

PASSENGER ROPEWAYS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

AN ACT RELATING TO TRANSPORTATION; AMENDING DEFINITIONS; CHANGING TERMINOLOGY; AMENDING PROVISIONS RELATED TO PASSENGER ROPEWAYS; AMENDING PENALTIES; RENUMBERING AND AMENDING CERTAIN SECTIONS; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

59-12-104, as last amended by Chapters 201, 210, 246, 291 and 318, Laws of Utah 1998

59-12-120, as enacted by Chapter 239, Laws of Utah 1989

72-11-101, as enacted by Chapter 270, Laws of Utah 1998

72-11-102, as enacted by Chapter 270, Laws of Utah 1998

72-11-103, as renumbered and amended by Chapter 270, Laws of Utah 1998

72-11-108, as renumbered and amended by Chapter 270, Laws of Utah 1998

72-11-112, as renumbered and amended by Chapter 270, Laws of Utah 1998

RENUMBERS AND AMENDS:

72-11-201, (Renumbered from 63-11-37, as last amended by Chapter 13, Laws of Utah 1995)

72-11-202, (Renumbered from 63-11-39, as last amended by Chapters 194 and 243, Laws of Utah 1996)

72-11-203, (Renumbered from 63-11-39.5, as last amended by Chapter 137, Laws of Utah 1991)

72-11-204, (Renumbered from 63-11-40, as last amended by Chapter 243, Laws of Utah 1996)

72-11-205, (Renumbered from 63-11-41, as last amended by Chapter 137, Laws of Utah 1991)

72-11-206, (Renumbered from 63-11-42, as last amended by Chapter 13, Laws of Utah

1995)

72-11-207, (Renumbered from 63-11-43, as last amended by Chapter 13, Laws of Utah

1995)

72-11-208, (Renumbered from 63-11-44, as last amended by Chapter 28, Laws of Utah

1995)

72-11-209, (Renumbered from 63-11-45, as last amended by Chapter 137, Laws of Utah

1991)

72-11-210, (Renumbered from 63-11-46, as last amended by Chapter 13, Laws of Utah

1995)

72-11-211, (Renumbered from 63-11-47, as last amended by Chapter 137, Laws of Utah

1991)

72-11-212, (Renumbered from 63-11-48, as last amended by Chapter 137, Laws of Utah

1991)

72-11-213, (Renumbered from 63-11-49, as last amended by Chapter 137, Laws of Utah

1991)

72-11-214, (Renumbered from 63-11-51, as last amended by Chapter 137, Laws of Utah

1991)

72-11-215, (Renumbered from 63-11-52, as last amended by Chapter 137, Laws of Utah

1991)

72-11-216, (Renumbered from 63-11-53, as last amended by Chapter 137, Laws of Utah

1991)

REPEALS:

63-11-38, as last amended by Chapter 137, Laws of Utah 1991

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

Section 1. Section **59-12-104** is amended to read:

59-12-104. Exemptions.

The following sales and uses are exempt from the taxes imposed by this chapter:

- (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under

Title 59, Chapter 13, Motor and Special Fuel Tax Act;

(2) sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of construction materials except:

(a) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(b) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions;

(3) sales of food, beverage, and dairy products from vending machines in which the proceeds of each sale do not exceed \$1 if the vendor or operator of the vending machine reports an amount equal to 150% of the cost of items as goods consumed;

(4) sales of food, beverage, dairy products, similar confections, and related services to commercial airline carriers for in-flight consumption;

(5) sales of parts and equipment installed in aircraft operated by common carriers in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) sales of cleaning or washing of tangible personal property by a coin-operated laundry or dry cleaning machine;

(8) (a) except as provided in Subsection (8)(b), sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(b) the exemption provided for in Subsection (8)(a) does not apply to the following sales, uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code:

- (i) retail sales of Olympic merchandise;
- (ii) admissions or user fees described in Subsection 59-12-103(1)(f);
- (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i), except for accommodations and services:
 - (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;
 - (B) exclusively used by:
 - (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or
 - (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and
 - (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement; or
- (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or rental of a vehicle:
 - (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;
 - (B) exclusively used by:
 - (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or
 - (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and
 - (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement;
- (9) sales of vehicles of a type required to be registered under the motor vehicle laws of this state which are made to bona fide nonresidents of this state and are not afterwards registered or used in this state except as necessary to transport them to the borders of this state;
- (10) sales of medicine;

