

1 **DEPARTMENT OF TRANSPORTATION AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 House Sponsor: Keven J. Stratton

6

7 **LONG TITLE**

8 **Committee Note:**

9 The Transportation Interim Committee recommended this bill.

10 **General Description:**

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

13 **Highlighted Provisions:**

14 This bill:

15 ▶ provides that the Department of Transportation may employ auditing experts from
16 outside the department rather than appoint at least two performance auditors for the
17 department;

18 ▶ repeals the class B and class C roads account;

19 ▶ repeals the requirement that funds appropriated for class B and class C roads be
20 deposited into the class B and class C roads account;

21 ▶ requires the Department of Transportation, rather than the director of the Division
22 of Finance, to transfer certain funds to the State Park Access Highways
23 Improvement Program; and

24 ▶ makes technical and conforming changes.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **72-1-206**, as renumbered and amended by Laws of Utah 1998, Chapter 270

32 **72-2-106**, as last amended by Laws of Utah 2016, Chapter 291

33 **72-2-107**, as last amended by Laws of Utah 2016, Chapter 291

34 **72-2-108**, as last amended by Laws of Utah 2016, Fourth Special Session, Chapter 2

35 **72-2-110**, as last amended by Laws of Utah 2009, Chapter 71

36 **72-3-301**, as last amended by Laws of Utah 2001, Chapter 222

37 **78A-5-110**, as last amended by Laws of Utah 2008, Chapter 22 and renumbered and
38 amended by Laws of Utah 2008, Chapter 3

39 **78A-7-120**, as last amended by Laws of Utah 2012, Chapter 205



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

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

43 **72-1-206. Performance auditing -- Appointment or employment -- Duties --**
44 **Reports.**

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

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

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

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

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

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

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

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

58 ~~[(b)]~~ ~~The department may hire outside consultants to assist in the audits under~~

59 ~~Subsection (3):]~~

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

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

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

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

67 (d) audits to determine the impact of federal mandates, including air quality, wetlands,
68 and other environmental standards on the cost and schedule of department projects;

69 (e) external audits on persons entering into contracts with the department, as necessary;

70 (f) studies to determine the time required to accomplish department and external
71 contract work and their relative efficiencies;

72 (g) evaluations of the department's quality assurance and quality control programs; and

73 (h) any other executive director or commission requests.

74 (4) The ~~[performance]~~ auditors under Subsection (1) shall:

75 (a) conduct audits in accordance with applicable professional auditing standards[-]; and
76 ~~[(5) The performance auditors shall]~~

77 (b) provide copies of all reports of audit findings to the commission, the executive
78 director, and the Legislative Auditor General.

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

80 **72-2-106. Appropriation and transfer from Transportation Fund.**

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

86 (2) For a fiscal year beginning on or after July 1, 2016, the Division of Finance shall
87 annually transfer an amount equal to the amount of revenue generated by a tax imposed on
88 motor and special fuel that is sold, used, or received for sale or used in this state at a rate of 1.8
89 cents per gallon to the Transportation Investment Fund of 2005 created by Section 72-2-124.

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

91 **72-2-107. Appropriation from Transportation Fund -- Apportionment for class B**
92 **and class C roads.**

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

- 98 (a) the Department of Public Safety;
- 99 (b) the State Tax Commission;
- 100 (c) the Division of Finance;
- 101 (d) the Utah Travel Council; and
- 102 (e) any other amounts appropriated or transferred for any other state agencies not a part
103 of the department.

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

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

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

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

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

117 **72-2-108. Apportionment of funds available for use on class B and class C roads**
118 **-- Bonds.**

119 (1) For purposes of this section:

- 120 (a) "Graveled road" means a road:

121 (i) that is:
122 (A) graded; and
123 (B) drained by transverse drainage systems to prevent serious impairment of the road
124 by surface water;

125 (ii) that has an improved surface; and
126 (iii) that has a wearing surface made of:

- 127 (A) gravel;
- 128 (B) broken stone;
- 129 (C) slag;
- 130 (D) iron ore;
- 131 (E) shale; or

132 (F) other material that is:

- 133 (I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and
- 134 (II) coarser than sand.

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

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

- 137 (i) the width of the road; or
- 138 (ii) the number of lanes into which the road is divided.

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

- 140 (i) paved road miles multiplied by five; and
- 141 (ii) all other road type road miles multiplied by two.

