

SUMMARY OF SENATE BILL 136SUB6: TRANSPORTATION GOVERNANCE AMENDMENTS (HARPER/SCHULTZ)

Senate Bill 136 is a significant, positive step forward for the future of our region and state. Utah is growing and changing, and with that comes the need to efficiently use resources to provide transportation choices for our communities. SB136 authorizes funding for transit and local needs, and enhances the coordination of transportation, land use, and economic development.

- UTA governance: renames UTA to “Transit District of Utah” and changes UTA Board from 16 part-time members to three full-time members (nominated by counties, appointed by Governor, confirmed by Senate), and creates a nine-member local advisory board (appointed by COGs).
- Creates a new state Transit Transportation Investment Fund (“TTIF”) for transit capital projects statewide, subject to legislative appropriation and a 40% local match requirement. Beginning July 1, 2019, the state will transfer funding into TTIF, approx. \$5M in FY19, growing over time.
- Includes land use and economic development considerations in (i) the TIF/TTIF prioritization criteria, as determined by the State Transportation Commission, and (ii) UDOT’s statewide “strategic initiatives.” The Commission and UDOT will develop the criteria and strategic initiatives in consultation with MPOs, local governments, transit districts, and other transportation stakeholders.
- Local option sales taxes:
 - Local options can be imposed through referendum or by action of a county’s legislative body.
 - If a county imposes the 4th quarter between now and June 30, 2019, they keep all those funds for that period, but can only use them to pay off debt or for regionally significant transportation facilities. Beginning July 1, 2019, the regular distribution of 4th quarter revenue takes effect: 0.10% to cities, 0.10% to transit district, and 0.05% to the county.
 - If a county has not imposed the 4th quarter by June 30, 2020, then cities with transit service will have the option to impose it, with 0.125% going to the city, and 0.125% to the transit district.
 - Beginning July 1, 2019, counties may impose a *new* local option sales tax of 0.20% for transit capital expenses and service delivery. In the UTA district, counties can only impose the new 0.20% if they have already imposed the other four quarters.
 - Local option sales taxes not imposed by June 30, 2022 expire (“use it or lose it”). This applies only to the 3rd and 4th quarters in counties fully in the UTA district (i.e., Weber, Davis, Salt Lake, Utah Counties), and to the city imposition option for the 4th quarter. The new 0.20% county option for transit expires June 30, 2023.
 - Establishes an updated process for the County of the First Class Highway Projects Fund.
- Increases alternative fuel vehicle registration fees, phased in over a three-year period; e.g., electric vehicles fees are \$60 in 2019, \$90 in 2020, \$120 in 2021; lower for hybrids.
- Provides that state and local corridor preservation funding can be used for transit corridors – in addition to roads.
- Authorizes the creation of “Transportation Reinvestment Zones” defined as “an area created by two or more public agencies [one of which must be a land use authority] by interlocal agreement to capture increased property tax revenue generated by a transportation infrastructure project.”
- Creates a Transportation and Tax Review Task Force to evaluate and make recommendations to the Legislature on transportation revenues and governance, and on simplifying and modernizing the state’s tax system. The Task Force will have thirteen members from the Senate, House, and Governor’s Office. Recommendations to the Legislature before December 1, 2018.

DETAILED SUMMARY

UTA governance changes

- Renames Utah Transit Authority as “Transit District of Utah” and provides that the Board will implement the name change “over time and as resources permit.” (576-583)
- Replaces the current 16-member UTA Board with a three-member Board: (861-920)
 - Counties shall make two or more nominations to the Governor before July 31, 2018:
 - Salt Lake County Mayor, with the approval of the County Council.
 - Utah County Commission, in consultation with Tooele County Commission.
 - Davis and Weber Counties, in consultation with Box Elder County Commission.
 - Governor appoints before August 31, 2018. Senate provides advice and consent. The new Board assumes control on or before November 1, 2018.
 - Board members shall be “a qualified executive with technical and administrative experience and training appropriate for the position.” Three-year terms, no limit on number of terms. Governor selects the chair. Board members serve “at the pleasure of the Governor.” Salary is initially set by the current UTA Board at not more than \$150,000, and subsequently is set by the local advisory board.
- Powers and duties of new Board include: (1003-1148)
 - Approve a strategic plan every four years; adopt budget; approve contracts for TOD; set fares and rates. (The existing UTA Board will develop the tentative 2019 budget, subject to approval from the new Board.)
 - Appoint Executive Director for UTA, reporting to the Board (1333-1379). Hire, set salaries, and develop performance targets and evaluations for executive officers.
 - Additional auditing, reporting and coordination with the Legislature, COGs and MPOs. Report annually to the state Transportation Commission the UTA’s and MPO’s short and long-range plans, and capital projects proposed for state funding.
 - Review and approve any contract or expense over \$200,000.
 - By Sept. 30, 2019 evaluate feasibility of joining Utah State Retirement System.
 - UTA required to consult with and receive approval from the State Bonding Commission before issuing any bonds.
 - UTA and UDOT required to study and evaluate the feasibility of merging UTA into UDOT.
 - Open and Public Meetings Act revised to provide that a “convening” of the three-member Board does not constitute a “meeting”, two or three members can have a “routine conversation” where no tentative or final votes are taken or the conversation pertains only to day-to-day management and operation of the UTA. (1886-1916)
 - Provides that the Utah Attorney General shall serve as legal counsel to the UTA, no later than July 1, 2019. The AG and UTA will work together and present a report and transition strategy to the Transportation Interim Committee before Nov. 30, 2019. (1244-1271)
- Creates a nine-member local advisory board, no later than Nov. 1, 2018: (1150-1192).
 - Appointments:
 - Salt Lake County COG: 3
 - Salt Lake City Mayor: 1
 - Utah County COG: 2
 - Weber COG: 1

