

30 72-2-121, as last amended by Laws of Utah 2017, Chapter 436

31 72-3-109, as last amended by Laws of Utah 2011, Chapter 303

32 72-7-102, as last amended by Laws of Utah 2012, Chapter 289

33 **Utah Code Sections Affected by Coordination Clause:**

34 72-2-121, as last amended by Laws of Utah 2017, Chapter 436



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

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

38 **41-1a-1222. Local option highway construction and transportation corridor**
39 **preservation fee -- Exemptions -- Deposit -- Transfer -- County ordinance -- Notice.**

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

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

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

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

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

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

55 (ii) a commercial vehicle with an apportioned registration under Section 41-1a-301;

56 and

57 (iii) a motor vehicle with a Purple Heart special group license plate issued in

58 accordance with Section [41-1a-421](#).

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

61 (i) deposited in the Local Highway and Transportation Corridor Preservation Fund
62 created in Section [72-2-117.5](#);

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

64 (iii) used and distributed in accordance with Section [72-2-117.5](#).

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

67 (i) ~~[50%]~~ 70% of the revenue shall be:

68 (A) deposited in the County of the First Class Highway Projects Fund created in
69 Section [72-2-121](#); and

70 (B) used in accordance with Section [72-2-121](#); and

71 ~~[(ii) 20% of the revenue shall be:]~~

72 ~~[(A) transferred to the legislative body of a city of the first class:]~~

73 ~~[(I) located in a county of the first class; and]~~

74 ~~[(II) that has:]~~

75 ~~[(Aa) an international airport within its boundaries; and]~~

76 ~~[(Bb) a United States customs office on the premises of the international airport
77 described in Subsection (2)(b)(ii)(A)(II)(Aa); and]~~

78 ~~[(B) used by the city described in Subsection (2)(b)(ii)(A) for highway construction,
79 reconstruction, or maintenance projects; and]~~

80 ~~[(iii)]~~ (ii) 30% of the revenue shall be deposited, credited, and used as provided in
81 Subsection (2)(a).

82 (3) To impose or change the amount of a fee under this section, the county legislative
83 body shall pass an ordinance:

84 (a) approving the fee;

85 (b) setting the amount of the fee; and

86 (c) providing an effective date for the fee as provided in Subsection (4).

87 (4) (a) If a county legislative body enacts, changes, or repeals a fee under this section,
88 the enactment, change, or repeal shall take effect on July 1 if the commission receives notice
89 meeting the requirements of Subsection (4)(b) from the county prior to April 1.

90 (b) The notice described in Subsection (4)(a) shall:

91 (i) state that the county will enact, change, or repeal a fee under this part;

92 (ii) include a copy of the ordinance imposing the fee; and

93 (iii) if the county enacts or changes the fee under this section, state the amount of the
94 fee.

95 Section 2. Section **72-2-121** is amended to read:

96 **72-2-121. County of the First Class Highway Projects Fund.**

97 (1) There is created a special revenue fund within the Transportation Fund known as
98 the "County of the First Class Highway Projects Fund."

99 (2) The fund consists of money generated from the following revenue sources:

100 (a) any voluntary contributions received for new construction, major renovations, and
101 improvements to highways within a county of the first class;

102 (b) the portion of the sales and use tax described in Subsection [59-12-2214\(3\)\(b\)](#)
103 deposited in or transferred to the fund;

104 (c) the portion of the sales and use tax described in Subsection [59-12-2217\(2\)\(b\)](#) and
105 required by Subsection [59-12-2217\(8\)\(b\)](#) to be deposited in or transferred to the fund; and

106 (d) a portion of the local option highway construction and transportation corridor
107 preservation fee imposed in a county of the first class under Section [41-1a-1222](#) deposited in or
108 transferred to the fund.

109 (3) (a) The fund shall earn interest.

