

Section VII

APPENDIX

STATUTORY PROVISIONS RELATING TO CLASS B & CLASS C ROAD FUNDS

10-6-102. Legislative intent -- Purpose of chapter.

This chapter is intended to provide uniform accounting, budgeting, and financial reporting procedures for cities. It is the purpose of this chapter to enable cities to make financial plans for both current and capital expenditures, to insure that their executive staffs administer their respective functions in accordance with adopted budgets, to provide the public and investors with information about the financial policies and administration of cities, to provide for the optional use of performance budgeting and related accounting and reporting procedures, and to enable larger cities to evaluate and measure operating performance and provide data comparable with other cities.

Enacted 1979

17-36-1. Title.

This act shall be known and may be cited as the "Uniform Fiscal Procedures Act for Counties."

Enacted 1975

17-36-2. Purpose of chapter.

The purpose of this act is to codify and revise the law relating to county fiscal procedures in order to establish uniform accounting, budgeting, and financial reporting procedures for all counties. The act provides for the establishment of uniform procedures for the adoption and administration of fiscal and optional performance budgets.

The act is intended to enable counties to make financial plans for both current and capital expenditures, to ensure that executive staffs administer their respective functions in accordance with adopted budgets, and to provide taxpayers and investors with information about the financial policies and administration of the county in which they are interested.

Amended by L. 1983

**17-50-305. County powers to acquire, construct, and control roads and other facilities --
Retainage.**

(1) A county may:

(a) contract for, purchase, or otherwise acquire, when necessary, rights of way for county roads over private property, and may institute proceedings for acquiring such rights of way as provided by law;

(b) lay out, construct, maintain, control, and manage county roads, sidewalks, ferries and bridges within the county, outside of cities and towns;

(c) designate the county roads to be maintained by the county within or extending through any city or town, which may not be more than three in the same direction;

(d) abolish or abandon county roads that are unnecessary for the use of the public, in the manner provided by law; and

(e) lay out, construct, maintain, control, and manage landing fields and hangars for the use of airplanes or other vehicles for aerial travel.

(2) If any payment on a contract with a private contractor to construct county roads, sidewalks, ferries, and bridges under this section is retained or withheld, it shall be retained or withheld and released as provided in Section **13-8-5**.

Renumbered & Amended by L. 2000

17-50-309. Regulation of use of roads.

A county may enact ordinances and make regulations not in conflict with law for the control, construction, alteration, repair, and use of all public roads and highways in the county outside of cities and towns.

Renumbered & Amended by L. 2000

17-50-501. Classification of counties.

(1) Each county shall be classified according to its population.

(2) (a) A county with a population of 700,000 or more is a county of the first class.

(b) A county with a population of 125,000 or more but less than 700,000 is a county of the second class.

(c) A county with a population of 31,000 or more but less than 125,000 is a county of the third class.

(d) A county with a population of 11,000 or more but less than 31,000 is a county of the fourth class.

(e) A county with a population of 4,000 or more but less than 11,000 is a county of the fifth class.

(f) A county with a population less than 4,000 is a county of the sixth class.

Amended by L. 2004

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (4), and (6), and Sections **41-1a-422**, **41-1a-1220**, and **41-1a-1221**, all fees collected under this part shall be deposited in the Transportation Fund.

(3) (a) Funds generated under Subsections **41-1a-1211**(1)(b)(i), (6)(b)(i), and (7) and Section **41-1a-1212** may be used by the commission as a dedicated credit to cover the costs incurred in issuing license plates under Part 4, License Plates and Registration Indicia.

(b) Fees for statehood centennial license plates shall be collected and deposited in the Transportation Fund, less production and administrative costs incurred by the commission.

(4) All funds available to the commission for purchase and distribution of license plates and decals are nonlapsing.

(5) Except as provided in Subsection (3) and Section **41-1a-1205**, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(6) (a) Except as provided in Subsection (6)(b), the following portions of the registration fees imposed under Section **41-1a-1206** for each vehicle shall be deposited in the Centennial Highway

Fund Restricted Account created under Section **72-2-118**:

- (i) \$10 of the registration fees imposed under Subsections **41-1a-1206**(1)(a), (1)(b), (2), and (5);
- (ii) \$1 of the registration fees imposed under Subsections **41-1a-1206**(1)(c)(i), (1)(c)(ii), and (1)(d)(ii);
- (iii) \$2 of the registration fee imposed under Subsection **41-1a-1206**(1)(e)(ii);
- (iv) \$3 of the registration fee imposed under Subsection **41-1a-1206**(1)(d)(i); and
- (v) \$4.50 of the registration fee imposed under Subsection **41-1a-1206**(1)(e)(i).

(b) When the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection **72-2-118**(6)(d), the portions of the registration fees deposited under Subsection (6)(a) for each vehicle shall be deposited in the Transportation Investment Fund of 2005 created by Section **72-2-124**.

Amended by L. 2008

41-6a-301. Standards and specifications for uniform system of traffic-control devices and school crossing guards.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall make rules consistent with this chapter adopting standards and establishing specifications for a uniform system of traffic-control devices used on a highway.

(2) The standards and specifications adopted under Subsection (1) shall:

- (a) include provisions for school crossing zones and use of school crossing guards; and
- (b) correlate with, and where possible conform to, the system set forth in the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways" and other standards issued or endorsed by the federal highway administrator.

Amended by L. 2008

41-6a-302. Placing and maintenance on state highways -- Restrictions on local authorities.

In accordance with Section **72-3-109**, a highway authority shall place and maintain traffic-control devices:

(1) in conformance with the standards and specifications adopted under Section **41-6a-301** on all highways under the highway authority's jurisdiction; and

(2) as the highway authority finds necessary to:

(a) carry out the provisions of:

- (i) this chapter; or
- (ii) a local traffic ordinance if the highway authority is a local highway authority; or
- (b) regulate, warn, or guide traffic.

Renumbered & Amended by L. 2005

51-7-1. Short title of chapter.

This chapter shall be known and may be cited as the "State Money Management Act."

Amended by L. 1992

51-7-2. Exemptions from chapter.

