

August 2020

Transportation Interim Committee
Sonja Nowakowski

FINAL REPORT TO THE 67TH MONTANA LEGISLATURE

DRAFT
**HJ 45: PATH TO THE
FUTURE?
A LOOK AT BICYCLE
AND PEDESTRIAN
PATH PLANNING AND
FUNDING**

TRANSPORTATION INTERIM COMMITTEE

INTERIM COMMITTEE MEMBERS

Before the close of each legislative session, the House and Senate leadership appoint lawmakers to interim committees. The members of the Transportation Interim Committee, like most other interim committees, serve one 20-month term. Members who are reelected to the Legislature, subject to overall term limits and if appointed, may serve again on an interim committee. This information is included in order to comply with 2-15-155, MCA.

Senate Members

Senator Gordon Vance, Chair

P.O. Box 1
Belgrade, MT 59714-0001
Ph: 406-587-8608
Email: VanceSD34@gmail.com

Senator Diane Sands, Vice Chair

4487 Nicole Court
Missoula, MT 59803-2791
Ph: 406-251-2001
Email: SenatorSands@gmail.com

Senator Cydnie (Carlie) Boland

1215 6th Ave. N.
Great Falls, MT 59401-1601
Ph: 406-868-1029
Email: carlie.boland@mtleg.gov

Senator Jeff Welborn

P.O. Box 790
Dillon, MT 59725-0790
Ph: 406-949-6070
Email: jeff.welborn@mtleg.gov

House Members

Representative Ross Fitzgerald

451 1st Road NE
Fairfield, MT 59436-9205
Ph: 406-788-1443
Email: ross.fitzgerald@mtleg.gov

Representative Denley Loge

1296 Four Mile RD
Saint Regis, MT 59866-9610
Ph: 406-649-2368
Email: denleylogehd14@gmail.com

Representative Andrea Olsen

622 Rollins Street
Missoula, MT 59801-3719
Ph: 406-543-2666
Email: andrea.olsen@mtleg.gov

Representative Mark Sweeney

P.O. Box 681
Philipsburg, MT 59858-0681
Ph: 406-560-0170
Email: Mark.Sweeney@mtleg.gov



LEGISLATIVE SERVICES DIVISION

P.O. Box 201706
Helena, MT 59620-1706
Phone: (406) 444-3064
Fax: (406) 444-3971
Website: leg.mt.gov/tric

Transportation Interim Committee Staff
Joe Carroll, Attorney | Sonja Nowakowski, Research Analyst | Bri Nordhagen, Secretary

This report is a summary of the work of the Transportation Interim Committee, specific to the Transportation Interim Committee’s 2019-2020 work plan and House Joint Resolution No. 45 (2019). Members received additional information and public testimony on the subject, and this report is an effort to highlight key information and the processes followed by the Transportation Interim Committee in reaching its conclusions. To review additional information, including audio minutes, and exhibits, visit the Transportation Interim Committee website: www.leg.mt.gov/tric.

TABLE OF CONTENTS

Introduction.....	1
Bicycles on All Public Roads.....	1
47th Out of 50.....	2
State & Local Policies Provide for Planning.....	2
Economic Impacts.....	4
More Recent Studies at the Local Level.....	5
How Does the State Pay for Bike Paths?.....	6
New Construction	6
Federal Transportation Alternatives	7
Increased Funding and Planning.....	8
Federal Dollars Still Lead the Way.....	9
Maintenance.....	10
Funding in Other States.....	10
Registration and User Fees: Mostly Decided at Local Level	10
Fuel Taxes: Would the Constitution Allow It?	13
Dedicated Minimum Funding Source: A Legislative Choice.....	14
Other Funding Sources: Creativity Abounds	15

HJ 45: PATH TO THE FUTURE?

INTRODUCTION

Both bicycling and walking play an integral role in Montana's transportation system. House Joint Resolution No. 45, an interim study, requested that the Transportation Interim Committee explore how bicycle and pedestrian paths are used in Montana and safety implications. The study also requested a review of existing and future funding opportunities.

Representative Denley Loge, the sponsor of HJ 45, invited bicycle and pedestrian path stakeholders to meet and discuss HJ 45. Rep. Loge held the work session on December 10, 2019 in Helena. Introduced attendees can be reviewed in this [summary](#). Additional details about the discussion are also included in the summary. Stakeholders provided additional materials and comments, which are posted on the website. All materials are posted under the [HJ 45 tab](#) on the TIC webpage.

During the interim, the Transportation Interim Committee learned about Montana's Pedestrian and Bicycle Plan and also invited the Montana Department of Transportation (MDT) to discuss [how Montana funds pedestrian and bicycle paths](#). The discussion covered planning stages, such as MDT's approach to project development, and existing funding sources. MDT also provided information related to [safety and rules of the road](#), offering a snapshot of federal, state, and local laws.

The Transportation Interim Committee in June 2020 reached a general consensus that stakeholders should continue to work together to capitalize on future funding opportunities and prospects to enhance bicycle and pedestrian paths in Montana.

BICYCLES ON ALL PUBLIC ROADS

In 2019 the Montana Department of Transportation (MDT) released the state's first comprehensive [Montana Pedestrian and Bicycle Plan](#). The 20-year plan is built on five goals: reducing pedestrian and bicyclist fatalities; educating, encouraging, and promoting safe and responsible travel; preserving and maintaining bike and pedestrian systems; improving mobility and accessibility for all; and supporting walking and biking as important transportation modes.

