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TRANSPORTATION CODE REVISIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill amends provisions related to the Department of Transportation, policies and procedures, aeronautics, and lane restrictions.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to lane restrictions to allow certain public transit vehicles or vehicles towing a trailer to operate in the left general purpose lane;
- ▶ amends provisions related to vehicle and equipment restrictions related to weather conditions;
- ▶ amends provisions regarding the scope and applicability of the Administrative Procedures Act regarding certain actions by the Department of Transportation, including judicial review of those actions;
- ▶ provides transitional instructions regarding any claim against the Department of Transportation related to certain decisions made and the inapplicability of the Administrative Procedures Act;
- ▶ amends certain reporting requirements of the Department of Transportation;
- ▶ amends provisions related to studies and reports to the Legislature regarding managed lane use;
- ▶ adds parking facilities to the list of state transportation purposes;
- ▶ amends provisions and definitions related to the management of the Department of Transportation related to aeronautics; and
- ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **41-6a-702**, as last amended by Laws of Utah 2016, Chapter 137

37 **41-6a-715**, as renumbered and amended by Laws of Utah 2005, Chapter 2

38 **63G-4-102**, as last amended by Laws of Utah 2018, Chapter 317

39 **72-1-102**, as last amended by Laws of Utah 2018, Chapter 424

40 **72-1-201**, as last amended by Laws of Utah 2018, Chapter 200

41 **72-5-102**, as last amended by Laws of Utah 2001, Chapter 79

42 **72-10-102**, as last amended by Laws of Utah 2008, Chapters 206 and 286

43 **72-10-103**, as last amended by Laws of Utah 2008, Chapter 382

44 **72-10-105**, as last amended by Laws of Utah 1998, Chapter 365 and renumbered and
45 amended by Laws of Utah 1998, Chapter 270

46 **72-10-106**, as last amended by Laws of Utah 1998, Chapter 365 and renumbered and
47 amended by Laws of Utah 1998, Chapter 270

48 **72-10-107**, as last amended by Laws of Utah 2008, Chapter 382

49 **72-10-108**, as renumbered and amended by Laws of Utah 1998, Chapter 270

50 **72-10-115**, as renumbered and amended by Laws of Utah 1998, Chapter 270

51 **72-10-117**, as last amended by Laws of Utah 2008, Chapter 382

52 **72-10-118**, as renumbered and amended by Laws of Utah 1998, Chapter 270

53 **72-10-126**, as renumbered and amended by Laws of Utah 1998, Chapter 270

54 **72-10-129**, as renumbered and amended by Laws of Utah 1998, Chapter 270

55 **72-10-201**, as renumbered and amended by Laws of Utah 1998, Chapter 270

56 **72-10-202**, as renumbered and amended by Laws of Utah 1998, Chapter 270

57 **72-10-203**, as renumbered and amended by Laws of Utah 1998, Chapter 270

- 58 72-10-204, as renumbered and amended by Laws of Utah 1998, Chapter 270
- 59 72-10-205, as renumbered and amended by Laws of Utah 1998, Chapter 270
- 60 72-10-209, as renumbered and amended by Laws of Utah 1998, Chapter 270
- 61 72-10-210, as renumbered and amended by Laws of Utah 1998, Chapter 270
- 62 72-10-211, as renumbered and amended by Laws of Utah 1998, Chapter 270
- 63 72-10-303, as renumbered and amended by Laws of Utah 1998, Chapter 270
- 64 72-10-304, as renumbered and amended by Laws of Utah 1998, Chapter 270



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

67 Section 1. Section 41-6a-702 is amended to read:

68 **41-6a-702. Left lane restrictions -- Exceptions -- Other lane restrictions --**

69 **Penalties.**

70 (1) As used in this section and Section 41-6a-704, "general purpose lane" means a
71 highway lane open to vehicular traffic but does not include a designated:

72 (a) high occupancy vehicle (HOV) lane; or

73 (b) auxiliary lane that begins as a freeway on-ramp and ends as part of the next freeway
74 off-ramp.