The following funds are exempt from this chapter:

- (1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;
- (2) funds of the Workers' Compensation Fund;
- (3) funds of the Utah State Retirement Board;
- (4) funds of the Utah Housing Corporation;
- (5) endowment funds of higher education institutions;
- (6) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution; and
- (7) the State Post-Retirement Benefits Trust Fund.

Amended by L. 2007

51-7-3. Definitions.

As used in this chapter:

- (1) "Agent" means "agent" as defined in Section **61-1-13**.
- (2) "Certified dealer" means:
 - (a) a primary reporting dealer recognized by the Federal Reserve Bank of New York who is certified by the director as having met the applicable criteria of council rule; or
 - (b) a broker dealer who:
 - (i) has and maintains an office and a resident registered principal in the state;
 - (ii) meets the capital requirements established by council rules;
 - (iii) meets the requirements for good standing established by council rule; and
 - (iv) is certified by the director as meeting quality criteria established by council rule.
- (3) "Certified investment adviser" means a federal covered adviser, as defined in Section **61-1-13**, or an investment adviser, as defined in Section **61-1-13**, who is certified by the director as having met the applicable criteria of council rule.
- (4) "Commissioner" means the commissioner of financial institutions.
- (5) "Council" means the State Money Management Council created by Section **51-7-16**.
- (6) "Director" means the director of the Utah State Division of Securities of the Department of Commerce.
- (7) (a) "Endowment funds" means gifts, devises, or bequests of property of any kind donated to a higher education institution from any source.
 - (b) "Endowment funds" does not mean monies used for the general operation of a higher education institution that are received by the higher education institution from:
 - (i) state appropriations;
 - (ii) federal contracts;
 - (iii) federal grants;
 - (iv) private research grants; and
 - (v) tuition and fees collected from students.
- (8) "First tier commercial paper" means commercial paper rated by at least two nationally recognized statistical rating organizations in the highest short-term rating category.
- (9) "Funds functioning as endowments" means funds, regardless of source, whose corpus is intended to be held in perpetuity by formal institutional designation according to the institution's policy for designating those funds.

(10) "GASB" or "Governmental Accounting Standards Board" means the Governmental Accounting Standards Board that is responsible for accounting standards used by public entities.

(11) "Hard put" means an unconditional sell-back provision or a redemption provision applicable at issue to a note or bond, allowing holders to sell their holdings back to the issuer or to an equal or higher-rated third party provider at specific intervals and specific prices determined at the time of issuance.

(12) "Higher education institution" means the institutions specified in Section **53B-1-102**.

(13) "Investment adviser representative" means "investment adviser representative" as defined in Section **61-1-13**.

(14) (a) "Investment agreement" means any written agreement that has specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate.

(b) "Investment agreement" includes any agreement to supply investments on one or more future dates.

(15) "Local government" means a county, municipality, school district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(16) "Market value" means market value as defined in the Master Repurchase Agreement.

(17) "Master Repurchase Agreement" means the current standard Master Repurchase Agreement approved by the Public Securities Association or by any successor organization.

(18) "Maximum amount" means, with respect to qualified depositories, the total amount of:

(a) deposits in excess of the federal deposit insurance limit; and

(b) nonqualifying repurchase agreements.

(19) "Money market mutual fund" means an open-end managed investment fund:

(a) that complies with the diversification, quality, and maturity requirements of Rule 2a-7 or any successor rule of the Securities and Exchange Commission applicable to money market mutual funds; and

(b) that assesses no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated.

(20) "Nationally recognized statistical rating organization" means an organization that has been designated as a nationally recognized statistical rating organization by the Securities and Exchange Commission's Division of Market Regulation.

(21) "Nonqualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a qualified depository arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers that is:

(a) evidenced by a safekeeping receipt issued by the qualified depository;

(b) included in the depository's maximum amount of public funds; and

(c) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(22) "Operating funds" means current balances and other funds that are to be disbursed for operation of the state government or any of its boards, commissions, institutions, departments, divisions, agencies, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.

(23) "Permanent funds" means funds whose principal may not be expended, the earnings from which are to be used for purposes designated by law.

(24) "Permitted depository" means any out-of-state financial institution that meets quality criteria established by rule of the council.

(25) "Public funds" means monies, funds, and accounts, regardless of the source from which the

monies, funds, and accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.

(26) (a) "Public monies" means "public funds."

(b) "Public monies," as used in Article VII, Sec. 15, Utah Constitution, means the same as "state funds."

(27) "Public treasurer" includes the state treasurer and the official of any state board, commission, institution, department, division, agency, or other similar instrumentality, or of any county, city, school district, political subdivision, or other public body who has the responsibility for the safekeeping and investment of any public funds.

(28) "Qualified depository" means a Utah depository institution or an out-of-state depository institution, as those terms are defined in Section **7-1-103** that is authorized to conduct business in this state under Section **7-1-702** or Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, whose deposits are insured by an agency of the federal government and that has been certified by the commissioner of financial institutions as having met the requirements established under this chapter and the rules of the council to be eligible to receive deposits of public funds.

(29) "Qualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a financial institution or government securities dealer acting as principal arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers only if purchased securities are:

(a) delivered to the public treasurer's safekeeping agent or custodian as contemplated by Section 7 of the Master Repurchase Agreement; and

(b) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(30) "Securities division" means Utah's Division of Securities created within the Department of Commerce by Section **13-1-2**.

(31) "State funds" means:

(a) public monies raised by operation of law for the support and operation of the state government; and

(b) all other monies, funds, and accounts, regardless of the source from which the monies, funds, or accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities.

Amended by L. 2008

51-7-4. Transfer of functions, powers, and duties relating to public funds to state treasurer -- Exceptions -- Deposit of income from investment of state money.

