

1 **PASSENGER ROPEWAYS**

2 1999 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Lyle W. Hillyard**

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

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

10 AMENDS:

11 **59-12-104**, as last amended by Chapters 201, 210, 246, 291 and 318, Laws of Utah 1998

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

13 **72-11-101**, as enacted by Chapter 270, Laws of Utah 1998

14 **72-11-102**, as enacted by Chapter 270, Laws of Utah 1998

15 **72-11-103**, as renumbered and amended by Chapter 270, Laws of Utah 1998

16 **72-11-108**, as renumbered and amended by Chapter 270, Laws of Utah 1998

17 **72-11-112**, as renumbered and amended by Chapter 270, Laws of Utah 1998

18 RENUMBERS AND AMENDS:

19 **72-11-201**, (Renumbered from 63-11-37, as last amended by Chapter 13, Laws of Utah
20 1995)

21 **72-11-202**, (Renumbered from 63-11-39, as last amended by Chapters 194 and 243, Laws
22 of Utah 1996)

23 **72-11-203**, (Renumbered from 63-11-39.5, as last amended by Chapter 137, Laws of Utah
24 1991)

25 **72-11-204**, (Renumbered from 63-11-40, as last amended by Chapter 243, Laws of Utah
26 1996)

27 **72-11-205**, (Renumbered from 63-11-41, as last amended by Chapter 137, Laws of Utah

- 28 1991)
- 29 **72-11-206**, (Renumbered from 63-11-42, as last amended by Chapter 13, Laws of Utah
- 30 1995)
- 31 **72-11-207**, (Renumbered from 63-11-43, as last amended by Chapter 13, Laws of Utah
- 32 1995)
- 33 **72-11-208**, (Renumbered from 63-11-44, as last amended by Chapter 28, Laws of Utah
- 34 1995)
- 35 **72-11-209**, (Renumbered from 63-11-45, as last amended by Chapter 137, Laws of Utah
- 36 1991)
- 37 **72-11-210**, (Renumbered from 63-11-46, as last amended by Chapter 13, Laws of Utah
- 38 1995)
- 39 **72-11-211**, (Renumbered from 63-11-47, as last amended by Chapter 137, Laws of Utah
- 40 1991)
- 41 **72-11-212**, (Renumbered from 63-11-48, as last amended by Chapter 137, Laws of Utah
- 42 1991)
- 43 **72-11-213**, (Renumbered from 63-11-49, as last amended by Chapter 137, Laws of Utah
- 44 1991)
- 45 **72-11-214**, (Renumbered from 63-11-51, as last amended by Chapter 137, Laws of Utah
- 46 1991)
- 47 **72-11-215**, (Renumbered from 63-11-52, as last amended by Chapter 137, Laws of Utah
- 48 1991)
- 49 **72-11-216**, (Renumbered from 63-11-53, as last amended by Chapter 137, Laws of Utah
- 50 1991)

51 REPEALS:

52 **63-11-38**, as last amended by Chapter 137, Laws of Utah 1991

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

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

55 **59-12-104. Exemptions.**

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

- 57 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
- 58 under Title 59, Chapter 13, Motor and Special Fuel Tax Act;

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

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

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

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

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

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

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

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

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

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

87 (i) retail sales of Olympic merchandise;

88 (ii) admissions or user fees described in Subsection 59-12-103(1)(f);

89 (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),

90 except for accommodations and services:

91 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games
92 of 2002;

93 (B) exclusively used by:

94 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
95 Olympic Winter Games of 2002; or

96 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter
97 Games of 2002; and

98 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
99 does not receive reimbursement; or

100 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
101 rental of a vehicle:

102 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games
103 of 2002;

104 (B) exclusively used by:

105 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
106 Olympic Winter Games of 2002; or

107 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter
108 Games of 2002; and

109 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
110 does not receive reimbursement;

111 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of this
112 state which are made to bona fide nonresidents of this state and are not afterwards registered or
113 used in this state except as necessary to transport them to the borders of this state;

114 (10) sales of medicine;

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

117 (12) sales of meals served by:

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

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

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

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

125 or

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

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

129 (i) machinery and equipment:

130 (A) used in the manufacturing process;

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

132 (C) used:

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

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

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

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

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

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

140 (D) do not include repairs and maintenance;