- Davis COG: 1
- Box Elder & Tooele COG: 1
- Powers and duties of advisory board include:
 - Set compensation of Board.
 - Review and approve service plans, capital development plans and projects, and TODs before final Board approval.
 - Consult with Board on budgets, bonding, strategic plans, funding opportunities, investments, auditing, adoption of policies/ordinances/bylaws, hold public hearings.
 - Represent and advocate the concerns of citizens to the Board and thereby assume the responsibilities of the previously required Citizens' Advisory Board.

Modified requirements for UDOT, strategic initiative developed with local stakeholders: (5026-5277)

- Requires UDOT to have two (rather than one) Deputy Directors: a deputy director of engineering and operations, and a deputy director of planning and investment (whose responsibilities will include coordinating with MPOs and local governments, corridor and area planning, asset management, programming and prioritizing projects).
- Creates a Planning and Investment Division within UDOT with responsibility for:
 - Creating and managing an intermodal terminal facility.
 - Promoting development of an intermodal inland port.
 - Overseeing public-private partnerships.
- UDOT is responsible for oversight and supervision of any transportation project where state funds are used. UDOT may “assume responsibility for any public transit project that traverses any portions of the state highway systems.” That determination is made jointly by UDOT and the transit agency “proposing the development.”
- Modifies requirement for UDOT to develop strategic initiatives:
 - Statewide across all modes of transportation, updated at least every four years, with at least a twenty-year horizon. Requires consultation with MPOs, local governments, and transit districts, and consideration of regional and local transportation plans.
 - Requires consideration of “projected major centers of economic activity, population growth, and job centers”, mobility and access, congestion reduction, economic development and job creation, asset management, sustainability, return on investment, and air quality, in addition to existing required consideration of maintenance, operations, and safety.
 - Assess capacity needs and establish goals for corridors with the following characteristics: high volume of travel, connect major centers of economic activity or population growth, have major freight, and accommodate multiple modes of travel.
 - Report on strategic initiatives to the Transportation Interim Committee by Dec. 1 annually.
- Requires UDOT to implement a road usage charge mileage-based revenue system demonstration program, including full implementation of such a program for alternative fuel vehicles by Jan. 1, 2020. Owners of AV vehicles who participate in the program will be exempted from increased vehicle registration fees. (5212-5277)
- Expands authority of UDOT to handle NEPA reviews to include railroad, transit, or multimodal projects in addition to highways (4143-4174).

Requires modified road and transit project prioritization criteria to consider land use and economic development: (5331-5467)

- Requires Transportation Commission to determine priorities and funding levels of projects in the state transportation systems and capital development of new public transit facilities.
- Directs Transportation Commission to update prioritization criteria for state-funded road and transit projects– in consultation with MPOs and with public input – to consider:
 - regional and statewide economic development, including improved local access to employment, recreation, commerce, and residential areas;
 - “the extent to which local land use plans relevant to the project support and accomplish” UDOT’s strategic initiatives;
 - matching funds from the local government or transit agency in excess of the 40% requirement.
 - The rules adopting the updated prioritization criteria must be submitted to a committee or task force designated by the Legislative Management Committee.
- Local governments can nominate projects to the Transportation Commission for prioritization. The local government must demonstrate that the project will advance UDOT’s strategic initiatives and, for transit projects, that the local government has ongoing funding sources for operations and maintenance of the proposed development.