(1) Unless otherwise required by the Utah Constitution or applicable federal law, the functions, powers, and duties vested by law in each and every state officer, board, commission, institution, department, division, agency, and other similar instrumentalities relating to the deposit, investment, or reinvestment of public funds, and the purchase, sale, or exchange of any investments or securities of or for any funds or accounts under the control and management of these instrumentalities, are transferred to and shall be exercised by the state treasurer, except:

(a) funds assigned to the Utah State Retirement Board for investment under Section **49-11-302**;

- (b) funds of member institutions of the state system of higher education:
 - (i) acquired by gift, devise, or bequest, or by federal or private contract or grant;
 - (ii) derived from student fees or from income from operations of auxiliary enterprises, which fees and income are pledged or otherwise dedicated to the payment of interest and principal of bonds issued by such institutions; and
 - (iii) any other funds which are not included in the institution's work program as approved by the State Board of Regents;
- (c) inmate funds as provided in Section **64-13-23** or in Title 64, Chapter 9b, Work Programs for Prisoners;
 - (d) trust funds established by judicial order;
 - (e) funds of the Workers' Compensation Fund;
 - (f) funds of the Utah Housing Corporation; and
 - (g) endowment funds of higher education institutions.
- (2) All public funds held or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, or similar instrumentalities and not transferred to the state treasurer as provided by this section shall be:
 - (a) deposited and invested by the custodian in accordance with this chapter, unless otherwise required by statute or by applicable federal law; and
 - (b) reported to the state treasurer in a form prescribed by the state treasurer.
- (3) Unless otherwise provided by the constitution or laws of this state or by contractual obligation, the income derived from the investment of state money by the state treasurer shall be deposited in and become part of the General Fund.

Amended by L. 2005

51-7-5. Transfer of public funds not otherwise required to be transferred to state treasurer -- Duties of public treasurers -- Withdrawals of transferred funds.

Any public funds as to which the deposit, investment, or reinvestment is not transferred to the state treasurer by Section **51-7-4**, may be transferred to the state treasurer by the public treasurer having responsibility for the control or management of these public funds. Notwithstanding the transfer, the public treasurer shall retain sufficient funds to cover the cash requirements of the body owning or having control or management of these funds and shall continue to be responsible for the proper collection, deposit, and disbursement of these funds in the manner provided by law. The public funds transferred or placed under the control or supervision of the state treasurer under this section are subject to all applicable provisions of this chapter and are under the jurisdiction of the state treasurer until the public treasurer withdraws these public funds from the state treasurer. Withdrawals may be made from time to time on such reasonable notice as the state treasurer may prescribe. The public treasurer may withdraw all or any part of the public funds originally transferred to the state treasurer, subject to any rules as to the maximum amounts which may be withdrawn at any one time as the state treasurer may reasonably prescribe.

Amended by L. 1984

51-7-6. Calculation of shares of participating funds -- Allocations of income to participating funds.

(1) The share of public funds of each participating public treasurer who has transferred public funds to the state treasurer for investment under Section **51-7-5**, including trust funds invested by the

state treasurer under this chapter, shall be calculated not less than quarterly.

(2) Income from investment of these public funds by the state treasurer, including gains or losses from the sale or exchange of investments or other properties, and net of investment fees and other charges assessed according to the schedule established by the state treasurer, shall be allocated to each participating fund on the ratio of each fund's share to the total public funds in the custody of the state treasurer determined on the basis of the average daily balance of each fund.

Amended by L. 1989

51-7-7. Securities and evidence of deposits and investments -- Custody -- Deposit for safekeeping.

(1) (a) (i) The public treasurer shall have custody of all securities purchased or held and all evidence of deposits and investments of public funds.

(ii) All securities shall be delivered versus payment to the public treasurer or to the treasurer's safekeeping bank.

(b) The public treasurer may deposit any of these securities with a bank or trust company to be held in safekeeping by that custodian.

(c) The provisions of this section do not apply to securities acquired under a nonqualifying repurchase agreement as defined in Section **51-7-3**.

(d) The provisions of this section apply to any book-entry-only security the ownership records of which are maintained with a securities depository, in the Federal Book Entry system authorized by the U.S. Department of Treasury, or in the book-entry records of the issuer, as follows:

(i) the direct ownership of the security by the public treasurer shall be reflected in the book-entry records and represented by a receipt, confirmation, or statement issued to the public treasurer by the custodian of the book-entry system; or

(ii) the ownership of the security by the public treasurer's custodial bank or trust company shall be reflected in the book-entry records and the public treasurer's ownership shall be represented by a receipt, confirmation, or statement issued by the custodial bank or trust company.

(2) The public treasurer may maintain accounts with money center banks only for the purposes of settling investment transactions, safekeeping, and collecting those investments.

Amended by L. 1992

51-7-8. Separate accounts for funds -- Credit of allocated shares of income and gains or losses.

The state treasurer shall keep for each fund for which investments are made, a separate account, to be designated by name and number, which shall record the individual amounts and the totals of all investments belonging to the fund, and shall credit to each fund not less often than quarterly its allocated share of the income from the investments of pooled funds, and gains or losses from the sale or exchange of pooled investment assets.

Amended by L. 1984

51-7-9. Quarterly reports by state treasurer -- Audit of accounts of state treasurer -- Report of audit -- Employment of investment staff and services.

The state treasurer shall report not less often than quarterly to each participating state officer, board, commission, institution, department, division, agency, or other similar instrumentality, or

political subdivision, the activities, investments, and performance of his office during the preceding period. The accounts of the state treasurer shall be audited annually under the direction of the state auditor. The report of this audit shall be open for inspection by the public in the offices of the state auditor and the state treasurer and a copy of it shall be submitted to the legislature through the Office of the Legislative Fiscal Analyst. The state treasurer is authorized, within the limits of available appropriations, to employ such investment staff and secure such financial, investment, and other technical services he considers necessary to properly carry out his responsibilities under this chapter.

Amended by L. 1984

72-1-102. Definitions.

As used in this title:

- (1) "Commission" means the Transportation Commission created under Section **72-1-301**.
- (2) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.
- (3) "Department" means the Department of Transportation created in Section **72-1-201**.
- (4) "Executive director" means the executive director of the department appointed under Section **72-1-202**.
- (5) "Farm tractor" has the meaning set forth in Section **41-1a-102**.
- (6) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.
- (7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.
- (8) "Highway authority" means the department or the legislative, executive, or governing body of a county or municipality.
- (9) "Implement of husbandry" has the meaning set forth in Section **41-1a-102**.
- (10) "Interstate system" means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.
- (11) "Limited-access facility" means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.
- (12) "Motor vehicle" has the same meaning set forth in Section **41-1a-102**.
- (13) "Municipality" has the same meaning set forth in Section **10-1-104**.
- (14) "National highway systems highways" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.
- (15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section **72-9-501**.
- (b) "Port-of-entry" includes inspection and checking stations and weigh stations.
- (16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the duties specified in Section **72-9-501**.