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

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

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

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

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

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

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

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

157 (ii) include in its report:

158 (A) the cost of the exemptions;

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

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

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

167 (16) intrastate movements of:

168 (a) freight by common carriers; and

169 (b) passengers:

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

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

177 (17) sales of newspapers or newspaper subscriptions;

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

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

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

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

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

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

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

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

201 (b) sales of hay;

202 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or
203 other agricultural produce if sold by a producer during the harvest season;

204 (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp
205 Program, 7 U.S.C. Sec. 2011 et seq.;

206 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
207 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler,
208 or retailer for use in packaging tangible personal property to be sold by that manufacturer,
209 processor, wholesaler, or retailer;

210 (24) property stored in the state for resale;

211 (25) property brought into the state by a nonresident for his or her own personal use or
212 enjoyment while within the state, except property purchased for use in Utah by a nonresident living
213 and working in Utah at the time of purchase;

214 (26) property purchased for resale in this state, in the regular course of business, either in
215 its original form or as an ingredient or component part of a manufactured or compounded product;

216 (27) property upon which a sales or use tax was paid to some other state, or one of its
217 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
218 imposed by this part and Part 2, and no adjustment is allowed if the tax paid was greater than the
219 tax imposed by this part and Part 2;

220 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person
221 for use in compounding a service taxable under the subsections;

222 (29) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under the
223 special supplemental nutrition program for women, infants, and children established in 42 U.S.C.
224 Sec. 1786;

225 (30) (a) sales or leases made before June 30, 1996, of rolls, rollers, refractory brick,
226 electric motors, and other replacement parts used in the furnaces, mills, and ovens of a steel mill
227 described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal
228 Executive Office of the President, Office of Management and Budget; or

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

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

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

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

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

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

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

- 245 telephone service;
- 246 (35) fares charged to persons transported directly by a public transit district created under
- 247 the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
- 248 (36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
- 249 (37) until July 1, 2000, 45% of the sales price of any new manufactured home and 100%
- 250 of the sales price of any used manufactured home;
- 251 (38) sales relating to schools and fundraising sales;
- 252 (39) sales or rentals of home medical equipment and supplies;
- 253 (40) (a) sales to a ski resort of electricity to operate a passenger [~~tramway~~] ropeway as
- 254 defined in [~~Subsection 63-11-38(8)~~] Section 72-11-102; and
- 255 (b) the commission shall by rule determine the method for calculating sales exempt under
- 256 Subsection (40)(a) that are not separately metered and accounted for in utility billings;
- 257 (41) sales to a ski resort of:
- 258 (a) snowmaking equipment;
- 259 (b) ski slope grooming equipment; and
- 260 (c) passenger [~~tramways~~] ropeways as defined in [~~Subsection 63-11-38(8)~~] Section
- 261 72-11-102;
- 262 (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 263 (43) sales or rentals of the right to use or operate for amusement, entertainment, or
- 264 recreation a coin-operated amusement device as defined in Subsection 59-12-102(3);
- 265 (44) sales of cleaning or washing of tangible personal property by a coin-operated car wash
- 266 machine;
- 267 (45) sales by the state or a political subdivision of the state, except state institutions of
- 268 higher education as defined in Section 53B-3-102, of:
- 269 (a) photocopies; or
- 270 (b) other copies of records held or maintained by the state or a political subdivision of the
- 271 state; and
- 272 (46) (a) amounts paid:
- 273 (i) to a person providing intrastate transportation to an employer's employee to or from the
- 274 employee's primary place of employment;
- 275 (ii) by an:

- 276 (A) employee; or
277 (B) employer; and
278 (iii) pursuant to a written contract between:
279 (A) the employer; and
280 (B) (I) the employee; or
281 (II) a person providing transportation to the employer's employee; and
282 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
283 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an
284 employee's primary place of employment;
285 (47) amounts paid for admission to an athletic event at an institution of higher education
286 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
287 1681 et seq.; and
288 (48) sales of telephone service charged to a prepaid telephone calling card.
- 289 Section 2. Section **59-12-120** is amended to read:
290 **59-12-120. Investment incentive to ski resorts for lease or purchase of certain**
291 **equipment -- Ski Resort Capital Investment Restricted Account created -- Conditions and**
292 **restrictions on receiving incentive -- State Tax Commission to administer.**
- 293 (1) Any person operating a ski resort in the state of Utah shall be entitled to an investment
294 incentive in an amount not to exceed the costs incurred in the purchase or lease of:
295 (a) snow making equipment;
296 (b) ski slope grooming equipment; and
297 (c) passenger [~~tramways~~] ropeways as defined in [~~Subsection 63-11-38(5)~~] Section
298 72-11-102.
- 299 (2) The investment incentive allowed in Subsection (1) shall be paid from the Ski Resort
300 Capital Investment Restricted Account created in Subsection (5). The investment incentive shall
301 be allowed only to the extent that for each dollar of investment incentive allowed, three dollars
302 shall be expended for the purchase or lease of property described in Subsection (1) by a person
303 operating a ski resort. The investment incentive paid out of the account shall be allocated among
304 ski resorts based on the relation between the total sales tax collected from the sale of ski lift tickets
305 in Utah to the total sales tax collected from the sale of ski lift tickets in Utah by each ski resort.
- 306 (3) The investment incentive is available to any person operating a ski resort in the state

307 of Utah making purchases or leases of property described in Subsection (1) on or after January 1,
308 1989 and on or before December 31, 1992. All claims made under this section against the amount
309 in the Ski Resort Capital Investment Restricted Account shall be made on or before June 30, 1993.

310 (4) If a ski resort is sold or leased to an unrelated third party within four years after the
311 reporting period in which the investment incentive allowed in Subsection (1) is taken, the person
312 who received the investment incentive shall reimburse to the Ski Resort Capital Investment
313 Restricted Account an amount equal to all investment incentives received during the period
314 described in Subsection (3). For purposes of this [subsection] Subsection (4), if a ski resort is sold
315 in connection with a bankruptcy proceeding, the sale shall be considered the kind of sale requiring
316 the reimbursement of the investment incentive.

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

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

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

321 **72-11-101. Title.**

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

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

324 **72-11-102. Definitions.**

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

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

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

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

333 (4) "Committee" means the Passenger Ropeway Safety Committee created by Section
334 72-11-202.

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

337 (6) "Detachable grip lift" means a monocable or bicable ropeway system on which carriers

338 circulate around the system alternately attaching to and detaching from a moving haul rope.

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

342 (8) "Industry" means the passenger ropeway business activities of any person in the state
343 who owns, manages, or directs the operation of a passenger ropeway.

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

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

350 (a) an aerial tramway;

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

352 (c) a conveyor;

353 (d) a funicular;

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

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

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

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

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

363 **72-11-103. Authority of Passenger Ropeway Safety Committee -- Location of system.**

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

368 (a) Wasatch Mountain State Park; and

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

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

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

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

379 **72-11-108. Revenue bonds not debt or obligation of state or committee.**

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

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

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

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

393 **72-11-112. Powers and authority of committee.**

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

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

402 **[63-11-37]. 72-11-201. Passenger ropeways -- Purpose and scope.**

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

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

410 (b) require periodic inspections of passenger [tramways] ropeways to ensure that each
411 passenger [tramway] ropeway meets "The United States of America Standard Institute Safety Code
412 for Aerial Passenger Tramways," or an equivalent standard established by rule under Section
413 [63-11-46] 72-11-210.

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

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

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

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

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

420 **[63-11-39]. 72-11-202. Passenger ropeways -- Creation of Passenger Ropeway**
421 **Safety Committee within Department of Transportation -- Members.**

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

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

426 (3) The appointive members shall be appointed by the governor from persons representing
427 the following interests:

428 (a) two members to represent the industry;

429 (b) two members to represent the public at large;

430 (c) one member who is a licensed engineer in Utah; and

431 (d) one member to represent the United States Forest Service.

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

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

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

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

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

442 (b) the Department of Transportation.

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

445 **[63-11-39.5]. 72-11-203. Procedures -- Adjudicative proceedings.**

446 The committee shall comply with the procedures and requirements of Title 63, Chapter
447 46b, Administrative Procedures Act, in its adjudicative proceedings.

