

DEPARTMENT OF TRANSPORTATION AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides that the Department of Transportation may employ auditing experts from outside the department rather than appoint at least two performance auditors for the department;
- ▶ repeals the class B and class C roads account;
- ▶ repeals the requirement that funds appropriated for class B and class C roads be deposited into the class B and class C roads account;
- ▶ requires the Department of Transportation, rather than the director of the Division of Finance, to transfer certain funds to the State Park Access Highways Improvement Program; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

30 **72-2-106**, as last amended by Laws of Utah 2016, Chapter 291
31 **72-2-107**, as last amended by Laws of Utah 2016, Chapter 291
32 **72-2-108**, as last amended by Laws of Utah 2016, Fourth Special Session, Chapter 2
33 **72-2-110**, as last amended by Laws of Utah 2009, Chapter 71
34 **72-3-301**, as last amended by Laws of Utah 2001, Chapter 222
35 **78A-5-110**, as last amended by Laws of Utah 2008, Chapter 22 and renumbered and
36 amended by Laws of Utah 2008, Chapter 3
37 **78A-7-120**, as last amended by Laws of Utah 2012, Chapter 205
38

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

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

41 **72-1-206. Performance auditing -- Appointment or employment -- Duties --**
42 **Reports.**

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

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

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

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

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

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

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

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

56 ~~[(b) The department may hire outside consultants to assist in the audits under~~
57 ~~Subsection (3).]~~

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

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

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

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

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

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

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

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

(h) any other executive director or commission requests.

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

(a) conduct audits in accordance with applicable professional auditing standards[-]; and

~~[(5) The performance auditors shall]~~

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

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

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

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

(2) For a fiscal year beginning on or after July 1, 2016, the Division of Finance shall annually transfer an amount equal to the amount of revenue generated by a tax imposed on

motor and special fuel that is sold, used, or received for sale or used in this state at a rate of 1.8 cents per gallon to the Transportation Investment Fund of 2005 created by Section 72-2-124.

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

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

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

(a) the Department of Public Safety;

(b) the State Tax Commission;

(c) the Division of Finance;

(d) the Utah Travel Council; and

(e) any other amounts appropriated or transferred for any other state agencies not a part of the department.

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

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

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

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

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

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

-- Bonds.

(1) For purposes of this section:

(a) "Graveled road" means a road:

(i) that is:

(A) graded; and

(B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;

(ii) that has an improved surface; and

(iii) that has a wearing surface made of:

(A) gravel;

(B) broken stone;

(C) slag;

(D) iron ore;

(E) shale; or

(F) other material that is:

(I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and

(II) coarser than sand.

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

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

(i) the width of the road; or

(ii) the number of lanes into which the road is divided.

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

(i) paved road miles multiplied by five; and

(ii) all other road type road miles multiplied by two.

(2) Subject to the provisions of Subsections (3) through (8) and except as provided in Subsection (10), funds ~~[in the]~~ appropriated for class B and class C roads ~~[account]~~ shall be

142 apportioned among counties and municipalities in the following manner:

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

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

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

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

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

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

159 (A) 14%; and

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

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

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

169 (a) subject to the requirement in Subsection (5) and for fiscal year 2016 only, an

170 amount equal to:

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

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

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

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

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

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

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

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

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

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

191 (5) For the purposes of calculating a final distribution of money collected in fiscal year
192 2016, the department shall subtract the payments previously made to a county or municipality
193 for money collected in fiscal year 2016 for class B and class C roads from the fiscal year 2016
194 total calculated in Subsection (4)(a).

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

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

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

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

211 (8) (a) If a county or municipality does not qualify for a reapportionment under
212 Subsection (4)(c) in the current fiscal year but previously qualified for a reapportionment under
213 Subsection (4)(c) on or after July 1, 2017, the county or municipality shall receive an amount
214 equal to the greater of:

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

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

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

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

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

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

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

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

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

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

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

A county or municipality may:

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

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

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

72-3-301. Statewide public safety interest highway defined -- Designations --

Control -- Maintenance -- Improvement restrictions -- Formula funding provisions.

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

(2) Statewide public safety interest highways include:

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

(b) SR-901. From SR-196 traversing westerly and northwesterly on a county road to a junction with a Bureau of Land Management road described as part of SR-901, then northwesterly to a junction with a county road for a distance of 8.70 miles. Then beginning again at a junction with SR-901 traversing northwesterly on a Bureau of Land Management road to a junction with a county road for a distance of 6.52 miles. Then beginning again at a junction with SR-901 traversing southwesterly on a Bureau of Land Management road to a junction with a county road for a distance of 5.44 miles. Then beginning again from a junction with SR-901 traversing southwesterly on a county road to a junction with a county road a distance of 11.52 miles. Then beginning again at a junction with SR-196 traversing westerly on a Bureau of Land Management road to a junction with a county road for a distance of 11.30 miles. The entire length of SR-901 is a total distance of 43.48 miles.

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

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

under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

78A-7-120. Disposition of fines.

(1) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the court and 1/2 to the treasurer of the local government which prosecutes or which would

prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section if the parties agree.

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

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

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

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

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

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

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

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

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