In Montana, bikes are considered vehicles, in that cyclists enjoy all the same rights and duties that the driver of a vehicle enjoys. This is not unique, but Montana also is one of only five states that allows bicycles on all public roads. This means there are about 73,600 miles open to public travel, including interstates. The other four states that allow unlimited access include Idaho, North Dakota, South Dakota, and Wyoming.

HJ 45: PATH TO THE FUTURE?

47TH OUT OF 50

The "[2018 Benchmarking Report: Bicycling and Walking in the United States](#)" from the League of American Bicyclists ranked Montana first in safety (per 10,000 commuters); second in active commuting, and fifth in spending per capita of federal funds. In 2019, however, the League of American Bicyclists issued its state report cards, with Montana ranking 47th out of 50 for bike friendliness.¹ While Montana still ranked first in safety, with 2.9 fatalities per 10,000 bike commuters and second in federal spending at \$9.68 per capita federal highway dollars spent on biking and walking, Montana ranked 22 out of 50 states for overall infrastructure and funding.

Montana ranks high in terms of commuters who walk and bike to work. According to the American Community Survey 5-year data (2012-2016), 5.1% of Montanans walk to work and 1.4% of Montanans bike to work. This puts Montana in fourth and second place in the nation. In Montana, 95 percent of households also have access to at least one motor vehicle.

There are about 73,600 centerline miles of roadway in Montana, and MDT maintains around 13,000 of those miles. About 7 percent of MDT routes are in an urban area, which allows for more effective networks of pedestrian and bicycle paths, according to MDT.

"While there is a general desire for consistent consideration of nonmotorists across the state, there is recognition that the state is vast and that the needs are not the same in all areas. It can be difficult to balance the many competing needs within the existing right-of-way. Evaluation is on a case-by-case basis to understand context," according to MDT's plan.²

Infrastructure & Funding Ranked 22 of 50 States	
DESIGN AND EXISTENCE OF INFRASTRUCTURE Has the state made it easy to build bicycle infrastructure and installed a variety of infrastructure on state facilities?	B-
STATE TRANSPORTATION FUNDING Does the state allocate funding to bicycling or limit state funding for bicycling?	D
USE OF FEDERAL TRANSPORTATION FUNDING Does the state take advantage of available federal funding for biking and walking?	B+
PLANNED AND RECENTLY BUILT BICYCLE & PEDESTRIAN FACILITIES How many lane miles of bicycle and pedestrian facilities has the state reportedly planned to build and built?	D

SOURCE: LEAGUE OF AMERICAN BICYCLISTS

STATE & LOCAL POLICIES PROVIDE FOR PLANNING

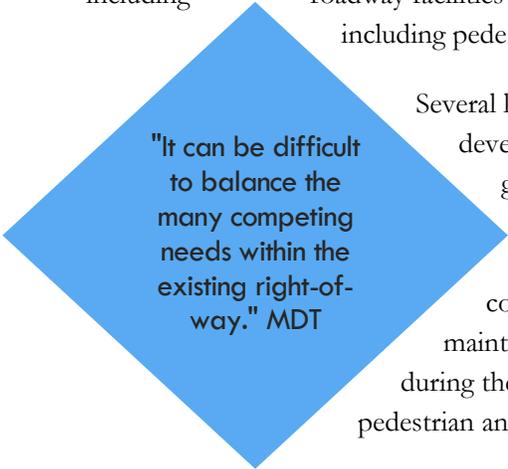
Many pedestrian and bicycle improvements are included in associated roadway construction projects, as opposed to being standalone projects. Under the umbrella of [TranPlanMT](#), Montana's overall transportation plan, MDT's 2019 Montana Pedestrian and Bicycle Plan focuses on the state of walking and biking in Montana, identifies challenges, and provides strategies for overcoming constraints.

¹ https://bikeleague.org/sites/default/files/BFS%20Report%20Card_2019_Montana.pdf

² https://mdt.mt.gov/pubinvolve/pedbike/docs/MontanaPedestrianandBicyclePlan_2019.pdf

HJ 45: PATH TO THE FUTURE?

When state road projects are planned, MDT uses guidelines for the design and development of improvements within its "Road Design Manual". The manual includes information on design considerations, including "roadway facilities should be designed and operated to enable safe access for various users, including pedestrians, bicycles, motorists and transit riders of all ages and abilities."



"It can be difficult to balance the many competing needs within the existing right-of-way." MDT

Several larger, local municipalities also use their own guidance on the development of pedestrian and bicycle facilities. Other municipalities rely on guidance provided by the Federal Highway Administration. MDT coordinates with local jurisdictions to determine appropriate pedestrian and bicycle improvements. "Factors such as demand, connectivity, land use planning, right-of-way availability, safety issues, maintenance responsibility, and public input are considered and analyzed during the project development process to determine the most appropriate pedestrian and bicycle facilities," according to the plan.

MDT's "Shared Use Paths in MDT Right-of-Way Policy" provides further direction when considering locating shared-use paths in state rights-of-way. The policy includes criteria for MDT to use when making project development decisions to ensure shared-use path connections between origins and destinations and requirements for assigning maintenance responsibility for paths.

