

Brady Brammer proposes the following substitute bill:

Transportation Utility Fee Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

House Sponsor:

LONG TITLE

General Description:

This bill deals with a municipality's or county's ability to impose a transportation utility fee.

Highlighted Provisions:

This bill:

- defines terms;
- provides that a municipality or county may impose and collect a transportation utility fee under certain circumstances;
- describes the notice and public hearing requirements to establish a transportation utility fee;
- requires a municipality or county to establish different rates within a transportation utility fee for different classifications of users, if the rates and classifications have a reasonable basis;
- requires a municipality or county to exempt a religious organization from a transportation utility fee; and
- provides that if a municipality or county has a transportation utility fee that is not in compliance with statutory requirements, the municipality or county shall modify or repeal the transportation utility fee by July 1, 2027.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

10-5-133, Utah Code Annotated 1953

10-6-134.5, Utah Code Annotated 1953

17-36-56, Utah Code Annotated 1953

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

Section 1. Section **10-5-133** is enacted to read:

10-5-133 . Transportation utility fee.

(1) As used in this section:

(a) "Religious organization" means a group, mission, order, convention, church with nonprofit status, or any organization described in 26 U.S.C. Sec. 6033(a)(3)(A)(i) or (iii).

(b) "Transportation fund" means a fund described in and established under Subsection (6).

(c) "Transportation system" means:

(i) traffic and pedestrian safety infrastructure, including:

(A) a sidewalk;

(B) curb and gutter;

(C) a safety feature;

(D) a traffic sign;

(E) a traffic signal; or

(F) street lighting; and

(ii) streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures.

(d) "Transportation utility fee" means a fee imposed on the public at large or on a user segment to generate revenue to pay for costs associated with developing, constructing, maintaining, operating, repairing, upgrading, or replacing a transportation system or any component of a transportation system.

(e) "User segment" means a segment of the town's population based on a classification established under Subsection (5).

(2)(a) A town may impose and collect a transportation utility fee as described in this section.

(b) A town may impose a transportation utility fee to provide funding for any number of transportation systems or components of transportation systems but may not have more than a single transportation utility fee in effect at a time.

(3)(a) Subject to Subsection (3)(b), before adopting an ordinance imposing or increasing a transportation utility fee, the governing body shall comply with the notice and public hearing requirements established in Sections 10-6-113 and 10-6-114.

(b)(i) The governing body of a town that proposes to impose or increase a transportation utility fee shall, in addition to the notice required under Section 10-6-113, provide notice of the proposed fee and the public hearing:

(A) in a notice with the town's monthly utility bill, if the town mails or emails residents a monthly utility bill; or

(B) through another primary means of communicating with residents, if the town does not provide residents a monthly utility bill.

(ii) The public hearing required for a proposal to impose or increase a transportation utility fee may be held in conjunction with a budget hearing under Section 10-6-114 but shall be separate and distinct from the budget hearing.

(4)(a) A transportation utility fee may be imposed or increased only by an ordinance adopted by the town's governing body.

(b)(i) Subject to Subsection (4)(b)(ii), the governing body may adopt an ordinance imposing or increasing a transportation utility fee at the same meeting in which the public body adopts the town budget.

(ii) The governing body vote on the imposition or increase of a transportation utility fee shall be separate from the governing body vote on the town budget or any other item.

(c) The amount of a transportation utility fee for the town's population or for any user segment shall be reasonably related to the services provided to, benefits received by, or need created by those within the town's population or user segment who pay the transportation utility fee, as determined in accordance with this section.

(d)(i) Revenue from a transportation utility fee may not supplant existing general fund appropriations that the town has budgeted for transportation systems or components of transportation systems as of the date the transportation utility fee becomes effective.

(ii) The limitation under Subsection (4)(d)(i) does not apply to a designated transportation facilities capital or reserve account established before the effective date of a transportation utility fee under this section.

(5)(a) A town shall establish different rates within a transportation utility fee for different classifications of users of a transportation facility if the rates and classifications have a reasonable basis.

