

SB0113S05 compared with SB0113S04

~~text~~ shows text that was in SB0113S04 but was deleted in SB0113S05.

text shows text that was not in SB0113S04 but was inserted into SB0113S05.

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Representative Kay J. Christofferson proposes the following substitute bill:

TRANSPORTATION AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends provisions related to transportation, public transit, towing, and other related items.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the service of a member of the board of trustees of a large public transit district;
- ▶ modifies provisions related to the costs of repair or replacement of damaged public property;
- ▶ changes the rulemaking authority related to school bus safety from the Department of Transportation to the Department of Public Safety;
- ▶ allows the Department of Public Safety to issue a request for information to

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evaluate options for creating a pilot program related to contracting with a towing management company and requires the department to report to the Transportation Interim Committee;

- ▶ removes the requirement for certain vehicles transporting livestock to stop at a port-of-entry;
- ▶ amends provisions related to the use of certain funds for public transit projects that increase capacity; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2a-807.1, as last amended by Laws of Utah 2019, Chapter 479

17B-2a-808.1, as last amended by Laws of Utah 2020, Chapter 377

41-6a-409, as last amended by Laws of Utah 2017, Chapter 142

41-6a-1304, as last amended by Laws of Utah 2008, Chapter 382

63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13

72-1-304, as last amended by Laws of Utah 2020, Chapter 377

72-2-121, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

72-2-124, as last amended by Laws of Utah 2020, Chapters 366 and 377

72-7-301, as renumbered and amended by Laws of Utah 1998, Chapter 270

72-9-501, as last amended by Laws of Utah 2008, Chapter 284

72-9-502, as last amended by Laws of Utah 2019, Chapter 251

ENACTS:

53-1-106.1, Utah Code Annotated 1953

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

Section 1. Section **17B-2a-807.1** is amended to read:

17B-2a-807.1. Large public transit district board of trustees -- Appointment --

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Quorum -- Compensation -- Terms.

(1) (a) For a large public transit district, the board of trustees shall consist of three members appointed as described in Subsection (1)(b).

(b) (i) The governor, with advice and consent of the Senate, shall appoint the members of the board of trustees, making an appointment from nominations given from each region created in Subsection (1)(b)(ii).

(ii) (A) Before creation of a large public transit district, the political subdivision or subdivisions forming the large public transit district shall submit to the Legislature for approval a proposal for the creation of three regions for nominating members to the board of trustees of the large public transit district.

(B) For a large public transit district created after January 1, 2019, the Legislature, after receiving and considering the proposal described in Subsection (1)(b)(ii)(A), shall designate three regions for nominating members to the board of trustees of the large public transit district, and further describe the process for nomination for appointment to the board of trustees.

(c) Each nominee shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(d) The board of trustees of a large public transit district shall be full-time employees of the public transit district.

(e) The compensation package for the board of trustees shall be determined by a local advisory council as described in Section 17B-2a-808.2.

(f) (i) Subject to Subsection (1)(f)(iii), for a board of trustees of a large public transit district, "quorum" means at least two members of the board of trustees.

(ii) Action by a majority of a quorum constitutes an action of the board of trustees.

(iii) A meeting of a quorum of the board of trustees of a large public transit district is subject to Section 52-4-103 regarding convening of a three-member board of trustees and what constitutes a public meeting.

(2) (a) Subject to Subsections (3), ~~(4)~~, and [~~(4)~~] (7), each member of the board of trustees of a large public transit district shall serve for a term of four years.

(b) A member of the board of trustees may serve an unlimited number of terms.

(3) Each member of the board of trustees of a large public transit district shall serve at

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the pleasure of the governor.

(4) The first time the board of trustees is appointed under this section, the governor shall stagger the initial term of each of the members of the board of trustees as follows:

- (a) one member of the board of trustees shall serve an initial term of two years;
- (b) one member of the board of trustees shall serve an initial term of three years; and
- (c) one member of the board of trustees shall serve an initial term of four years.

(5) The governor shall designate one member of the board of trustees as chair of the board of trustees.

(6) (a) If a vacancy occurs, the nomination and appointment procedures to replace the individual shall occur in the same manner described in Subsection (1) for the member creating the vacancy.