(11) sales or use of property, materials, or services used in the construction of or incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

(12) sales of meals served by:

(a) churches, charitable institutions, and institutions of higher education, if the meals are not available to the general public; and

(b) inpatient meals provided at medical or nursing facilities;

(13) isolated or occasional sales by persons not regularly engaged in business, except the sale of vehicles or vessels required to be titled or registered under the laws of this state in which case the tax is based upon:

(a) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(b) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle or vessel being sold as determined by the commission;

(14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

(i) machinery and equipment:

(A) used in the manufacturing process;

(B) having an economic life of three or more years; and

(C) used:

(I) to manufacture an item sold as tangible personal property; and

(II) in new or expanding operations in a manufacturing facility in the state; and

(ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:

(A) have an economic life of three or more years;

(B) are used in the manufacturing process in a manufacturing facility in the state;

(C) are used to replace or adapt an existing machine to extend the normal estimated useful life of the machine; and

(D) do not include repairs and maintenance;

(b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:

(i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in Subsection (14)(a)(ii) is exempt;

(ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in Subsection (14)(a)(ii) is exempt;

(iii) beginning July 1, 1998, through June 30, 1999, 100% of the sale or lease described in Subsection (14)(a)(ii) is exempt; and

(iv) beginning on or after July 1, 1999, 80% of the sale or lease described in Subsection (14)(a)(ii) is exempt;

(c) for purposes of this subsection, the commission shall by rule define the terms "new or expanding operations" and "establishment"; and

(d) on or before October 1, 1991, and every five years after October 1, 1991, the commission shall:

(i) review the exemptions described in Subsection (14)(a) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) sales of tooling, special tooling, support equipment, and special test equipment used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract, but only if, under the terms of that contract or subcontract, title to the tooling and equipment is vested in the United States government as evidenced by a government identification tag placed on the tooling and equipment or by listing on a government-approved property record if a tag is impractical;

(16) intrastate movements of:

(a) freight by common carriers; and

(b) passengers:

(i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget, if the transportation originates and terminates within a county of the first, second, or third class;

(17) sales of newspapers or newspaper subscriptions;

(18) tangible personal property, other than money, traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(a) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(b) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission;

(19) sprays and insecticides used to control insects, diseases, and weeds for commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those sprays and insecticides used in the processing of the products;

(20) (a) sales of tangible personal property used or consumed primarily and directly in farming operations, including sales of irrigation equipment and supplies used for agricultural production purposes, whether or not they become part of real estate and whether or not installed by farmer, contractor, or subcontractor, but not sales of:

(i) machinery, equipment, materials, and supplies used in a manner that is incidental to farming, such as hand tools with a unit purchase price not in excess of \$250, and maintenance and janitorial equipment and supplies;

(ii) tangible personal property used in any activities other than farming, such as office equipment and supplies, equipment and supplies used in sales or distribution of farm products, in research, or in transportation; or

(iii) any vehicle required to be registered by the laws of this state, without regard to the use to which the vehicle is put;

- (b) sales of hay;
- (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or other agricultural produce if sold by a producer during the harvest season;
- (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;
- (24) property stored in the state for resale;
- (25) property brought into the state by a nonresident for his or her own personal use or enjoyment while within the state, except property purchased for use in Utah by a nonresident living and working in Utah at the time of purchase;
- (26) property purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;
- (27) property upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2;
- (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;
- (29) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;
- (30) (a) sales or leases made before June 30, 1996, of rolls, rollers, refractory brick, electric motors, and other replacement parts used in the furnaces, mills, and ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(b) contracts entered into or orders placed on or before January 1, 1996, to purchase or lease an item described in Subsection (30)(a) if the contract or order constitutes a:

(i) legal obligation to purchase or lease an item described in Subsection (30)(a); and

(ii) sale or lease under Section 59-12-102 on or before June 30, 1997;

(31) sales of boats of a type required to be registered under Title 73, Chapter 18, State Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of this state and are not thereafter registered or used in this state except as necessary to transport them to the borders of this state;