In 1975, the Montana Legislature passed a "Footpath and Bicycle Trail Act". In 2017, the act was revised to simply be a "shared-use" path act. A shared-use path is a multiuse path separated from motorized vehicular traffic. It does not include sidewalks. The statute directs MDT to maintain and construct shared-use paths. Amendments to the act in 2017 also provide for an additional funding source for paths, discussed later in this report. The law also requires MDT, prior to the construction or extension of a shared-use path, to enter into a maintenance agreement with the county or municipality, or both, in which the path is proposed to be constructed or extended. The inventory provided only includes those located in MDT rights-of-way. There are many, many additional miles of bicycle and pedestrian paths on local government networks.

HJ 45: PATH TO THE FUTURE?

In terms of pedestrian paths, cities, counties, and tribal governments are generally responsible for maintenance and development through planning. State law, section 7-15-4125, MCA, also allows city or town councils to require the owner of a sidewalk, house, or other structure that is dangerous to passers-by to repair or remove the same after notice. The federal proposed Public Rights-of-Way Access Guidelines, PROWAG, also provides MDT with standards to address accessibility. The PROWAG is used as an additional resource to the ADA Accessibility Guidelines.

Advocates have raised concerns that MDT's bicycle/pedestrian coordinator position remained open for a year and a half. The position has not yet been advertised; however, duties are being fulfilled by existing staff, according to MDT. Advocates also encourage the department to explore opportunities for additional bicycle and pedestrian experts at the state's five divisions.

Bike/pedestrian advocates also have asked for a more robust planning process. Advocates asked that plans be more direct and descriptive of implementation and include implementation schedules and timelines for specific benchmarks and actions, according to public comments filed by Bike Walk Montana on the 2019 Pedestrian-Bicycle Plan.

Inventory of Shared Use Paths

Missoula	73.1 miles
Kalispell	36.8 miles
Bozeman	36.1 miles
Great Falls	16.1 miles
Butte	9.1 miles
Havre	4.8 miles
Miles City	2 miles
Billings	.8 miles
Wolf Point	.7 miles

ECONOMIC IMPACTS

Montana ranks second in the country for how much outdoor recreation contributes to its gross domestic product — 5.1% in 2017, according to the federal Bureau of Economic Analysis. A number of studies over the last 10 years explored the economic impact of biking, walking, and hiking specific to Montana. Biking and related sales and services contribute to Montana's economy and provide direct and indirect revenue and jobs, according to reports.

The Missoula-based Adventure Cycling Association and the University of Montana's Institute for Tourism and Recreation Research examined the [economic impact of bicycle tourism](#) in 2013, finding bicycle tourists spend an average of about \$75 per person per day and tend to stay eight nights or more. Additional reports from the Institute tied directly to road conditions and maintenance. "One of the most important aspects of a long-distance cycle tour is road conditions. Rumble strips, debris, and shoulder width are critical to consider when making or maintaining roadways in the eyes of the cyclists. If the rumble strip covers the entire

HJ 45: PATH TO THE FUTURE?

shoulder, it does not allow cyclists to use the highway in a safe manner. Shoulders must be an adequate size to account for vehicles to pass and the cyclist to safely ride along the highway."³

The study also found that day hiking was the second most popular activity (behind scenic driving) by nonresidents who visited Montana throughout the year. According to the study, 77 percent of Montana residents used nonmotorized paths and 72 percent used hiking trails during 2013.

MORE RECENT STUDIES AT THE LOCAL LEVEL

Local governments in Montana also are taking a closer look at pathways in terms of usage, economic impacts, and future planning. In 2017 the [City of Billings completed a Parks, Recreation and Public Lands Comprehensive Parks and Recreation Master Plan](#). The plan includes an analysis of pathway usage and a discussion of demand for future infrastructure. Biking and walking trails ranked as highly important to Billings residents, in line with national benchmarks.⁴ Sixty-nine percent or 32,345 households indicated a need for walking and biking trails. Based on the total respondents' top three choices, 54% indicated walking and biking trails were most important to them.

In 2018 the Institute for Tourism and Recreation Research completed a case study of the value of trails in Helena. The [study](#) examined Helena's 80-mile hiking and mountain biking trail system. According to the study, the trail system attracts about 63,000 users each summer, with locals representing about 78 percent. The study found that trail users contribute about \$4 million in spending, support 60 jobs, and generate \$185,000 in state and local taxes.⁵

The state also advertises Montana's trails and paths. Montana's Office of Tourism and Business Development at the Department of Commerce provides information on tourism, including hiking, mountain biking, and long-distance bicycle touring. MDT maintains a "Bicycling the Big Sky" map (**Figure 1**) to assist those planning trips.

In addition to tourism, health and environmental benefits are recognized in terms of economic benefits. One of the five goals in the state plan is to "support walking and bicycling as important transportation modes for access to destinations, economic vitality, and health." If current levels of walking and bicycling continue over the next 20 years, 29,000 Montanans could meet the Center for Disease Control's recommended level of physical activity through walking and biking. Diversion of vehicle trips could also save an estimated \$878 million in healthcare costs, according to the plan. "Good walking and bicycling facilities that are attractive, provide access to parks, trails, and other recreational amenities are a key component of healthy communities."

³ "Analysis of Touring Cyclists: Impacts, Needs, and Opportunities for Montana," Institute for Tourism and Recreation Research, University of Montana, December 2013.