(b) A replacement board member shall serve for the remainder of the unexpired term, but may serve an unlimited number of terms as provided in Subsection (2)(b).

(c) If the nominating officials under Subsection (1) do not nominate to fill the vacancy within 60 days, the governor shall appoint an individual to fill the vacancy.

(7) Each board of trustees member shall serve until a successor is duly nominated, appointed, and qualified, unless the board of trustees member is removed from office or resigns or otherwise leaves office.

Section 2. Section **17B-2a-808.1** is amended to read:

17B-2a-808.1. Large public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a large public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each large public transit district shall:

- (a) hold public meetings and receive public comment;
- (b) ensure that the policies, procedures, and management practices established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) subject to Subsection (8), create and approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory council;

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- (d) approve any interlocal agreement with a local jurisdiction;
- (e) in consultation with the local advisory council, approve contracts and overall property acquisitions and dispositions for transit-oriented development;
- (f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory council:
 - (i) develop and approve a strategic plan for development and operations on at least a four-year basis; and
 - (ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;
 - (g) annually report the public transit district's long-term financial plan to the State Bonding Commission;
 - (h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the Infrastructure and General Government Appropriations Subcommittee;
 - (i) annually report to the Transportation Interim Committee the public transit district's efforts to engage in public-private partnerships for public transit services;
 - ~~[(j) (i) in partnership with the Department of Transportation, study and evaluate the feasibility of a strategic transition of a large public transit district into a state entity; and]~~
 - ~~[(ii) in partnership with the Department of Transportation, before November 30, 2019, report on the progress of the study to the Transportation Interim Committee and the Infrastructure and General Government Appropriations Subcommittee;]~~
- ~~[(k)]~~ (j) hire, set salaries, and develop performance targets and evaluations for:
 - (i) the executive director; and
 - (ii) all chief level officers;
- ~~[(l)]~~ (k) supervise and regulate each transit facility that the public transit district owns and operates, including:
 - (i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and
 - (ii) make and enforce rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;
- ~~[(m)]~~ (l) subject to Subsection (4), control the investment of all funds assigned to the

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district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

~~[(n)]~~ (m) in consultation with the local advisory council created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

~~[(o)]~~ (n) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

~~[(p)]~~ (o) (i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:

(A) the result of district operations during the preceding fiscal year;

(B) an accounting of the expenditures of all local sales and use tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

(C) the district's financial status on the final day of the fiscal year; and

(D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and

(iii) supply copies of the report under Subsection ~~[(2)(p)(ii)]~~ (2)(o)(ii) to the general public upon request;

~~[(q)]~~ (p) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;

~~[(r)]~~ (q) direct the internal auditor appointed under Section 17B-2a-810 to conduct

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audits that the board of trustees determines, in consultation with the local advisory council created in Section 17B-2a-808.2, to be the most critical to the success of the organization;

~~[(s)]~~ (r) together with the local advisory council created in Section 17B-2a-808.2, hear audit reports for audits conducted in accordance with Subsection ~~[(2)(p)]~~ (2)(o);

~~[(t)]~~ (s) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

- (i) how negotiations occurred;
- (ii) the rationale for providing a reduced fare; and
- (iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

~~[(u)]~~ (t) in consultation with the local advisory council, develop and approve other board policies, ordinances, and bylaws; and

~~[(v)]~~ (u) review and approve any:

- (i) contract or expense exceeding \$200,000; or
- (ii) proposed change order to an existing contract if the change order:
 - (A) increases the total contract value to \$200,000 or more;
 - (B) increases a contract of or expense of \$200,000 or more by 15% or more; or
 - (C) has a total change order value of \$200,000 or more.
- (3) A board of trustees of a large public transit district may:
 - (a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that

are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

- (A) the governance and management of the affairs of the district;
- (B) the execution of district powers; and
- (C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

- (i) for a purpose for which the expenditure has been previously approved by the board;

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- (ii) in an amount no greater than the amount authorized; and
- (iii) approved by the executive director or other officer or deputy as the board

prescribes;

- (c) in consultation with the local advisory council created in Section 17B-2a-808.2:

- (i) hold public hearings and subpoena witnesses; and

- (ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

- (d) appoint a custodian for the funds and securities under its control, subject to Subsection [~~(2)(o)~~] (2)(n).

