

**Senator Wayne A. Harper** proposes the following substitute bill:

**RAILROAD AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Kay J. Christofferson

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**LONG TITLE**

**General Description:**

This bill establishes a rail ombudsman.

**Highlighted Provisions:**

This bill:

- ▶ establishes a rail ombudsman position within the rail division; and
- ▶ modifies implementation dates of certain provisions or changes relating to rail.

**Money Appropriated in this Bill:**

This bill appropriates in fiscal year 2025:

▶ to Transportation - Operations/Maintenance Management as a one-time appropriation:

- from the Rail Transportation Restricted Account, One-time, \$800,000

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**56-1-12 (Effective 04/01/24)**, as repealed and reenacted by Laws of Utah 2023, Chapter 232

**56-1-13 (Effective 04/01/24)**, as repealed and reenacted by Laws of Utah 2023, Chapter



26 232

27 **56-1-39 (Effective 03/31/24)**, as enacted by Laws of Utah 2023, Chapter 41 and last  
28 amended by Coordination Clause, Laws of Utah 2023, Chapter 41

29 **72-2-131**, as last amended by Laws of Utah 2021, Chapter 387

30 **72-17-101 (Effective 03/31/24)**, as enacted by Laws of Utah 2023, Chapter 42

31 **72-17-102 (Effective 03/31/24)**, as enacted by Laws of Utah 2023, Chapter 42

32 **72-17-103 (Effective 03/31/24)**, as enacted by Laws of Utah 2023, Chapter 42

33 **72-17-104 (Effective 03/31/24)**, as enacted by Laws of Utah 2023, Chapter 42

34 **72-17-105 (Effective 03/31/24)**, as enacted by Laws of Utah 2023, Chapter 42

35 **72-17-106 (Effective 03/31/24)**, as enacted by Laws of Utah 2023, Chapter 42

36 **72-17-107 (Effective 03/31/24)**, as enacted by Laws of Utah 2023, Chapter 42

37 **72-17-108 (Effective 03/31/24)**, as enacted by Laws of Utah 2023, Chapter 42

38 ENACTS:

39 **56-1-12.1**, Utah Code Annotated 1953

40 **56-1-13.1**, Utah Code Annotated 1953

41 **63I-2-256**, Utah Code Annotated 1953

42 **72-18-101**, Utah Code Annotated 1953

43 **72-18-102**, Utah Code Annotated 1953



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

46 Section 1. Section **56-1-12 (Effective 04/01/24)** is amended to read:

47 **56-1-12 (Effective 04/01/24). Injury to livestock -- Notice -- Railroad Livestock**  
48 **Damages Fund and Board -- Appeals -- Compensation and fees -- Rulemaking.**

49 (1) The provisions in this section apply beginning on May 7, 2025.

50 (2) As used in this section:

51 (a) "Actual fair market value" means the actual value of damages to livestock as  
52 determined by the Livestock Damages Board.

53 (b) "Damage" means injury or loss to livestock resulting from a strike by a railroad  
54 operation.

55 (c) "Department" means the Department of Agriculture and Food created in Section  
56 **4-2-102.**

57 (d) "Estimated market value" means the market value of livestock as determined in  
58 rules made in accordance with Subsection [~~(8)~~] (9).

59 (e) "Indemnification provision" means a covenant, promise, agreement or  
60 understanding in, in connection with, or collateral to a railroad contract requiring the other  
61 entity to insure, hold harmless, indemnify, or defend a railroad against liability if:

62 (i) the damages arise out of:

63 (A) damage to property, including livestock; or

64 (B) other related economic loss; and

65 (ii) the damages are caused by or resulting from the fault, in whole or in part, of the  
66 railroad or the railroad's agents or employees.

67 (f) "Law enforcement agency" means the same as that term is defined in Section  
68 53-1-102.

69 (g) "Livestock" means the same as that term is defined in Section 4-1-109.

70 (h) "Livestock Damages Board" means the Livestock Damages Board created in  
71 Subsection [~~(9)~~] (10).

72 (i) "Railroad" means the same as that term is defined in 49 C.F.R. Sec. 200.3.

73 (j) "Railroad Livestock Damage Fund" or "fund" means the Railroad Livestock  
74 Damage Fund created in Subsection [~~(7)~~] (8).

75 (k) "Statewide railroad engineer" means the statewide railroad engineer within the  
76 Department of Transportation.

77 [~~(2)~~] (3) Each railroad that operates in this state shall provide to the department current  
78 contact information suitable for communication between the department and the railroad  
79 regarding injury to livestock caused by a railroad.

80 [~~(3)~~] (4) (a) A railroad operator that strikes, injures, or kills livestock during the  
81 operation of an engine or car shall:

82 (i) immediately record the location of the strike; and

83 (ii) within 24 hours of the strike, notify and provide pertinent information to the  
84 department and the statewide railroad engineer.

85 (b) (i) If a railroad fails to report a strike as required in Subsection [~~(3)(a)~~] (4)(a), the  
86 railroad is liable for a civil penalty of at least \$5,000 per incident.

87 (ii) It is prima facie evidence that a railroad has failed to report if:

88 (A) an investigation described in Subsection [~~(3)(c)~~] (4)(c) determines that livestock  
89 was struck by railroad;

90 (B) the investigation under Subsection [~~(3)(c)~~] (4)(c) resulted from a notification from  
91 a livestock owner of a potential strike as described in Subsection [~~(4)(c)~~] (5)(c); and

92 (C) the railroad has not reported a corresponding strike under Subsection [~~(3)(a)~~]  
93 (4)(a).