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

450 **[63-11-40]. 72-11-204. Vacancies -- Expenses -- Reimbursement -- Use of facilities**
451 **of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.**

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

454 (2) (a) (i) Members who are not government employees [~~shall~~] may not receive [~~no~~] any
455 compensation or benefits for their services, but may receive per diem and expenses incurred in the
456 performance of the member's official duties at the rates established by the Division of Finance
457 under Sections 63A-3-106 and 63A-3-107.

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

459 (b) (i) State government officer and employee members who do not receive salary, per
460 diem, or expenses from their agency for their service may receive per diem and expenses incurred
461 in the performance of their official duties from the committee at the rates established by the

462 Division of Finance under Sections 63A-3-106 and 63A-3-107.

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

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

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

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

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

477 ~~[63-11-41].~~ **72-11-205. Passenger ropeways -- Registration of ropeways.**

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

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

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

486 (a) issued a certificate to the operator; or

487 (b) given written notice to the operator that the passenger [~~tramway~~] ropeway has not
488 qualified for certification.

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

491 ~~[63-11-42].~~ **72-11-206. Annual application for passenger ropeway registration.**

492 (1) Every operator of a passenger [~~tramway~~] ropeway, or person who plans to operate a

493 passenger [tramway] ropeway, shall, prior to operating the passenger [tramway] ropeway, apply
494 to the committee on forms provided by the committee for registration of the passenger [tramway]
495 ropeway.

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

498 (3) The application shall contain sufficient information for the committee to determine
499 [whether] if the passenger [tramway] ropeway to be registered complies with Section [63-11-37]
500 72-11-201 and the rules made by the committee under Section [63-11-46] 72-11-210.

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

503 **[63-11-43]. 72-11-207. Passenger ropeways -- Registration certificates.**

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

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

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

510 (2) In order to verify that the conditions described in Subsection (1) have been fulfilled,
511 the committee may make or direct the inspections described in Section [63-11-47] 72-11-211 as
512 necessary.

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

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

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

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

523 Section 15. Section **72-11-208**, which is renumbered from Section 63-11-44 is renumbered

524 and amended to read:

525 ~~[63-11-44].~~ 72-11-208. **Passenger ropeways -- Registration fee.**

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

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

530 ~~[63-11-45].~~ 72-11-209. **Passenger ropeways -- Fees deposited in Transportation**
531 **Fund.**

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

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

536 ~~[63-11-46].~~ 72-11-210. **Passenger ropeways -- Additional powers and duties of**
537 **committee.**

538 The committee may:

539 (1) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, make
540 rules establishing:

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

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

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

546 (iii) establish an equivalent standard; and

547 (b) the annual registration date;

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

550 (3) subpoena witnesses;

551 (4) administer oaths;

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

554 (6) approve, deny, revoke, and renew the registrations provided for in ~~[Sections 63-11-37~~

555 through ~~63-11-53~~ this chapter;

556 (7) cause the prosecution and enjoinder of all persons violating the provisions of [Sections
557 ~~63-11-37 through 63-11-53~~ this chapter and incur the necessary expenses;

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

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

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

564 ~~[63-11-47]~~. **72-11-211**. **Passenger ropeways -- Inspection.**

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

567 (2) If, as the result of an inspection, it is found that a violation of the committee's rules
568 exists, or a condition in passenger [tramway] ropeway construction, operation, or maintenance
569 exists [endangering] that endangers the safety of the public, an immediate report shall be made to
570 the operator whose passenger [tramway] ropeway has received the inspection and to the committee
571 for appropriate investigation and order.

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

574 ~~[63-11-48]~~. **72-11-212**. **Passenger ropeways -- Violations -- Order of committee.**

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

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

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

585 ~~[63-11-49]~~. **72-11-213**. **Passenger ropeways -- Failure to comply with order --**

586 **Suspension -- Injunction.**

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

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

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

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

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

596 **[63-11-51]. 72-11-214. Passenger ropeways -- Not common carriers or public**
597 **utilities -- Cooperative agreement with United States Forest Service.**

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

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

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

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

610 **[63-11-52]. 72-11-215. Passenger ropeways -- Use in dangerous manner unlawful.**

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

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

616 **[63-11-53]. 72-11-216. Passenger ropeways -- Violation of act a misdemeanor.**

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

619 Section 24. **Repealer.**

620 This act repeals:

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

Legislative Review Note
as of 2-1-99 1:57 PM

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

Office of Legislative Research and General Counsel