

DEPARTMENT OF TRANSPORTATION AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the Transportation Code by amending provisions relating to transportation.

Highlighted Provisions:

This bill:

- ▶ provides that the Department of Transportation may employ auditing experts from outside the department rather than appoint at least two performance auditors for the department;
- ▶ repeals the class B and class C roads account;
- ▶ repeals the requirement that funds appropriated for class B and class C roads be deposited in the class B and class C roads account;
- ▶ requires the Department of Transportation, rather than the director of the Division of Finance, to transfer certain funds to the State Park Access Highways Improvement Program; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-1-206, as renumbered and amended by Laws of Utah 1998, Chapter 270

72-2-106, as last amended by Laws of Utah 2016, Chapter 291

72-2-107, as last amended by Laws of Utah 2016, Chapter 291

72-2-108, as last amended by Laws of Utah 2016, Chapter 1

72-2-110, as last amended by Laws of Utah 2009, Chapter 71

72-3-301, as last amended by Laws of Utah 2001, Chapter 222

33 **78A-5-110**, as last amended by Laws of Utah 2008, Chapter 22 and renumbered and
 34 amended by Laws of Utah 2008, Chapter 3
 35 **78A-7-120**, as last amended by Laws of Utah 2012, Chapter 205

36
 37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **72-1-206** is amended to read:

39 **72-1-206. Performance auditing -- Appointment or employment -- Duties --**
 40 **Reports.**

41 (1) (a) The executive director, with the approval of a majority vote of the commission
 42 for each appointment, shall, to conduct the audits required in this section:

43 (i) appoint not less than two performance auditors[-]; or

44 (ii) employ auditing experts from outside the department.

45 (b) A performance auditor appointed under Subsection (1)(a)(i) may only be removed
 46 by the executive director with the approval of a majority vote of the commission.

47 ~~[(b)]~~ (c) Each auditor appointed under Subsection (1)(a)(i) shall have at least three
 48 years' experience in performance auditing prior to appointment.

49 (2) ~~[(a)]~~ The executive director shall ensure that the auditors under Subsection (1)
 50 receive:

51 ~~[(i)]~~ (a) any staff support from the department that is necessary to fulfill their duties;

52 and

53 ~~[(ii)]~~ (b) access to all the department's records and information.

54 ~~[(b) The department may hire outside consultants to assist in the audits under~~
 55 ~~Subsection (3).]~~

56 (3) The ~~[performance]~~ auditors under Subsection (1) shall conduct ~~[and supervise]~~, as
 57 prioritized by the commission:

58 (a) performance audits to determine the efficiency and effectiveness of the department;

59 (b) financial audits to ensure the efficient and effective expenditure of department
 60 money;

61 (c) audits to ensure department compliance with state statutes, commission priorities,
 62 and legislative appropriation intent statements;

63 (d) audits to determine the impact of federal mandates, including air quality, wetlands,

- 64 and other environmental standards on the cost and schedule of department projects;
- 65 (e) external audits on persons entering into contracts with the department, as necessary;
- 66 (f) studies to determine the time required to accomplish department and external
- 67 contract work and their relative efficiencies;
- 68 (g) evaluations of the department's quality assurance and quality control programs; and
- 69 (h) any other executive director or commission requests.
- 70 (4) The ~~[performance]~~ auditors under Subsection (1) shall:
- 71 (a) conduct audits in accordance with applicable professional auditing standards[-]; and
- 72 ~~[(5) The performance auditors shall]~~
- 73 (b) provide copies of all reports of audit findings to the commission, the executive
- 74 director, and the Legislative Auditor General.

75 Section 2. Section **72-2-106** is amended to read:

76 **72-2-106. Appropriation and transfer from Transportation Fund.**

77 (1) On and after July 1, 1981, there is appropriated from the Transportation Fund to the

78 use of the department an amount equal to two-elevenths of the taxes collected from the motor

79 fuel tax and the special fuel tax, exclusive of the formula amount appropriated ~~[to the]~~ for class

80 B and class C ~~[road fund and the collector road fund]~~ roads, to be used for highway

81 rehabilitation.

82 (2) For a fiscal year beginning on or after July 1, 2016, the Division of Finance shall

83 annually transfer an amount equal to the amount of revenue generated by a tax imposed on

84 motor and special fuel that is sold, used, or received for sale or used in this state at a rate of 1.8

85 cents per gallon to the Transportation Investment Fund of 2005 created by Section 72-2-124.