(17) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

(18) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(19) "Semitrailer" has the meaning set forth in Section **41-1a-102**.

(20) "SR" means state route and has the same meaning as state highway as defined in this section.

(21) "State highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

(22) "State highway purposes" has the meaning set forth in Section **72-5-102**.

(23) "State transportation systems" means all streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures, airports, spaceports, and all other modes and forms of conveyance used by the public.

(24) "Trailer" has the meaning set forth in Section **41-1a-102**.

(25) "Truck tractor" has the meaning set forth in Section **41-1a-102**.

(26) "UDOT" means the Utah Department of Transportation.

(27) "Vehicle" has the same meaning set forth in Section **41-1a-102**.

Amended by L. 2001

72-2-102. Transportation Fund.

(1) There is created a fund entitled the "Transportation Fund."

(2) Transportation Fund monies shall be used exclusively for highway purposes as provided in this title.

Enacted by L. 1998

72-2-103. Limitations on Transportation Fund appropriations to agencies not a part of the Department of Transportation -- Exceptions.

(1) Except as provided under Subsection (2), the amount appropriated or transferred from the Transportation Fund each year may not exceed a combined total of \$11,600,000 to:

(a) the Department of Public Safety;

(b) the State Tax Commission;

(c) the Division of Finance; and

(d) any other state agency that is not a part of the Department of Transportation.

(2) The following amounts are exempt from the appropriation and transfer limitations of Subsection (1):

(a) amounts deposited in the Department of Public Safety Restricted Account created under Section 53-3-106;

(b) revenue generated by the uninsured motorist identification fee under Section 41-1a-1218;

(c) revenue generated by the motor carrier fee under Section 41-1a-1219 or Section 72-9-706; and

(d) revenue generated by the Motorcycle Rider Education Program under Section 53-3-905.

Amended by L. 2002 Special Session

72-2-104. Budget.

(1) The department shall prepare and submit to the governor, to be included in his budget to be submitted to the Legislature, a budget of the requirements for the operation of the department for the

fiscal year following the convening of the Legislature.

(2) This budget shall be so separated, in relation to the various functions of the department, so as to allow the separate determination of funds for deposit into the Transportation Fund and into any other special funds which are required by law to be utilized for specific purposes and which are separately maintained by the department for those purposes.

Renumbered & Amended by L. 1998

72-2-105. Budgetary accounts within Transportation Fund -- Disposition of unexpended balances.

(1) The amount designated by the Legislature, out of which the items budgeted shall be paid, shall be established in appropriation and allotment accounts within the Transportation Fund.

(2) At the close of the biennium all unexpended balances remaining in the accounts so budgeted shall be closed to the fund balance account of the Transportation Fund.

Renumbered & Amended by L. 1998

72-2-106. Appropriation from Transportation Fund -- Transportation-Fund Highway Rehabilitation Restricted Account.

(1) On and after July 1, 1981, there is appropriated from the Transportation Fund to the use of the department an amount equal to two-elevenths of the taxes collected from the motor fuel tax and the special fuel tax, exclusive of the formula amount appropriated to the B and C road fund and the collector road fund, to be used for highway rehabilitation.

(2) All of this money shall be placed in an account known as the "Transportation Fund - Highway Rehabilitation Restricted Account."

Renumbered & Amended by L. 1998

72-2-107 (Superseded 01/01/09). Appropriation from Transportation Fund -- Deposit in class B and class C roads account.

(1) There is appropriated to the department from the Transportation Fund annually an amount equal to 30% of an amount which the director of finance shall compute in the following manner: The total revenue deposited into the Transportation Fund during the fiscal year from state highway-user taxes and fees, minus:

(a) those amounts appropriated or transferred from the Transportation Fund during the same fiscal year to:

(i) the Department of Public Safety;

(ii) the State Tax Commission;

(iii) the Division of Finance;

(iv) the Utah Travel Council; and

(v) any other amounts appropriated or transferred for any other state agencies not a part of the department; and

(b) the amount of sales and use tax revenue deposited in the Transportation Fund in accordance with Subsection **59-12-103(6)**.

(2) (a) Except as provided in Subsection (2)(b), all of this money shall be placed in an account to be known as the class B and class C roads account to be used as provided in this title.

(b) The director of finance shall annually transfer \$500,000 of the amount calculated under

Subsection (1) to the department as nonlapsing dedicated credits for the State Park Access Highways Improvement Program created in Section **72-3-207**.

(3) Each quarter of every year the director of finance shall make the necessary accounting entries to transfer the money appropriated under this section to the class B and class C roads account.

(4) The funds in the class B and class C roads account shall be expended under the direction of the department as the Legislature shall provide.

Amended by L. 2008

72-2-107. Appropriation from Transportation Fund -- Deposit in class B and class C roads account.

(1) There is appropriated to the department from the Transportation Fund annually an amount equal to 30% of an amount which the director of finance shall compute in the following manner: The total revenue deposited into the Transportation Fund during the fiscal year from state highway-user taxes and fees, minus:

(a) those amounts appropriated or transferred from the Transportation Fund during the same fiscal year to:

(i) the Department of Public Safety;

(ii) the State Tax Commission;

(iii) the Division of Finance;

(iv) the Utah Travel Council; and

(v) any other amounts appropriated or transferred for any other state agencies not a part of the department; and

(b) the amount of sales and use tax revenue deposited in the Transportation Fund in accordance with Subsection **59-12-103(6)**.

(2) All of this money shall be placed in an account to be known as the class B and class C roads account to be used as provided in this title.

(3) Each quarter of every year the director of finance shall make the necessary accounting entries to transfer the money appropriated under this section to the class B and class C roads account.

(4) The funds in the class B and class C roads account shall be expended under the direction of the department as the Legislature shall provide.

