

AVIATION AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill modifies provisions related to aeronautics.

Highlighted Provisions:

This bill:

- ▶ addresses fees for use of state owned aircraft;
 - ▶ allows one or more associations representing airport owners or pilots to provide an annual report to the Transportation Commission;
 - ▶ modifies the permissible uses of funds in the Aeronautics Restricted Account;
 - ▶ creates the State Aircraft Restricted Account to fund the operations of state owned aircraft;
 - ▶ defines "advanced air mobility system";
 - ▶ addresses preemption of local regulations related to advanced air mobility systems;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **72-1-216.1**, as enacted by Laws of Utah 2021, Chapter 358
- 29 **72-1-303**, as last amended by Laws of Utah 2020, Chapter 377
- 30 **72-2-126**, as last amended by Laws of Utah 2016, Chapter 38
- 31 **72-14-102**, as last amended by Laws of Utah 2018, Chapter 40
- 32 **72-14-103**, as enacted by Laws of Utah 2017, Chapter 364
- 33 **76-9-308**, as enacted by Laws of Utah 2017, Chapter 184

34 ENACTS:

35 **72-2-132**, Utah Code Annotated 1953

36

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

38 Section 1. Section **72-1-216.1** is amended to read:

39 **72-1-216.1. State plane operations and advanced air mobility study.**

40 (1) The department shall study:

41 (a) options to improve the operations of the state airplane fleet, including addressing
42 how to make the state airplane fleet operations more self-reliant through:

43 (i) funding the state's plane operations through plane user fees; and

44 (ii) fleet replacement options; and

45 (b) the development and implementation of advanced air mobility in the state,

46 including:

47 (i) identifying current state assets and assets in development that support advanced air
48 mobility;

49 (ii) identifying assets required for full implementation of advanced air mobility;

50 (iii) identifying potential benefits and limitations of implementing advanced air
51 mobility;

52 (iv) the feasibility of options to progress toward implementing a statewide advanced air
53 mobility system, including phasing critical elements; and

54 (v) reviewing infrastructure funding mechanisms employed or under consideration by
55 other states.

56 (2) As part of the department's study under Subsection (1)(a), the department shall

57 ~~§→ [consider whether to set user fees based on destination rather than an hourly rate.]~~ review
57a alternative methods for charging for use of the state airplane fleet, taking into account:

57b (a) the per passenger cost;

57c (b) downtime and pilot layover and wait time;

57d (c) the advantages and disadvantages of an hourly rate;✪

- 57e **(d) the advantages and disadvantages of a destination rate; and**
- 57f **(e) any other information relevant to identifying the most effective method for charging for**
- 57g **use of the state airplane fleet.** ←Ŝ

58 [~~2~~] (3) The department shall provide a report of the department's findings before

59 September 30, 2022, to the Transportation Interim Committee.

60 Section 2. Section **72-1-303** is amended to read:

61 **72-1-303. Duties of commission.**

62 (1) The commission has the following duties:

63 (a) determining priorities and funding levels of projects in the state transportation
64 systems and capital development of new public transit facilities for each fiscal year based on
65 project lists compiled by the department and taking into consideration the strategic initiatives
66 described in Section [72-1-211](#);

67 (b) determining additions and deletions to state highways under Chapter 4, Designation
68 of State Highways Act;

69 (c) holding public hearings and otherwise providing for public input in transportation
70 matters;

71 (d) making policies and rules in accordance with Title 63G, Chapter 3, Utah
72 Administrative Rulemaking Act, necessary to perform the commission's duties described under
73 this section;

74 (e) in accordance with Section [63G-4-301](#), reviewing orders issued by the executive
75 director in adjudicative proceedings held in accordance with Title 63G, Chapter 4,
76 Administrative Procedures Act;

77 (f) advising the department in state transportation systems policy;

78 (g) approving settlement agreements of condemnation cases subject to Section
79 [63G-10-401](#);

80 (h) in accordance with Section [17B-2a-807](#), appointing a commissioner to serve as a
81 nonvoting, ex officio member or a voting member on the board of trustees of a public transit
82 district;

83 (i) in accordance with Section [17B-2a-808](#), reviewing, at least annually, the short-term
84 and long-range public transit plans; and

85 (j) reviewing administrative rules made, substantively amended, or repealed by the
86 department.