(b)(i) A reasonable basis under Subsection (5)(a) may include:

(A) different levels of benefit received by users of a transportation utility fee;

- 97 (B) different impacts on or usage of transportation facilities by those who pay the
98 transportation utility fee;
- 99 (C) a difference in the cost of providing a transportation facility to different
100 classifications of users;
- 101 (D) a difference in levels of risk to the operation of a transportation facility for
102 different classifications of users;
- 103 (E) differing contributions that different classifications of users make, separate
104 from a transportation utility fee, to the cost of constructing, maintaining, or
105 operating a transportation facility; and
- 106 (F) distinguishable differences in the needs or conditions of different
107 classifications of users based on economic, public policy, or other identifiable
108 elements.
- 109 (ii) A reasonable basis under Subsection (5)(a) does not include:
- 110 (A) whether a user resides inside or outside the town boundary; or
- 111 (B) a consideration of the age of development within areas with the same zoning
112 designation.
- 113 (c) A town shall exempt a religious organization from payment of a transportation utility
114 fee established under this section.
- 115 (6)(a) A town that imposes a transportation utility fee shall establish a fund as provided
116 in this Subsection (6).
- 117 (b) A town shall deposit into the transportation fund all revenue from a transportation
118 utility fee.
- 119 (c) A town may not:
- 120 (i) deposit into or commingle with a transportation fund any money from any other
121 source; or
- 122 (ii) use money in a transportation fund for any purpose other than to pay for the cost
123 of:
- 124 (A) the development or construction of a new transportation system or component
125 of a new transportation system;
- 126 (B) upgrading or replacing an existing transportation system or component of an
127 existing transportation system;
- 128 (C) the maintenance, operation, or repair of an existing transportation system or
129 component of an existing transportation system; or
- 130 (D) reasonable administrative costs associated with the transportation fund or with

- activities described in Subsections (6)(c)(ii)(A), (B), and (C).
- (d) Notwithstanding Sections 10-6-124, 10-6-125, and 10-6-135.5, a town may not transfer money into a transportation fund to any other fund or to a separate account.
- (7)(a) A town that imposes a transportation utility fee shall conduct an annual review of the transportation utility fee as provided in this Subsection (7) and prepare a written report of the annual review.
- (b) In an annual review under Subsection (7)(a), the governing body shall:
- (i) review the balance of the transportation fund;
 - (ii) review the current amount of the transportation utility fee;
 - (iii) demonstrate that there is still a reasonable relationship between the amount of the transportation utility fee and the transportation services provided to, benefits received by, or need created by those who pay the fee;
 - (iv) consider other possible revenue sources that the town could use for transportation facilities instead of a transportation utility fee;
 - (v) ensure that Subsection (6)(d) is being complied with; and
 - (vi) demonstrate that revenue from the transportation utility fee continues to be needed to provide a transportation system that the town could not otherwise provide from other existing revenue sources.
- (c)(i) A town shall submit a copy of the written report under Subsection (7)(a) to the state auditor.
- (ii) A town may fulfill the requirement of Subsection (7)(a)(i) by submitting the written report as part of the town's annual financial reports submitted to the state auditor under Section 10-6-150.
- (8)(a) A transportation utility fee imposed under this section expires 10 years after the effective date of the ordinance imposing the transportation utility fee.
- (b) The 10-year period in Subsection (8)(a) begins again with any subsequent adoption of any ordinance imposing a transportation utility fee after the initial adoption of an ordinance imposing a transportation utility fee.
- (9) A town that, before May 7, 2025, imposes a fee to pay for a transportation system shall, no later than July 1, 2027:
- (a) ensure that requirements of this section have been complied with for the fee that the town imposes; or
 - (b) repeal the fee.
- Section 2. Section **10-6-134.5** is enacted to read:

10-6-134.5 . Transportation utility fee.

(1) As used in this section:

- (a) "Religious organization" means a group, mission, order, convention, church with nonprofit status, or any organization described in 26 U.S.C. Sec. 6033(a)(3)(A)(i) or (iii).
- (b) "Transportation fund" means a fund described in and established under Subsection (6).
- (c) "Transportation system" means:
- (i) traffic and pedestrian safety infrastructure, including:
 - (A) a sidewalk;
 - (B) curb and gutter;
 - (C) a safety feature;
 - (D) a traffic sign;
 - (E) a traffic signal; or
 - (F) street lighting; and
 - (ii) streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures.
- (d) "Transportation utility fee" means a fee imposed on the public at large or on a user segment to generate revenue to pay for costs associated with developing, constructing, maintaining, operating, repairing, upgrading, or replacing a transportation system or any component of a transportation system.
- (e) "User segment" means a segment of the city's population based on a classification established under Subsection (5).