(32) sales of tangible personal property to persons within this state that is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state, except to the extent that the other state or political entity imposes a sales, use, gross receipts, or other similar transaction excise tax on it against which the other state or political entity allows a credit for taxes imposed by this chapter;

(33) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah where a sales or use tax is not imposed, even if the title is passed in Utah;

(34) amounts paid for the purchase of telephone service for purposes of providing telephone service;

(35) fares charged to persons transported directly by a public transit district created under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

(36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

(37) until July 1, 2000, 45% of the sales price of any new manufactured home and 100% of the sales price of any used manufactured home;

(38) sales relating to schools and fundraising sales;

(39) sales or rentals of home medical equipment and supplies;

(40) (a) sales to a ski resort of electricity to operate a passenger [~~tramway~~] ropeway as defined in [~~Subsection 63-11-38(8)~~] Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (40)(a) that are not separately metered and accounted for in utility billings;

(41) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment; and

(c) passenger [~~tramways~~] ropeways as defined in [~~Subsection 63-11-38(8)~~] Section 72-11-102;

(42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(43) sales or rentals of the right to use or operate for amusement, entertainment, or recreation a coin-operated amusement device as defined in Subsection 59-12-102(3);

(44) sales of cleaning or washing of tangible personal property by a coin-operated car wash machine;

(45) sales by the state or a political subdivision of the state, except state institutions of higher education as defined in Section 53B-3-102, of:

(a) photocopies; or

(b) other copies of records held or maintained by the state or a political subdivision of the state; and

(46) (a) amounts paid:

(i) to a person providing intrastate transportation to an employer's employee to or from the employee's primary place of employment;

(ii) by an:

(A) employee; or

(B) employer; and

(iii) pursuant to a written contract between:

(A) the employer; and

(B) (I) the employee; or

(II) a person providing transportation to the employer's employee; and

(b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may for purposes of Subsection (46)(a) make rules defining what constitutes an employee's primary place of employment;

(47) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.; and

(48) sales of telephone service charged to a prepaid telephone calling card.

Section 2. Section **59-12-120** is amended to read:

59-12-120. Investment incentive to ski resorts for lease or purchase of certain equipment -- Ski Resort Capital Investment Restricted Account created -- Conditions and restrictions on receiving incentive -- State Tax Commission to administer.

(1) Any person operating a ski resort in the state of Utah shall be entitled to an investment incentive in an amount not to exceed the costs incurred in the purchase or lease of:

(a) snow making equipment;

(b) ski slope grooming equipment; and

(c) passenger [~~tramways~~] ropeways as defined in [~~Subsection 63-11-38 (5)~~] Section 72-11-102.

(2) The investment incentive allowed in Subsection (1) shall be paid from the Ski Resort Capital Investment Restricted Account created in Subsection (5). The investment incentive shall be allowed only to the extent that for each dollar of investment incentive allowed, three dollars shall be expended for the purchase or lease of property described in Subsection (1) by a person operating a ski resort. The investment incentive paid out of the account shall be allocated among ski resorts based on the relation between the total sales tax collected from the sale of ski lift tickets in Utah to the total sales tax collected from the sale of ski lift tickets in Utah by each ski resort.

(3) The investment incentive is available to any person operating a ski resort in the state of Utah making purchases or leases of property described in Subsection (1) on or after January 1, 1989 and on or before December 31, 1992. All claims made under this section against the amount in the Ski Resort Capital Investment Restricted Account shall be made on or before June 30, 1993.

(4) If a ski resort is sold or leased to an unrelated third party within four years after the reporting period in which the investment incentive allowed in Subsection (1) is taken, the person who received the investment incentive shall reimburse to the Ski Resort Capital Investment Restricted

Account an amount equal to all investment incentives received during the period described in Subsection (3). For purposes of this [subsection] Subsection (4), if a ski resort is sold in connection with a bankruptcy proceeding, the sale shall be considered the kind of sale requiring the reimbursement of the investment incentive.

(5) There is created the Ski Resort Capital Investment Incentive Restricted Account within the General Fund. The amount appropriated in this section is nonlapsing until July 1, 1993.

(6) The State Tax Commission shall administer this section by rule.

Section 3. Section **72-11-101** is amended to read:

72-11-101. Title.

This chapter is known as the "~~[Aerial Tramway]~~ Passenger Ropeway Systems Act."