⁴ https://www.billingsparks.org/wp-content/uploads/City-of-Billings_MasterPlan_FINAL-12-12-17.pdf

⁵ Trail Usage and Value: Helena, MT Case Study, Jeremy Sage and Norma Nickerson, Institute for Tourism and Recreation Research, College of Forestry and Conservation, University of Montana, 2018.

HJ 45: PATH TO THE FUTURE?

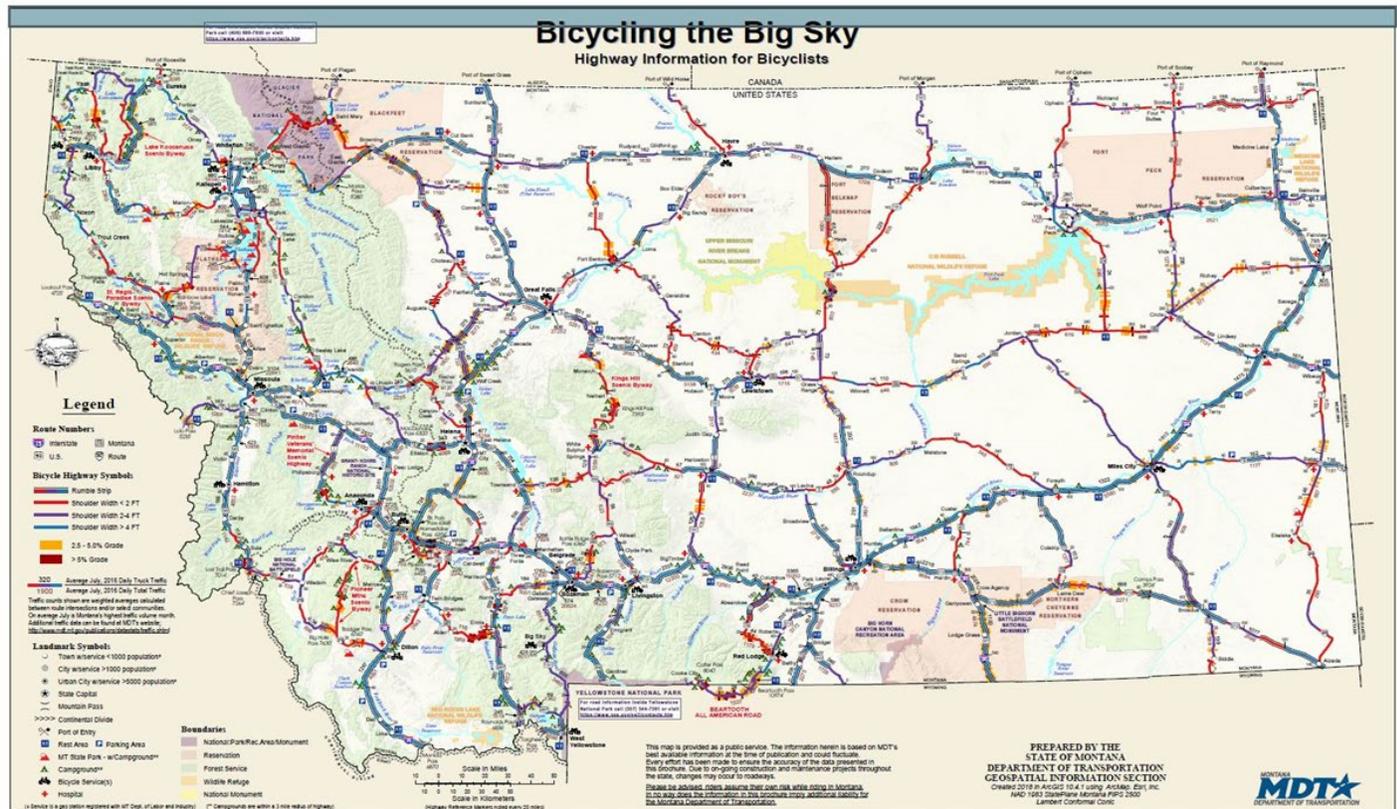


FIGURE 1: MDT BICYCLE TOURISM MAP

HOW DOES THE STATE PAY FOR BIKE PATHS?

New Construction

1-mile paved path: \$700,000 to \$1.2 million, MDT

In Montana, MDT estimates that the state spends \$9.68 per capita on walking and biking infrastructure, compared to a national average of \$2.50. While the per capita estimates may be a result of Montana's relatively small population, MDT estimates that it spends about \$8.8 million annually on construction of nonmotorized infrastructure. That is the average for construction from fiscal years 2013 to 2018. MDT also notes that the numbers represent construction costs and don't include design, rights-of-way, and utility phases of projects.

That \$8.8 million equates to about 3% of MDT's average annual roadway construction awards. But it is only for projects where nonmotorized costs can easily be extrapolated. Many of MDT's other construction projects contain nonmotorized improvements, and any project improving a travel lane could be categorized as an improvement--given state law directs cyclists to ride in the travel lane.

HJ 45: PATH TO THE FUTURE?

For projects on the state transportation system, funding is provided through a combination of federal and state sources. Reconstruction and major rehabilitation projects also often provide an opportunity for bicycle and pedestrian improvements. "Due to the various funding sources involved and difficulty calculating the proportional costs for larger roadway projects, an exact expenditure for pedestrian and bicycle facilities is difficult to accurately determine," according to the state plan.