86 Section 3. Section **72-2-107** is amended to read:

87 **72-2-107. Appropriation from Transportation Fund -- Apportionment for class B**

88 **and class C roads.**

89 (1) There is appropriated to the department from the Transportation Fund annually an

90 amount equal to 30% of an amount which the director of finance shall compute in the

91 following manner: The total revenue deposited into the Transportation Fund during the fiscal

92 year from state highway-user taxes and fees, minus those amounts appropriated or transferred

93 from the Transportation Fund during the same fiscal year to:

- 94 (a) the Department of Public Safety;

95 (b) the State Tax Commission;
 96 (c) the Division of Finance;
 97 (d) the Utah Travel Council; and
 98 (e) any other amounts appropriated or transferred for any other state agencies not a part
 99 of the department.

100 (2) (a) Except as provided in Subsection (2)(b), all of [~~this money~~] the money
 101 appropriated in Subsection (1) shall be [~~placed in an account to be known as the~~] apportioned
 102 among counties and municipalities for class B and class C roads [~~account to be used~~] as
 103 provided in this title.

104 (b) The [~~director of finance~~] department shall annually transfer \$500,000 of the amount
 105 calculated under Subsection (1) to [~~the department as dedicated credits for~~] the State Park
 106 Access Highways Improvement Program created in Section 72-3-207.

107 (3) Each quarter of every year the [~~director of finance~~] department shall make the
 108 necessary accounting entries to transfer the money appropriated under this section [~~to the~~] for
 109 class B and class C roads [~~account~~].

110 (4) The funds [~~in the~~] appropriated for class B and class C roads [~~account~~] shall be
 111 expended under the direction of the department as the Legislature shall provide.

112 Section 4. Section **72-2-108** is amended to read:

113 **72-2-108. Apportionment of funds available for use on class B and class C roads**
 114 **-- Bonds.**

115 (1) For purposes of this section:

116 (a) "Graveled road" means a road:

117 (i) that is:

118 (A) graded; and

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

121 (ii) that has an improved surface; and

122 (iii) that has a wearing surface made of:

123 (A) gravel;

124 (B) broken stone;

125 (C) slag;

- 126 (D) iron ore;
- 127 (E) shale; or
- 128 (F) other material that is:
- 129 (I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and
- 130 (II) coarser than sand.
- 131 (b) "Paved road" includes a graveled road with a chip seal surface.
- 132 (c) "Road mile" means a one-mile length of road, regardless of:
- 133 (i) the width of the road; or
- 134 (ii) the number of lanes into which the road is divided.
- 135 (d) "Weighted mileage" means the sum of the following:
- 136 (i) paved road miles multiplied by five; and
- 137 (ii) all other road type road miles multiplied by two.
- 138 (2) Subject to the provisions of Subsections (3) through (5), funds [~~in the~~] appropriated
- 139 for class B and class C roads [~~account~~] shall be apportioned among counties and municipalities
- 140 in the following manner:
- 141 (a) 50% in the ratio that the class B roads weighted mileage within each county and
- 142 class C roads weighted mileage within each municipality bear to the total class B and class C
- 143 roads weighted mileage within the state; and
- 144 (b) 50% in the ratio that the population of a county or municipality bears to the total
- 145 population of the state as of the last official federal census or the United States Bureau of
- 146 Census estimate, whichever is most recent, except that if population estimates are not available
- 147 from the United States Bureau of Census, population figures shall be derived from the estimate
- 148 from the Utah Population Estimates Committee.
- 149 (3) For purposes of Subsection (2)(b), "the population of a county" means:
- 150 (a) the population of a county outside the corporate limits of municipalities in that
- 151 county, if the population of the county outside the corporate limits of municipalities in that
- 152 county is not less than 14% of the total population of that county, including municipalities; and
- 153 (b) if the population of a county outside the corporate limits of municipalities in the
- 154 county is less than 14% of the total population:
- 155 (i) the aggregate percentage of the population apportioned to municipalities in that
- 156 county shall be reduced by an amount equal to the difference between:

157 (A) 14%; and

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

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

162 (4) (a) If an apportionment under Subsection (2) made in fiscal year 2013-14 to a
163 county or municipality with a population of less than 14,000 is less than 120% of the amount
164 apportioned to the county or municipality [~~from the~~] for class B and class C roads [~~account~~] in
165 fiscal year 1996-97, the department shall:

166 (i) reapportion the funds under Subsection (2) to ensure that the county or municipality
167 receives an amount equal to:

168 (A) the amount apportioned to the county or municipality [~~from the~~] for class B and
169 class C roads [~~account~~] in fiscal year 1996-97; plus

170 (B) the amount apportioned to the county or municipality [~~from the~~] for class B and
171 class C roads [~~account~~] in fiscal year 1996-97 multiplied by the percentage increase in the total
172 amount appropriated for class B and class C roads [~~account~~] from fiscal year 1996-97 to the
173 most recently completed fiscal year; and

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

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

180 (5) (a) In addition to the apportionment adjustments made under Subsection (4), a
181 county or municipality that qualifies for reapportioned money under Subsection (4)(a)(i) shall
182 receive the percentage change in the total amount appropriated for class B and class C roads
183 [~~account~~] compounded annually beginning in fiscal year 2006-07.

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

186 (6) The governing body of any municipality or county may issue bonds redeemable up
187 to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the

188 costs of constructing, repairing, and maintaining class B or class C roads and may pledge class
189 B or class C road funds received pursuant to this section to pay principal, interest, premiums,
190 and reserves for the bonds.

191 Section 5. Section **72-2-110** is amended to read:

192 **72-2-110. Funds allocated to class B and class C roads -- Matching federal funds**
193 **-- R.S. 2477 rights.**

194 A county or municipality may:

195 (1) use funds which are allocated to class B and class C roads for matching federal
196 funds for the construction of secondary roads now available or which may later become
197 available in accordance with the provisions of law; and

198 (2) use up to 30% of the class B and class C [~~roads account~~] road funds allocated to the
199 county or municipality to pay the costs of asserting, defending, or litigating local government
200 rights under R.S. 2477 on class B, class C, or class D roads.

201 Section 6. Section **72-3-301** is amended to read:

202 **72-3-301. Statewide public safety interest highway defined -- Designations --**
203 **Control -- Maintenance -- Improvement restrictions -- Formula funding provisions.**

204 (1) As used in this part, "statewide public safety interest highway" means a designated
205 state highway that serves a compelling statewide public safety interest.

206 (2) Statewide public safety interest highways include:

207 (a) SR-900. From near the east bound on and off ramps of the I-80 Delle Interchange
208 on the I-80 south frontage road, traversing northwesterly, westerly, and northeasterly, including
209 on portions of a county road and a Bureau of Land Management road for a distance of 9.24
210 miles. Then beginning again at the I-80 south frontage road traversing southwesterly and
211 northwesterly on a county road for a distance of 4.33 miles. Then beginning again at the I-80
212 south frontage road traversing southwesterly, northerly, northwesterly, westerly, and
213 northeasterly on a county road and a Bureau of Land Management road to near the east bound
214 on and off ramps of I-80 Low/Lakeside Interchange for a distance of 2.61 miles. The entire
215 length of SR-900 is a total distance of 16.18 miles.

216 (b) SR-901. From SR-196 traversing westerly and northwesterly on a county road to a
217 junction with a Bureau of Land Management road described as part of SR-901, then
218 northwesterly to a junction with a county road for a distance of 8.70 miles. Then beginning

219 again at a junction with SR-901 traversing northwesterly on a Bureau of Land Management
220 road to a junction with a county road for a distance of 6.52 miles. Then beginning again at a
221 junction with SR-901 traversing southwesterly on a Bureau of Land Management road to a
222 junction with a county road for a distance of 5.44 miles. Then beginning again from a junction
223 with SR-901 traversing southwesterly on a county road to a junction with a county road a
224 distance of 11.52 miles. Then beginning again at a junction with SR-196 traversing westerly on
225 a Bureau of Land Management road to a junction with a county road for a distance of 11.30
226 miles. The entire length of SR-901 is a total distance of 43.48 miles.

227 (3) The department has jurisdiction and control over all statewide public safety interest
228 highways.

229 (4) (a) A county shall maintain the portions of a statewide public safety interest
230 highway that was a class B county road under the county's jurisdiction prior to the designation
231 under this section.

232 (b) Notwithstanding the provisions of Section 17-50-305, a county may not abandon
233 any portion of a statewide public safety interest highway.

234 (c) Except under written authorization of the executive director of the department, a
235 statewide public safety interest highway shall remain the same class of highway that it was
236 prior to the designation under this section with respect to grade, drainage, surface, and
237 improvements and it may not be upgraded or improved to a higher class of highway.

238 (5) (a) A class B county road that is designated a statewide public safety interest
239 highway under this section is considered a class B county road for the purposes of the
240 distribution formula and distributions of funds.