Section 4. Section **72-11-102** is amended to read:

72-11-102. Definitions.

As used in this chapter[, "~~committee~~" means the ~~Passenger Tramway Safety Committee~~.]:

(1) "Aerial lift" means a ropeway on which passengers are transported in cabins or on chairs.

(2) "Aerial tramway" means a ropeway on which passengers are transported in cable supported carriers and are not in contact with the ground or snow surface and that reciprocates between terminals.

(3) "Area" means the geographic area, terrain, and ski slopes served by a passenger ropeway.

(4) "Committee" means the Passenger Ropeway Safety Committee created by Section 72-11-202.

(5) "Conveyor" means a device used to transport skiers and snowboarders standing on a flexible moving element or belt.

(6) "Detachable grip lift" means a monocable or bicable ropeway system on which carriers circulate around the system alternately attaching to and detaching from a moving haul rope.

(7) "Funicular" means a ropeway on which carriers are supported and guided by a guideway and that is propelled by means of a haul rope system and that is operated as a single or double reversible system.

(8) "Industry" means the passenger ropeway business activities of any person in the state who

owns, manages, or directs the operation of a passenger ropeway.

(9) "Operator" means a person, including any political subdivision or instrumentality of the political subdivision, who owns, manages, or directs the operation of a passenger ropeway.

(10) "Passenger ropeway" means a device, excluding an elevator, used to transport passengers along a level, inclined or declined path by means of a haul rope or other flexible elements that is driven by a power unit that remains essentially at a single location. Passenger ropeways include the following:

(a) an aerial tramway;

(b) an aerial lift, including a detachable grip lift and chair lift;

(c) a conveyor;

(d) a funicular;

(e) a surface lift, including a J-bar, T-bar, or platter pull; and

(f) a rope tow, including a wire rope and fiber rope tow.

(11) "Rope tow" means a ropeway on which passengers remain in contact with the ground or snow surface and are pulled in one direction only by a towing device attached to a circulating wire rope.

(12) "Surface lift" means a ropeway on which passengers remain in contact with the ground or snow surface and are pulled by a towing device attached to a circulating overhead wire rope, and includes a J-bar, T-bar, or platter pull.

Section 5. Section **72-11-103** is amended to read:

72-11-103. Authority of Passenger Ropeway Safety Committee -- Location of system.

(1) The committee is authorized to acquire, construct, reconstruct, improve or extend, maintain and operate, either directly or through others by contract, lease, concession or otherwise, [~~an aerial tramway~~] a passenger ropeway system for the transportation of persons and property between a point or points in the:

(a) Wasatch Mountain State Park; and

(b) Uintah and Wasatch National Forests in the upper parts of Big Cottonwood, Little Cottonwood and American Fork Canyons in Salt Lake, Utah and Wasatch Counties.

(2) The committee may acquire by purchase, contract, lease, permit, donation or otherwise, and to construct, maintain and operate, either directly or through others, by contract, lease, concession or otherwise, all property, rights of way, approach roads, parking and other areas, structures, facilities and services for the convenience and recreation of patrons of the transportation system and visitors to the Wasatch Mountain State Park.

(3) Any contract, lease, concession, or other arrangement may be entered into in a manner and upon the terms and conditions as the committee may consider advisable.

Section 6. Section **72-11-108** is amended to read:

72-11-108. Revenue bonds not debt or obligation of state or committee.

(1) In any and all revenue bonds issued hereunder and in the resolution or resolutions authorizing them, and in the agreements or documents entered into and executed in connection therewith, neither the payment of the principal or interest of any bond nor the obligation of any resolution, agreement, or document shall constitute a debt, liability, or obligation of the state or the committee.

(2) Payments are to be paid solely from the revenues received from the operation of the proposed [~~aerial tramway~~] passenger ropeway transportation system, visitor care and accommodations, and all services in connection with the Wasatch Mountain State Park, as in the proceedings authorizing the issuance of the bonds, shall be pledged to the payment thereof.

(3) All bonds issued under this chapter by the committee shall contain a recital on their face that neither the payment of the principal or any part thereof, nor any interest thereon, constitute a debt, liability, or obligation of the state or the committee.

Section 7. Section **72-11-112** is amended to read:

72-11-112. Powers and authority of committee.

