

1 **TRANSPORTATION FUNDS USE FOR**
2 **PEDESTRIAN AND BIKE PATHS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David M. Jones**

6 AN ACT RELATING TO TRANSPORTATION; AMENDING CERTAIN TRANSPORTATION
7 FUND PROVISIONS; CREATING THE PEDESTRIAN AND BICYCLE SAFETY FACILITIES
8 RESTRICTED ACCOUNT IN THE TRANSPORTATION FUND; PROVIDING FUNDING
9 SOURCES FOR THE ACCOUNT AND REQUIRING CERTAIN MATCHING MONIES;
10 PROVIDING FACTORS FOR PRIORITIZING ACCOUNT MONIES FOR USE BY THE
11 DEPARTMENT OF TRANSPORTATION, COUNTIES, AND MUNICIPALITIES FOR
12 PEDESTRIAN AND BICYCLE SAFETY FACILITIES; AMENDING CERTAIN
13 DEPARTMENT DUTIES; AMENDING CERTAIN PEDESTRIAN SAFETY AND FACILITIES
14 ACT PROVISIONS; REPEALING THE TRANSPORTATION FUND - HIGHWAY
15 REHABILITATION RESTRICTED ACCOUNT; PROVIDING FOR THE DISPOSITION OF
16 SAFE SIDEWALK PROGRAM MONIES; MAKING TECHNICAL CORRECTIONS; AND
17 PROVIDING AN EFFECTIVE DATE.

18 This act affects sections of Utah Code Annotated 1953 as follows:

19 AMENDS:

20 **72-1-201**, as renumbered and amended by Chapter 270, Laws of Utah 1998

21 **72-1-208**, as renumbered and amended by Chapter 270, Laws of Utah 1998

22 **72-8-101**, as renumbered and amended by Chapter 270, Laws of Utah 1998

23 **72-8-102**, as renumbered and amended by Chapter 270, Laws of Utah 1998

24 **72-8-103**, as renumbered and amended by Chapter 270, Laws of Utah 1998

25 **72-8-104**, as renumbered and amended by Chapter 270, Laws of Utah 1998

26 **72-8-105**, as renumbered and amended by Chapter 270, Laws of Utah 1998

27 **72-8-106**, as renumbered and amended by Chapter 270, Laws of Utah 1998

28 **72-8-107**, as renumbered and amended by Chapter 270, Laws of Utah 1998

29 ENACTS:

30 **72-2-121**, Utah Code Annotated 1953

31 **72-2-122**, Utah Code Annotated 1953

32 REPEALS:

33 **72-2-106**, as renumbered and amended by Chapter 270, Laws of Utah 1998

34 This act enacts uncodified material.

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

36 Section 1. Section **72-1-201** is amended to read:

37 **72-1-201. Creation of Department of Transportation -- Functions, powers, duties,**
38 **rights, and responsibilities.**

39 There is created the Department of Transportation which shall:

40 (1) have the general responsibility for planning, research, design, construction,
41 maintenance, security, and safety of state transportation systems;

42 (2) provide administration for state transportation systems and programs;

43 (3) implement the transportation policies of the state;

44 (4) plan, develop, construct, and maintain state transportation systems that are safe,
45 reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and
46 industry;

47 (5) provide for safe, efficient, convenient, flexible, and multimodal transportation systems
48 that include pedestrian, bicycle, motor vehicle, and air transportation;

49 (6) consider the reasonable accommodation of users from all transportation modes in each
50 project of the department;

51 ~~[(5)]~~ (7) establish standards and procedures regarding the technical details of
52 administration of the state transportation systems as established by statute and administrative rule;

53 ~~[(6)]~~ (8) advise the governor and the Legislature about state transportation systems needs;
54 and

55 ~~[(7)]~~ (9) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
56 make policy and rules for the administration of the department, state transportation systems, and
57 programs.

58 Section 2. Section **72-1-208** is amended to read:

59 **72-1-208. Cooperation with counties, cities, towns, the federal government, and all**
60 **state departments.**

61 (1) The department shall cooperate with the counties~~[, cities, and towns]~~ and
62 municipalities in the construction, maintenance, and use of ~~[the highways]~~ transportation facilities
63 and in all related matters, and may provide services to the counties~~[, cities, and towns]~~ and
64 municipalities on terms mutually agreed upon.

65 (2) The department, with the approval of the governor, shall cooperate with the federal
66 government in all federal-aid projects and with all state departments in all matters in connection
67 with the use of ~~[the highways]~~ transportation facilities.

68 Section 3. Section **72-2-121** is enacted to read:

69 **72-2-121. Pedestrian and Bicycle Safety Facilities Restricted Account -- Revenue --**
70 **Nonlapsing.**

71 (1) There is created within the Transportation Fund a restricted account known as the
72 "Pedestrian and Bicycle Safety Facilities Restricted Account."