(2)(a) A city may impose and collect a transportation utility fee as described in this section.

(b) A city may impose a transportation utility fee to provide funding for any number of transportation systems or components of transportation systems but may not have more than a single transportation utility fee in effect at a time.

(3)(a) Subject to Subsection (3)(b), before adopting an ordinance imposing or increasing a transportation utility fee, the governing body shall comply with the notice and public hearing requirements established in Sections 10-6-113 and 10-6-114.

(b)(i) The governing body of a city that proposes to impose or increase a transportation utility fee shall, in addition to the notice required under Section 10-6-113, provide notice of the proposed fee and the public hearing:

(A) in a notice with the city's monthly utility bill, if the city mails or emails

- 199 residents a monthly utility bill; or
200 (B) through another primary means of communicating with residents, if the city
201 does not provide residents a monthly utility bill.
- 202 (ii) The public hearing required for a proposal to impose or increase a transportation
203 utility fee may be held in conjunction with a budget hearing under Section
204 10-6-114 but shall be separate and distinct from the budget hearing.
- 205 (4)(a) A transportation utility fee may be imposed or increased only by an ordinance
206 adopted by the city's governing body.
- 207 (b)(i) Subject to Subsection (4)(b)(ii), the governing body may adopt an ordinance
208 imposing or increasing a transportation utility fee at the same meeting in which
209 the public body adopts the city budget.
- 210 (ii) The governing body vote on the imposition or increase of a transportation utility
211 fee shall be separate from the governing body vote on the city budget or any other
212 item.
- 213 (c) The amount of a transportation utility fee for the city's population or for any user
214 segment shall be reasonably related to the services provided to, benefits received by,
215 or need created by those within the city's population or user segment who pay the
216 transportation utility fee, as determined in accordance with this section.
- 217 (d)(i) Revenue from a transportation utility fee may not supplant existing general
218 fund appropriations that the city has budgeted for transportation systems or
219 components of transportation systems as of the date the transportation utility fee
220 becomes effective.
- 221 (ii) The limitation under Subsection (4)(d)(i) does not apply to a designated
222 transportation facilities capital or reserve account established before the effective
223 date of a transportation utility fee under this section.
- 224 (5)(a) A city shall establish different rates within a transportation utility fee for different
225 classifications of users of a transportation facility if the rates and classifications have
226 a reasonable basis.
- 227 (b)(i) A reasonable basis under Subsection (5)(a) may include:
- 228 (A) different levels of benefit received by users of a transportation utility fee;
229 (B) different impacts on or usage of transportation facilities by those who pay the
230 transportation utility fee;
231 (C) a difference in the cost of providing a transportation facility to different
232 classifications of users;

- (D) a difference in levels of risk to the operation of a transportation facility for different classifications of users;
- (E) differing contributions that different classifications of users make, separate from a transportation utility fee, to the cost of constructing, maintaining, or operating a transportation facility; and
- (F) distinguishable differences in the needs or conditions of different classifications of users based on economic, public policy, or other identifiable elements.
- (ii) A reasonable basis under Subsection (5)(a) does not include:
- (A) whether a user resides inside or outside the city boundary; or
- (B) a consideration of the age of development within areas with the same zoning designation.
- (c) A city shall exempt a religious organization from payment of a transportation utility fee established under this section.
- (6)(a) A city that imposes a transportation utility fee shall establish a fund as provided in this Subsection (6).
- (b) A city shall deposit into the transportation fund all revenue from a transportation utility fee.
- (c) A city may not:
- (i) deposit into or commingle with a transportation fund any money from any other source; or
- (ii) use money in a transportation fund for any purpose other than to pay for the cost of:
- (A) the development or construction of a new transportation system or component of a new transportation system;
- (B) upgrading or replacing an existing transportation system or component of an existing transportation system;
- (C) the maintenance, operation, or repair of an existing transportation system or component of an existing transportation system; or
- (D) reasonable administrative costs associated with the transportation fund or with activities described in Subsections (6)(c)(ii)(A), (B), and (C).
- (d) Notwithstanding Sections 10-6-124, 10-6-125, and 10-6-135.5, a city may not transfer money into a transportation fund to any other fund or to a separate account.
- (7)(a) A city that imposes a transportation utility fee shall conduct an annual review of

the transportation utility fee as provided in this Subsection (7) and prepare a written report of the annual review.