75 (2) On a freeway or section of a freeway which has three or more general purpose lanes
76 in the same direction, a person may not operate a vehicle in the left most general purpose lane
77 if the person's[~~:(a) vehicle is drawing a trailer or semitrailer regardless of size; or (b)]~~ vehicle
78 or combination of vehicles has a gross vehicle weight of 12,001 or more pounds.

79 (3) Subsection (2) does not apply to a person operating a vehicle who is:

80 (a) preparing to turn left or taking a different highway split or an exit on the left;

81 (b) responding to emergency conditions;

82 (c) avoiding actual or potential traffic moving onto the highway from an acceleration or
83 merging lane; or

84 (d) following direction signs that direct use of a designated lane.

85 (4) (a) A highway authority may designate a specific lane or lanes of travel for any type

86 of vehicle on a highway or portion of a highway under its jurisdiction for the:

- 87 (i) safety of the public;
- 88 (ii) efficient maintenance of a highway; or
- 89 (iii) use of high occupancy vehicles.

90 (b) The lane designation under Subsection (4)(a) is effective when appropriate signs
91 giving notice are erected on the highway or portion of the highway.

92 (5) (a) Subject to Subsection (5)(b) [~~and beginning on July 1, 2011~~], the lane
93 designation under Subsection (4)(a)(iii) shall allow a vehicle with a clean fuel vehicle decal
94 issued in accordance with Section 72-6-121 to travel in lanes designated for the use of high
95 occupancy vehicles regardless of the number of occupants as permitted by federal law or
96 federal regulation.

97 (b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
98 the Department of Transportation may make rules to allow a vehicle with a clean fuel vehicle
99 decal to travel in lanes designated for the use of high occupancy vehicles regardless of the
100 number of occupants as permitted by federal law or federal regulation.

101 (ii) Except as provided in Subsection (5)(b)(iii), the Department of Transportation may
102 not issue more than 6,000 clean fuel vehicle decals under Section 72-6-121.

103 (iii) The Department of Transportation may, through rules made under Subsection
104 (5)(b)(i), increase the number of clean fuel vehicle decals issued in accordance with Section
105 72-6-121 beyond the minimum described in Subsection (5)(b)(ii) if the increased issuance will
106 allow the Department of Transportation to continue to meet its goals for operational
107 management of the lane designated under Subsection (4)(a)(iii).

108 (6) A public transportation vehicle may operate in a lane designated under Subsection
109 (4)(a)(iii) regardless of the number of occupants as permitted by federal law and regulation.

110 [~~(6)~~] (7) A person who operates a vehicle in violation of Subsection (2) or in violation
111 of the restrictions made under Subsection (4) is guilty of an infraction.

112 Section 2. Section 41-6a-715 is amended to read:

113 **41-6a-715. Controlled-access highways -- Prohibiting use by class or kind of**

114 traffic -- Traffic-control devices.

115 (1) A highway authority may regulate or prohibit the use of any controlled-access
116 highway within its respective jurisdiction by any class or kind of traffic which is found to be
117 incompatible with the normal and safe movement of traffic.

118 (2) A highway authority may restrict traffic on a highway to specific vehicle equipment
119 of capabilities due to weather conditions for the safe movement of traffic.

120 [~~2~~] (3) The highway authority shall erect and maintain traffic-control devices on the
121 controlled-access highway on which the regulations or prohibitions are applicable.

122 Section 3. Section 63G-4-102 is amended to read:

123 **63G-4-102. Scope and applicability of chapter.**

124 (1) Except as set forth in Subsection (2), and except as otherwise provided by a statute
125 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
126 this chapter apply to every agency of the state and govern:

127 (a) state agency action that determines the legal rights, duties, privileges, immunities,
128 or other legal interests of an identifiable person, including agency action to grant, deny, revoke,
129 suspend, modify, annul, withdraw, or amend an authority, right, or license; and

130 (b) judicial review of the action.