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

111 (4) The executive director shall use the fund money only:

112 (a) to pay debt service and bond issuance costs for bonds issued under Sections
113 [63B-16-102](#), [63B-18-402](#), and [63B-27-102](#);

114 (b) for right-of-way acquisition, new construction, major renovations, and
115 improvements to highways within a county of the first class and to pay any debt service and
116 bond issuance costs related to those projects, including improvements to a highway located
117 within a municipality in a county of the first class where the municipality is located within the
118 boundaries of more than a single county;

119 (c) for the construction, acquisition, use, maintenance, or operation of:

120 (i) an active transportation facility for nonmotorized vehicles;

121 (ii) multimodal transportation that connects an origin with a destination; or

122 (iii) a facility that may include a:

123 (A) pedestrian or nonmotorized vehicle trail;

124 (B) nonmotorized vehicle storage facility;

125 (C) pedestrian or vehicle bridge; or

126 (D) vehicle parking lot or parking structure;

127 (d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or
128 county to pay for a portion of right-of-way acquisition, construction, reconstruction,
129 renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and
130 (9);

131 (e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by
132 Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts
133 transferred in accordance with Subsection 72-2-124(4)(a)(iv);

134 (f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond
135 issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects
136 described in Subsection 63B-18-401(4)(a);

137 (g) for a fiscal year beginning on or after July 1, 2013, and after the department has
138 verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to
139 transfer an amount equal to 50% of the revenue generated by the local option highway
140 construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in
141 a county of the first class:

- 142 (i) to the legislative body of a county of the first class; and
143 (ii) to be used by a county of the first class for:
144 (A) highway construction, reconstruction, or maintenance projects; or
145 (B) the enforcement of state motor vehicle and traffic laws;
146 (h) for fiscal year 2015 only, and after the department has verified that the amount
147 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under
148 Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue
149 available in the fund for the 2015 fiscal year:
150 (i) to the legislative body of a county of the first class; and
151 (ii) to be used by a county of the first class for:
152 (A) highway construction, reconstruction, or maintenance projects; or
153 (B) the enforcement of state motor vehicle and traffic laws;
154 (i) for fiscal year 2015-16 only, and after the department has verified that the amount
155 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under
156 Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:
157 (i) to the legislative body of a county of the first class; and
158 (ii) to be used by the county for the purposes described in this section;
159 (j) for a fiscal year beginning on or after July 1, 2015, after the department has verified
160 that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the
161 transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to
162 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into
163 the fund in accordance with Subsection 59-12-2214(3)(b) to:
164 (i) the appropriate debt service or sinking fund for the repayment of bonds issued under
165 Section 63B-27-102; and
166 (ii) the Transportation [~~Investment Fund of 2005~~] Fund created in Section [72-2-124]
167 72-2-102 until \$28,079,000 has been deposited into the Transportation [~~Investment Fund of~~
168 2005; and] Fund;
169 (k) for a fiscal year beginning on or after July 1, 2018, after the department has verified

170 that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after
171 the transfer under Subsection (4)(e), the payment under Subsection (4)(f), and the transfers
172 under Subsections (4)(j)(i) and (ii) have been made, to annually transfer 20% of the amount
173 deposited into the fund under Subsection (2)(b) to a public transit district in a county of the
174 first class to fund a system for public transit;

175 (l) for a fiscal year beginning on or after July 1, 2018, after the department has verified
176 that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after
177 the transfer under Subsection (4)(e), the payment under Subsection (4)(f), and the transfers
178 under Subsections (4)(j)(i) and (ii) have been made, to annually transfer 20% of the amount
179 deposited into the fund under Subsection (2)(b):

180 (i) to the legislative body of a county of the first class; and

181 (ii) to fund parking facilities in a county of the first class that facilitate significant
182 economic development and recreation and tourism within the state; and

183 ~~[(k)]~~ (m) for a fiscal year beginning after the amount described in Subsection (4)(j) has
184 been repaid to the Transportation [Investment Fund of 2005] Fund until fiscal year 2030, or
185 sooner if the amount described in Subsection (4)(j)(ii) has been repaid, after the department has
186 verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund
187 and the transfer under Subsection (4)(f) has been made, and after the bonds under Section
188 63B-27-102 have been repaid, to annually transfer an amount equal to up to 42.5% of the sales
189 and use tax revenue imposed in a county of the first class and deposited into the fund in
190 accordance with Subsection 59-12-2214(3)(b):

191 (i) to the legislative body of a county of the first class; and

192 (ii) to be used by the county for the purposes described in this section.

193 (5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the
194 fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and
195 63B-27-102 are considered a local matching contribution for the purposes described under
196 Section 72-2-123.

197 (6) The additional administrative costs of the department to administer this fund shall

198 be paid from money in the fund.

199 (7) Notwithstanding any statutory or other restrictions on the use or expenditure of the
200 revenue sources deposited into this fund, the Department of Transportation may use the money
201 in this fund for any of the purposes detailed in Subsection (4).