87 (2) (a) For projects prioritized with funding provided under Sections [72-2-124](#) and
88 [72-2-125](#), the commission shall annually report to a committee designated by the Legislative
89 Management Committee:

90 (i) a prioritized list of the new transportation capacity projects in the state
91 transportation system and the funding levels available for those projects; and

92 (ii) the unfunded highway construction and maintenance needs within the state.

93 (b) The committee designated by the Legislative Management Committee under
94 Subsection (2)(a) shall:

95 (i) review the list reported by the Transportation Commission; and

96 (ii) make a recommendation to the Legislature on:

97 (A) the amount of additional funding to allocate to transportation; and

98 (B) the source of revenue for the additional funding allocation under Subsection
99 (2)(b)(ii)(A).

100 (3) The commission shall review and may approve plans for the construction of a
101 highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval
102 of Highway Facilities on Sovereign Lands Act.

103 (4) One or more associations representing airport operators or pilots in the state shall
104 annually report to the commission recommended airport improvement projects and any other
105 information related to the associations' expertise and relevant to the commission's duties.

106 Section 3. Section **72-2-126** is amended to read:

107 **72-2-126. Aeronautics Restricted Account.**

108 (1) There is created a restricted account entitled the Aeronautics Restricted Account
109 within the Transportation Fund.

110 (2) The account consists of money generated from the following revenue sources:

111 (a) aviation fuel tax allocated for aeronautical operations deposited into the account in
112 accordance with Section [59-13-402](#);

113 (b) aircraft registration fees deposited into the account in accordance with Section
114 [72-10-110](#);

115 (c) appropriations made to the account by the Legislature;

116 (d) contributions from other public and private sources for deposit into the account;

117 and

118 (e) interest earned on account money.

119 (3) The department shall allocate funds in the account to the separate accounts of
120 individual airports as required under Section [59-13-402](#).

121 (4) (a) Except as provided in Subsection (4)(b), the department shall use funds in the
122 account for:

123 (i) the construction, improvement, operation, and maintenance of publicly used airports
124 in this state;

125 (ii) the payment of principal and interest on indebtedness incurred for the purposes
126 described in Subsection (4)(a);

127 (iii) operation of the division of aeronautics;

128 (iv) the promotion of aeronautics in this state; and

129 (v) the payment of the costs and expenses of the Department of Transportation in
130 administering Title 59, Chapter 13, Part 4, Aviation Fuel, or another law conferring upon it the
131 duty of regulating and supervising aeronautics in this state.

132 (b) The department may use funds in the account for the support of aerial search and
133 rescue operations, provided that no money deposited into the account under Subsection (2)(a)
134 is used for that purpose.

135 (5) (a) Money in the account may not be used by the department for the purchase of
136 aircraft for purposes other than those described in Subsection (4).

137 (b) Money in the account may not be used to provide or subsidize direct operating costs
138 of travel for purposes other than those described in Subsection (4).

139 (6) The Department may not use money in the account to fund:

140 (a) more than 77% of the operations costs related to state owned aircraft in fiscal year

141 Ĥ→ [2022-23] 2023-24 ←Ĥ ;

142 (b) more than 52% of the operations costs related to state owned aircraft in fiscal year

143 Ĥ→ [2023-24] 2024-25 ←Ĥ ;

144 (c) more than 26% of the operations costs related to state owned aircraft in fiscal year

145 Ĥ→ [2024-25] 2025-26 ←Ĥ ;

146 (d) more than 10% of the operations costs related to state owned aircraft in fiscal year

147 Ĥ→ [2025-26] 2026-27 ←Ĥ ; or

148 (e) any operations costs related to state owned aircraft in a fiscal year beginning on or

149 after July 1, Ĥ→ [2026] 2027 ←Ĥ .

150 Section 4. Section 72-2-132 is enacted to read:

151 **72-2-132. State Aircraft Restricted Account.**

- 152 (1) There is created a restricted account known as the State Aircraft Restricted
 153 Account.
- 154 (2) The account consists of money generated from the following revenue sources:
 155 (a) fees the department receives for use of state owned aircraft;
 156 (b) appropriations to the account by the Legislature;
 157 (c) contributions from other public or private sources for deposit into the account; and
 158 (d) interest earned on money in the account.
- 159 (3) Upon appropriation by the Legislature, the department may use money in the
 160 account for the operation and maintenance of state owned aircraft.