Of that \$8.8 million, most funding comes from federal Transportation Alternatives allocations; however, other federal funding is also used for projects to improve nonmotorized travel. In Helena, for example, Americans with Disabilities Act (ADA) ramps and sidewalks are being added on Lyndale Avenue and Montana Avenue beginning at the intersection with Benton Avenue. The total project cost is about \$4.2 million, and the project was let in October. In Livingston, contractors are designing and constructing about .4 miles of shared-use path using about \$540,000 in Transportation Alternatives funding.

MDT's investment ratio is about 245 to 8 vehicle infrastructure versus bicycle or pedestrian infrastructure. The department surveys the public biennially to determine what priorities they see regarding the expenditure of funds for transportation. In its most recent statistically valid survey, the highest priority action to improve the system was maintaining road pavement conditions. The lowest priorities for funding were bicycle paths, pedestrian walkways, transit buses, and rest areas.

Shared Use Path Construction Costs	
Average Cost Per Mile*	
MDT	\$1.2 million
Missoula	\$800,000
Helena	\$720,000
Billings	\$769,000

"Although pedestrian and bicycle facilities are desired by many residents, funding has historically been, and is likely to continue to be, a challenge for developing and maintaining those facilities. No agency currently has sufficient funding or resources to implement and maintain transportation networks to the levels desired," according to the 2019 MDT Pedestrian and Bicycle Plan.

FEDERAL TRANSPORTATION ALTERNATIVES

The [federal Transportation Alternatives \(TA\) program](#), administered by MDT, is a funding resource for pathways in Montana. Local governments, regional transportation authorities, transit agencies, natural resource or public land agencies, schools, tribal governments, and any other local or regional governmental entities are eligible to apply for the funding. Projects go through a competitive selection process at MDT. Eligible projects include on- and off-road pedestrian and bicycle facilities, infrastructure projects for improving nondriver access to public transportation and enhanced mobility, nonmotorized transportation community improvement activities and environmental mitigation, recreational trail program projects, safe routes to school projects, and projects for the planning, design, and construction of boulevards and other roadways largely in the right-of-way of former interstate system routes or other divided highways, according to the program overview. A match is required for most projects (23 USC 120). Eligible projects within reservation land, however, don't require a match provided by the local entity sponsor. MDT also provides the

HJ 45: PATH TO THE FUTURE?

nonfederal match with state fund for projects that are included in the Transportation Commission's designated highway system. The nonfederal match rate is about 13.42 percent.

Since FY 2013, MDT received an average of \$10.8 million in funding requests each year. Of those requests, around 30 percent are funded. "The difference between funding requests and available money shows that the interest in investment outpaces available funding," according to MDT.

Moving Ahead for Progress in the 21st Century (MAP-21) consolidated the Community Transportation Enhancement Program (CTEP), Safe Routes to School, and the Recreational Trails Program (RTP) into the TA program. It also reduced funding. States were given the option of transferring TA funding to other programs. MDT opted to continue both the TA program and the RTP. The RTP is administered by Fish, Wildlife, and Parks (FWP). Montana receives about \$1.6 million annually. Montana State Parks collaborates with the State Trails Advisory Committee to review the applications. Thirty percent of RTP funding goes to motorized trail projects, 30 percent to nonmotorized trail projects, and 40 percent to multiple-use trail projects.

INCREASED FUNDING AND PLANNING

The 2017 Montana Legislature passed [House Bill No. 225](#) to revise what is now referred to as the Montana Shared-Use Path Act. It now focuses solely on shared-used paths and provides for increased maintenance and repair of paths. As discussed previously, the law includes provisions that MDT recommend construction and maintenance standards for shared-use paths and provide a uniform system for signing shared-use paths.

The law also establishes a \$5 optional fee on motor vehicle registrations that is allocated by MDT across the five districts for maintaining, repairing, and establishing shared-use paths. A portion of the money must be used for safety education. Since fee collection began in July 2017, the Motor Vehicle Division (MVD) collected about \$45,455. Of that total, about \$10,000 came from Gallatin County registrations. Another \$7,000 came from Missoula County, and about \$6,600 came from Yellowstone County registrations. A listing of fee collections by county is included in **Figure 2**.

HJ 45: PATH TO THE FUTURE?