131 (2) This chapter does not govern:

132 (a) the procedure for making agency rules, or judicial review of the procedure or rules;

133 (b) the issuance of a notice of a deficiency in the payment of a tax, the decision to
134 waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the
135 issuance of a tax assessment, except that this chapter governs an agency action commenced by
136 a taxpayer or by another person authorized by law to contest the validity or correctness of the
137 action;

138 (c) state agency action relating to extradition, to the granting of a pardon or parole, a
139 commutation or termination of a sentence, or to the rescission, termination, or revocation of
140 parole or probation, to the discipline of, resolution of a grievance of, supervision of,
141 confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah

142 State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction
143 of the Division of Substance Abuse and Mental Health, or a person on probation or parole, or
144 judicial review of the action;

145 (d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a
146 student or teacher in a school or educational institution, or judicial review of the action;

147 (e) an application for employment and internal personnel action within an agency
148 concerning its own employees, or judicial review of the action;

149 (f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah
150 Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that
151 this chapter governs an agency action commenced by the employer, licensee, or other person
152 authorized by law to contest the validity or correctness of the citation or assessment;

153 (g) state agency action relating to management of state funds, the management and
154 disposal of school and institutional trust land assets, and contracts for the purchase or sale of
155 products, real property, supplies, goods, or services by or for the state, or by or for an agency of
156 the state, except as provided in those contracts, or judicial review of the action;

157 (h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of
158 Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution
159 by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or
160 Holding Companies, and Title 63G, Chapter 7, Governmental Immunity Act of Utah, or
161 judicial review of the action;

162 (i) the initial determination of a person's eligibility for unemployment benefits, the
163 initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers'
164 Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial
165 determination of a person's unemployment tax liability;

166 (j) state agency action relating to the distribution or award of a monetary grant to or
167 between governmental units, or for research, development, or the arts, or judicial review of the
168 action;

169 (k) the issuance of a notice of violation or order under Title 26, Chapter 8a, Utah

170 Emergency Medical Services System Act, Title 19, Chapter 2, Air Conservation Act, Title 19,
171 Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19,
172 Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act,
173 Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used
174 Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except
175 that this chapter governs an agency action commenced by a person authorized by law to contest
176 the validity or correctness of the notice or order;

177 (l) state agency action, to the extent required by federal statute or regulation, to be
178 conducted according to federal procedures;

179 (m) the initial determination of a person's eligibility for government or public
180 assistance benefits;

181 (n) state agency action relating to wildlife licenses, permits, tags, and certificates of
182 registration;

183 (o) a license for use of state recreational facilities;

184 (p) state agency action under Title 63G, Chapter 2, Government Records Access and
185 Management Act, except as provided in Section [63G-2-603](#);

186 (q) state agency action relating to the collection of water commissioner fees and
187 delinquency penalties, or judicial review of the action;

188 (r) state agency action relating to the installation, maintenance, and repair of headgates,
189 caps, valves, or other water controlling works and weirs, flumes, meters, or other water
190 measuring devices, or judicial review of the action;

191 (s) the issuance and enforcement of an initial order under Section [73-2-25](#);

192 (t) (i) a hearing conducted by the Division of Securities under Section [61-1-11.1](#); and

193 (ii) an action taken by the Division of Securities under a hearing conducted under
194 Section [61-1-11.1](#), including a determination regarding the fairness of an issuance or exchange
195 of securities described in Subsection [61-1-11.1\(1\)](#);

196 (u) state agency action relating to water well driller licenses, water well drilling
197 permits, water well driller registration, or water well drilling construction standards, or judicial

198 review of the action; [~~or~~]

199 (v) the issuance of a determination and order under Title 34A, Chapter 5, Utah
200 Antidiscrimination Act[-]; or

201 (w) state environmental studies and related decisions by the Department of
202 Transportation approving state or locally funded projects, or judicial review of the action.

203 (3) This chapter does not affect a legal remedy otherwise available to:

204 (a) compel an agency to take action; or

205 (b) challenge an agency's rule.

206 (4) This chapter does not preclude an agency, prior to the beginning of an adjudicative
207 proceeding, or the presiding officer during an adjudicative proceeding from:

208 (a) requesting or ordering a conference with parties and interested persons to:

209 (i) encourage settlement;

210 (ii) clarify the issues;

211 (iii) simplify the evidence;

212 (iv) facilitate discovery; or

213 (v) expedite the proceeding; or

214 (b) granting a timely motion to dismiss or for summary judgment if the requirements of
215 Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party,
216 except to the extent that the requirements of those rules are modified by this chapter.