(4) For a large public transit district in existence as of May 8, 2018, on or before September 30, 2019, the board of trustees of a large public transit district shall present a report to the Transportation Interim Committee regarding retirement benefits of the district, including:

- (a) the feasibility of becoming a participating employer and having retirement benefits of eligible employees and officials covered in applicable systems and plans administered under Title 49, Utah State Retirement and Insurance Benefit Act;

- (b) any legal or contractual restrictions on any employees that are party to a collectively bargained retirement plan; and

- (c) a comparison of retirement plans offered by the large public transit district and similarly situated public employees, including the costs of each plan and the value of the benefit offered.

(5) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the State Bonding Commission created in Section 63B-1-201.

(6) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(7) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.

- (b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.

- (c) Each ordinance adopted by a large public transit district's board of trustees shall

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take effect upon adoption, unless the ordinance provides otherwise.

(8) (a) For a large public transit district in existence on May 8, 2018, for the budget for calendar year 2019, the board in place on May 8, 2018, shall create the tentative annual budget.

(b) The budget described in Subsection (8)(a) shall include setting the salary of each of the members of the board of trustees that will assume control on or before November 1, 2018, which salary may not exceed \$150,000, plus additional retirement and other standard benefits, as set by the local advisory council as described in Section 17B-2a-808.2.

(c) For a large public transit district in existence on May 8, 2018, the board of trustees that assumes control of the large public transit district on or before November 2, 2018, shall approve the calendar year 2019 budget on or before December 31, 2018.

Section 3. Section **41-6a-409** is amended to read:

41-6a-409. Prohibition of flat response fee for motor vehicle accident.

(1) As used in this section, "government entity" means the Department of Transportation, the Utah Highway Patrol Division, or a local government entity or agency.

(2) A government entity:

(a) may not impose a flat fee, or collect a flat fee, from an individual involved in a motor vehicle accident; and

(b) may only charge the individual for the actual cost or a reasonable estimate of the cost of services provided in responding to the motor vehicle accident, limited to:

(i) medical costs for transporting an individual from the scene of a motor vehicle accident or treating a person injured in a motor vehicle accident;

(ii) subject to Subsection (6), the cost for repair [~~to~~] or replacement of damaged public property, if the individual is legally liable for the damage;

(iii) the cost of materials used in cleaning up the motor vehicle accident, if the individual is legally liable for the motor vehicle accident; and

(iv) towing costs.

(3) If a government entity imposes a charge on more than one individual for the actual cost or a reasonable estimate of the cost of responding to a motor vehicle accident, the government entity shall apportion the charges so that the government entity does not receive more for responding to the motor vehicle accident than the actual response cost or a reasonable estimate of the cost.

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(4) Nothing in this section prohibits a government entity from contracting with an independent contractor to recover costs related to damage to public property.

(5) If a government entity enters into a contract with an independent contractor to recover costs related to damage to public property, the government entity may only pay the independent contractor out of any recovery received from the person who caused the damage or the responsible party.

(6) (a) The costs of repair or replacement of damaged public property described in Subsection (2)(b)(ii) include the full cost to:

(i) repair the damaged public property; or

(ii) replace the damaged public property;

~~_____ (A) } with a replacement that is {equal} functionally equivalent to the property that was damaged; or~~

~~_____ (B) if the damaged public property no longer meets a minimum standard adopted by the government entity by rule or written standard, with a replacement that meets the government entity's minimum standard}.~~

(b) Except for the replacement of a damaged motor vehicle, the costs described in Subsection (6)(a) may not be reduced based on the depreciated value of the damaged public property at the time the damage occurs.

Section 4. Section **41-6a-1304** is amended to read:

41-6a-1304. School buses -- Rules regarding design and operation.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of [~~Transportation by and~~] Public Safety, with the advice of the State Board of Education [~~and the Department of Public Safety~~], shall adopt and enforce rules, not inconsistent with this chapter, to govern the design and operation of all school buses in this state when:

(i) owned and operated by any school district;

(ii) privately owned and operated under contract with a school district; or

(iii) privately owned for use by a private school.

(b) The rules under this Subsection (1) shall by reference be made a part of any contract with a school district or private school to operate a school bus.