Amended by L. 2007

72-2-108. Apportionment of funds available for use on class B and class C roads -- Bonds.

(1) For purposes of this section:

(a) "Graveled road" means a road:

(i) that is:

(A) graded; and

(B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;

(ii) that has an improved surface; and

(iii) that has a wearing surface made of:

(A) gravel;

(B) broken stone;

(C) slag;

(D) iron ore;

(E) shale; or

(F) other material that is:

(I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and

(II) coarser than sand.

(b) "Paved road" includes a graveled road with a chip seal surface.

(c) "Road mile" means a one-mile length of road, regardless of:

(i) the width of the road; or

(ii) the number of lanes into which the road is divided.

(d) "Weighted mileage" means the sum of the following:

(i) paved road miles multiplied by five;

(ii) graveled road miles multiplied by two; and

(iii) all other road type road miles multiplied by one.

(2) Subject to the provisions of Subsections (3) through (5), funds in the class B and class C roads account shall be apportioned among counties and municipalities in the following manner:

(a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.

(3) For purposes of Subsection (2)(b), "the population of a county" means:

(a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including municipalities; and

(b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:

(i) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:

(A) 14%; and

(B) the actual percentage of population outside the corporate limits of municipalities in that county; and

(ii) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.

(4) (a) If an apportionment under Subsection (2) to a county or municipality with a population of less than 10,000 is less than 120% of the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97, the department shall:

(i) reapportion the funds under Subsection (2) to ensure that the county or municipality receives an amount equal to 120% of the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97; and

(ii) decrease proportionately as provided in Subsection (4)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4)(a)(i) does not apply.

(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (4)(a)(ii) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4)(a)(i).

(5) (a) (i) In addition to the apportionment adjustments made under Subsection (4), a county or

municipality that qualifies for reapportioned monies under Subsection (4)(a)(i) shall receive the percentage change in the class B and class C roads account compounded annually beginning in fiscal year 2006-07.

(ii) Any percentage increase calculated under Subsection (5)(a)(i) may not include any increases from increases in fees or tax rates.

(b) The adjustment under Subsection (5)(a) shall be made in the same way as provided in Subsection (4)(a)(ii) and (b).

(6) The governing body of any municipality or county may issue bonds redeemable up to a period of ten years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

Amended by L. 2007

72-2-109. Rules for uniform accounting -- Apportionment and use of class B and class C road funds -- Compliance with federal-aid provisions -- Duties of department.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing for uniform accounting of funds to be expended upon class B and C roads as required by the federal government under Title 23, United States Code Annotated, relating to federal aid for highway purposes together with all amendatory acts.

(2) The department shall cooperate with the county governing bodies and the governing officials of the cities and towns in the apportionment and use of class B and C road funds.

Amended by L. 2007

72-2-110. Funds allocated to class B and class C roads -- Matching federal funds.

Any funds which are allocated to class B and class C roads may be used for matching federal funds for the construction of secondary roads now available or which may later become available in accordance with the provisions of law.

Renumbered & Amended by L. 1998

72-2-201. Definitions.

As used in this part:

(1) "Fund" means the Transportation Infrastructure Loan Fund created under Section **72-2-202**.

(2) "Infrastructure assistance" means any use of fund moneys, except an infrastructure loan, to provide financial assistance for transportation projects, including:

(a) capital reserves and other security for bond or debt instrument financing; or

(b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.

(3) "Infrastructure loan" means a loan of fund monies to finance a transportation project.

(4) "Public entity" means a state agency, county, municipality, local district, special service district, or an intergovernmental entity organized under state law.

(5) "Transportation project":

(a) means a project to improve a state or local highway; and

(b) includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing.

Amended by L. 2008

72-2-202. Transportation Infrastructure Loan Fund -- Creation -- Use of monies.

- (1) There is created a revolving loan fund entitled the Transportation Infrastructure Loan Fund.
- (2) The fund consists of monies generated from the following revenue sources:
 - (a) appropriations made to the fund by the Legislature;
 - (b) federal monies and grants that are deposited in the fund;
 - (c) monies transferred to the fund by the commission from other monies available to the department;
 - (d) state grants that are deposited in the fund;
 - (e) contributions or grants from any other private or public sources for deposit into the fund; and
 - (f) all monies collected from repayments of fund monies used for infrastructure loans or infrastructure assistance.
- (3)
 - (a) The fund shall earn interest.
 - (b) All interest earned on fund monies shall be deposited into the fund.
- (4) Monies in the fund shall be used by the department, as prioritized by the commission, only to:
 - (a) provide infrastructure loans or infrastructure assistance; and
 - (b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects, and obtaining repayments of infrastructure loans or infrastructure assistance.
- (5)
 - (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.
- (6) Fund monies shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

Amended by L. 2007

72-3-103. County roads -- Class B roads -- Construction and maintenance by counties.

- (1) County roads comprise all public highways, roads, and streets within the state that:
 - (a) are situated outside of incorporated municipalities and not designated as state highways;
 - (b) have been designated as county roads; or
 - (c) are located on property under the control of a federal agency and constructed or maintained by the county under agreement with the appropriate federal agency.
- (2) County roads are class B roads.
- (3) The state and county have joint undivided interest in the title to all rights-of-way for all county roads.
- (4) The county governing body exercises sole jurisdiction and control of county roads within the county.
- (5) The county shall construct and maintain each county road using funds made available for that purpose.

(6) The county legislative body may expend funds allocated to each county from the Transportation Fund under rules made by the department.

(7) A county legislative body may use any portion of the class B road funds provided by this chapter for the construction and maintenance of class A state roads by cooperative agreement with the department.

(8) A county may enter into agreements with the appropriate federal agency for the use of federal funds, county road funds, and donations to county road funds to construct, improve, or maintain county roads within or partly within national forests.

Amended by L. 2000

72-3-104. City streets -- Class C roads -- Construction and maintenance.

(1) City streets comprise:

(a) highways, roads, and streets within the corporate limits of the municipalities that are not designated as class A state roads or as class B roads; and

(b) those highways, roads, and streets located within a national forest and constructed or maintained by the municipality under agreement with the appropriate federal agency.