217 (5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by
218 this chapter, except as explicitly provided in that section.

219 (b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is
220 governed by this chapter.

221 (6) This chapter does not preclude an agency from enacting a rule affecting or
222 governing an adjudicative proceeding or from following the rule, if the rule is enacted
223 according to the procedures outlined in Title 63G, Chapter 3, Utah Administrative Rulemaking
224 Act, and if the rule conforms to the requirements of this chapter.

225 (7) (a) If the attorney general issues a written determination that a provision of this

226 chapter would result in the denial of funds or services to an agency of the state from the federal
227 government, the applicability of the provision to that agency shall be suspended to the extent
228 necessary to prevent the denial.

229 (b) The attorney general shall report the suspension to the Legislature at its next
230 session.

231 (8) Nothing in this chapter may be interpreted to provide an independent basis for
232 jurisdiction to review final agency action.

233 (9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good
234 cause shown, from lengthening or shortening a time period prescribed in this chapter, except
235 the time period established for judicial review.

236 (10) Notwithstanding any other provision of this section, this chapter does not apply to
237 a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent
238 expressly provided in Section 19-1-301.5.

239 (11) Subsection (2)(w), regarding action taken based on state environmental studies and
240 policies of the Department of Transportation, applies to any claim for which a court of
241 competent jurisdiction has not issued a final unappealable judgment or order before May 14,
242 2019.

243 Section 4. Section 72-1-102 is amended to read:

244 **72-1-102. Definitions.**

245 As used in this title:

246 (1) "Commission" means the Transportation Commission created under Section
247 72-1-301.

248 (2) "Construction" means the construction, reconstruction, replacement, and
249 improvement of the highways, including the acquisition of rights-of-way and material sites.

250 (3) "Department" means the Department of Transportation created in Section 72-1-201.

251 (4) "Executive director" means the executive director of the department appointed
252 under Section 72-1-202.

253 (5) "Farm tractor" has the meaning set forth in Section 41-1a-102.

254 (6) "Federal aid primary highway" means that portion of connected main highways
255 located within this state officially designated by the department and approved by the United
256 States Secretary of Transportation under Title 23, Highways, U.S.C.

257 (7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel,
258 culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the
259 public, or made public in an action for the partition of real property, including the entire area
260 within the right-of-way.

261 (8) "Highway authority" means the department or the legislative, executive, or
262 governing body of a county or municipality.

263 (9) "Implement of husbandry" has the meaning set forth in Section [41-1a-102](#).

264 (10) "Interstate system" means any highway officially designated by the department
265 and included as part of the national interstate and defense highways, as provided in the Federal
266 Aid Highway Act of 1956 and any supplemental acts or amendments.

267 (11) "Limited-access facility" means a highway especially designated for through
268 traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other
269 persons have any right or easement, or have only a limited right or easement of access, light,
270 air, or view.

271 (12) "Motor vehicle" has the same meaning set forth in Section [41-1a-102](#).

272 (13) "Municipality" has the same meaning set forth in Section [10-1-104](#).

273 (14) "National highway systems highways" means that portion of connected main
274 highways located within this state officially designated by the department and approved by the
275 United States Secretary of Transportation under Title 23, Highways, U.S.C.

276 (15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and
277 maintained by the department where drivers, vehicles, and vehicle loads are checked or
278 inspected for compliance with state and federal laws as specified in Section [72-9-501](#).

279 (b) "Port-of-entry" includes inspection and checking stations and weigh stations.

280 (16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the
281 duties specified in Section [72-9-501](#).

282 (17) "Public transit facility" means a transit vehicle, transit station, depot, passenger
283 loading or unloading zone, parking lot, or other facility:

284 (a) leased by or operated by or on behalf of a public transit district; and

285 (b) related to the public transit services provided by the district, including:

286 (i) railway or other right-of-way;

287 (ii) railway line; and

288 (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by
289 a transit vehicle.