New “Transit Transportation Investment Fund” (TTIF) account created within the TIF: (5867-5888)

- Creates new fund with UDOT for statewide transit capital projects. The Legislature may appropriate revenue into the fund. Also, beginning July 1, 2019, state sales taxes will be transferred into the TTIF in an amount equal to 35% of the revenue generated from motor fuel taxes above 29.4 cents per gallon. This is estimated to generate approx. \$5M in FY2019, and – with the indexing of motor fuel taxes to CPI under current law – grow over time. (4023-4029)
- “[T]he Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the [state transportation] commission. The Legislature may only appropriate money from the fund for a public transit capital development project if the public transit district or political subdivision provides matching funds of equal to or greater than 40% of the funds needed for the project.” (Matching funds can come from the Transportation Infrastructure Loan Fund).
- Before any funds are programmed and allocated from the TTIF, requires that UDOT and UTA annually report to the Governor and Legislature by Oct. 1 on any transit projects that have been prioritized. (5453-5460)

State and local corridor preservation funding can be used for transit corridors – in addition to roads: (5469-5672)

Creates a Transportation and Tax Review Task Force: (1421 – 1495)

Membership:

- 4 members of the Senate, with 1 member from the minority party, appointed by Senate President
- 6 members of the House, with 1 member from the minority party, appointed by House Speaker
- 3 members of the executive branch appointed by the governor

Responsibilities include:

- Evaluate and prepare a report with recommendations on:
 - Transportation topics, including possible reforms to taxes and fees related to transportation funding, i.e. vehicle registration fees; a road user charge; local option sales and use taxes; statewide

sales and use taxes; motor and special fuel taxes; fiscal impacts of existing tax credits and exemptions; and transportation/public transit governance structures.

- Taxation-related topics, including: simplifying and modernizing the state's tax system; strategies to broaden tax base and lower tax rates; minimize burdens of compliance and administration of tax system modernization of state and local revenue systems to ensure the state's revenue structure is responsive to a changing economy, with a sustainable fiscal structure for taxpayers and for state and local governments.
- Solicit public feedback and involvement and coordinate with individuals and entities with relevant transportation and taxation expertise.
- Report findings and recommendations to the Legislature before December 1st of each year the task force is in effect. The Task Force shall remain in effect until March 31, 2020.

Revenues

Vehicle registration fees: (1828-1938)

- In addition to the regular registration fees, phases in additional fees for alternative-fuel vehicles: for electric vehicles, \$60 in calendar 2019, \$90 in 2020, \$120 in 2021; for plug-in hybrids, \$26, \$39, \$52; for hybrid electrics, \$10, \$15, \$20.
- Vehicle registration fees are split 70% to UDOT and 30% to city and county B&C roads.
- The additional funding going to UDOT from the increased registration fees on alternative fuel vehicles – estimated at \$200,000 in FY19 – will be used to partner with other entities to expand the availability of infrastructure for emerging vehicle technology.
- Once the Road Usage Charge program is implemented – no later than Jan. 1, 2020 – owners of alternative fuel vehicles shall be offered the option to participate in the program rather than paying the increased fees. (5271-5277)
- Beginning Jan. 1, 2020, increases the annual vehicle registration fees by the Consumer Price Index. The indexing of the additional fees on alternative fuel vehicles begins after they are fully phased-in.

Local option sales taxes for transportation: (4137-4863)

- Makes referendum requirement for county imposition optional (for 3rd and 4th quarters and the new 0.20%).
- Modifications to the "4th quarter" local option:
 - If a county imposes the 4th quarter after May 8, 2018 (the effective date of the bill), that county keeps 100% of the revenues collected through June 30, 2019, to pay debt service or fund regionally significant transportation or transit projects. After June 30, 2019, the regular 4th quarter distribution would apply (0.10% cities, 0.10% transit district, 0.05% county).
 - Beginning July 1, 2020, if a county has not imposed the fourth quarter, the cities within 1st, 2nd and 3rd class counties that are within a transit district or have or are intending to have transit service, or cities annexed into a large transit district, have the option to impose the full quarter, with 0.125% going to the city and 0.125% going to the transit district for transit within the county. (This effectively would apply to all cities in Utah and Salt Lake Counties, to cities within the UTA district in Box Elder County, to cities in Washington County that either are within Sun Tran or intend to have transit service, or to cities in 3rd class counties with or intending to have transit service.)