94 (iii) If the department determines that a railroad has failed to report as described in  
95 Subsection [~~(3)(b)(ii)~~] (4)(b)(ii):

96 (A) the department shall notify the railroad and assess a civil penalty; and

97 (B) the railroad shall pay the civil penalty assessed by the department.

98 (iv) The department shall deposit into the Railroad Livestock Damage Fund any money  
99 received for a civil penalty under this Subsection [~~(3)(b)~~] (4)(b).

100 (v) Payment of a civil penalty described in this Subsection [~~(3)(b)~~] (4)(b) does not  
101 release a railroad from liability for damage to livestock.

102 (c) After receiving the notification described in Subsection [~~(3)(a)~~] (4)(a), the  
103 department shall:

104 (i) notify the relevant law enforcement agency with jurisdiction over the location of the  
105 livestock strike; and

106 (ii) in consultation with the relevant law enforcement agency and the statewide railroad  
107 engineer, make reasonable efforts to:

108 (A) investigate the scene of the strike;

109 (B) identify the livestock that was struck;

110 (C) determine ownership of the livestock that was struck;

111 (D) assess the state of repair of the fences along the railroad right-of-way; and

112 (E) document and preserve relevant evidence of the scene of the strike.

113 (d) (i) After the investigation described in Subsection [~~(3)(b)~~] (4)(3), if possible, the  
114 department and relevant law enforcement agency shall notify the owner of the livestock that  
115 was struck.

116 (ii) The department shall create and maintain a website to document and provide notice  
117 and information to the public regarding livestock strikes within this state.

118 (iii) If the relevant law enforcement agency and department are unable to identify the

119 owner of the injured livestock as described in Subsection [~~(3)~~(b)] (4)(b), the department shall  
120 post and maintain relevant information regarding the strike on a website to provide notice to  
121 the public regarding each livestock strike.

122 [~~(4)~~] (5) (a) If livestock is struck by an implement of railroad operations, the owner of  
123 the livestock may receive compensation for the estimated market value or the actual fair market  
124 value of the damage.

125 (b) To obtain compensation, the owner of the damaged livestock shall notify the  
126 department as soon as possible after discovering the damage.

127 (c) A livestock owner shall notify the department each time the owner believes  
128 livestock has been damaged by railroad operations.

129 [~~(5)~~] (6) A livestock owner shall file a proof of loss form, provided by the department,  
130 no later than 30 days after the date of the original notification livestock damage:

131 (a) has been received by the livestock owner pursuant to Subsection [~~(3)~~(c)] (4)(c); or

132 (b) has been received by the department pursuant to Subsection [~~(4)~~(c)] (5)(c).

133 [~~(6)~~] (7) The department shall:

134 (a) within 30 days after the day the department receives a proof of loss form from a  
135 livestock owner, either accept or deny the claim for damages to livestock; and

136 (b) to the extent money is available in the Railroad Livestock Damage Fund created in  
137 Subsection [~~(7)~~] (8), pay all accepted claims in accordance with the livestock estimated market  
138 value established pursuant to Subsection [~~(8)~~] (9).

139 [~~(7)~~] (8) (a) There is created an expendable special revenue fund called the Railroad  
140 Livestock Damage Fund.

141 (b) The fund shall consist of:

142 (i) deposits by the Legislature;

143 (ii) an initial deposit by each railroad as described in Subsection [~~(7)~~(c)] (8)(c);

144 (iii) periodic payments by each railroad as required in Subsection [~~(7)~~(d)] (8)(d);

145 (iv) annual deposits by each railroad for administrative costs as provided under  
146 Subsection [~~(7)~~(c)] (8)(e);

147 (v) money deposited by the department from a civil penalty described in Subsection  
148 [~~(3)~~] (4);

149 (vi) other donations or deposits into the fund; and

150 (vii) interest earned on the balance of the fund.

151 (c) Before December 31, 2023, each railroad shall pay into the Railroad Livestock

152 Damage Fund:

153 (i) an initial, one-time fee of \$150 per mile of railroad track owned by the railroad in  
154 this state, in accordance with rules made under Subsection ~~[(8)(b)]~~ (9)(b), to capitalize the fund  
155 for payment of claims as provided in this section; and

156 (ii) an initial, one-time fee of \$75 per mile of railroad track owned by the railroad in  
157 this state, in accordance with rules made under Subsection ~~[(8)(b)]~~ (9)(b), to pay for staff  
158 salaries and other costs to administer the fund and the department responsibilities under this  
159 section.

160 (d) (i) If the department issues payment from the fund in accordance with Subsection  
161 ~~[(6)]~~ (7), the department shall notify the relevant railroad that is liable for the damage.

162 (ii) The department shall include in the notice to the railroad described in Subsection  
163 ~~[(7)(d)(i)]~~ (8)(d)(i) relevant information, including:

164 (A) the date or approximate date that the damage occurred;

165 (B) the location where the damage occurred;

166 (C) the type of livestock that was damaged;

167 (D) the name of the owner of the livestock that was damaged; and

168 (E) the estimated market value of the damage for which the railroad is responsible.

169 (iii) Within 30 days of the date the railroad receives the notice described in Subsection  
170 ~~[(7)(d)(iii)]~~ (8)(d)(i), the railroad shall remit to the department the value of the damage.

171 (iv) If a railroad fails to remit to the department the value of the damage as required in  
172 Subsection ~~[(7)(d)(i)]~~ (8)(d)(i), the department may impose a civil penalty up to \$10,000:

173 (A) for the failure to pay within 30 days as described in Subsection ~~[(7)(d)(iii)]~~

174 ~~(8)(d)(iii)~~; and

175 (B) for every additional 30-day period of delinquency.