142 (2) Subject to the provisions of Subsections (3) through (8) and except as provided in
143 Subsection (10), funds ~~[in the]~~ appropriated for class B and class C roads ~~[account]~~ shall be
144 apportioned among counties and municipalities in the following manner:

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

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

152 from the Utah Population Estimates Committee.

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

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

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

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

161 (A) 14%; and

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

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

166 (4) If an apportionment under Subsection (2) made in the current fiscal year to a county
167 or municipality with a population of less than 14,000 is less than 120% of the amount
168 apportioned to the county or municipality [~~from the~~ for class B and class C roads [~~account~~] in
169 fiscal year 1996-97, the department shall reapportion the funds under Subsection (2) to ensure
170 that the county or municipality receives:

171 (a) subject to the requirement in Subsection (5) and for fiscal year 2016 only, an
172 amount equal to:

173 (i) the amount apportioned to the county or municipality for class B and class C roads
174 in fiscal year 2015 multiplied by 120%; plus

175 (ii) an amount equal to the amount apportioned to the county or municipality in fiscal
176 year 2015 multiplied by the percentage increase or decrease in the total funds available for
177 class B and class C roads between fiscal year 2015 and fiscal year 2016;

178 (b) for fiscal year 2017 only, an amount equal to the greater of:

179 (i) the amount apportioned to the county or municipality for class B and class C roads
180 in the current fiscal year under Subsection (2); or

181 (ii) (A) the amount apportioned to the county for class B and class C roads in fiscal
182 year 2015 multiplied by 120%; plus

183 (B) the amount calculated as described in Subsection (7); or

184 (c) for a fiscal year beginning on or after July 1, 2017, an amount equal to the greater
185 of:

186 (i) the amount apportioned to the county or municipality for class B and class C roads
187 in the current fiscal year under Subsection (2); or

188 (ii) (A) the amount apportioned to the county or municipality for class B and class C
189 roads through the apportionment formula under Subsection (2) or this Subsection (4),
190 excluding any amounts appropriated as additional support for class B and class C roads under
191 Subsection (10), in the prior fiscal year; plus

192 (B) the amount calculated as described in Subsection (7).

193 (5) For the purposes of calculating a final distribution of money collected in fiscal year
194 2016, the department shall subtract the payments previously made to a county or municipality
195 for money collected in fiscal year 2016 for class B and class C roads from the fiscal year 2016
196 total calculated in Subsection (4)(a).

197 (6) (a) The department shall decrease proportionately as provided in Subsection (6)(b)
198 the apportionments to counties and municipalities for which the reapportionment under
199 Subsection (4)(a), (b)(ii), or (c)(ii) does not apply.

200 (b) The aggregate amount of the funds that the department shall decrease
201 proportionately from the apportionments under Subsection (6)(a) is an amount equal to the
202 aggregate amount reapportioned to counties and municipalities under Subsection (4)(a), (b)(ii),
203 or (c)(ii).

204 (7) (a) In addition to the apportionment adjustments made under Subsection (4), a
205 county or municipality that qualifies for reapportioned money under Subsection (4)(b)(ii) or
206 (c)(ii) shall receive an amount equal to the amount apportioned to the county or municipality
207 under Subsection (4)(b)(ii) or (c)(ii) for class B and class C roads in the prior fiscal year
208 multiplied by the percentage increase or decrease in the total funds available for class B and
209 class C roads between the prior fiscal year and the fiscal year that immediately preceded the
210 prior fiscal year.

211 (b) The adjustment under Subsection (7)(a) shall be made in the same way as provided
212 in Subsections (6)(a) and (b).

213 (8) (a) If a county or municipality does not qualify for a reapportionment under

214 Subsection (4)(c) in the current fiscal year but previously qualified for a reapportionment under
215 Subsection (4)(c) on or after July 1, 2017, the county or municipality shall receive an amount
216 equal to the greater of:

217 (i) the amount apportioned to the county or municipality for class B and class C roads
218 in the current fiscal year under Subsection (2); or

219 (ii) the amount apportioned to the county or municipality for class B and class C roads
220 in the prior fiscal year.

221 (b) The adjustment under Subsection (8)(a) shall be made in the same way as provided
222 in Subsections (6)(a) and (b).

223 (9) The governing body of any municipality or county may issue bonds redeemable up
224 to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the
225 costs of constructing, repairing, and maintaining class B or class C roads and may pledge class
226 B or class C road funds received pursuant to this section to pay principal, interest, premiums,
227 and reserves for the bonds.