(2) Every school district or private school, its officers and employees, and every person

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employed under contract by a school district or private school shall be subject to the rules under Subsection (1).

Section 5. Section **53-1-106.1** is enacted to read:

53-1-106.1. Public-private partnership for tow rotation services.

(1) The department may issue a request for information under Section 63G-6a-409 to evaluate the availability of vendors, products, and technology capable of increasing efficiency, effectiveness, and transparency in the dispatching of towing providers and management of towing rotations in areas of high volume and urban traffic that experience high demand for tow truck services.

(2) The department shall evaluate responses to a request for information described in Subsection (1) for:

(a) the following requirements and capabilities:

(i) decreasing delays associated with requesting and dispatching a tow truck motor carrier from an established tow rotation;

(ii) increasing information, transparency, and data collection associated with tow rotation operations, including dispatching, response time, completion, clearance, and storage; and

(iii) increasing responder and traffic safety by reducing secondary crashes, responder time on scene, and the impacts of traffic accidents on traffic flow and safety; and

(b) costs and distribution of costs for the implementation of product programs, equipment, technology, and other requirements.

(3) (a) The department shall report the department's findings and evaluation of any request for information described in Subsection (1) to the Transportation Interim Committee no later than November 30, 2021.

(b) Upon receipt of a report described in Subsection (3)(a), the Transportation Interim Committee shall:

(i) review the department's evaluation of the responses to the request for information in accordance with Subsection (2); and

(ii) if the Transportation Interim Committee determines appropriate, recommend legislation that creates a pilot program for a public-private partnership related to towing rotation management.

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Section 6. Section **63I-2-253** is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) Section 53-1-106.1 is repealed January 1, 2022.

~~[(1)]~~ (2) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(2)]~~ (3) Section 53B-2a-103 is repealed July 1, 2021.

~~[(3)]~~ (4) Section 53B-2a-104 is repealed July 1, 2021.

~~[(4)]~~ (5) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(5)]~~ (6) Section 53B-6-105.7 is repealed July 1, 2024.

~~[(6)]~~ (7) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

~~[(7)]~~ (8) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

~~[(8)]~~ (9) Section 53B-8-114 is repealed July 1, 2024.

~~[(9)]~~ (10) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

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(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(10)]~~ (11) Section 53B-10-101 is repealed on July 1, 2027.

~~[(11)]~~ (12) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

~~[(12)]~~ (13) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

~~[(13)]~~ (14) Section 53E-3-520 is repealed July 1, 2021.

~~[(14)]~~ (15) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

~~[(15)]~~ (16) Section 53E-5-307 is repealed July 1, 2020.

~~[(16)]~~ (17) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

~~[(17)]~~ (18) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(18)]~~ (19) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

~~[(19)]~~ (20) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(20)]~~ (21) Section 53F-4-207 is repealed July 1, 2022.

~~[(21)]~~ (22) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(22)]~~ (23) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

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~~[(23)]~~ (24) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(24)]~~ (25) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(25)]~~ (26) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

~~[(26)]~~ (27) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 7. Section **72-1-304** is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

- (i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;
- (ii) paved pedestrian or paved nonmotorized transportation projects that:
 - (A) mitigate traffic congestion on the state highway system; and
 - (B) are part of an active transportation plan approved by the department;
- (iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and
- (iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

- (A) the project will advance the purposes and goals described in Section 72-1-211;

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(B) for a public transit project, the local government or district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802.

(b) When prioritizing a public transit or transportation project that increases capacity,

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the commission may give priority consideration to projects that are part of a transportation reinvestment zone created under Section 11-13-227 if:

- (i) the state is a participant in the transportation reinvestment zone; or
- (ii) the commission finds that the transportation reinvestment zone provides a benefit

to the state transportation system.