176 (v) Payment of a civil penalty described in Subsection ~~[(7)(d)(iv)]~~ (8)(d)(iv) does not  
177 release a railroad from liability for damage to livestock.

178 (e) (i) Between July 1, 2023, and December 31, 2023, the department shall gather data  
179 from livestock strikes reported as required in this section to determine how many livestock  
180 strikes occurred during that six months.

181 (ii) Based on the information gathered under Subsection [~~(7)(e)(i)~~] (8)(e)(i) and  
182 extrapolated and adjusted to estimate annual strike rates, beginning on July 1, 2024, the  
183 department shall establish and charge an administrative fee for each claim the department  
184 processes under this section sufficient to cover the staff salary and other administrative costs  
185 directly related to the administration of this section.

186 (iii) The department shall establish and publish the fee amount in rules made pursuant  
187 to Subsection [~~(8)~~] (9).

188 (iv) The department may not charge more than necessary to cover the costs of salary  
189 and administration directly related to the duties under this chapter.

190 (f) In addition to payment of claims for damage to livestock as described in this  
191 section, the department may use money in the Railroad Livestock Damage Fund to pay for the  
192 costs of administration, staff salary, and other support related to the Railroad Livestock  
193 Damage Fund and administration of this section.

194 [~~(8)~~] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
195 Act, the department shall make rules necessary to implement and enforce this section,  
196 including rules to establish the:

197 (a) estimated market value of each type of livestock;

198 (b) official mileage calculation for each railroad for the fee established in Subsection  
199 [~~(7)(e)~~] (8)(c); and

200 (c) administrative fee per claim as described in Subsection [~~(7)(e)~~] (8)(e).

201 [~~(9)~~] (10) (a) A livestock owner may appeal the estimated market value granted by the  
202 department for damage to livestock by appealing to the Livestock Damages Board.

203 (b) There is created the Livestock Damages Board, which shall consist of three  
204 members appointed as described in Subsection [~~(9)(e)~~] (10)(c).

205 (c) The commissioner of the department shall appoint three members to the Livestock  
206 Damages Board as follows:

207 (i) one member who owns or administers a livestock auction;

208 (ii) one member who owns livestock and is engaged in a livestock business; and

209 (iii) one member who works for the department.

210 (d) Except as described in Subsection [~~(9)(e)(ii)~~] (10)(e)(ii), a member of the Livestock  
211 Damages Board may serve for up to two terms of four years.

212 (e) (i) The commissioner shall appoint the first members to the Livestock Damages  
213 Board on or before January 1, 2024.

214 (ii) The commissioner shall stagger the initial terms of the members of the Livestock  
215 Damages Board appointed on or before January 1, 2024, by:

216 (A) designating one appointee to serve an initial term of five years; and

217 (B) designating one appointee to serve an initial term of three years.

218 (f) (i) The Livestock Damages Board may convene twice each year to hear appeals  
219 regarding the value of livestock damaged by a railroad operation.

220 (ii) If a livestock owner provides clear and convincing evidence that the value of the  
221 damage to livestock caused by a railroad operation exceeds the estimated market value  
222 established pursuant to Subsection [~~(8)~~] (9), the Livestock Damages Board may issue payment  
223 from the fund at the actual fair market value amount established in the hearing.

224 [~~(10)~~] (11) An indemnification provision in a contract between a railroad and another  
225 entity that operates on a railroad facility is against public policy and is void and unenforceable  
226 to the extent the indemnification provision is related to damages to livestock or another  
227 provision in this section.

228 Section 2. Section 56-1-12.1 is enacted to read:

229 **56-1-12.1. Injury to livestock -- Notice.**

230 Every person operating a railroad within this state that injures or kills any livestock of  
231 any description by the running of any engine or engines, car or cars, over or against any such  
232 livestock shall within three days thereafter post at the first railroad station in each direction  
233 from the place of such injury or killing in some conspicuous place on the outside of such  
234 station a notice in writing of the number and kind of animals so injured or killed, with a full  
235 description of each, and the time and place as near as may be of such injury or killing. Such  
236 notice shall be dated and signed by some officer or agent of such railroad, and a duplicate  
237 thereof shall be filed with the county clerk of the county in which stock is so injured or killed.  
238 Every person willfully failing, neglecting or refusing to comply with the provisions of this  
239 section is guilty of a class B misdemeanor and shall be fined in any sum not exceeding \$50.

240 Section 3. Section 56-1-13 (Effective 04/01/24) is amended to read:

241 **56-1-13 (Effective 04/01/24). Fencing right-of-way -- Gates.**

242 (1) The provisions in this section apply beginning on May 7, 2025.



243           (2) As used in this section:

244           (a) "Livestock" means the same as that term is defined in Section 4-1-109.

245           (b) "Railroad" means the same as that term is defined in 49 C.F.R. Sec. 200.3.

246           ~~(2)~~ (3) Each railroad shall erect and maintain a fence on each side of any railroad

247 right-of-way owned or operated by the railroad that passes through:

248           (a) land owned by a private owner; or

249           (b) public land upon which grazing of livestock occurs.

250           ~~(3)~~ (4) A railroad shall ensure that a fence required under Subsection ~~(2)~~ (3) is:

251           (a) at least four and one-half feet high;

252           (b) constructed with barbed or other fencing wire, with at least five wires;

253           (c) constructed with substantial posts no more than 16.5 feet apart; and

254           (d) reasonably constructed to ensure livestock are unable to pass through the fence.

255           ~~(4)~~ (5) A railroad shall ensure that fences required under Subsection ~~(2)~~ (3) include  
256 proper gates and cattle guards at each private crossing.