290 (18) "Right-of-way" means real property or an interest in real property, usually in a
291 strip, acquired for or devoted to a highway.

292 (19) "Sealed" does not preclude acceptance of electronically sealed and submitted bids
293 or proposals in addition to bids or proposals manually sealed and submitted.

294 (20) "Semitrailer" has the meaning set forth in Section 41-1a-102.

295 (21) "SR" means state route and has the same meaning as state highway as defined in
296 this section.

297 (22) "State highway" means those highways designated as state highways in Title 72,
298 Chapter 4, Designation of State Highways Act.

299 (23) "State highway purposes" has the meaning set forth in Section 72-5-102.

300 (24) "State transportation systems" means all streets, alleys, roads, highways,
301 pathways, and thoroughfares of any kind, including connected structures, airports, spaceports,
302 public transit facilities, and all other modes and forms of conveyance used by the public.

303 (25) "Trailer" has the meaning set forth in Section 41-1a-102.

304 (26) "Truck tractor" has the meaning set forth in Section 41-1a-102.

305 (27) "UDOT" means the Utah Department of Transportation.

306 (28) "Vehicle" has the same meaning set forth in Section 41-1a-102.

307 Section 5. Section 72-1-201 is amended to read:

308 **72-1-201. Creation of Department of Transportation -- Functions, powers, duties,**
309 **rights, and responsibilities.**

- 310 (1) There is created the Department of Transportation which shall:
- 311 (a) have the general responsibility for planning, research, design, construction,
- 312 maintenance, security, and safety of state transportation systems;
- 313 (b) provide administration for state transportation systems and programs;
- 314 (c) implement the transportation policies of the state;
- 315 (d) plan, develop, construct, and maintain state transportation systems that are safe,
- 316 reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and
- 317 industry;
- 318 (e) establish standards and procedures regarding the technical details of administration
- 319 of the state transportation systems as established by statute and administrative rule;
- 320 (f) advise the governor and the Legislature about state transportation systems needs;
- 321 (g) coordinate with utility companies for the reasonable, efficient, and cost-effective
- 322 installation, maintenance, operation, relocation, and upgrade of utilities within state highway
- 323 rights-of-way;
- 324 (h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 325 make ~~[policy and]~~ rules for the administration of the department, state transportation systems,
- 326 and programs;
- 327 (i) jointly with the commission annually report to the Transportation Interim
- 328 Committee, by November 30 of each year, as to the~~[-(i)]~~ operation, maintenance, condition,
- 329 mobility, and safety needs for [highways] state transportation systems; [and]
- 330 ~~[(ii) condition, safety, and mobility of the state transportation system jointly with the~~
- 331 ~~Transportation Commission; and]~~
- 332 (j) ensure that any training or certification required of a public official or public
- 333 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
- 334 22, State Training and Certification Requirements, if the training or certification is required:
- 335 (i) under this title;
- 336 (ii) by the department; or
- 337 (iii) by an agency or division within the department~~[-];~~ and

338 (k) study and make recommendations to the Legislature on potential managed lane use
339 and implementation on selected transportation systems within the state.

340 (2) (a) The department shall exercise reasonable care in designing, constructing, and
341 maintaining a state highway in a reasonably safe condition for travel.

342 (b) Nothing in this section shall be construed as:

343 (i) creating a private right of action; or

344 (ii) expanding or changing the department's common law duty as described in
345 Subsection (2)(a) for liability purposes.

346 Section 6. Section **72-5-102** is amended to read:

347 **72-5-102. Definitions.**

348 As used in this part, "state transportation purposes" includes:

349 (1) highway and public transportation rights-of-way, including those necessary within
350 cities and towns;

351 (2) the construction, reconstruction, relocation, improvement, maintenance, and
352 mitigation from the effects of these activities on state highways and other transportation
353 facilities, including parking facilities, under the control of the department;

354 (3) limited access facilities, including rights of access, air, light, and view and frontage
355 and service roads to highways;

356 (4) adequate drainage in connection with any highway, cut, fill, or channel change and
357 the maintenance of any highway, cut, fill, or channel change;

