

**TRANSPORTATION AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Peter C. Knudson**

**This act modifies the Transportation Code by allowing the Department of Transportation to acquire rights-of-way for public § [transit ] transportation h projects. This act amends definitions and makes**

**conforming amendments. h This act provides an immediate effective date. h**

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

AMENDS:

**72-5-102**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-5-103**, as last amended by Chapter 324, Laws of Utah 2000

**72-5-109**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-5-110**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-5-115**, as renumbered and amended by Chapter 270, Laws of Utah 1998

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

Section 1. Section **72-5-102** is amended to read:

**72-5-102. Definitions.**

As used in this part, "state [highway] transportation purposes" includes:

(1) highway and public § [transit] TRANSPORTATION h rights-of-way, including those necessary [for state highways] within cities and towns;

(2) the construction, reconstruction, relocation, improvement, **§ [and] h maintenance § [of the] , AND MITIGATION FROM THE EFFECTS OF THESE ACTIVITIES ON h** state

highways and other **§ [highways, roads, and streets] TRANSPORTATION FACILITIES h** under the control of the department;

(3) limited access facilities, including rights of access, air, light, and view and frontage and service roads to highways;

(4) adequate drainage in connection with any highway, cut, fill, or channel change and the maintenance of any highway, cut, fill, or channel change;

(5) weighing stations, shops, offices, storage buildings and yards, and road maintenance



28 or construction sites;

29 (6) road material sites, sites for the manufacture of road materials, and access roads to the  
30 sites;

31 (7) the maintenance of an unobstructed view of any portion of a highway to promote the  
32 safety of the traveling public;

33 (8) the placement of traffic signals, directional signs, and other signs, fences, curbs,  
34 barriers, and obstructions for the convenience of the traveling public;

35 (9) the construction and maintenance of storm sewers, sidewalks, and highway  
36 illumination;

37 (10) the construction and maintenance of livestock highways; ~~§ [and] h~~

38 (11) the construction and maintenance of roadside rest areas adjacent to or near any  
39 highway ~~§ ; AND (12) THE MITIGATION OF IMPACTS FROM PUBLIC TRANSPORTATION PROJECTS h~~ .

40 Section 2. Section **72-5-103** is amended to read:

41 **72-5-103. Acquisition of rights-of-way and other real property -- Title to property**  
42 **acquired.**

43 (1) The department may acquire any real property or interests in real property necessary  
44 for temporary, present, or reasonable future state [~~highway~~] transportation purposes by gift,  
45 agreement, exchange, purchase, condemnation, or otherwise.

46 (2) (a) (i) Title to real property acquired by the department or the counties, cities, and  
47 towns by gift, agreement, exchange, purchase, condemnation, or otherwise for highway  
48 rights-of-way or other [~~highway~~] transportation purposes may be in fee simple or any lesser estate  
49 or interest.

50 (ii) Title to real property acquired by the department for a public transit project shall be  
51 transferred to the public transit district responsible for the project.

52 (iii) A public transit district shall cover all costs associated with any condemnation on its  
53 behalf.

54 (b) If the highway is a county road, city street under joint title as provided in Subsection  
55 72-3-104(3), or right-of-way described in Title 72, Chapter 5, Part 3, Rights-of-way Across Federal  
56 Lands Act, title to all interests in real property less than fee simple held under this section is held  
57 jointly by the state and the county, city, or town holding the interest.

58 (3) A transfer of land bounded by a highway on a right-of-way for which the public has

59 only an easement passes the title of the person whose estate is transferred to the middle of the  
60 highway.

61 Section 3. Section **72-5-109** is amended to read:

62 **72-5-109. Contributions of property by counties and municipalities.**

63 Counties and municipalities may contribute real or personal property to the department for  
64 state [highway] transportation purposes.

65 Section 4. Section **72-5-110** is amended to read:

66 **72-5-110. Acquisition of personal property.**

67 The department may acquire by gift, agreement, exchange, purchase, or otherwise  
68 machinery, tools, equipment, materials, supplies, or other personal property necessary for the  
69 administration, construction, maintenance, and operation of the state highways, and may sell,  
70 exchange, or otherwise dispose of the machinery, tools, equipment, materials, supplies, and other  
71 personal property when no longer suitable or required for state [highway] transportation purposes.

72 Section 5. Section **72-5-115** is amended to read:

73 **72-5-115. Acquisition of property devoted to or held for other public use.**

74 (1) If property devoted to or held for some other public use for which the power of eminent  
75 domain might be exercised is to be taken for state [highway] transportation purposes, the  
76 department may, with the consent of the person or agency in charge of the other public use,  
77 condemn real property to be exchanged with the person or agency for the real property to be taken  
78 for state [highway] transportation purposes.

79 (2) This section does not limit the department's authorization to acquire, other than by  
80 condemnation, property for exchange purposes.

80a **h Section 6. Effective date.**

80b **IF APPROVED BY TWO-THIRDS OF ALL THE MEMBERS ELECTED TO EACH HOUSE, THIS**  
80c **ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR, OR THE DAY FOLLOWING THE**  
80d **CONSTITUTIONAL TIME LIMIT OF UTAH CONSTITUTION ARTICLE VII, SECTION 8, WITHOUT THE**  
80e **GOVERNOR'S SIGNATURE, OR IN THE CASE OF A VETO, THE DATE OF VETO OVERRIDE.** h

## Legislative Review Note

as of 2-12-01 4:45 PM

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

Office of Legislative Research and General Counsel