- (4) In developing the written prioritization process, the commission:

- (a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

- (b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

- (6) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 8. Section **72-2-121** is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

- (1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

- (2) The fund consists of money generated from the following revenue sources:

- (a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

- (b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

- (c) the portion of the sales and use tax described in Section 59-12-2217 deposited in or transferred to the fund; and

- (d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or

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transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

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(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to transfer an amount equal to \$25,000,000:

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section;

(h) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the Transportation Fund created in Section 72-2-102 until \$28,079,000 has been deposited into the Transportation Fund;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b) to a public transit district in a county of the first class to fund a system for public transit;

(j) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

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(k) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h), (i), and (j) have been made, to transfer \$12,000,000 to the department to distribute for the following projects:

- (i) \$2,000,000 to West Valley City for highway improvement to 4100 South;
- (ii) \$1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;
- (iii) \$1,100,000 to South Jordan for highway improvements to Grandville Avenue;
- (iv) \$1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;
- (v) \$1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;
- (vi) \$1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;
- (vii) \$1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;
- (viii) \$900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;
- (ix) \$1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;
- (x) \$700,000 to South Jordan right-of-way improvements to 10550 South; and
- (xi) \$500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and

(l) for a fiscal year beginning after the amount described in Subsection (4)(h) has been repaid to the Transportation Fund until fiscal year 2030, or sooner if the amount described in Subsection (4)(h)(ii) has been repaid, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, and after the bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b):

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- (i) to the legislative body of a county of the first class; and
- (ii) to be used by the county for the purposes described in this section.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(8) (a) For a fiscal year beginning on or after July 1, 2018, at the end of each fiscal year, after all programmed payments and transfers authorized or required under this section have been made, on November 30 the department shall transfer the remainder of the money in the fund to the Transportation Fund to reduce the amount owed to the Transportation Fund under Subsection [~~(4)(j)(ii)~~] (4)(h)(ii).

(b) The department shall provide notice to a county of the first class of the amount transferred in accordance with this Subsection (8).

(9) (a) Any revenue in the fund that is not specifically allocated and obligated under Subsections (4) through (8) is subject to the review process described in this Subsection (9).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection (9)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection (9)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory council of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

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(ii) seven members nominated by the county executive, and confirmed by the county legislative body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

(i) employment;

(ii) recreation;

(iii) commerce; and

(iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection (9)(f).

(h) (i) After the review and ranking of each project as described in this section, the county transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process, the county executive shall review the list of projects and may include in the proposed

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budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

- (i) the amount of revenue received into the fund during the past year;
- (ii) any funds available for allocation;
- (iii) funds obligated for debt service; and
- (iv) the outstanding balance of transportation-related debt.

(10) As resources allow, the department shall study in 2020 transportation connectivity in the southwest valley of Salt Lake County, including the feasibility of connecting major east-west corridors to U-111.

Section 9. Section **72-2-124** is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

- (a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;
- (b) appropriations made to the fund by the Legislature;
- (c) registration fees designated under Section 41-1a-1201;
- (d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and
- (e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

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(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121; and

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general

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plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before May 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is

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required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

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- (ii) appropriations into the account by the Legislature;
- (iii) private contributions; and
- (iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

Section 10. Section **72-7-301** is amended to read:

72-7-301. Liability for damage to highway, highway equipment, or highway sign -- Liability for damage to highway from illegal operation of oversize or overweight vehicles -- Recovery.

(1) A person who by any means willfully or negligently injures or damages any highway, highway equipment, or highway sign is liable for the damage.

(2) A person who operates or moves any vehicle or object on any highway is liable for all damage that the highway sustains from:

(a) any illegal operation or movement of a vehicle or object; and

(b) any vehicle or object that exceeds the maximum size, weight, or load limitations specified by law, with or without authority of an oversize or overweight permit.

(3) (a) Except under Subsection (3)(b), if the operator is not the owner of the vehicle or

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object but is operating or moving the vehicle or object with the express or implied permission of the owner, the owner and operator are jointly and severally liable under Subsection (2) for any damage caused to a highway by the operation or movement of the vehicle or object.

(b) An operator who is not the owner of the vehicle or object and who under an express or implied condition of his employment or any privilege related to his employment is required to operate or move a vehicle or object in violation of Part 4, Vehicle Size, Weight, and Load Limitations, is not liable for any damage caused to a highway by the illegal operation or movement of the vehicle or object.

(4) The value of the property damaged may be recovered in a civil action brought by the highway authority having jurisdiction over the property damaged.