(2) City streets are class C roads.

(3) Except for city streets within counties of the first and second class as defined in Section **17-50-501**, the state and city have joint undivided interest in the title to all rights-of-way for all city streets.

(4) The municipal governing body exercises sole jurisdiction and control of the city streets within the municipality.

(5) The department shall cooperate with the municipal legislative body in the construction and maintenance of the class C roads within each municipality.

(6) The municipal legislative body shall expend or cause to be expended upon the class C roads the funds allocated to each municipality from the Transportation Fund under rules made by the department.

(7) Any town or city in the third, fourth, or fifth class may:

(a) contract with the county or the department for the construction and maintenance of class C roads within its corporate limits; or

(b) transfer, with the consent of the county, its:

(i) class C roads to the class B road system; and

(ii) funds allocated from the Transportation Fund to the municipality to the county legislative body for use upon the transferred class C roads.

(8) A municipal legislative body of any city of the third, fourth, or fifth class may use any portion of the class C road funds allocated to the municipality for the construction of sidewalks, curbs, and gutters on class A state roads within the municipal limits by cooperative agreement with the department.

Amended by L. 2007

72-3-105. Class D roads -- Maps to be prepared by county -- Indication of roads.

(1) As used in this section, "class D road" means any road, way, or other land surface route that has been or is established by use or constructed and has been maintained to provide for usage by the public for vehicles with four or more wheels that is not a class A, class B, or class C road under this title.

(2) Each class D road is part of the highway and road system within the state with the same force and effect as if the class D road had been included within this system upon its being first established or constructed.

(3) The state and county have joint undivided interest in the title to all rights-of-way for class D roads.

(4) The county governing body exercises sole jurisdiction and control of class D roads within the county.

(5) Each county shall prepare maps showing to the best of its ability the class D roads within its boundaries which were in existence as of October 21, 1976. Preparation of these maps may be done by the county itself or through any multi-county planning district in which the county participates.

(6) Any class D road which is established or constructed after October 21, 1976, shall be reflected on maps prepared as provided in Subsection (5).

(7) The county shall provide a copy of any map under Subsection (5) or (6) upon completion to the department.

(8) The department shall scribe each road shown on its own county map series. The department is not responsible for the validity of any class D road and is not responsible for its being inventoried. The department shall also keep on file an historical map record of the roads as provided by the counties.

Amended by L. 2000

72-3-106. Actions to determine priority of use of public roads.

(1) The county attorney under the direction of the county legislative body shall determine a priority of public use of all county roads.

(2) This action may be instigated by the written request of ten taxpayers of the county to the county legislative body.

(3) The county legislative body shall request the county attorney to instigate action within a reasonable length of time.

Renumbered & Amended by L. 1998

72-3-107. County executive to keep plats of roads and highways.

(1) The county executive of each county shall determine all county roads existing in the county and prepare and keep current plats and specific descriptions of the county roads.

(2) The plats and specific descriptions shall be kept on file in the office of the county clerk or recorder.

Renumbered & Amended by L. 1998

72-3-108. County roads -- Vacation and narrowing.

(1) A county may, by ordinance, vacate, narrow, or change the name of a county road without petition or after petition by a property owner.

(2) A county may not vacate a county road unless notice of the hearing is:

(a) published in a newspaper of general circulation in the county once a week for four consecutive weeks prior to the hearing; or

(b) posted in three public places for four consecutive weeks prior to the hearing; and

(c) mailed to the department and all owners of property abutting the county road.

(3) The right-of-way and easements, if any, of a property owner and the franchise rights of any public utility may not be impaired by vacating or narrowing a county road.

(4) Except as provided in Section **72-5-305**, if a county vacates a county road, the state's right-of-way interest in the county road is also vacated.

Amended by L. 2000

72-5-301. Definitions.

As used in this part:

(1) "Acceptance," "acceptance of a right-of-way for the construction of a highway over public lands, not reserved for public uses," or "accepted" so as to vest the R.S. 2477 dominant estate in the right-of-way in the state and any applicable political subdivision of the state, means one or more of the following acts prior to October 21, 1976:

(a) by the state or any political subdivision of the state:

(i) construction or maintenance of a highway;

(ii) inclusion of the highway in a state, county, or municipal road system;

(iii) expenditure of any public funds on the highway;

(iv) execution of a memorandum of understanding or other agreement with any other public or private entity or an agency of the federal government that recognizes the right or obligation of the state or a political subdivision of the state to construct or maintain the highway or a portion of the highway; or

(v) (A) the acceptance at statehood of the school or institutional trust lands accessed or traversed by the right-of-way; or

(B) the selection and receipt by the state of a clear list, indemnity list, or other document conveying title to the state of school, institutional trust lands, or other state lands accessed or traversed by the highway;

(b) use by the public for a period in excess of ten years in accordance with Section **72-5-104**; or

(c) any other act consistent with state or federal law indicating acceptance of a right-of-way.

(2) (a) "Construction" means any physical act of readying a highway for use by the public according to the available or intended mode of transportation, including, foot, horse, vehicle, pipeline, or other mode.

(b) "Construction" includes:

(i) removing vegetation;

(ii) moving obstructions, including rocks, boulders, and outcroppings;

(iii) filling low spots;

(iv) maintenance over several years;

(v) creation of an identifiable route by use over time; and

(vi) other similar activities.

(3) "Cut-off date" means the earlier of the date the underlying land was reserved for public use or

October 21, 1976.

(4) (a) "Highway" means:

(i) any road, street, trail, or other access or way that is open to the public to come and go or transport water at will, without regard to how or by whom the way was constructed or maintained; and

(ii) appurtenant land and structures including road drainage ditches, back and front slopes, turnouts, rest areas, and other areas that facilitate use of the highway by the public.

(b) "Highway" includes:

(i) pedestrian trails, horse paths, livestock trails, wagon roads, jeep trails, logging roads, homestead roads, mine-to-market roads, alleys, tunnels, bridges, and all other ways and their attendant access for maintenance; and

(ii) irrigation canals, waterways, viaducts, ditches, pipelines, or other means of water transmission and their attendant access for maintenance.