- If a city imposes the 4th quarter, and the county subsequently imposes the 4th quarter, the city-imposed distribution (0.125%/0.125%) still applies in the imposing city, and in the remainder of the county the regular distribution (0.10%/0.10%/0.05%) applies.
- Newly authorized 0.20% local option for transit. (4812-4863)
 - Beginning July 1, 2019, counties may impose a local option sales tax of up to 0.20% for transit capital expenses and service delivery. This authorization applies to counties that have transit service or are intending to have transit service.
 - In the UTA district, counties can only impose the new 0.20% if they have already imposed the other four quarters. *Note:* current local option sales tax rates in UTA-district counties: Box Elder: .55; Davis: .80; Salt Lake: .80; Tooele: .55; Utah: .80; Weber: 1.05.
 - The county can use those funds for the expenses of a public transit district or another entity providing transit service or facilities.
- Local option sales taxes not imposed by June 30, 2022 expire (“use it or lose it”). This applies only to the 3rd and 4th quarters in counties fully in the UTA district (i.e., Weber, Davis, Salt Lake, Utah Counties), and to the city imposition option for the 4th quarter. The new 0.20% county option for transit expires June 30, 2023.
- Establishes a new process for the Salt Lake County of the First Class Highway Projects Fund, which has funding from a portion of the Salt Lake County 2nd and 3rd “quarter” local options. The county will create a “county transportation advisory committee” of 13 members, nominated by the county mayor and confirmed by the county council, including but not limited to city mayors and managers. The county will establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to employment, recreation, commerce, and residential areas. (5764-5817)
- Removes the requirement for counties that impose the “3rd quarter” local option sales tax under 59-12-2217 to use 25% of the funds for corridor preservation (corridor preservation is still an eligible use of the funds).

Authorization of Transportation Reinvestment Zones – “value capture”: (260-370)

- Allows the creation of Transportation Reinvestment Zones (TRZ), defined as “an area created by two or more public agencies [at least one of which must be a land use authority] by interlocal agreement to capture increased property or sales tax revenue generated by a transportation infrastructure project...”
- ILA creating the TRZ must: (i) define the transportation infrastructure need and proposed improvement; (ii) define the boundaries of the zone; (iii) establish a base year to calculate the increase of property tax revenue within the zone; and (iv) establish terms for sharing any increase in property tax or sales tax revenue within the zone.
- Creation of the TRZ must be done with public hearings, and any surplus funds can be used for other purposes as agreed by the ILA parties.

Effective date: May 8, 2018 (except for certain provisions with delayed effective dates as noted).

Local Option Sales Taxes for Transportation and S.B. 136 (UTA Local District Counties)

4/3/2018

	Quarter 1	Quarter 2	Quarter 3	Quarter 4 "Prop 1"	New 0.20%	Current Imposition Totals
	TRANSIT	TRANSIT	ROAD or TRANSIT	ROAD and TRANSIT	TRANSIT	
	0.30%	0.25%	0.25% COG / county	0.10% cities, 0.10% transit, 0.05% counties	0.20% capital expenses or service delivery	
Weber	✓	✓	✓(1)	✓	deadline 6/30/23 (2,3)	1.05%
Davis	✓	✓	deadline 6/30/22	✓	deadline 6/30/23 (2,3)	0.80%
Salt Lake (4)	✓	✓	✓	deadline 6/30/22 (5,6)	deadline 6/30/23 (2,3)	0.80%
Utah (7)	✓	✓	✓	deadline 6/30/22 (5,6)	deadline 6/30/23 (2,3)	0.80%
Box Elder	✓(8)	✓(8)	no deadline	no deadline (5,6)	deadline 6/30/23 (2,3)	0.55%
Tooele	✓(8)	no deadline (8)	no deadline	✓	deadline 6/30/23 (2,3)	0.55%

FOOTNOTES:

- (1) 25% of the 3rd Quarter is no longer required to be spent on corridor preservation but corridor preservation is still an eligible expense.
- (2) Counties in the UTA Local District can only impose the New 0.20% if they have already imposed the other four quarters.
- (3) New 0.20% cannot be imposed until 7/1/19.
- (4) A portion of Salt Lake County's 2nd and 3rd Quarters goes into the County of the First Class Highway Projects Fund.
- (5) Counties that impose the 4th Quarter between 5/8/18 and 6/30/19 keep 100% of revenue to pay debt service or to fund regionally significant transportation or transit projects. Beginning 7/1/19, the 0.10%, 0.10%, 0.05% distribution takes effect.
- (6) Beginning 7/1/20, if a county has not imposed the 4th Quarter, cities within 1st, 2nd, and 3rd class counties that are within the UTA Local District, or have or are intending to have transit service, have the option to impose the full Quarter, with 0.125% going to the city and 0.125% going to the transit district for transit within the county. If a city imposes the 4th Quarter, and the county subsequently imposes the 4th Quarter, the city-imposed distribution (0.125%/0.125%) still applies in the imposing city, and in the remainder of the county the regular distribution (0.10%/0.10%/0.05%) applies.
- (7) In Utah County, the 1st Quarter is 0.25% and 2nd Quarter is 0.30%.
- (8) Imposed only in areas within the UTA Local District.

NOTE: Referendum is required for 1st and 2nd Quarters and is optional for 3rd and 4th Quarters, and the New 0.20%.