(b) In an annual review under Subsection (7)(a), the governing body shall:

(i) review the balance of the transportation fund;

(ii) review the current amount of the transportation utility fee;

(iii) demonstrate that there is still a reasonable relationship between the amount of the transportation utility fee and the transportation services provided to, benefits received by, or need created by those who pay the fee;

(iv) consider other possible revenue sources that the city could use for transportation facilities instead of a transportation utility fee;

(v) ensure that Subsection (6)(d) is being complied with; and

(vi) demonstrate that revenue from the transportation utility fee continues to be needed to provide a transportation system that the city could not otherwise provide from other existing revenue sources.

(c)(i) A city shall submit a copy of the written report under Subsection (7)(a) to the state auditor.

(ii) A city may fulfill the requirement of Subsection (7)(a)(i) by submitting the written report as part of the city's annual financial reports submitted to the state auditor under Section 10-6-150.

(8)(a) A transportation utility fee imposed under this section expires 10 years after the effective date of the ordinance imposing the transportation utility fee.

(b) The 10-year period in Subsection (8)(a) begins again with any subsequent adoption of any ordinance imposing a transportation utility fee after the initial adoption of an ordinance imposing a transportation utility fee.

(9) A city that, before May 7, 2025, imposes a fee to pay for a transportation system shall, no later than July 1, 2027:

(a) ensure that requirements of this section have been complied with for the fee that the city imposes; or

(b) repeal the fee.

Section 3. Section **17-36-56** is enacted to read:

17-36-56 . Transportation utility fee.

(1) As used in this section:

(a) "Religious organization" means a group, mission, order, convention, church with nonprofit status, or any organization described in 26 U.S.C. Sec. 6033(a)(3)(A)(i) or

(iii).

(b) "Transportation fund" means a fund described in and established under Subsection (6).

(c) "Transportation system" means:

(i) traffic and pedestrian safety infrastructure, including:

(A) a sidewalk;

(B) curb and gutter;

(C) a safety feature;

(D) a traffic sign;

(E) a traffic signal; or

(F) street lighting; and

(ii) streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures.

(d) "Transportation utility fee" means a fee imposed on the public at large or on a user segment to generate revenue to pay for costs associated with developing, constructing, maintaining, operating, repairing, upgrading, or replacing a transportation system or any component of a transportation system.

(e) "User segment" means a segment of the county's population based on a classification established under Subsection (5).

(2)(a) A county may impose and collect a transportation utility fee as described in this section.

(b) A county may impose a transportation utility fee to provide funding for any number of transportation systems or components of transportation systems but may not have more than a single transportation utility fee in effect at a time.

(3)(a) Subject to Subsection (3)(b), before adopting an ordinance imposing or increasing a transportation utility fee, the governing body shall comply with the notice and public hearing requirements established in Sections 10-6-113 and 10-6-114.

(b)(i) The governing body of a county that proposes to impose or increase a transportation utility fee shall, in addition to the notice required under Section 10-6-113, provide notice of the proposed fee and the public hearing:

(A) in a notice with the county's monthly utility bill, if the county mails or emails residents a monthly utility bill; or

(B) through another primary means of communicating with residents, if the county does not provide residents a monthly utility bill.

(ii) The public hearing required for a proposal to impose or increase a transportation