241 (b) The amount of funds received by any jurisdiction [~~from the~~] for class B and class C
242 roads [account] under Section 72-2-107 may not be affected by the provisions of this section.

243 Section 7. Section **78A-5-110** is amended to read:

244 **78A-5-110. Allocation of district court fees and forfeitures.**

245 (1) Except as provided in this section, district court fines and forfeitures collected for
246 violation of state statutes shall be paid to the state treasurer.

247 (2) Fines and forfeitures collected by the court for violation of a state statute or county
248 or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the
249 state treasurer and 1/2 to the treasurer of the state or local governmental entity which

250 prosecutes or which would prosecute the violation.

251 (3) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code
252 of Utah, Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating
253 Act, shall be paid to the state treasurer.

254 (a) For violations of Title 23, Wildlife Resources Code of Utah, the state treasurer shall
255 allocate 85% to the Division of Wildlife Resources and 15% to the General Fund.

256 (b) For violations of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter
257 18, State Boating Act, the state treasurer shall allocate 85% to the Division of Parks and
258 Recreation and 15% to the General Fund.

259 (4) ~~[Fines]~~ (a) The state treasurer shall allocate fines and forfeitures collected for a
260 violation of Section 72-7-404 or 72-7-406, less fees established by the Judicial Council, ~~[shall~~
261 ~~be paid to the state treasurer for deposit in the B and C road account:]~~ to the Department of
262 Transportation for use on class B and class C roads.

263 (b) Fees established by the Judicial Council shall be deposited in the state General
264 Fund.

265 (c) Money ~~[deposited in the]~~ allocated for class B and class C ~~[road account]~~ roads is
266 supplemental to the money appropriated under Section 72-2-107 but shall be expended in the
267 same manner as other class B and class C road funds.

268 (5) (a) Fines and forfeitures collected by the court for a second or subsequent violation
269 under Section 41-6a-1713 or Subsection 72-7-409(8)(b) shall be remitted:

- 270 (i) 60% to the state treasurer to be deposited in the Transportation Fund; and
271 (ii) 40% in accordance with Subsection (2).

272 (b) Fines and forfeitures collected by the court for a second or subsequent violation
273 under Subsection 72-7-409(8)(c) shall be remitted:

- 274 (i) 50% to the state treasurer to be deposited in the Transportation Fund; and
275 (ii) 50% in accordance with Subsection (2).

276 (6) Fines and forfeitures collected for any violations not specified in this chapter or
277 otherwise provided for by law shall be paid to the state treasurer.

278 (7) Fees collected in connection with civil actions filed in the district court shall be
279 paid to the state treasurer.

280 (8) The court shall remit money collected in accordance with Title 51, Chapter 7, State

281 Money Management Act.

282 Section 8. Section **78A-7-120** is amended to read:

283 **78A-7-120. Disposition of fines.**

284 (1) Except as otherwise specified by this section, fines and forfeitures collected by a
285 justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the
286 court and 1/2 to the treasurer of the local government which prosecutes or which would
287 prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13,
288 Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section
289 if the parties agree.

290 (2) (a) For violation of Title 23, Wildlife Resources Code of Utah, the court shall
291 allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or
292 county government responsible for the justice court.

293 (b) For violation of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter
294 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and
295 15% to the general fund of the city or county government responsible for the justice court.

296 (3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer.

297 (4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice
298 court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations
299 and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial
300 Council, shall be paid to the state treasurer and [~~distributed to the class B and C road account.~~]
301 allocated to the Department of Transportation for class B and class C roads.

302 (5) Revenue [~~deposited in the~~] allocated for class B and class C [~~road account~~] roads
303 pursuant to Subsection (4) is supplemental to the money appropriated under Section 72-2-107
304 but shall be expended in the same manner as other class B and class C road funds.

305 (6) (a) Fines and forfeitures collected by the court for a second or subsequent violation
306 under Section 41-6a-1713 or Subsection 72-7-409(8)(b) shall be remitted:

307 (i) 60% to the state treasurer to be deposited in the Transportation Fund; and

308 (ii) 40% in accordance with Subsection (1).

309 (b) Fines and forfeitures collected by the court for a second or subsequent violation
310 under Subsection 72-7-409(8)(c) shall be remitted:

311 (i) 50% to the state treasurer to be deposited in the Transportation Fund; and

312 (ii) 50% in accordance with Subsection (1).