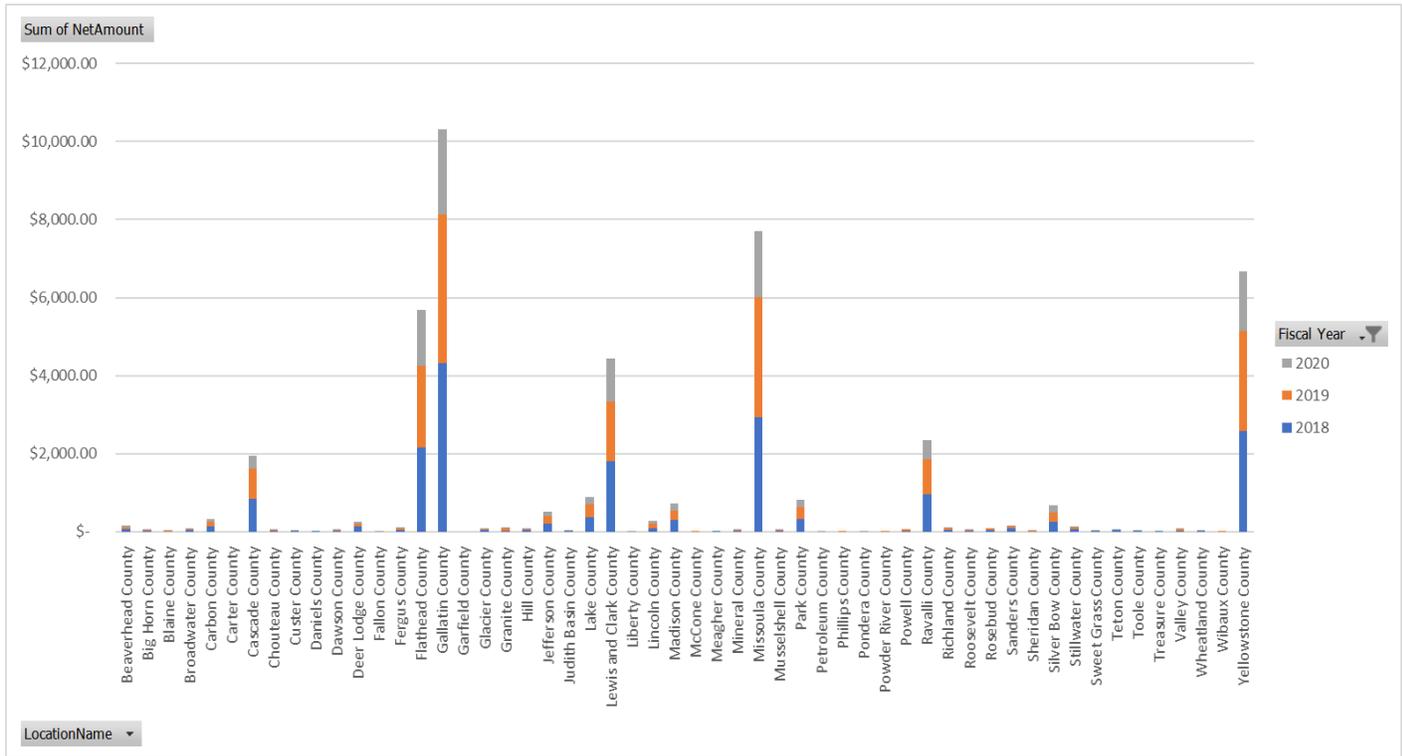


FIGURE 2: MVD OPTIONAL BIKE FEE COLLECTIONS

With the \$50,000 in administrative costs recovered by MVD, funding is available for maintenance and safety activities. Fees collected average around \$1,500 a month, according to MVD.

FEDERAL DOLLARS STILL LEAD THE WAY

As mentioned previously, the past five federal transportation bills included programs that provided some level of funding for pedestrian, bicycle, and trail-related projects. The programs and funding levels have changed with each bill. The table provided by MDT below summarizes the most recent bills and Montana's appropriations.

Program	Funding Years	Non-motorized Transportation Program	Annual Montana Apportionment
SAFETEA-LU Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users	2005-2012	Three programs: Community Transportation Enhancements Program (CTEP), SRTS, and RTP. CTEP program eligibility went beyond non-motorized improvements.	\$9.3M
MAP-21 Moving Ahead for Progress in the 21 st Century Act	2012-2014	Combines CTEP, SRTS and RTP Funding into one: TA Program. Funding eligibility narrowed to non-motorized improvements. RTP was optional, MDT chose to continue RTP.	\$5.8M
FAST Act Fixing America's Surface Transportation Act	2015-2020	Continued same eligibility of entities and activities as MAP-21.	\$6.3M

HJ 45: PATH TO THE FUTURE?

Maintenance

1-mile paved path: \$4,000 general maintenance and \$25,000 heavy maintenance, MDT

[House Bill No. 604](#), passed and approved by the 2015 Legislature, required MDT to compile [an inventory of all multiuse trails or other paths](#) within state-maintained federal-aid highway rights-of-way and develop a plan for maintaining and repairing the trails and other paths. The plan inventoried 196 miles of paths within MDT rights-of-way, including asphalt, concrete, and gravel paths and some striped bike lanes. There are about 188 miles of asphalt/concrete shared-use paths in Montana.

The multiuse paths study found that current heavy maintenance needs to restore paths to excellent condition totals about \$363,000, a one-time cost. Agreements between MDT and cities, counties, or other entities address path maintenance. About \$196,000 of the responsibility for heavy maintenance costs belongs to cities, counties, or other entities, and MDT is responsible for about \$160,000.

Other activities are essential for general maintenance, such as snow removal, sweeping, and mowing, in addition to ongoing pavement preservation activities like pavement seals and pavement overlays, according to the plan. The annual costs for general maintenance activities was about \$945,000 in 2018, which is mostly snow removal costs. "If MDT were tasked to assume all general maintenance responsibility for the current shared use paths, funding would have to be identified in future legislation or MDT would have to lower our maintenance efforts in other areas. This would mean there would be less money for the current maintenance practices and the condition of Montana Highways would decrease, in order to maintain the shared use paths within state maintained federal-aid highway right-of-way," according to the MDT's shared use paths inventory and detailed maintenance plan.