161 Section 5. Section **72-14-102** is amended to read:

162 **72-14-102. Definitions.**

163 As used in this chapter:

- 164 (1) (a) "Advanced air mobility system" means a system that transports individuals and
 165 property using piloted and unpiloted aircraft, including electric aircraft and electric vertical
 166 takeoff and landing aircraft, in controlled or uncontrolled airspace.
- 167 (b) "Advanced air mobility system" includes each component of a system described in
 168 Subsection (1)(a), including:
- 169 (i) the aircraft, including payload;
 170 (ii) communications equipment;
 171 (iii) navigation equipment;
 172 (iv) controllers;
 173 (v) support equipment; and
 174 (vi) remote and autonomous functions.
- 175 ~~[(1)]~~ (2) "Airport" means the same as that term is defined in Section 72-10-102.
- 176 ~~[(2)]~~ (3) "Airport operator" means the same as that term is defined in Section
 177 72-10-102.
- 178 ~~[(3)]~~ (4) "Correctional facility" means the same as that term is defined in Section
 179 77-16b-102.
- 180 ~~[(4)]~~ (5) "Unmanned aircraft" means an aircraft that is:
 181 (a) capable of sustaining flight; and
 182 (b) operated with no possible direct human intervention from on or within the aircraft.

183 [(5)] (6) "Unmanned aircraft system" means the entire system used to operate an
184 unmanned aircraft, including:

- 185 (a) the unmanned aircraft, including payload;
- 186 (b) communications equipment;
- 187 (c) navigation equipment;
- 188 (d) controllers;
- 189 (e) support equipment; and
- 190 (f) autopilot functionality.

191 Section 6. Section 72-14-103 is amended to read:

192 **72-14-103. Preemption of local ordinance.**

193 (1) A political subdivision of the state, or an entity within a political subdivision of the
194 state, may not enact a law, ordinance, or rule governing the private use of an unmanned aircraft
195 or the private use of an advanced air mobility system, unless:

- 196 (a) authorized by this chapter; or
- 197 (b) the political subdivision or entity is an airport operator that enacts the law, rule, or
198 ordinance to govern:
 - 199 (i) the operation of an unmanned aircraft or an advanced air mobility system within the
200 geographic boundaries of the airport over which the airport operator has authority; or
 - 201 (ii) the takeoff or landing of an unmanned aircraft or an aircraft operated as part of an
202 advanced air mobility system at the airport over which the airport operator has authority.

203 (2) This chapter supersedes any law, ordinance, or rule enacted by a political
204 subdivision of the state before July 1, 2017.

205 Section 7. Section 76-9-308 is amended to read:

206 **76-9-308. Harassment of livestock.**

207 (1) As used in this section:

- 208 (a) "Livestock" has the same meaning as that term is defined in Subsection
209 76-9-301(1).
- 210 (b) "Unmanned aircraft system" [~~has the same meaning as that term is defined in~~
211 ~~Subsection 72-14-102(4)] means the same as that term is defined in Section 72-14-102.~~

212 (2) Except as provided in Subsection (3), a person is guilty of harassment of livestock
213 if the person intentionally, knowingly, or recklessly chases, with the intent of causing distress,

214 or harms livestock through the use of:

215 (a) a motorized vehicle or all-terrain vehicle;

216 (b) a dog; or

217 (c) an unmanned aircraft system.

218 (3) A person is not guilty of harassment of livestock if:

219 (a) the person is:

220 (i) the owner of the livestock;

221 (ii) an employee or agent of the owner, or otherwise acting under the owner's general

222 direction or with the owner's permission;

223 (iii) acting in an emergency situation to prevent damage to the livestock or property; or

224 (iv) an employee or agent of the state or a political subdivision and acting in the

225 employee or agent's official capacity; or

226 (b) the action is in line with generally accepted animal husbandry practices.

227 (4) A person who violates this section is guilty of:

228 (a) a class B misdemeanor if the violation is a first offense and:

229 (i) no livestock is seriously injured or killed as a result of the person's actions; or

230 (ii) the person's actions cause the livestock to be displaced onto property where the

231 livestock is not legally entitled to be; and

232 (b) a class A misdemeanor if:

233 (i) the person has previously been convicted of harassment of livestock under this

234 section;

235 (ii) livestock is seriously injured or killed as a result of the person's actions; or

236 (iii) livestock or property suffered damage in excess of \$1,000, including money spent

237 in recovering the livestock, as a result of the person's actions.