(c) To be a "highway" a right-of-way need not have destinations or termini that are some kind of landmarks distinguishable from other points along the right-of-way, as long as the right-of-way accommodates travelers from one point along the right-of-way to another point as often as convenient or necessary.

(5) "Maintenance" means any physical act of upkeep of a highway or repair of wear or damage whether from natural or other causes, including the following:

(a) vertical and horizontal alignment alterations to meet applicable safety standards;

(b) widening an existing road or flattening of shoulders or side slopes to meet applicable safety standards;

(c) grooming and grading of the previously constructed road surface;

(d) establishing and maintaining the road crown with materials gathered along the road;

(e) filling ruts;

(f) spot filling with the same materials of the road, or improved materials;

(g) leveling or smoothing washboards;

(h) clearing the roadway of obstructing debris;

(i) cleaning culverts, including head basins and outlets;

(j) resurfacing with the same or improved materials;

(k) installing, maintaining, repairing and replacing rip rap;

(l) maintaining drainage;

(m) maintaining and repairing washes and gullies;

(n) installing, maintaining, repairing, and replacing culverts as necessary to protect the existing surface from erosion;

(o) repairing washouts;

(p) installing, maintaining, repairing and replacing marker posts;

(q) installing, maintaining, and repairing water crossings;

(r) installing, maintaining, and repairing and replacing cattle guards;

(s) installing, maintaining, and repairing and replacing road signs;

(t) installing, maintaining, and repairing and replacing road striping;

(u) repair, stabilization and improvement of cut and fill slopes;

(v) application of seal coats; or

(w) snow removal.

(6) "Public lands not reserved for public uses" means the surface of federal lands open to entry and location and includes the surface of lands that are subject to subsurface coal withdrawals or mining claims.

(7) "R.S. 2477 right-of-way" means a right-of-way for a highway constructed in this state on public lands not reserved for public uses in accordance with Revised Statute 2477, codified as 43 U.S.C. Section 932, and accepted by the state or a political subdivision of the state prior to October 21, 1976.

Amended by L. 2003

72-5-302. Rights-of-way across federal lands -- Title -- Presumption -- Scope.

(1) This part applies to all R.S. 2477 rights-of-way.

(2) The state and its political subdivisions have title to the R.S. 2477 rights-of-ways in accordance with Sections **72-3-102**, **72-3-103**, **72-3-104**, **72-3-105**, and **72-5-103**.

(3) (a) Acceptance of a right-of-way for the construction of a highway over public lands, not reserved for public uses, is presumed if the state or a political subdivision of the state makes a finding that the highway was constructed and the right-of-way was accepted prior to October 21, 1976.

(b) The existence of a highway in a condition suitable for public use establishes a presumption that the highway has continued in use in its present location since the land over which it is built was public land not reserved for public use.

(4) (a) Unless specifically determined prior to the cut-off date provided in Section **72-5-301** by the state or a political subdivision of the state with authority over the R.S. 2477 right-of-way, the scope of the R.S. 2477 right-of-way is that which is reasonable and necessary for all highway uses as of the cut-off date determined according to the facts and circumstances, including:

(i) highway drainage facilities;

(ii) shoulders adjacent to the right-of-way; and

(iii) maintenance activities defined in Section **72-5-301** that are reasonable and necessary.

(b) Unless specifically determined by the state or political subdivision of the state with the authority over the R.S. 2477 right-of-way, an R.S. 2477 right-of-way is presumed to be at least 66 feet wide if that is the usual width of highway rights-of-way in the area.

(c) The scope of the R.S. 2477 right-of-way includes the right to widen the highway as necessary to accommodate the increased travel associated with those uses, up to, where applicable, improving a highway to two lanes so travelers can safely pass each other.

(5) The safety standards established by the Department of Transportation in accordance with Section **72-6-102** apply to all determinations of safety on R.S. 2477 rights-of-way used for vehicular travel.

Amended by L. 2003

72-6-108. Class B and C roads -- Improvement projects -- Contracts -- Retainage.

(1) A county executive for class B roads and the municipal executive for class C roads shall cause plans, specifications, and estimates to be made prior to the construction of any improvement project, as defined in Section **72-6-109**, on a class B or C road if the estimated cost for any one project exceeds the bid limit as defined in Section **72-6-109** for labor, equipment, and materials.

(2) (a) All projects in excess of the bid limit shall be performed under contract to be let to the lowest responsible bidder.

(b) If the estimated cost of the improvement project exceeds the bid limit for labor, equipment, and materials, the project may not be divided to permit the construction in parts, unless each part is done by contract.

(3) The advertisement on bids shall be published in a newspaper of general circulation in the county in which the work is to be performed at least once a week for three consecutive weeks. If there is no newspaper of general circulation, the notice shall be posted for at least 20 days in at least five public places in the county.

(4) The county or municipal executive or their designee shall receive sealed bids and open the bids at the time and place designated in the advertisement. The county or municipal executive or their designee may then award the contract but may reject any and all bids.

(5) The person, firm, or corporation that is awarded a contract under this section is subject to the provisions of Title 63G, Chapter 6, Utah Procurement Code.

(6) If any payment on a contract with a private contractor for construction or improvement of a class B or C road is retained or withheld, the payment shall be retained or withheld and released as provided in Section **13-8-5**.

Amended by L. 2008

72-6-109. Class B and C roads -- Construction and maintenance -- Definitions -- Estimates lower than bids -- Accountability.

(1) As used in this section and Section **72-6-108**:

(a) "Bid limit" means:

(i) for the year 2003, \$125,000; and

(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year.

(b) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(c) (i) "Construction" means the work that would apply to:

(A) any new roadbed either by addition to existing systems or relocation;

(B) resurfacing of existing roadways with more than two inches of bituminous pavement; or

(C) new structures or replacement of existing structures, except the replacement of drainage culverts.

(ii) "Construction" does not include maintenance, emergency repairs, or the installation of traffic control devices as described in Section **41-6a-302**.

(d) "Improvement project" means construction and maintenance as defined in this section except for that maintenance excluded under Subsection (2).