73 (2) The account shall be funded from the following sources:

74 (a) appropriations made under Section 72-2-122;

75 (b) other appropriations made to the account by the Legislature;

76 (c) contributions from other public and private sources for deposit into the account; and

77 (d) interest earnings on cash balances.

78 (3) All monies appropriated to the account are nonlapsing.

79 (4) The commission shall authorize the expenditure of account monies to allow the
80 department, counties, and municipalities to construct pedestrian and bicycle safety facilities as
81 provided in this section and Chapter 8, Part 1, Pedestrian and Bicycle Safety Facilities Act subject
82 to:

83 (a) monies available in the account; and

84 (b) the provisions and rules under Subsection (7) and Chapter 8, Part 1, Pedestrian and
85 Bicycle Safety Facilities Act.

86 (5) Administrative costs of the Pedestrian and Bicycle Safety Facilities Restricted Account
87 shall be paid from the account.

88 (6) (a) The department, a county, or a municipality may apply to the commission under this
89 section for monies from the Pedestrian and Bicycle Safety Facilities Restricted Account for a

90 specified pedestrian and bicycle safety facility project.

91 (b) A county or municipality shall provide a dollar match of at least 25% of the cost of
92 each pedestrian and bicycle safety facility project.

93 (7) The commission shall:

94 (a) administer the Pedestrian and Bicycle Safety Facilities Restricted Account to develop
95 and enhance a statewide multimodal transportation system that provides and encourages safe
96 pedestrian and bicycle commuting for school children and other students, business people,
97 employees, and shoppers;

98 (b) prioritize account monies based on factors described under Section 72-8-104;

99 (c) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
100 Act, establishing the:

101 (i) procedures for the awarding of account monies; and

102 (ii) procedures for the department, counties, and municipalities to apply for account
103 monies.

104 Section 4. Section **72-2-122** is enacted to read:

105 **72-2-122. Appropriation from Transportation Fund -- Deposit in Pedestrian and**
106 **Bicycle Safety Facilities Restricted Account.**

107 (1) Beginning July 1, 2002, there is appropriated to the department from the Transportation
108 Fund annually, an amount equal to 3% of the funds available to the department from the
109 Transportation Fund for construction, rehabilitation, and preservation of state highways.

110 (2) All of this money shall be deposited in the Pedestrian and Bicycle Safety Facilities
111 Restricted Account created under Section 72-2-121.

112 Section 5. Section **72-8-101** is amended to read:

113 **CHAPTER 8. PEDESTRIAN AND BICYCLE SAFETY FACILITIES ACT**

114 **72-8-101. Title.**

115 This chapter is known as the "Pedestrian and Bicycle Safety [and] Facilities Act."

116 Section 6. Section **72-8-102** is amended to read:

117 **72-8-102. Definitions.**

118 As used in this chapter:

119 (1) "Construction" means the function of constructing or reconstructing a [~~sidewalk with~~
120 ~~or without curb and gutter~~] pedestrian and bicycle safety facility and includes land acquisition and

121 engineering or inspection as ~~[defined]~~ required by the rules ~~[and regulations]~~ of the department.

122 (2) "Curb and gutter" means the area between the roadway and sidewalk designed for
123 water runoff and providing a barrier for safety of pedestrian and vehicular traffic.

124 ~~[(3) "Participating municipality" means any municipality having at least third class status.]~~

125 ~~[(4)]~~ (3) "Pedestrian and bicycle safety ~~[devices]~~ facilities" means any facility, device, or
126 method designed to foster the safety of pedestrian or bicycle traffic, including ~~[sidewalks, curbs,~~
127 ~~gutters, and pedestrian overpasses]~~ a sidewalk, curb, gutter, pedestrian overpass, substantive
128 at-grade street crossing safety enhancement, bike path, bike lane, bicycle parking facility, bicycle
129 locker facility, rail-crossing pedestrian and bicycle safety enhancement, and combined rail/trail
130 street crossing safety enhancement. A pedestrian and bicycle safety facility may be designated a
131 pedestrian only facility, a bicyclist only facility, or both a pedestrian and bicycle facility.

132 Section 7. Section **72-8-103** is amended to read:

133 **72-8-103. Designated county and municipal sidewalks -- Construction on easements**
134 **granted by transportation department.**

135 (1) (a) All sidewalks, including curbs and gutters within the unincorporated areas of a
136 county and within ~~[nonparticipating municipalities situated within the county,]~~ incorporated towns,
137 are designated county sidewalks.

138 (b) All sidewalks, including curbs and gutters within ~~[participating municipalities]~~ a
139 municipality, are designated municipal sidewalks.

140 (2) (a) Counties and ~~[participating]~~ municipalities may construct and maintain ~~[curbs,~~
141 ~~gutters, sidewalks, and]~~ pedestrian and bicycle safety ~~[devices]~~ facilities adjacent to the traveled
142 portion of state highways upon easements that may be granted by the department.