257           ~~(5)~~ (6) A railroad is liable to a livestock owner for all damages to livestock resulting  
258 from a railroad's failure to construct or maintain a fence as required in this section.

259           ~~(6)~~ (7) (a) If a fence falls into disrepair or is damaged, the railroad shall ensure that  
260 the fence is repaired as soon as possible, but not later than 30 days after the date the railroad  
261 receives notice of the disrepair or damage.

262           (b) To recover damage to livestock caused by a damaged fence as described in this  
263 section, a livestock owner shall follow the procedures described in Section 56-1-12.

264           ~~(7)~~ (8) (a) If a railroad fails to repair a fence within 30 days after the date the railroad  
265 receives notice as described in Subsection ~~(6)(a)~~ (7)(a), the owner of the adjacent property  
266 may construct or repair the fence.

267           (b) If a land owner repairs a fence as described in Subsection ~~(7)(a)~~ (8)(a):

268           (i) the railroad is liable for the full value of the work and materials for the construction  
269 or repair; and

270           (ii) if the railroad fails to timely reimburse the land owner, the land owner may file a  
271 civil action in a court of competent jurisdiction.

272           ~~(8)~~ (9) Any work by a land owner to repair a fence required by this section does not:

273           (a) shift liability for damage to livestock as described in Section 56-1-12 to the land

274 owner; or

275 (b) relieve the railroad from liability for damage to livestock as described in Section  
276 56-1-12.

277 Section 4. Section 56-1-13.1 is enacted to read:

278 **56-1-13.1. Fencing right-of-way -- Gates.**

279 Every railroad company shall erect and maintain a fence on each side of its rights of  
280 way where the same passes through lands owned and improved by private owners, and at all  
281 public road crossings shall connect the same with cattle guards. Such fence shall not be less  
282 than four and one-half feet in height and may be constructed of barbed or other fencing wire  
283 with not less than five wires, and good, substantial posts not more than one rod apart with a  
284 stay midway between the posts attached to the wires to keep said wires in place; and whenever  
285 such railroad company shall provide gates for private crossings for the convenience of the  
286 owners of the land through which such railroad passes, such gates shall be so constructed that  
287 they may be easily operated; and every railroad company shall be liable for all damages  
288 sustained by the owner of any domestic animal killed or injured by such railroad in  
289 consequence of the failure to build or maintain such fence. The owner of such lands shall keep  
290 such gate closed at all times when not in actual use, and if such owner fails to keep such gates  
291 closed, and in consequence thereof, any animal owned by him strays upon such railroad, and is  
292 killed or injured, such owner shall not be entitled to recover damages therefor.

293 Section 5. Section 56-1-39 (Effective 03/31/24) is amended to read:

294 **56-1-39 (Effective 03/31/24). Assessment for right-of-way infrastructure**  
295 **improvements.**

296 (1) The provisions in this section apply beginning on May 7, 2025.

297 (2) As used in this section:

298 (a) "Benefit" includes enhanced property value, enhanced safety or efficiency, reduced  
299 costs, and liability avoidance.

300 (b) "Government entity" means the state or a county, city, town, metro township, local  
301 district, or special service district.

302 (c) (i) "Railroad" means a rail carrier that is a Class I railroad, as classified by the  
303 federal Surface Transportation Board.

304 (ii) "Railroad" does not include a rail carrier that is:

305 (A) exempt from assessment under 49 U.S.C. Sec. 24301; or

306 (B) owned by a government entity.

307 (d) (i) "Right of way infrastructure improvement" means construction, reconstruction,  
308 repair, or maintenance of public infrastructure that:

309 (A) is paid for by a government entity; and

310 (B) is partially or wholly within a railroad's right of way or crosses over a railroad's  
311 right of way.

312 (ii) "Right of way infrastructure improvement" includes any component of  
313 construction, reconstruction, repair, or maintenance of public infrastructure, including:

314 (A) any environmental impact study, environmental mitigation, or environmental  
315 project management; and

316 (B) any required or requested review by a non-governmental entity.

317 (e) "Public infrastructure" means any of the following improvements:

318 (i) a system or line for water, sewer, drainage, electrical, or telecommunications;

319 (ii) a street, road, curb, gutter, sidewalk, walkway, or bridge;

320 (iii) signage or signaling related to an improvement described in Subsection [~~(1)(e)(i)~~]

321 (2)(e)(i) or (ii);

322 (iv) an environmental improvement; or

323 (v) any other improvement similar to the improvements described in Subsections

324 [~~(1)(e)(i)~~] (2)(e)(i) through (iv).

325 [~~(2)~~] (3) A government entity may, to the extent allowed under federal law, assess a  
326 railroad for any portion of the cost of a right of way infrastructure improvement, including any  
327 cost attributable to delay, if:

328 (a) the government entity determines that the right of way infrastructure improvement  
329 provides a benefit to the railroad;

330 (b) the amount of the assessment is proportionate to the benefit the railroad receives, as  
331 determined by the government entity; and

332 (c) the government entity uses the assessment to pay for or as reimbursement for the  
333 cost of the right of way infrastructure improvement and not for the general support of the  
334 government entity.

335 [~~(3)~~] (4) (a) If two or more government entities have authority under this section to

336 assess a railroad for the same right of way infrastructure improvement, the Office of Rail  
337 Safety created in Section 72-17-101 shall:

338 (i) determine the amount of each government entity's assessment in accordance with  
339 Subsection ~~[(2)]~~ (3);

340 (ii) assess the railroad for the total of all amounts described in Subsection ~~[(3)(a)(i)]~~  
341 ~~(4)(a)(i)~~; and

342 (iii) distribute the collected assessments to each government entity.

343 (b) The total amount of an assessment under this Subsection ~~[(3)]~~ (4) may not exceed  
344 the amount described in Subsection ~~[(2)(b)]~~ (3)(b).

345 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
346 Department of Transportation may make rules to establish a process for implementing the  
347 provisions of this Subsection ~~[(3)]~~ (4).

348 Section 6. Section 631-2-256 is enacted to read:

349 **631-2-256. Repeal dates: Title 56.**

350 (1) Section 56-1-12.1, relating to injury to livestock, is repealed May 7, 2025.

351 (2) Section 56-1-13.1, relating to fencing right-of-way, is repealed May 7, 2025.

352 Section 7. Section 72-2-131 is amended to read:

353 **72-2-131. Rail Transportation Subaccount -- Grants for railroad crossing safety.**

354 (1) As used in this section, "eligible entity" means:

355 (a) a public entity; or

356 (b) a private entity that is exempt from federal income taxation under Section  
357 501(c)(3), Internal Revenue Code.

358 (2) There is created in the Transit Transportation Investment Fund, created in Section  
359 72-2-124, the Rail Transportation ~~[Restricted Account]~~ Subaccount.

360 (3) The ~~[account]~~ subaccount shall be funded by:

361 (a) appropriations to the ~~[account]~~ subaccount by the Legislature;

362 (b) private contributions;

363 (c) donations or grants from public or private entities; and

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

365 (4) Upon appropriation, the department shall:

366 (a) use an amount equal to 10% of the money deposited into the ~~[account]~~ subaccount

367 to provide grants in accordance with Subsection (5);

368 (b) use an amount equal to 10% of the money deposited into the [account] subaccount  
369 to pay:

370 (i) the costs of performing environmental impact studies in connection with  
371 construction, reconstruction, or renovation projects related to railroad crossings on class A,  
372 class B, or class C roads; or

373 (ii) the appropriate debt service or sinking fund for the repayment of bonds issued  
374 under Subsection 63B-31-101(6); and

375 (c) use the remaining money deposited into the [account] subaccount to pay:

376 (i) the costs of construction, reconstruction, or renovation projects related to railroad  
377 crossings on class A, class B, or class C roads;

378 (ii) debt service related to a project described in Subsection (4)(b); [or]

379 (iii) the appropriate debt service or sinking fund for the repayment of bonds issued  
380 under Subsection 63B-31-101(5)[~~];~~ or

381 (iv) ongoing maintenance costs of at-grade crossings between rail lines and public  
382 highways.

383 (5) (a) The department may award grants to one or more eligible entities to be used for  
384 the purpose of improving safety at railroad crossings on class A, class B, or class C roads.

385 (b) An eligible entity may use grant money for any expense related to improving safety  
386 at railroad crossings on class A, class B, or class C roads, including:

387 (i) signage; and

388 (ii) safety enhancements to a railroad crossing.

389 (c) The department shall prioritize, in the following order, grants to applicants that  
390 propose projects impacting railroad crossings that:

391 (i) have demonstrated safety concerns, including emergency services access; and

392 (ii) have high levels of vehicular and pedestrian traffic.

393 Section 8. Section 72-17-101 (Effective 03/31/24) is amended to read:

394 **72-17-101 (Effective 03/31/24). Office of Rail Safety -- Creation -- Applicability.**

395 (1) The provisions in this section apply beginning on May 7, 2025.

396 (2) In accordance with 49 C.F.R. Part 212, State Safety Participation Regulations, there  
397 is created within the department an Office of Rail Safety.

398            [~~2~~] (3) As described in 49 C.F.R. Secs. 212.105 and 212.107, to organize the Office  
399 of Rail Safety, the executive director shall:

400            (a) enter into an agreement with the Federal Railroad Administration to participate in  
401 inspection and investigation activities; and

402            (b) obtain certification from the Federal Railroad Administration to undertake  
403 inspection and investigative responsibilities and duties.

404            [~~3~~] (4) In establishing the Office of Rail Safety in accordance with the duties  
405 described in 49 C.F.R. Part 212, the department may hire personnel and establish the duties of  
406 the office in phases.

407            [~~4~~] (5) This chapter applies to:

408            (a) a class I railroad; and

409            (b) commuter rail.

410            Section 9. Section **72-17-102 (Effective 03/31/24)** is amended to read:

411            **72-17-102 (Effective 03/31/24). Definitions.**

412            As used in this chapter:

413            (1) "Class I railroad" means the same as that term is defined in 49 U.S.C. Sec. 20102.

414            (2) "Commuter rail" means the same as that term is defined in Section [63N-3-602](#).

415            (3) "Federal Railroad Administration" means the Federal Railroad Administration  
416 created in 49 U.S.C. Sec. 103.

417            (4) "Office" means the Office of Rail Safety created in accordance with Section  
418 [72-17-101](#).

419            (5) "Railroad" means the same as that term is defined in 49 C.F.R. Sec. 200.3.

420            (6) The provisions in this section apply beginning on May 7, 2025.

421            Section 10. Section **72-17-103 (Effective 03/31/24)** is amended to read:

422            **72-17-103 (Effective 03/31/24). Duties of the Office of Rail Safety.**

423            (1) The provisions in this section apply beginning on May 7, 2025.

424            (2) In accordance with 49 C.F.R. Part 212, and the authorization granted from the  
425 Federal Railroad Administration, the office shall perform the inspection, compliance, and  
426 enforcement duties in the following areas:

427            (a) grade crossings;

428            (b) hazardous materials;

- 429 (c) motive power and equipment;
- 430 (d) operating practices;
- 431 (e) signal and train control; and
- 432 (f) track.