The committee, its officers, employees, and agents are authorized to carry out the necessary procedures to implement the acquisition and development of [~~an aerial tramway~~] a passenger ropeway system together with the [~~necessary~~] property, appliances, facilities, rights of way and easements necessary or useful in connection [~~therewith~~] with it and to do anything not inconsistent with law which they consider necessary or convenient to carry out the provisions of this chapter, whether or

not the authority is expressly [~~given herein~~] granted in this chapter.

Section 8. Section **72-11-201**, which is renumbered from Section 63-11-37 is renumbered and amended to read:

[63-11-37]. 72-11-201. Passenger ropeways -- Purpose and scope.

(1) In order to safeguard the life, health, property, and welfare of [~~the~~] citizens [~~of Utah~~] while using passenger [~~tramways~~] ropeways, it is the policy of the state to:

(a) protect citizens and visitors from unnecessary mechanical hazards in the design, construction, and operation of passenger [~~tramways~~] ropeways, but not from the hazards inherent in the sports of mountaineering, skiing, snowboarding, mountain biking, and hiking, or from the hazards of the area served by passenger [~~tramways~~] ropeways, all of which hazards are assumed by the sportsman; and

(b) require periodic inspections of passenger [~~tramways~~] ropeways to ensure that each passenger [~~tramway~~] ropeway meets "The United States of America Standard Institute Safety Code for Aerial Passenger Tramways," or an equivalent standard established by rule under Section [~~63-11-46~~] 72-11-210.

(2) The committee, through the Department of Transportation, shall:

(a) register all passenger [~~tramways~~] ropeways in the state;

(b) establish reasonable standards of design, construction, and operational practices; and

(c) make inspections as necessary to implement this section.

Section 9. Section **72-11-202**, which is renumbered from Section 63-11-39 is renumbered and amended to read:

[63-11-39]. 72-11-202. Passenger ropeways -- Creation of Passenger Ropeway Safety Committee within Department of Transportation -- Members.

(1) There is created within the Department of Transportation a Passenger [~~Tramway~~] Ropeway Safety Committee.

(2) The committee is comprised of six appointive members and one ex officio member who shall be appointed by the executive director of the Department of Transportation.

(3) The appointive members shall be appointed by the governor from persons representing

the following interests:

- (a) two members to represent the industry;
- (b) two members to represent the public at large;
- (c) one member who is a licensed engineer in Utah; and
- (d) one member to represent the United States Forest Service.

(4) (a) Except as required by Subsection (4)(b), as terms of [current] committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) No more than four members shall be of the same political party.

(5) The governor, in making the appointments, shall request and consider recommendations made to him by:

(a) the membership of the particular interest from which the appointments are to be made;

and

(b) the Department of Transportation.

Section 10. Section **72-11-203**, which is renumbered from Section 63-11-39.5 is renumbered and amended to read:

~~[63-11-39.5].~~ 72-11-203. Procedures -- Adjudicative proceedings.

The committee shall comply with the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, in its adjudicative proceedings.

Section 11. Section **72-11-204**, which is renumbered from Section 63-11-40 is renumbered and amended to read:

~~[63-11-40].~~ 72-11-204. Vacancies -- Expenses -- Reimbursement -- Use of facilities of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(2) (a) (i) Members who are not government employees [shall] may not receive [no] any

compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(3) Reimbursement shall be made from fees collected by the committee for services rendered by it.

(4) The Department of Transportation shall supply the committee with office accommodation, space, equipment, and secretarial assistance the executive director considers adequate for the committee.

(5) In addition to the functions, powers, duties, rights, and responsibilities granted to it [~~pursuant to Title 63, Chapter 11, Parks and Recreation~~] under this chapter, the committee shall assume and have all of the functions, powers, duties, rights, and responsibilities of the Board of Parks and Recreation created in Section 63-11-12 in relation to [~~aerial tramway~~] passenger ropeway systems pursuant to that chapter.

Section 12. Section **72-11-205**, which is renumbered from Section 63-11-41 is renumbered and amended to read:

~~[63-11-41].~~ **72-11-205. Passenger ropeways -- Registration of ropeways.**

(1) A passenger [~~tramway~~] ropeway may not be operated in this state unless it is registered with the committee, except as provided in Subsections (2) and (3).

