

1 AVIATION AMENDMENTS

2 2022 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: Kay J. Christofferson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to aeronautics.

10 **Highlighted Provisions:**

11 This bill:

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

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 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



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 review alternative methods for charging for use of the state airplane fleet, taking into account:

- 58 (a) the per passenger cost;
- 59 (b) downtime and pilot layover and wait time;
- 60 (c) the advantages and disadvantages of an hourly rate;
- 61 (d) the advantages and disadvantages of a destination rate; and
- 62 (e) any other information relevant to identifying the most effective method for charging
- 63 for use of the state airplane fleet.

64 ~~[(2)]~~ (3) The department shall provide a report of the department's findings before
65 September 30, 2022, to the Transportation Interim Committee.

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

67 **72-1-303. Duties of commission.**

68 (1) The commission has the following duties:

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

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

75 (c) holding public hearings and otherwise providing for public input in transportation
76 matters;

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

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

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

84 (g) approving settlement agreements of condemnation cases subject to Section
85 [63G-10-401](#);

86 (h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a
87 nonvoting, ex officio member or a voting member on the board of trustees of a public transit
88 district;

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

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

93 (2) (a) For projects prioritized with funding provided under Sections 72-2-124 and
94 72-2-125, the commission shall annually report to a committee designated by the Legislative
95 Management Committee:

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

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

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

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

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

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

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

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

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

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

113 **72-2-126. Aeronautics Restricted Account.**

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

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

117 (a) aviation fuel tax allocated for aeronautical operations deposited into the account in
118 accordance with Section 59-13-402;

119 (b) aircraft registration fees deposited into the account in accordance with Section
120 72-10-110;

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

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

123 and

124 (e) interest earned on account money.

125 (3) The department shall allocate funds in the account to the separate accounts of
126 individual airports as required under Section 59-13-402.

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

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

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

133 (iii) operation of the division of aeronautics;

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

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

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

141 (5) (a) Money in the account may not be used by the department for the purchase of

142 aircraft for purposes other than those described in Subsection (4).

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

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

146 (a) more than 77% of the operations costs related to state owned aircraft in fiscal year
147 2023-24;

148 (b) more than 52% of the operations costs related to state owned aircraft in fiscal year
149 2024-25;

150 (c) more than 26% of the operations costs related to state owned aircraft in fiscal year
151 2025-26;

152 (d) more than 10% of the operations costs related to state owned aircraft in fiscal year
153 2026-27; or

154 (e) any operations costs related to state owned aircraft in a fiscal year beginning on or
155 after July 1, 2027.

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

157 **72-2-132. State Aircraft Restricted Account.**

158 (1) There is created a restricted account known as the State Aircraft Restricted
159 Account.

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

161 (a) fees the department receives for use of state owned aircraft;

162 (b) appropriations to the account by the Legislature;

163 (c) contributions from other public or private sources for deposit into the account; and

164 (d) interest earned on money in the account.

165 (3) Upon appropriation by the Legislature, the department may use money in the
166 account for the operation and maintenance of state owned aircraft.

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

168 **72-14-102. Definitions.**

169 As used in this chapter:

170 (1) (a) "Advanced air mobility system" means a system that transports individuals and
171 property using piloted and unpiloted aircraft, including electric aircraft and electric vertical
172 takeoff and landing aircraft, in controlled or uncontrolled airspace.

173 (b) "Advanced air mobility system" includes each component of a system described in
174 Subsection (1)(a), including:

- 175 (i) the aircraft, including payload;
- 176 (ii) communications equipment;
- 177 (iii) navigation equipment;
- 178 (iv) controllers;
- 179 (v) support equipment; and
- 180 (vi) remote and autonomous functions.

181 ~~[(1)]~~ (2) "Airport" means the same as that term is defined in Section 72-10-102.

182 ~~[(2)]~~ (3) "Airport operator" means the same as that term is defined in Section
183 72-10-102.

184 ~~[(3)]~~ (4) "Correctional facility" means the same as that term is defined in Section
185 77-16b-102.

186 ~~[(4)]~~ (5) "Unmanned aircraft" means an aircraft that is:

- 187 (a) capable of sustaining flight; and
- 188 (b) operated with no possible direct human intervention from on or within the aircraft.

189 ~~[(5)]~~ (6) "Unmanned aircraft system" means the entire system used to operate an
190 unmanned aircraft, including:

- 191 (a) the unmanned aircraft, including payload;
- 192 (b) communications equipment;
- 193 (c) navigation equipment;
- 194 (d) controllers;
- 195 (e) support equipment; and
- 196 (f) autopilot functionality.

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

198 **72-14-103. Preemption of local ordinance.**

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

202 (a) authorized by this chapter; or

203 (b) the political subdivision or entity is an airport operator that enacts the law, rule, or
204 ordinance to govern:

205 (i) the operation of an unmanned aircraft or an advanced air mobility system within the
206 geographic boundaries of the airport over which the airport operator has authority; or

207 (ii) the takeoff or landing of an unmanned aircraft or an aircraft operated as part of an
208 advanced air mobility system at the airport over which the airport operator has authority.

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

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

212 **76-9-308. Harassment of livestock.**

213 (1) As used in this section:

214 (a) "Livestock" has the same meaning as that term is defined in Subsection
215 **76-9-301(1)**.

216 (b) "Unmanned aircraft system" [~~has the same meaning as that term is defined in~~
217 ~~Subsection **72-14-102(4)**~~] means the same as that term is defined in Section **72-14-102**.

218 (2) Except as provided in Subsection (3), a person is guilty of harassment of livestock
219 if the person intentionally, knowingly, or recklessly chases, with the intent of causing distress,
220 or harms livestock through the use of:

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

222 (b) a dog; or

223 (c) an unmanned aircraft system.

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

225 (a) the person is:

- 226 (i) the owner of the livestock;
- 227 (ii) an employee or agent of the owner, or otherwise acting under the owner's general
- 228 direction or with the owner's permission;
- 229 (iii) acting in an emergency situation to prevent damage to the livestock or property; or
- 230 (iv) an employee or agent of the state or a political subdivision and acting in the
- 231 employee or agent's official capacity; or
- 232 (b) the action is in line with generally accepted animal husbandry practices.
- 233 (4) A person who violates this section is guilty of:
- 234 (a) a class B misdemeanor if the violation is a first offense and:
- 235 (i) no livestock is seriously injured or killed as a result of the person's actions; or
- 236 (ii) the person's actions cause the livestock to be displaced onto property where the
- 237 livestock is not legally entitled to be; and
- 238 (b) a class A misdemeanor if:
- 239 (i) the person has previously been convicted of harassment of livestock under this
- 240 section;
- 241 (ii) livestock is seriously injured or killed as a result of the person's actions; or
- 242 (iii) livestock or property suffered damage in excess of \$1,000, including money spent
- 243 in recovering the livestock, as a result of the person's actions.