202 (8) (a) For a fiscal year beginning on or after July 1, 2018, at the end of each fiscal
203 year, after all programmed payments and transfers authorized or required under this section
204 have been made, on July 30 the department shall transfer the remainder of the money in the
205 fund to the Transportation Fund to reduce the amount owed to the Transportation Fund under
206 Subsection (4)(j)(ii).

207 (b) The department shall provide notice to a county of the first class of the amount
208 transferred in accordance with this Subsection (8).

209 Section 3. Section **72-3-109** is amended to read:

210 **72-3-109. Division of responsibility with respect to state highways in cities and**
211 **towns.**

212 (1) Except as provided in Subsection (3), the jurisdiction and responsibility of the
213 department and the municipalities for state highways within municipalities is as follows:

214 (a) The department has jurisdiction over and is responsible for the construction and
215 maintenance of:

216 (i) the portion of the state highway located between the back of the curb on either side
217 of the state highway; or

218 (ii) if there is no curb, the traveled way, its contiguous shoulders, and appurtenances.

219 (b) The department may widen or improve state highways within municipalities.

220 (c) (i) A municipality has jurisdiction over all other portions of the right-of-way and is
221 responsible for construction and maintenance of the right-of-way.

222 (ii) If a municipality grants permission for the installation of any pole, pipeline,
223 conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any
224 kind or character within the portion of the right-of-way under its jurisdiction:

225 (A) the permission shall contain the condition that any installation will be removed

226 from the right-of-way at the request of the municipality; and

227 (B) the municipality shall cause any installation to be removed at the request of the
228 department when the department finds the removal necessary:

229 (I) to eliminate a hazard to traffic safety;

230 (II) for the construction and maintenance of the state highway; or

231 (III) to meet the requirements of federal regulations.

232 (iii) Except as provided in Subsection (1)(h), a municipality may not install or grant
233 permission for the installation of any pole, pipeline, conduit, sewer, ditch, culvert, billboard,
234 advertising sign, or any other structure or object of any kind or character within the portion of
235 the state highway right-of-way under its jurisdiction without the prior written approval of the
236 department.

237 (iv) The department may, by written agreement with a municipality, waive the
238 requirement of its approval under Subsection (1)(c)(iii) for certain types and categories of
239 installations.

240 (d) If it is necessary that a utility, as defined in Section 72-6-116, be relocated,
241 reimbursement shall be made for the relocation as provided for in Section 72-6-116.

242 (e) (i) The department shall construct curbs, gutters, and sidewalks on the state
243 highways if necessary for the proper control of traffic, driveway entrances, or drainage.

244 (ii) If a state highway is widened or altered and existing curbs, gutters, or sidewalks are
245 removed, the department shall replace the curbs, gutters, or sidewalks.

246 (f) The department may furnish and install street lighting systems for state highways,
247 but their operation and maintenance is the responsibility of the municipality.

248 (g) If new storm sewer facilities are necessary in the construction and maintenance of
249 the state highways, the cost of the storm sewer facilities shall be borne by the state and the
250 municipality in a proportion mutually agreed upon between the department and the
251 municipality.

252 (h) (i) For a portion of a state highway right-of-way for which a municipality has
253 jurisdiction, and upon request of the municipality, the department shall grant permission for the

254 municipality to issue permits within the state highway right-of-way, provided that:

255 (A) the municipality gives the department seven calendar days to review and provide
256 comments on the permit; and

257 (B) upon the request of the department, the municipality incorporates changes to the
258 permit as jointly agreed upon by the municipality and the department.

259 (ii) If the department fails to provide a response as described in Subsection (1)(h)(i)
260 within seven calendar days, the municipality may issue the permit.

261 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
262 the department shall make rules governing the location and construction of approach roads and
263 driveways entering the state highway. The rules shall:

264 (i) include criteria for the design, location, and spacing of approach roads and
265 driveways based on the functional classification of the adjacent highway, including the urban
266 or rural nature of the area;

267 (ii) be consistent with the "Manual on Uniform Traffic Control Devices" and the model
268 access management policy or ordinance developed by the department under Subsection
269 72-2-117(8);

270 (iii) include procedures for:

271 (A) the application and review of a permit for approach roads and driveways including
272 review of related site plans that have been recommended according to local ordinances; and

273 (B) approving, modifying, denying, or appealing the modification or denial of a permit
274 for approach roads and driveways within 45 days of receipt of the application; and

275 (iv) require written justifications for modifying or denying a permit.