- utility fee may be held in conjunction with a budget hearing under Section 10-6-114 but shall be separate and distinct from the budget hearing.
- (4)(a) A transportation utility fee may be imposed or increased only by an ordinance adopted by the county's governing body.
- (b)(i) Subject to Subsection (4)(b)(ii), the governing body may adopt an ordinance imposing or increasing a transportation utility fee at the same meeting in which the public body adopts the county budget.
- (ii) The governing body vote on the imposition or increase of a transportation utility fee shall be separate from the governing body vote on the county budget or any other item.
- (c) The amount of a transportation utility fee for the county's population or for any user segment shall be reasonably related to the services provided to, benefits received by, or need created by those within the county's population or user segment who pay the transportation utility fee, as determined in accordance with this section.
- (d)(i) Revenue from a transportation utility fee may not supplant existing general fund appropriations that the county has budgeted for transportation systems or components of transportation systems as of the date the transportation utility fee becomes effective.
- (ii) The limitation under Subsection (4)(d)(i) does not apply to a designated transportation facilities capital or reserve account established before the effective date of a transportation utility fee under this section.
- (5)(a) A county shall establish different rates within a transportation utility fee for different classifications of users of a transportation facility if the rates and classifications have a reasonable basis.
- (b)(i) A reasonable basis under Subsection (5)(a) may include:
- (A) different levels of benefit received by users of a transportation utility fee;
 - (B) different impacts on or usage of transportation facilities by those who pay the transportation utility fee;
 - (C) a difference in the cost of providing a transportation facility to different classifications of users;
 - (D) a difference in levels of risk to the operation of a transportation facility for different classifications of users;
 - (E) differing contributions that different classifications of users make, separate from a transportation utility fee, to the cost of constructing, maintaining, or

- 369 operating a transportation facility; and
370 (F) distinguishable differences in the needs or conditions of different
371 classifications of users based on economic, public policy, or other identifiable
372 elements.
- 373 (ii) A reasonable basis under Subsection (5)(a) does not include:
374 (A) whether a user resides inside or outside the county boundary; or
375 (B) a consideration of the age of development within areas with the same zoning
376 designation.
- 377 (c) A county shall exempt a religious organization from payment of a transportation
378 utility fee established under this section.
- 379 (6)(a) A county that imposes a transportation utility fee shall establish a fund as
380 provided in this Subsection (6).
- 381 (b) A county shall deposit into the transportation fund all revenue from a transportation
382 utility fee.
- 383 (c) A county may not:
384 (i) deposit into or commingle with a transportation fund any money from any other
385 source; or
386 (ii) use money in a transportation fund for any purpose other than to pay for the cost
387 of:
388 (A) the development or construction of a new transportation system or component
389 of a new transportation system;
390 (B) upgrading or replacing an existing transportation system or component of an
391 existing transportation system;
392 (C) the maintenance, operation, or repair of an existing transportation system or
393 component of an existing transportation system; or
394 (D) reasonable administrative costs associated with the transportation fund or with
395 activities described in Subsections (6)(c)(ii)(A), (B), and (C).
- 396 (d) Notwithstanding Sections 10-6-124, 10-6-125, and 10-6-135.5, a county may not
397 transfer money into a transportation fund to any other fund or to a separate account.
- 398 (7)(a) A county that imposes a transportation utility fee shall conduct an annual review
399 of the transportation utility fee as provided in this Subsection (7) and prepare a
400 written report of the annual review.
- 401 (b) In an annual review under Subsection (7)(a), the governing body shall:
402 (i) review the balance of the transportation fund;

- (ii) review the current amount of the transportation utility fee;
(iii) demonstrate that there is still a reasonable relationship between the amount of the transportation utility fee and the transportation services provided to, benefits received by, or need created by those who pay the fee;
(iv) consider other possible revenue sources that the county could use for transportation facilities instead of a transportation utility fee;
(v) ensure that Subsection (6)(d) is being complied with; and
(vi) demonstrate that revenue from the transportation utility fee continues to be needed to provide a transportation system that the county could not otherwise provide from other existing revenue sources.

(c)(i) A county shall submit a copy of the written report under Subsection (7)(a) to the state auditor.

- (ii) A county may fulfill the requirement of Subsection (7)(a)(i) by submitting the written report as part of the county's annual financial reports submitted to the state auditor under Section 10-6-150.

(8)(a) A transportation utility fee imposed under this section expires 10 years after the effective date of the ordinance imposing the transportation utility fee.

- (b) The 10-year period in Subsection (8)(a) begins again with any subsequent adoption of any ordinance imposing a transportation utility fee after the initial adoption of an ordinance imposing a transportation utility fee.

(9) A county that, before May 7, 2025, imposes a fee to pay for a transportation system shall, no later than July 1, 2027:

- (a) ensure that requirements of this section have been complied with for the fee that the county imposes; or

(b) repeal the fee.

Section 4. **Effective Date.**

This bill takes effect on May 7, 2025.