(e) "Maintenance" means the keeping of a road facility in a safe and usable condition to which it was constructed or improved, and includes:

(i) the reworking of an existing surface by the application of up to and including two inches of bituminous pavement;

(ii) the installation or replacement of guardrails, seal coats, and culverts;

(iii) the grading or widening of an existing unpaved road or flattening of shoulders or side slopes to meet current width and safety standards; and

(iv) horizontal or vertical alignment changes necessary to bring an existing road in compliance with current safety standards.

(f) "Project" means the performance of a clearly identifiable group of associated road construction activities or the same type of maintenance process, where the construction or maintenance is performed on any one class B or C road, within a half-mile proximity and occurs within the same calendar year.

(2) The following types of maintenance work are not subject to the contract or bid limit requirements of this section:

(a) the repair of less than the entire surface by crack sealing or patching; and

(b) road repairs incidental to the installation, replacement, or repair of water mains, sewers, drainage pipes, culverts, or curbs and gutters.

(3) (a) (i) If the estimates of a qualified engineer referred to in Section **72-6-108** are substantially lower than any responsible bid received or in the event no bids are received, the county or municipality may perform the work by force account.

(ii) In no event shall "substantially lower" mean estimates that are less than 10% below the lowest responsible bid.

(b) If a county or municipality performs an improvement project by force account, it shall:

(i) provide an accounting of the costs and expenditures of the improvement including material, labor, and direct equipment costs to be calculated using the Cost Reference Guide for Construction Equipment by Dataquest Inc. or the Federal Emergency Management Agency schedule of equipment rates;

(ii) disclose the costs and expenditures to any person upon request and allow the person to make a copy and pay for the actual cost of the copy; and

(iii) perform the work using the same specifications and standards that would apply to a private contractor.

Amended by L. 2007

72-7-106. Gates on class B and D roads.

(1) As used in this section, "county road" means:

(a) a class B road as defined in Section **72-3-103**; and

(b) a class D road as defined in Section **72-3-105**.

(2) The county executive of a county may authorize the erection or maintenance of a gate on a county road in order to avoid the necessity of building highway fences.

(3) The person for whose immediate benefit a gate is erected or maintained shall in all cases bear the expense.

(4) Nothing contained in Section **72-7-105** shall be construed to prohibit a person from placing an unlocked, nonrestrictive gate across a county road, or maintaining the same, with the authorization of the county executive of that county.

(5) (a) A gate is not allowed on a county road unless authorized by the county executive in accordance with the provisions of this section.

(b) If the expense of the erection and maintenance of the gate is not paid or if a lock or other device is placed upon the gate so as to make it restrictive, the county executive of that county shall notify the responsible party that county approval is terminated and the gate is considered to be an obstruction under Section **72-7-105**.

(6) The placement or maintenance of a gate with the authorization of the county executive across a county road does not constitute or establish an abandonment under Section **72-5-105** or **72-5-305** by the county and does not establish an easement on behalf of the person establishing the gate.

(7) A person who commits any of the following acts is guilty of a class B misdemeanor and is liable for all damages suffered by a party as a result of the acts:

(a) leaves open a gate, erected or maintained under this section;

(b) unnecessarily drives over the ground adjoining the highway on which a gate is erected;

- (c) places a lock or other restrictive device on a gate; or
- (d) violates a rule or regulation of a county legislative body relating to the gates within the county.

Amended by L. 2003

72-8-101. Title.

This chapter is known as the "Pedestrian Safety and Facilities Act."

Renumbered & Amended by L. 1998

72-8-102. Definitions.

As used in this chapter:

- (1) "Construction" means the function of constructing or reconstructing a sidewalk with or without curb and gutter and includes land acquisition and engineering or inspection as defined by the rules and regulations of the department.
- (2) "Curb and gutter" means the area between the roadway and sidewalk designed for water runoff and providing a barrier for safety of pedestrian and vehicular traffic.
- (3) "Participating municipality" means a city of the third, fourth, or fifth class or a town.
- (4) "Pedestrian safety devices" means any device or method designed to foster the safety of pedestrian traffic including sidewalks, curbs, gutters, and pedestrian overpasses.

Amended by L. 2003

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

(1) All sidewalks, including curbs and gutters within the unincorporated areas of a county and within nonparticipating municipalities situated within the county, are designated county sidewalks. All sidewalks within participating municipalities are designated municipal sidewalks.

(2) Counties and participating municipalities may construct and maintain curbs, gutters, sidewalks, and pedestrian safety devices adjacent to the traveled portion of state highways upon easements that may be granted by the department. The department shall cooperate with counties and participating municipalities to accomplish pedestrian safety construction and maintenance.

(3) A county or municipality may construct and maintain pedestrian safety devices on state highways in compliance with rules made by the department.

Renumbered & Amended by L. 1998

72-8-104. Funding priorities by county and municipality officials -- Factors.

(1) A county or municipality may use a portion of their B and C road funds for pedestrian safety devices under this part.

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

- (a) existing useable rights-of-way;
- (b) vehicle-pedestrian accident experience;

- (c) average daily vehicle traffic;
- (d) average daily pedestrian traffic;
- (e) average daily school age pedestrian traffic; and
- (f) speed of vehicle traffic.

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

Renumbered & Amended by L. 1998

72-8-105. Pedestrian safety to be considered in highway planning.

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

Renumbered & Amended by L. 1998

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

The department shall:

- (1) make rules providing for uniform accounting of the funds permitted to be expended for curbs, gutters, sidewalks, and pedestrian safety devices, as provided in this part; and
- (2) cooperate with the county executives and county legislative bodies and the governing officials of participating municipalities in order to implement this part and make rules required by this part.

Renumbered & Amended by L. 1998

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

(1) This part may not be construed to substitute or replace the construction of curbs, gutters, sidewalks, or pedestrian safety devices by any counties or participating municipalities. Funds expended under this part are in addition to funds normally used by counties and participating municipalities for pedestrian safety devices and may not be used in substitution for local funding.

(2) If any county or participating municipalities or any of their agencies grant an exemption or deferral agreement for the construction of sidewalks, curbs, gutters, or pedestrian safety devices which are otherwise normally required, the area for which the exemption or deferral agreement applies is not be eligible to utilize funds permitted to be expended by this part.

Renumbered & Amended by L. 1998