(2) The initial application for registration of a passenger [~~tramway~~] ropeway permits the operator to operate the passenger [~~tramway~~] ropeway until final action on the application is taken by the committee.

(3) If an operator files an application to renew registration of a passenger [tramway] ropeway, then the operator may continue the operation of the passenger [tramway] ropeway under the existing registration until the committee takes final action on the pending application and has:

- (a) issued a certificate to the operator; or
- (b) given written notice to the operator that the passenger [tramway] ropeway has not qualified for certification.

Section 13. Section **72-11-206**, which is renumbered from Section 63-11-42 is renumbered and amended to read:

[63-11-42]. 72-11-206. Annual application for passenger ropeway registration.

(1) Every operator of a passenger [tramway] ropeway, or person who plans to operate a passenger [tramway] ropeway, shall, prior to operating the passenger [tramway] ropeway, apply to the committee on forms provided by the committee for registration of the passenger [tramway] ropeway.

(2) Passenger [tramway] ropeway registrations are valid for a one-year period as established by rule of the committee under Section ~~[63-11-46]~~ 72-11-210.

(3) The application shall contain sufficient information for the committee to determine ~~[whether]~~ if the passenger [tramway] ropeway to be registered complies with Section ~~[63-11-37]~~ 72-11-201 and the rules made by the committee under Section ~~[63-11-46]~~ 72-11-210.

Section 14. Section **72-11-207**, which is renumbered from Section 63-11-43 is renumbered and amended to read:

[63-11-43]. 72-11-207. Passenger ropeways -- Registration certificates.

(1) The committee shall issue to the applying operator registration certificates for each passenger [tramway] ropeway owned, managed, or operated by the operator ~~[when]~~ if:

(a) the facts stated in the application enable the committee to fulfill its duties under ~~[Sections 63-11-37 through 63-11-53]~~ this chapter; and

(b) each passenger [tramway] ropeway to be registered complies with the rules of the committee under Section ~~[63-11-46]~~ 72-11-210.

(2) In order to verify that the conditions described in Subsection (1) have been fulfilled, the

committee may make or direct the inspections described in Section ~~[63-11-47]~~ 72-11-211 as necessary.

(3) (a) When an operator installs a passenger ~~[tramway]~~ ropeway subsequent to registration in any year, the operator shall file a supplemental application for registration of the passenger ~~[tramway]~~ ropeway.

(b) Upon receipt of the supplemental application, the committee shall immediately initiate proceedings to register or reject registration of the passenger ~~[tramway]~~ ropeway under the provisions of ~~[Sections 63-11-37 through 63-11-53]~~ this chapter.

(4) Each registration expires on the date established under Section ~~[63-11-46]~~ 72-11-210.

(5) ~~[Each operator shall conspicuously display the]~~ The registration certificate for each passenger ~~[tramway at the place where passengers load]~~ ropeway shall be maintained on file at the area and available to the public for inspection and copying.

Section 15. Section **72-11-208**, which is renumbered from Section 63-11-44 is renumbered and amended to read:

~~[63-11-44].~~ **72-11-208. Passenger ropeways -- Registration fee.**

The application for registration, or supplemental application, shall be accompanied by an annual fee ~~[fixed]~~ adopted by the committee in accordance with Section 63-38-3.2.

Section 16. Section **72-11-209**, which is renumbered from Section 63-11-45 is renumbered and amended to read:

~~[63-11-45].~~ **72-11-209. Passenger ropeways -- Fees deposited in Transportation Fund.**

~~[All fees]~~ Any fee collected by the committee shall be deposited in the Transportation Fund.

Section 17. Section **72-11-210**, which is renumbered from Section 63-11-46 is renumbered and amended to read:

~~[63-11-46].~~ **72-11-210. Passenger ropeways -- Additional powers and duties of committee.**

The committee may:

(1) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, make

rules establishing:

(a) public safety in the design, construction, and operation of passenger [tramways] ropeways that [comply with the standards contained in The United States of America Standard Institute Safety Code for Aerial Passenger Tramways];

(i) adopt the American National Standard for Passenger Ropeways;

(ii) modify the standard under Subsection (1)(a)(i); or

(iii) establish an equivalent standard; and

(b) the annual registration date;

(2) hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the committee;

(3) subpoena witnesses;

(4) administer oaths;

(5) compel the testimony of witnesses and the production of books, papers, and records relevant to any inquiry;

(6) approve, deny, revoke, and renew the registrations provided for in [~~Sections 63-11-37 through 63-11-53~~] this chapter;

(7) cause the prosecution and enjoinder of all persons violating the provisions of [~~Sections 63-11-37 through 63-11-53~~] this chapter and incur the necessary expenses;

(8) elect officers and adopt a seal which may be affixed to all registrations issued by the committee; and

(9) employ, within the funds available, and prescribe the duties of a secretary and other personnel as the committee considers necessary.