143 (b) The department shall cooperate with counties and ~~[participating]~~ municipalities to
144 accomplish pedestrian and bicycle safety facilities construction and maintenance.

145 (3) A county or municipality may construct and maintain pedestrian and bicycle safety
146 ~~[devices]~~ facilities on a state ~~[highways]~~ highway in compliance with rules made by the
147 department.

148 Section 8. Section **72-8-104** is amended to read:

149 **72-8-104. Funding priorities -- Factors -- Use of B and C funds -- Barrier free**
150 **provisions.**

151 ~~[(1) A county or municipality may use a portion of their B and C road funds for pedestrian~~

152 safety devices under this part.]

153 ~~[(2) The county legislative body of the counties and the governing officials of participating~~
154 ~~municipalities may establish funding priorities relating to construction of curbs, gutters, sidewalks,~~
155 ~~or other pedestrian safety construction, with funds permitted to be expended by this part, based on~~
156 ~~factors including, but not limited to:]~~

157 (1) The commission shall consider the following factors in establishing funding priorities
158 for a pedestrian and bicycle safety facility project using monies from the Pedestrian and Bicycle
159 Safety Facilities Restricted Account created under Section 72-2-121:

- 160 (a) existing useable rights-of-way;
- 161 (b) vehicle-pedestrian and vehicle-bicycle accident experience;
- 162 (c) average daily vehicle traffic;
- 163 (d) average daily pedestrian and bicycle traffic;
- 164 (e) average daily school age pedestrian traffic; [and]
- 165 (f) speed of vehicle traffic[-];
- 166 (g) projects that are needed under a child access routing plan submitted under the
167 provisions of Section 53A-3-402;
- 168 (h) areas with rapidly expanding pedestrian or bicycle needs;
- 169 (i) a local government's preparation and completion of pedestrian and bicycle inventories,
170 studies, and plans that meet provisions of this part and department standards;
- 171 (j) the preservation by the local government of pedestrian and bicycle corridors by the use
172 of local planning and zoning processes; and
- 173 (k) the availability of other public and private matching funds for a project.

174 (2) A county or municipality may use B and C road funds for pedestrian and bicycle safety
175 facilities under this part.

176 (3) All construction performed under this part shall be barrier free to wheelchairs at
177 crosswalks and intersections.

178 Section 9. Section **72-8-105** is amended to read:

179 **72-8-105. Pedestrian and bicycle safety to be considered in highway planning.**

180 A highway authority shall consider pedestrian and bicycle safety in all [highway]
181 engineering and planning [where pedestrian traffic may be a significant factor] on all projects
182 within the state or any of its political subdivisions.

183 Section 10. Section **72-8-106** is amended to read:

184 **72-8-106. Rules and regulations -- Cooperation with the county legislative body.**

185 The department shall:

186 (1) make rules providing for uniform accounting of [~~the funds~~] monies permitted to be
187 expended for [~~curbs, gutters, sidewalks, and~~] pedestrian and bicycle safety [~~devices~~] facilities, as
188 provided in this part; and

189 (2) cooperate with the county executives and county legislative bodies and the governing
190 officials of [~~participating~~] municipalities in order to implement this part and make rules required
191 by this part.

192 Section 11. Section **72-8-107** is amended to read:

193 **72-8-107. County or city granting exemption from construction -- Not eligible to**
194 **utilize funds under part.**

195 (1) [~~This~~] Section 72-2-121 or this part may not be construed to substitute or replace the
196 construction of [~~curbs, gutters, sidewalks, or~~] pedestrian and bicycle safety [~~devices~~] facilities by
197 any [~~counties or participating municipalities~~] county or municipality. Funds expended under this
198 part are in addition to funds normally used by counties and [~~participating~~] municipalities for
199 pedestrian and bicycle safety [~~devices~~] facilities and may not be used in substitution for local
200 funding.

201 (2) If any county or [~~participating municipalities~~] municipality or any of their agencies
202 grant an exemption or deferral agreement for the construction of [~~sidewalks, curbs, gutters, or~~]
203 pedestrian and bicycle safety [~~devices~~] facilities which are otherwise normally required, the area
204 for which the exemption or deferral agreement applies, is not [~~be~~] eligible to utilize [~~funds~~] monies
205 permitted to be expended under Section 72-2-121 or by this part.

206 Section 12. **Disposition of Safe Sidewalk Program balances.**

207 It is the intent of the Legislature that any uncommitted balances remaining in the Safe
208 Sidewalk Program shall be deposited in the Pedestrian and Bicycle Safety Facilities Restricted
209 Account created under Section 72-2-121 on July 1, 1999.

210 Section 13. **Repealer.**

211 This act repeals:

212 Section **72-2-106, Appropriation from Transportation Fund -- Transportation-Fund**
213 **Highway Rehabilitation Restricted Account.**

214 Section 14. **Effective date.**
215 This act takes effect on July 1, 1999.

Legislative Review Note
as of 1-8-99 11:56 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel