) The department may, on a voluntary basis, acquire private property rights within the
443 boundaries of a high priority transportation corridor for which a notification has been received
444 in accordance with Section [10-9a-206](#) or [17-27a-206](#).

445 Section 7. Section **79-2-409** is enacted to read:

446 **79-2-409. Canal list and map.**

447 The department shall:

448 (1) compile a list and map of the canals in the state that have a flow rate 40 cubic feet
449 per second or greater when operating at maximum capacity; and

450 (2) send the list and map to the Department of Transportation created in Section
451 [72-1-201](#) before October 31, 2024.

452 Section 8. **Effective date.**

453 This bill takes effect on May 1, 2024.