The total cost for general maintenance is \$263.30 per path mile, according to MDT. The total cost for snow removal is \$3,600 per path mile. The total cost to perform general maintenance on 180 miles of shared use path (excluding 8 miles of striped bike lanes) is approximately \$660,000, of which \$614,000 is the cost of snow removal efforts on all paths, according to the inventory.

FUNDING IN OTHER STATES

Federal gas tax dollars fuel bicycle and pedestrian path funding, much like they do for other transportation infrastructure projects. Some states also direct additional public money toward bicycle and pedestrian path planning and construction. The information below is a snapshot of funding options in other states. Information was compiled by the [National Conference of State Legislatures](#) (NCSL).

Registration and User Fees: Mostly Decided at Local Level

Bike registration programs are often used as a method to track equipment. However, registration also can serve as a funding mechanism. States with systems in place approach the question of how to handle registration, when to require it, and cost-effectiveness in a variety of ways. Bicyclists in Hawaii pay a mandatory \$15 registration fee that is deposited into a state bikeway fund. The funds must be expended in the

HJ 45: PATH TO THE FUTURE?

county where they are collected.⁶ The fee is collected at the point of sale. In Honolulu County the fee generates about \$400,000 annually and is generally used to support bicycle education programs.⁷

In 2017 Oregon enacted a transportation funding bill that includes a tax on bicycles. Those who purchase a bicycle that is \$200 or more pay \$15 in excise taxes. When enacted, the tax was expected to generate about \$1.2 million annually for the Oregon Department of Transportation's Connect Oregon program -- a program that funds grants for bicycle and transportation programs. A year after lawmakers enacted the tax, the state revised its estimated income. In 2018, bicyclists paid about \$500,000, and as of October 2019, the state collected about \$724,000. The state expects revenue to increase as additional retailers collect the tax and the cost of collection itself declines.⁸

In early 2020, Oregon's Department of Transportation unveiled a Community Paths grant program, fed by the tax on bicycles as well as an existing funding source backed by lottery dollars and federal money. The state plans to start awarding grants in 2021 and estimates about \$14 million for a three-year grant cycle ending in 2024.⁹

In 2005, Minnesota repealed its bicycle registration program due to underperformance.¹⁰ When in place, the program was voluntary, as opposed to point-of-sale. Bicyclists paid \$9 per bike to the state Department of Transportation.

Other states approach the issue of registration and user fees by simply leaving it up to local governments to decide. Generally, state laws are open-ended but clarify that rules or regulations may not conflict with state laws. The authorizations from local regulation also establish that local requirements only apply on roadways within that local authority's jurisdiction. **Figure 3** provides a snapshot of local authorizations in state laws around the country.

Montana law allows for local traffic regulations and extends the authority to include registration or fees (61-12-101(1)(h)). California, Wisconsin, Illinois, Maryland, Utah, and Massachusetts, for example, also explicitly allow municipalities to determine registration and fees. In California the state administers the bicycle registration program, but it is up to a local government whether to establish a fee. State law also requires the fees be spent on bicycle infrastructure and safety.¹¹ Anaheim, Los Angeles, Sacramento, and Santa Monica, for example, require registrations and charge fees.

⁶ Hawaii Revised Statutes 249-14.

⁷ "Encouraging Bicycle and Walking: The State Legislative Role," National Conference of State Legislatures, Douglas Shinkle and Anne Teigen, November 2008.

⁸ "Oregon bike tax revenue ticks up, but still short of expectations," BikePortland.org, Jonathan Maus, December 17, 2019.

⁹ <https://www.oregon.gov/ODOT/Programs/Pages/OCP.aspx>

¹⁰ "Encouraging Bicycle and Walking: The State Legislative Role," National Conference of State Legislatures, Douglas Shinkle and Anne Teigen, November 2008.

¹¹ California Vehicle Code 39002.

HJ 45: PATH TO THE FUTURE?

Authorization for Local Regulation of Bicycles Registration, Licensing, and Fees

State	Requirement	Statute
Arizona, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Montana, New Hampshire, New Mexico, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Wisconsin, Wyoming	Local authorities may regulate bicycles to some degree and/or require registration, licensing, or both, including a fee.	Ariz. Rev. Stat. §28-627 Colo. Rev. Stat. §42-4-111 Ga. Code Ann. §40-6-371 625 Ill. Comp. Stat. §11-208 Ind. Code §9-21-1-3 Iowa Code §321.236 Kan. Stat. Ann. §8-2002 La. Rev. Stat. Ann. §32:283 Md. Code Ann., Transp. §25-102 Mich. Comp. Laws §257.606 MCA §61-12-101(1)(h) N.H. Rev. Stat. Ann. §265:149 N.M. Stat. Ann. §66-7-9 Okla. Stat. 47 §15-101; 15-102 75 Pa. Cons. Stat. §6109 R.I. Gen. Laws §31-12-12 S.C. Code Ann. §56-5-710 Tex. Code Ann. §542.202; 217.003 Utah Code Ann. §§41-6a-208; 10-8-69 Wis. Stat. §349.18; Wyo. Stat. Ann. §31-5-109
California	A city or county may provide that residents be licensed to operate a bike.	California Vehicle Code 39002
Connecticut	A town, city, and borough may require annual licensing of bicycles and provide for registration or any sale of or change of ownership.	Conn. Gen. Stat. §14-289
Hawaii	Bicycles having two tandem wheels 20 inches or more in diameter and all mopeds must be registered and subject to a permanent registration fee of \$15.	Hawaii Revised Statutes §249-14

HJ 45: PATH TO THE FUTURE?