Section 18. Section **72-11-211**, which is renumbered from Section 63-11-47 is renumbered and amended to read:

~~[63-11-47].~~ 72-11-211. Passenger ropeways -- Inspection.

(1) The committee may order inspections of the design, construction, operation, and maintenance of passenger [tramways] ropeways as the committee may reasonably require.

(2) If, as the result of an inspection, it is found that a violation of the committee's rules exists,

or a condition in passenger [tramway] ropeway construction, operation, or maintenance exists [endangering] that endangers the safety of the public, an immediate report shall be made to the operator whose passenger [tramway] ropeway has received the inspection and to the committee for appropriate investigation and order.

Section 19. Section **72-11-212**, which is renumbered from Section 63-11-48 is renumbered and amended to read:

[63-11-48]. 72-11-212. Passenger ropeways -- Violations -- Order of committee.

(1) If, after investigation, the committee finds that a violation of [~~Sections 63-11-37 through 63-11-53~~] this chapter or any of its rules exists, or that there is a condition in passenger [tramway] ropeway construction, operation, or maintenance [endangering] that endangers the safety of the public, it shall immediately issue its written order setting forth its findings, the corrective action to be taken, and [fixing] setting a reasonable time for compliance.

(2) The order shall be served upon the operator involved in the violation personally or by registered mail at the committee's election. Return shall be made as provided in the Utah Rules of Civil Procedure.

Section 20. Section **72-11-213**, which is renumbered from Section 63-11-49 is renumbered and amended to read:

[63-11-49]. 72-11-213. Passenger ropeways -- Failure to comply with order -- Suspension -- Injunction.

(1) If any operator fails to comply with a legal order or rule of the committee, the committee may:

(a) suspend the registration of the affected passenger [tramway] ropeway until the operator complies; or

(b) bring injunctive proceedings in the district court of the judicial district in which the affected passenger [tramway] ropeway is located to compel compliance.

(2) In these proceedings the committee is not required to post bond.

Section 21. Section **72-11-214**, which is renumbered from Section 63-11-51 is renumbered and amended to read:

[63-11-51]. 72-11-214. Passenger ropeways -- Not common carriers or public utilities -- Cooperative agreement with United States Forest Service.

(1) Passenger [tramways] ropeways are not common carriers or public utilities.

(2) To avoid duplicate [inspections] effort by authorities having jurisdiction over passenger ropeways on National Forest System land in the state, the committee may enter into a cooperative agreement with the United States Forest Service [so that an inspection of a passenger tramway by the United States Forest Service constitutes the inspection by the committee and its inspectors] to establish reasonable standards for design, construction, maintenance, operational practices, and inspection.

(3) Upon application for registration of a passenger tramway, the operator shall pay to the committee a [sum equal to the] reasonable inspector's fee, plus a surcharge, [which] that would have been charged had the inspection been made by the committee and its inspectors.

Section 22. Section **72-11-215**, which is renumbered from Section 63-11-52 is renumbered and amended to read:

[63-11-52]. 72-11-215. Passenger ropeways -- Use in dangerous manner unlawful.

A person [riding or using] who rides or uses a passenger [tramway] ropeway may not do so in a manner that may endanger the life and safety of [other persons] another person or cause damage to passenger [tramway] ropeway equipment.

Section 23. Section **72-11-216**, which is renumbered from Section 63-11-53 is renumbered and amended to read:

[63-11-53]. 72-11-216. Passenger ropeways -- Violation of act a misdemeanor.

[Any] A person who violates Section [63-11-52] 72-11-215 is guilty of a class [B] A misdemeanor.

Section 24. Repealer.

This act repeals:

Section 63-11-38, Passenger tramways -- Definitions.