276 (b) The department may delegate the administration of the rules to the highway
277 authorities of a municipality.

278 (c) In accordance with this section and Section 72-7-104, an approach road or driveway
279 may not be constructed on a state highway without a permit issued under this section.

280 (3) The department has jurisdiction and control over the entire right-of-way of
281 interstate highways within municipalities and is responsible for the construction, maintenance,

282 and regulation of the interstate highways within municipalities.

283 Section 4. Section **72-7-102** is amended to read:

284 **72-7-102. Excavations, structures, or objects prohibited within right-of-way**
285 **except in accordance with law -- Permit and fee requirements -- Rulemaking -- Penalty**
286 **for violation.**

287 (1) As used in this section, "management costs" means the reasonable, direct, and
288 actual costs a highway authority incurs in exercising authority over the highways under its
289 jurisdiction.

290 (2) Except as provided in Subsection (3) and Section **54-4-15**, a person may not:

291 (a) dig or excavate, within the right-of-way of any state highway, county road, or city
292 street; or

293 (b) place, construct, or maintain any approach road, driveway, pole, pipeline, conduit,
294 sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or
295 character within the right-of-way.

296 (3) (a) (i) A highway authority having jurisdiction over the right-of-way may allow
297 excavating, installation of utilities and other facilities or access under rules made by the
298 highway authority and in compliance with federal, state, and local law as applicable.

299 (ii) Notwithstanding Subsection (3)(a)(i), a highway authority may not allow
300 excavating, installation of utilities and other facilities, or access to any portion of a state
301 highway, including portions thereof within a municipality, without the prior written approval of
302 the department. The department may, by written agreement with a municipality, waive the
303 requirement of its approval for certain types and categories of excavations, installations, and
304 access.

305 (b) (i) The rules may require a permit for any excavation or installation and may
306 require a surety bond or other security.

307 (ii) The application for a permit for excavation or installation on a state highway shall
308 be accompanied by a fee established under Subsection (4)(f).

309 (iii) The permit may be revoked and the surety bond or other security may be forfeited

310 for cause.

311 (iv) Any portion of the right-of-way disturbed by a project permitted under this section
312 shall be repaired using construction standards established by the highway authority with
313 jurisdiction over the disturbed portion of the right-of-way.

314 (c) (i) For a portion of a state highway right-of-way for which a municipality has
315 jurisdiction, and upon request of the municipality, the department shall grant permission for the
316 municipality to issue permits within the state highway right-of-way, provided that:

317 (A) the municipality gives the department seven calendar days to review and provide
318 comments on the permit; and

319 (B) upon the request of the department, the municipality incorporates changes to the
320 permit as jointly agreed upon by the municipality and the department.

321 (ii) If the department fails to provide a response as described in Subsection (3)(c)(i)
322 within seven calendar days, the municipality may issue the permit.

323 (4) (a) Except as provided in Section 72-7-108 with respect to the department
324 concerning the interstate highway system, a highway authority may require compensation from
325 a utility service provider for access to the right-of-way of a highway only as provided in this
326 section.

327 (b) A highway authority may recover from a utility service provider, only those
328 management costs caused by the utility service provider's activities in the right-of-way of a
329 highway under the jurisdiction of the highway authority.

330 (c) (i) A fee or other compensation under this Subsection (4) shall be imposed on a
331 competitively neutral basis.

332 (ii) If a highway authority's management costs cannot be attributed to only one entity,
333 the management costs shall be allocated among all privately owned and government agencies
334 using the highway right-of-way for utility service purposes, including the highway authority
335 itself. The allocation shall reflect proportionately the management costs incurred by the
336 highway authority as a result of the various utility uses of the highway.

337 (d) A highway authority may not use the compensation authority granted under this

338 Subsection (4) as a basis for generating revenue for the highway authority that is in addition to
339 its management costs.

340 (e) (i) A utility service provider that is assessed management costs or a franchise fee by
341 a highway authority is entitled to recover those management costs.

342 (ii) If the highway authority that assesses the management costs or franchise fees is a
343 political subdivision of the state and the utility service provider serves customers within the
344 boundaries of that highway authority, the management costs may be recovered from those
345 customers.