(5) (a) For purposes of this section, the value of the damaged property includes the full cost to:

(i) repair the damaged property; or

(ii) replace the damaged property~~;~~

~~_____ (A) ~~;~~ with a replacement that is ~~{equal}~~ functionally equivalent to the property that was damaged~~;~~ or~~

~~_____ (B) if the damaged property no longer meets a minimum standard adopted by the highway authority by rule or written standard, with a replacement that meets the highway authority's minimum standard.~~

(b) Except for the replacement of a damaged motor vehicle, the costs described in Subsection (5)(a) may not be reduced based on the depreciated value of the damaged property at the time the damage occurs.

Section 11. Section **72-9-501** is amended to read:

72-9-501. Construction, operation, and maintenance of ports-of-entry by the department -- Function of ports-of-entry -- Checking and citation powers of port-of-entry agents.

(1) (a) The department shall construct ports-of-entry for the purpose of checking motor carriers, drivers, vehicles, and vehicle loads for compliance with state and federal laws including laws relating to:

(i) driver qualifications;

(ii) Title 53, Chapter 3, Part 4, Uniform Commercial Driver License Act;

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- (iii) vehicle registration;
- (iv) fuel tax payment;
- (v) vehicle size, weight, and load;
- (vi) security or insurance;
- (vii) this chapter;
- (viii) hazardous material as defined under 49 U.S.C. 5102; and
[~~(ix) livestock transportation; and~~
[(~~x~~)] (ix) safety.

(b) The ports-of-entry shall be located on state highways at sites determined by the department.

(2) (a) The ports-of-entry shall be operated and maintained by the department.

(b) A port-of-entry agent or a peace officer may check, inspect, or test drivers, vehicles, and vehicle loads for compliance with state and federal laws specified in Subsection (1).

(3) (a) A port-of-entry agent or a peace officer, in whose presence an offense described in this section is committed, may:

(i) issue and deliver a misdemeanor or infraction citation under Section 77-7-18;

(ii) request and administer chemical tests to determine blood alcohol concentration in compliance with Section 41-6a-515;

(iii) place a driver out-of-service in accordance with Section 53-3-417; and

(iv) serve a driver with notice of the Driver License Division of the Department of Public Safety's intention to disqualify the driver's privilege to drive a commercial motor vehicle in accordance with Section 53-3-418.

(b) This section does not grant actual arrest powers as defined in Section 77-7-1 to a port-of-entry agent who is not a peace officer or special function officer designated under Title 53, Chapter 13, Peace Officer Classifications.

(4) (a) A port-of-entry agent, a peace officer, or the Division of Wildlife Resources may inspect, detain, or quarantine a conveyance or equipment in accordance with Sections 23-27-301 and 23-27-302.

(b) The department is not responsible for decontaminating a conveyance or equipment detained or quarantined.

(c) The Division of Wildlife Resources may decontaminate, as defined in Section

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23-27-102, a conveyance or equipment at the port-of-entry if authorized by the department.

Section 12. Section **72-9-502** is amended to read:

72-9-502. Motor vehicles to stop at ports-of-entry -- Signs -- Exceptions --

Rulemaking -- By-pass permits.

(1) Except under Subsection (3), a motor carrier operating a motor vehicle with a gross vehicle weight of 10,001 pounds or more [~~or any motor vehicle carrying livestock as defined in Section 4-24-102~~] shall stop at a port-of-entry as required under this section.

(2) The department may erect and maintain signs directing motor vehicles to a port-of-entry as provided in this section.

(3) A motor vehicle required to stop at a port-of-entry under Subsection (1) is exempt from this section if:

(a) the total one-way trip distance for the motor vehicle would be increased by more than 5% or three miles, whichever is greater if diverted to a port-of-entry;

(b) the motor vehicle is operating under a temporary port-of-entry by-pass permit issued under Subsection (4); or

(c) the motor vehicle is an implement of husbandry as defined in Section 41-1a-102 being operated only incidentally on a highway as described in Section 41-1a-202.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the issuance of a temporary port-of-entry by-pass permit exempting a motor vehicle from the provisions of Subsection (1) if the department determines that the permit is needed to accommodate highway transportation needs due to multiple daily or weekly trips in the proximity of a port-of-entry.

(b) The rules under Subsection (4)(a) shall provide that one permit may be issued to a motor carrier for multiple motor vehicles.