433 ~~[(2)]~~ (3) As part of the responsibilities described in Subsection ~~[(1)]~~ (2), the office  
434 shall:

435 (a) inspect and investigate railroad rights-of-way, facilities, equipment, and operations  
436 of railroads in this state;

437 (b) notify a railroad of any violation or lack of compliance with applicable state and  
438 federal laws, rules, regulations, orders, and directives;

439 (c) enforce applicable state and federal laws, rules, regulations, orders, and directives  
440 relating to the transportation by rail of persons or commodities; and

441 (d) issue orders to require compliance with state and federal laws, rules, regulations,  
442 orders, and directives.

443 ~~[(3)]~~ (4) The office shall employ a sufficient number of federally certified inspectors  
444 and staff to ensure that railroad equipment, facilities, and tracks are inspected as frequently as  
445 reasonably required to ensure compliance and safety as required under state and federal law.

446 ~~[(4)]~~ (5) (a) The office shall investigate railroad practices related to the length of time a  
447 railroad blocks a highway-railroad grade crossing.

448 (b) Upon petition of a political subdivision, or upon the office's own motion, the office  
449 may:

450 (i) conduct an investigation of the conditions related to a grade crossing; and

451 (ii) if necessary, conduct a hearing, make findings, and issue an order to determine  
452 whether highway-railroad crossing blocking practices of the railroad are reasonable.

453 (c) (i) The office shall examine and inspect the physical condition of all railroad  
454 facilities in this state to ensure compliance with safety requirements.

455 (ii) As part of the inspection and examination of railroad facilities and crossings, the  
456 office shall include an examination and inspection of:

457 (A) the condition of railroad facilities and crossing infrastructure;

458 (B) whether expansion of grade crossing infrastructure or other changes are justified  
459 based on the traffic and safety conditions; and

460 (C) other safety considerations required by federal law.

461 (d) If the office determines that a railroad's highway-railroad crossing blocking  
462 practices are unreasonable, the office shall:

463 (i) request the Federal Railroad Administration take enforcement actions pursuant to 49  
464 C.F.R. Sec. 212.115; and

465 (ii) notify the Surface Transportation Board defined in 49 U.S.C. Sec. 10102 of the  
466 unsafe and unreasonable practices.

467 (e) If the office finds a violation of safety requirements as described in this section or  
468 in federal law, and the office requests an enforcement action and Federal Railroad  
469 Administration does not take enforcement action as described in 49 C.F.R. Sec. 212.115, the  
470 office may seek a civil penalty not less than \$500 and no more than \$10,000 for each offense.

471 ~~[(5)]~~ (6) (a) The office shall examine and inspect the physical condition of all railroad  
472 facilities in this state to ensure compliance with safety requirements.

473 (b) If an inspector determines that a railroad facility is noncompliant, the office shall  
474 provide written notice to the railroad.

475 (c) If a railroad receives a notice described in Subsection ~~[(5)(b)]~~ (6)(b), the railroad  
476 shall remedy the condition or practice within 30 days of the date of the notice.

477 (d) If after 30 days from the date of the notice the railroad has not remedied the  
478 condition or practice to the office's satisfaction, the office may set the matter for hearing.

479 (e) After a hearing described in Subsection ~~[(5)(d)]~~ (6)(d), if the office determines that  
480 the condition or practice is noncompliant and the railroad has not made reasonable efforts to  
481 remedy the condition or practice, the office may issue an order requiring the railroad to:

482 (i) eliminate or remedy the unsafe or unlawful condition or practice; or

483 (ii) make any necessary repairs, alterations, or other changes to the relevant condition  
484 or practice to ensure compliance with state and federal law.

485 (f) In addition to any order issued under Subsection ~~[(5)(e)]~~ (6)(e), after a hearing  
486 described in Subsection ~~[(5)(d)]~~ (6)(d), if the office determines that the condition or practice is  
487 noncompliant and the railroad has not made reasonable efforts to remedy the condition or  
488 practice, and the condition or practice is so hazardous as to place a railroad employee or the  
489 public in immediate danger, the office may issue an order requiring the railroad:

490 (i) after 48 hours' written notice to the railroad, issue an order prohibiting:



491 (A) the unsafe or unlawful practice; or

492 (B) the use of the facility until completion of the necessary repair, alteration, or other  
493 necessary changes; and

494 (ii) pay a civil penalty of not more than \$10,000 per violation or per day of violation of  
495 state or federal law, or a rule made in accordance with Subsection ~~[(6)]~~ (7) or Section  
496 72-17-107.

497 ~~[(6)]~~ (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
498 Act, the department shall make rules necessary to:

499 (a) establish the Office of Rail Safety as required in this part;

500 (b) establish and enforce rules regarding safe and reasonable procedures and standards  
501 regarding the blocking of grade crossings, which standards and limits shall be commensurate  
502 with reasonable requirements of train and vehicular traffic operations;

503 (c) enforce this part and relevant state and federal law related to this part; and

504 (d) administer the Office of Rail Safety as described in this part.

505 Section 11. Section 72-17-104 (Effective 03/31/24) is amended to read:

506 **72-17-104 (Effective 03/31/24). Federal Railroad Administration grant program.**

507 (1) The provisions in this section apply beginning on May 7, 2025.

508 (2) After reaching an agreement with and receiving the certification from the Federal  
509 Railroad Administration as described in Section 72-17-101, the office may apply for [~~Railroad~~  
510 ~~Safety Grants~~] railroad safety grants as often as permitted by the Federal Railroad  
511 Administration.

512 Section 12. Section 72-17-105 (Effective 03/31/24) is amended to read:

513 **72-17-105 (Effective 03/31/24). Establishment of administrative fees -- Payment --**  
514 **Expenditures.**

515 (1) ~~[(a)]~~ The provisions in this section apply beginning on May 7, 2025.

516 (2) The office shall annually determine a fee to be paid by each railroad that operated  
517 within the state and is subject to the jurisdiction of the office on a pro rata basis as described in  
518 Subsection ~~[(2)]~~ (3).

519 ~~[(b)]~~ (a) The office and the department shall establish the annual fee to produce a total  
520 amount not less than the amount required to regulate railroads and carry out the duties  
521 described in this part.

522           ~~[(e)]~~ (b) The office shall use the revenue generated by the fees paid by each railroad for  
523 the investigation and enforcement activities of the office as authorized under this part.

524           ~~[(2)]~~ (3) (a) For grade crossings inspections and services, the office shall establish and  
525 each railroad shall pay a fee based on:

526           (i) as of January 1 of each year, the number of crossings the railroad operates within  
527 this state that cross a highway, whether at grade, by overhead structure, or subway; and

528           (ii) the frequency of use of each crossing the railroad operates, including:

529           (A) the frequency of train operation at the crossing; and

530           (B) the frequency of highway traffic at the crossing.

531           (b) For hazardous materials related inspections and services, the office shall establish  
532 and each railroad shall pay a fee based on the tonnage of hazardous materials transported in this  
533 state during a given year.

534           (c) For motive power and equipment related inspections and services, the office shall  
535 establish and each railroad shall pay a fee based on the number of motive power units and other  
536 equipment units operated by the railroad in this state.

537           (d) For track related inspections and services, the office shall establish and each  
538 railroad shall pay a fee based on the number of miles of track owned or operated by the railroad  
539 within this state.

540           (e) For signal and train control inspections and services, as well as operating practices  
541 inspections and services, the office shall establish and each railroad shall pay a fee based on  
542 gross operating revenue of each railroad generated within this state.

543           (f) (i) For inspection services related to commuter rail, notwithstanding any other  
544 agreement, a county or municipality with commuter rail service provided by a public transit  
545 district may request local option transit sales tax in accordance with Section [59-12-2206](#) and  
546 spend local option transit sales tax in the amount requested by the office.

547           (ii) A county or municipality that requests local option transit sales tax as described in  
548 Subsection ~~[(2)(f)(i)]~~ (3)(f)(i) may transmit to the office the funds requested under Subsection  
549 ~~[(2)(f)(i)]~~ (3)(f)(i) and transmitted to the county or municipality under Subsection  
550 [59-12-2206\(5\)\(b\)](#).

551           (iii) A county or municipality that requests local option transit sales tax as described in  
552 Subsection ~~[(2)(f)(i)]~~ (3)(f)(i) may not request more local option transit sales tax than is

553 necessary to carry out the safety inspection and functions under this chapter.

554 (iv) The office is not required to charge or collect a fee related to inspections of  
555 commuter rail.

556 ~~[(3)]~~ (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
557 Act, the department shall make rules to establish each of the fee amounts described in  
558 Subsection ~~[(2)]~~ (3):

559 (i) according to the data described in Subsection ~~[(2)]~~ (3); and

560 (ii) to collect an amount sufficient to cover the budget and costs to administer the  
561 duties of the office.

562 (b) The department shall annually adjust the fees established in accordance with  
563 Subsection ~~[(3)(a)]~~ (4)(a) to account for inflation and other budgetary factors.

564 ~~[(4)]~~ (5) Each railroad that operates within this state shall pay to the office the fees  
565 described and established by the office.

566 Section 13. Section **72-17-106 (Effective 03/31/24)** is amended to read:

567 **72-17-106 (Effective 03/31/24). Office of Rail Safety Account.**

568 (1) The provisions in this section apply beginning on May 7, 2025.

569 (2) There is created an expendable special revenue fund called the Office of Rail Safety  
570 Account.

571 ~~[(2)]~~ (3) The account shall be funded by:

572 (a) deposits into the account by the Legislature;

573 (b) fees collected pursuant to Section **72-17-105**; and

574 (c) other deposits or donations into the account.

575 ~~[(3)]~~ (4) The office shall provide a detailed budget to account for the office's  
576 expenditures related to the enforcement of this part, including:

577 (a) salaries, per diem, and travel expenses of employees performing the duties  
578 described in this part;

579 (b) expenditures for clerical and support staff directly associated with the duties  
580 described in this part;

581 (c) expenditures for legal staff who pursue and administer complaints and compliance  
582 issues related to this part; and

583 (d) reasonable overhead costs related to Subsections ~~[(3)(a)]~~ (4)(a) through (c).

584 [~~4~~] (5) The office, in performing the duties under this part:

585 (a) shall limit the expenditure of funds to the total amount of fees collected from the  
586 railroads as described in this section; and

587 (b) may not expend funds from other sources accessible to the department.

588 Section 14. Section **72-17-107 (Effective 03/31/24)** is amended to read:

589 **72-17-107 (Effective 03/31/24). Rulemaking regarding railroad clearances and**  
590 **walkways.**

591 (1) The provisions of this section apply beginning on May 7, 2025.

592 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
593 department shall make rules to establish safety standards related to:

594 [~~1~~] (a) walkways adjacent to railroad track;

595 [~~2~~] (b) clearances of structures and other obstructions near railroad track;

596 [~~3~~] (c) the safety of office personnel conducting inspections in accordance with this  
597 part;

598 [~~4~~] (d) railroad infrastructure and work spaces for railroad workers;

599 [~~5~~] (e) signage related to railroad worker safety; and

600 [~~6~~] (f) other safety standards as the department finds necessary.

601 Section 15. Section **72-17-108 (Effective 03/31/24)** is amended to read:

602 **72-17-108 (Effective 03/31/24). Agreements to indemnify in a railroad contract.**

603 (1) The provisions of this section apply beginning on May 7, 2025.

604 (2) As used in this section:

605 (a) "Railroad contract" means a contract or agreement between:

606 (i) a railroad; and

607 (ii) another person that could be subject to a civil penalty or fine issued pursuant to this  
608 chapter.

609 (b) "Indemnification provision" means a covenant, promise, agreement, or  
610 understanding in, in connection with, or collateral to a railroad contract that requires the person  
611 to insure, hold harmless, indemnify, or defend the railroad against liability, if:

612 (i) the damages arise out of a civil penalty issued pursuant to this chapter; and

613 (ii) the damages are caused by or resulting from the fault of the railroad or the  
614 railroad's agents or employees.

615 ~~[(2)]~~ (3) Except as provided in Subsection ~~[(3)]~~ (4), an indemnification provision in a  
616 railroad contract is against public policy and is void and unenforceable.

617 ~~[(3)]~~ (4) If an indemnification provision is included in a railroad contract, in any action  
618 for damages described in Subsection ~~[(1)(b)(i)]~~ (2)(b)(i), the railroad may seek indemnification  
619 from another party to a railroad contract pro rata based on the proportional share of fault of  
620 each party, if:

- 621 (a) the damages are caused in part by the party other than the railroad; and
- 622 (b) the cause of the damages arose at a time when the party other than the railroad was  
623 operating pursuant to the railroad contract.

624 ~~[(4)]~~ (5) This section may not be construed to impair a contract in existence before  
625 May 3, 2023.

626 Section 16. Section **72-18-101** is enacted to read:

627 **CHAPTER 18. RAIL OMBUDSMAN**

628 **Part 1. Creation and Duties**

629 **72-18-101. Rail ombudsman.**

630 (1) There is created the position of rail ombudsman in the rail division of the  
631 department.

632 (2) The executive director of the department shall appoint the rail ombudsman.

633 Section 17. Section **72-18-102** is enacted to read:

634 **72-18-102. Rail ombudsman -- Duties.**

635 (1) The rail ombudsman shall:

636 (a) develop and maintain expertise in and understanding of laws and regulations  
637 relating to rail;

638 (b) coordinate, consult, and provide information to private citizens, government  
639 entities, rail operators, stakeholders, and other interested parties about rail related issues;

640 (c) on the rail ombudsman's website, provide:

641 (i) updated, easily accessible information about the duties of the rail ombudsman; and

642 (ii) a form that a member of the public, including a railroad company employee, may  
643 use to submit a report or complaint;

644 (d) provide education and training regarding rail laws and regulations; and

645 (e) arrange and facilitate meetings between a rail company and one or more of the

646 following, to resolve a rail dispute described in Subsection (2):

- 647 (i) a local government entity;
- 648 (ii) a large public transit district; or
- 649 (iii) a private property or livestock owner.

650 (2) The rail ombudsman shall facilitate meetings described in Subsection (1)(e) to  
651 resolve issues relating to:

- 652 (a) safety;
- 653 (b) at-grade and grade-separated rail crossings;
- 654 (c) fencing;
- 655 (d) injury to or loss of livestock;
- 656 (e) railroad maintenance, including maintenance agreements and road closures;
- 657 (f) improvements to railroad right-of-way infrastructure;
- 658 (g) track realignment;
- 659 (h) track consolidation; or
- 660 (i) any other issue that has caused a dispute between a rail company and a party

661 described in Subsection (1)(e).

662 (3) If the rail ombudsman invites a rail company or another party described in  
663 Subsection (1)(e) to a meeting to resolve a rail dispute, the rail company or other person shall:

- 664 (a) attend the meeting; and
- 665 (b) attempt to resolve the dispute through the rail ombudsman before filing an action in  
666 court or seeking another remedy.

667 (4) A rail company and a party described in Subsections (1)(e)(i) through (iii) shall  
668 provide notice to the rail ombudsman before:

- 669 (a) closing a highway for railroad maintenance; or
- 670 (b) starting a construction project involving:
  - 671 (i) an at-grade rail crossing; or
  - 672 (ii) the realignment or consolidation of railroad tracks.

673 (5) The rail ombudsman may not address nor participate in:

- 674 (a) organized labor issues or disputes; or
- 675 (b) rail company employee safety issues.

676 Section 18. **FY 2025 Appropriation.**

677 The following sums of money are appropriated for the fiscal year beginning July 1,  
678 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for  
679 fiscal year 2025.

680 Subsection 18(a). **Restricted Fund and Account Transfers.**

681 The Legislature authorizes the State Division of Finance to transfer the following  
682 amounts between the following funds or accounts as indicated. Expenditures and outlays from  
683 the funds to which the money is transferred must be authorized by an appropriation.

684 ITEM 1 To Operations/Maintenance Management

685 From Rail Transportation Restricted Account, One-time \$800,000

686 Schedule of Programs:

687 Maintenance Administration \$800,000

688 Section 19. **Effective date.**

689 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members  
690 elected to each house, this bill takes effect upon approval by the governor, or the day following  
691 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's  
692 signature, or in the case of a veto, the date of the veto override.

693 (2) If this bill is not approved by two-thirds of all members elected to each house, this  
694 bill takes effect May 1, 2024.