228 (10) (a) For fiscal year 2017 only, the department shall distribute \$5,000,000 of the
229 funds appropriated for additional support for class B and class C roads among the counties and
230 municipalities that qualified for reapportioned funds under Subsection (4) before May 1, 2016.

231 (b) The department shall distribute an amount to each county or municipality described
232 in Subsection (10)(a) considering the projected amount of revenue that each county or
233 municipality would have received under the reapportionment formula in effect before May 1,
234 2016.

235 (c) The department may consult with local government entities to determine the
236 distribution amounts under Subsection (10)(b).

237 (d) Before making the distributions required under this section, the department shall
238 report to the Executive Appropriations Committee of the Legislature by no later than December
239 31, 2016, the amount of funds the department will distribute to each county or municipality that
240 qualifies for a distribution under this Subsection (10).

241 (e) The Executive Appropriations Committee of the Legislature shall review and
242 comment on the amount of funds proposed to be distributed to each county or municipality that
243 qualifies for a distribution under this Subsection (10).

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

245 **72-2-110. Funds allocated to class B and class C roads -- Matching federal funds**
 246 **-- R.S. 2477 rights.**

247 A county or municipality may:

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

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

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

255 **72-3-301. Statewide public safety interest highway defined -- Designations --**
 256 **Control -- Maintenance -- Improvement restrictions -- Formula funding provisions.**

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

259 (2) Statewide public safety interest highways include:

260 (a) SR-900. From near the east bound on and off ramps of the I-80 Delle Interchange
 261 on the I-80 south frontage road, traversing northwesterly, westerly, and northeasterly, including
 262 on portions of a county road and a Bureau of Land Management road for a distance of 9.24
 263 miles. Then beginning again at the I-80 south frontage road traversing southwesterly and
 264 northwesterly on a county road for a distance of 4.33 miles. Then beginning again at the I-80
 265 south frontage road traversing southwesterly, northerly, northwesterly, westerly, and
 266 northeasterly on a county road and a Bureau of Land Management road to near the east bound
 267 on and off ramps of I-80 Low/Lakeside Interchange for a distance of 2.61 miles. The entire
 268 length of SR-900 is a total distance of 16.18 miles.

269 (b) SR-901. From SR-196 traversing westerly and northwesterly on a county road to a
 270 junction with a Bureau of Land Management road described as part of SR-901, then
 271 northwesterly to a junction with a county road for a distance of 8.70 miles. Then beginning
 272 again at a junction with SR-901 traversing northwesterly on a Bureau of Land Management
 273 road to a junction with a county road for a distance of 6.52 miles. Then beginning again at a
 274 junction with SR-901 traversing southwesterly on a Bureau of Land Management road to a
 275 junction with a county road for a distance of 5.44 miles. Then beginning again from a junction

276 with SR-901 traversing southwesterly on a county road to a junction with a county road a
277 distance of 11.52 miles. Then beginning again at a junction with SR-196 traversing westerly on
278 a Bureau of Land Management road to a junction with a county road for a distance of 11.30
279 miles. The entire length of SR-901 is a total distance of 43.48 miles.

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

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

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

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

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

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

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

297 **78A-5-110. Allocation of district court fees and forfeitures.**

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

300 (2) Fines and forfeitures collected by the court for violation of a state statute or county
301 or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the
302 state treasurer and 1/2 to the treasurer of the state or local governmental entity which
303 prosecutes or which would prosecute the violation.

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

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

309 (b) For violations of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter
310 18, State Boating Act, the state treasurer shall allocate 85% to the Division of Parks and
311 Recreation and 15% to the General Fund.

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

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

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

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

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

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

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

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

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

333 (8) The court shall remit money collected in accordance with Title 51, Chapter 7, State
334 Money Management Act.

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

336 **78A-7-120. Disposition of fines.**

337 (1) Except as otherwise specified by this section, fines and forfeitures collected by a

338 justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the
339 court and 1/2 to the treasurer of the local government which prosecutes or which would
340 prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13,
341 Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section
342 if the parties agree.

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

346 (b) For violation of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter
347 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and
348 15% to the general fund of the city or county government responsible for the justice court.

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

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

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

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

- 360 (i) 60% to the state treasurer to be deposited in the Transportation Fund; and
361 (ii) 40% in accordance with Subsection (1).

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

- 364 (i) 50% to the state treasurer to be deposited in the Transportation Fund; and
365 (ii) 50% in accordance with Subsection (1).