346 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
347 department shall adopt a schedule of fees to be assessed for management costs incurred in
348 connection with issuing and administering a permit on a state highway under this section.

349 (g) In addition to the requirements of this Subsection (4), a telecommunications tax or
350 fee imposed by a municipality on a telecommunications provider, as defined in Section
351 [10-1-402](#), is subject to Section [10-1-406](#).

352 (5) Permit fees collected by the department under this section shall be deposited with
353 the state treasurer and credited to the Transportation Fund.

354 (6) Nothing in this section shall affect the authority of a municipality under:

355 (a) Section [10-1-203](#) or [10-1-203.5](#);

356 (b) Section [11-26-1](#);

357 (c) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

358 (d) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

359 (7) A person who violates the provisions of Subsection (2) is guilty of a class B
360 misdemeanor.

361 Section 5. **Effective date.**

362 (1) Except as provided in Subsection (2), this bill takes effect on May 8, 2018.

363 (2) The amendments to the following sections take effect on July 1, 2018:

364 (a) Section [41-1a-1222](#); and

365 (b) Section [72-2-121](#).

366 Section 6. **Coordinating S.B. 128 with S.B. 136 -- Substantive and technical**
367 **amendments.**

368 If this S.B. 128 and S.B. 136, Transportation Governance Amendments, both pass and
369 become law, it is the intent of the Legislature that on July 1, 2018, the Office of Legislative
370 Research and General Counsel shall prepare the Utah Code database for publication by
371 renumbering and amending Subsection 72-2-121(8) enacted in S.B. 136 to read:

372 "(9)(a) Any revenue in the fund that is not specifically allocated and obligated under
373 this section is subject to the review process described in this Subsection (9).

374 (b) A county of the first class shall create a county transportation advisory committee
375 as described in Subsection (9)(c) to review proposed transportation and, as applicable, public
376 transit projects and rank projects for allocation of funds.

377 (c) The county transportation advisory committee described in Subsection (9)(b) shall
378 be composed of the following 13 members:

379 (i) six members who are residents of the county, nominated by the county executive
380 and confirmed by the county legislative body who are:

381 (A) members of a local advisory board of a large public transit district as defined in
382 Section 17B-2a-802;

383 (B) county council members; or

384 (C) other residents with expertise in transportation planning and funding; and

385 (ii) seven members nominated by the county executive, and confirmed by the county
386 legislative body, chosen from mayors or managers of cities or towns within the county.

387 (d) (i) A majority of the members of the county transportation advisory committee
388 constitutes a quorum.

389 (ii) The action by a quorum of the county transportation advisory committee constitutes
390 an action by the county transportation advisory committee.

391 (e) The county body shall determine:

392 (i) the length of a term of a member of the county transportation advisory committee;

393 (ii) procedures and requirements for removing a member of the county transportation

394 advisory committee;
395 (iii) voting requirements of the county transportation advisory committee;
396 (iv) chairs or other officers of the county transportation advisory committee;
397 (v) how meetings are to be called and the frequency of meetings, but not less than once
398 annually; and
399 (vi) the compensation, if any, of members of the county transportation advisory
400 committee.
401 (f) The county shall establish by ordinance criteria for prioritization and ranking of
402 projects, which may include consideration of regional and countywide economic development
403 impacts, including improved local access to:
404 (i) employment;
405 (ii) recreation;
406 (iii) commerce; and
407 (iv) residential areas.
408 (g) The county transportation advisory committee shall evaluate and rank each
409 proposed public transit project and regionally significant transportation facility according to
410 criteria developed pursuant to Subsection (9)(e).
411 (h) (i) After the review and ranking of each project as described in this section, the
412 county transportation advisory committee shall provide a report and recommend the ranked list
413 of projects to the county legislative body and county executive.
414 (ii) After review of the recommended list of projects, as part of the county budgetary
415 process, the county executive shall review the list of projects and may include in the proposed
416 budget the proposed projects for allocation, as funds are available.
417 (i) The county executive of the county of the first class, with information provided by
418 the county and relevant state entities, shall provide a report annually to the county
419 transportation advisory committee, and to the mayor or manager of each city, town, or metro
420 township in the county, including the following:
421 (i) the amount of revenue received into the fund during the past year;

- 422 (ii) any funds available for allocation;
- 423 (iii) funds obligated for debt service; and
- 424 (iv) the outstanding balance of transportation related debt."