Massachusetts	Local authorities may regulate carriages and vehicles and set an annual fee for licenses.	Mass. Gen. Laws. Ch. 40, §22; Mass. Gen. Laws. Ch. 85, §11B
Nebraska	Local authorities may regulate bicycles and provide for registration and inspection.	Neb. Rev. Stat. §60-6,317(4)
Nevada	Local authorities may require registration and licensing.	Nev. Rev. Stat. §484A.400
Oregon	The Oregon bicycle excise tax is a flat tax of \$15, to be collected at the point of sale.	ORS 320.425
Virginia	Local authorities may require licensing and fees.	Va. Code Ann. §15.2-1720
Washington	Local authorities may regulate and license bicycles, construct and maintain bicycle paths within or outside of and beyond the limits leading to or from the city and establish and collect reasonable fees.	Wash. Rev. Code §35.75.010; 35.75.030; 35.75.040

FIGURE 3: THE LEAGUE OF AMERICAN BICYCLISTS AND NCSL

Fuel Taxes: Would the Constitution Allow It?

Some states direct that a portion of their fuel taxes be dedicated to meet nonmotorized infrastructure demands. According to a 2014 report prepared by the Alliance for Biking and Walking and the League of American Bicyclists, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Vermont, Washington, West Virginia, Wisconsin, and Wyoming all allow for state fuel or gas tax dollars to be directed toward bicycle or pedestrian infrastructure.¹²

Michigan requires counties, cities, and villages to use a reasonable amount, but not less than 1% of its transportation funds, gas tax, registration fees, and certain federal dollars, for construction or improvement of

¹² https://bikeleague.org/sites/default/files/StateRevenueSources_June2014%20%281%29.pdf

HJ 45: PATH TO THE FUTURE?

nonmotorized transportation services and facilities. Distribution of the money is established based on population and road mileage. The minimum 1% also can be accumulated and spread out over 10 years.¹³

California has an Active Transportation Program account that includes fuel tax funds. The program is administered by the California Transportation Commission and the California Department of Transportation to provide funding for projects that support biking and walking. In 2017, the state increased the level of funding by \$100 million, bringing total annual funding for the program to \$220 million.

Use of Montana's motor fuel tax is established in Article VIII, Section 6, of Montana's Constitution. It states:

Highway revenue non-diversion. (1) Revenue from gross vehicle weight fees and excise and license taxes (except general sales and use taxes) on gasoline, fuel, and other energy sources used to propel vehicles on public highways shall be used as authorized by the legislature, after deduction of statutory refunds and adjustments, solely for:

(a) Payment of obligations incurred for construction, reconstruction, repair, operation, and maintenance of public highways, streets, roads, and bridges.

(b) Payment of county, city, and town obligations on streets, roads, and bridges.

(c) Enforcement of highway safety, driver education, tourist promotion, and administrative collection costs.

(2) Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the legislature.

Colorado's Constitution also requires that gas tax and vehicle fees only be used for highways and bridges. However, Colorado's 2013 Legislature passed Senate Bill No. 48 allowing local governments to use gas tax money on all transit. The issue was framed as one of local control, with the legislation providing local governments with the option to spend their share of gas tax money on pathways. The legislation did not increase the amount of highway user taxes allocated for transit, but it clarified that local governments could use those funds for transit-related projects, including designated bike or pedestrian lanes on highways.¹⁴

Dedicated Minimum Funding Source: A Legislative Choice

Some states have dedicated state revenue that funds bicycling and walking projects. These dedicated sources of funding are created via state statutes passed by the Legislature.

Hawaii law requires the state to build bike paths whenever practicable when a new or existing roadway is designed, planned, or reconstructed. At least 2 percent of eligible federal funds are to be expended on

¹³ MCL 247.660k

¹⁴

[http://www.colorado.gov/clics/clics2013a/csl.nsf/billcontainers/9D4690717C1FF9DC87257AEE00572392/\\$FILE/SB048_00.pdf](http://www.colorado.gov/clics/clics2013a/csl.nsf/billcontainers/9D4690717C1FF9DC87257AEE00572392/$FILE/SB048_00.pdf)

HJ 45: PATH TO THE FUTURE?

multiuse paths, bike paths and bike lanes.¹⁵ There are some exceptions included in the law. Hawaii's Transportation Department reports annually to the Legislature on bikeway expenditures and projects.

Oregon law (ORS 366.514) generally requires communities to provide sidewalks and bikeways when building or rebuilding a road. Communities also must spend at least 1 percent of state highway dollars on walking and biking.

The Washington State Department of Transportation, through Pedestrian and Bicycle and Safe Routes to School programs, support nonmotorized transportation projects. Using a competitive criteria-based process to review and rank projects, the department submits a report to the Legislature each biennium to provide a prioritized list of projects for inclusion in the transportation budget. The various transportation projects are legislatively approved each biennium. The \$41 million approved for bicycle and pedestrian projects in the 2019-2021 package, however, left about 200 applications unfunded, according to the Washington Bikes advocacy group.

Other Funding Sources: Creativity Abounds

Development impact fees, gambling and lottery money, license plate funding, and local grant programs are also funding options used in various states to assist with funding for nonmotorized transportation projects and maintenance.

¹⁵ Hawaii Revised Statutes 264-18.