358 (5) weighing stations, shops, offices, storage buildings and yards, and road
359 maintenance or construction sites;

360 (6) road material sites, sites for the manufacture of road materials, and access roads to
361 the sites;

362 (7) the maintenance of an unobstructed view of any portion of a highway to promote
363 the safety of the traveling public;

364 (8) the placement of traffic signals, directional signs, and other signs, fences, curbs,
365 barriers, and obstructions for the convenience of the traveling public;

366 (9) the construction and maintenance of storm sewers, sidewalks, and highway
367 illumination;

368 (10) the construction and maintenance of livestock highways;

369 (11) the construction and maintenance of roadside rest areas adjacent to or near any
370 highway; and

371 (12) the mitigation of impacts from public transportation projects.

372 Section 7. Section **72-10-102** is amended to read:

373 **72-10-102. Definitions.**

374 As used in this chapter:

375 (1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air
376 navigation.

377 (2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair,
378 or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or
379 other air navigation facilities.

380 (3) "Aeronautics instructor" means any individual engaged in giving or offering to give
381 instruction in aeronautics, flying, or ground subjects, either with or without:

382 (a) compensation or other reward;

383 (b) advertising the occupation;

384 (c) calling his facilities an air school, or any equivalent term; or

385 (d) employing or using other instructors.

386 (4) "Aircraft" means any contrivance now known or in the future invented, used, or
387 designed for navigation of or flight in the air.

388 (5) "Air instruction" means the imparting of aeronautical information by any aviation
389 instructor or in any air school or flying club.

390 (6) "Airport" means any area of land, water, or both, that:

391 (a) is used or is made available for landing and takeoff;

392 (b) provides facilities for the shelter, supply, and repair of aircraft, and handling of
393 passengers and cargo;

394 (c) meets the minimum requirements established by the [~~division~~] department as to size
395 and design, surface, marking, equipment, and operation; and

396 (d) includes all areas shown as part of the airport in the current airport layout plan as
397 approved by the Federal Aviation Administration.

398 (7) "Airport authority" means a political subdivision of the state, other than a county or
399 municipality, that is authorized by statute to operate an airport.

400 (8) "Airport operator" means a municipality, county, or airport authority that owns or
401 operates a commercial airport.

402 (9) (a) "Airport revenue" means:

403 (i) all fees, charges, rents, or other payments received by or accruing to an airport
404 operator for any of the following reasons:

405 (A) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport
406 permittees making use of airport property and services, and other parties;

407 (B) revenue received from the activities of others or the transfer of rights to others
408 relating to the airport, including revenue received:

409 (I) for the right to conduct an activity on the airport or to use or occupy airport
410 property;

411 (II) for the sale, transfer, or disposition of airport real or personal property, or any
412 interest in that property, including transfer through a condemnation proceeding;

413 (III) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural
414 products or water owned by the airport operator to be taken from the airport; and

415 (IV) for the right to conduct an activity on, or for the use or disposition of, real or
416 personal property or any interest in real or personal property owned or controlled by the airport
417 operator and used for an airport-related purpose but not located on the airport; or

418 (C) revenue received from activities conducted by the airport operator whether on or
419 off the airport, which is directly connected to the airport operator's ownership or operation of
420 the airport; and

421 (ii) state and local taxes on aviation fuel.

422 (b) "Airport revenue" does not include amounts received by an airport operator as
423 passenger facility fees pursuant to 49 U.S.C. Sec. 40117.

424 (10) "Air school" means any person engaged in giving, offering to give, or advertising,
425 representing, or holding himself out as giving, with or without compensation or other reward,
426 instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.

427 (11) "Airworthiness" means conformity with requirements prescribed by the Federal
428 Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or
429 accessories.

430 (12) "Civil aircraft" means any aircraft other than a public aircraft.

431 (13) "Commercial aircraft" means aircraft used for commercial purposes.

432 (14) "Commercial airport" means a landing area, landing strip, or airport that may be
433 used for commercial operations.

434 (15) "Commercial flight operator" means a person who conducts commercial
435 operations.

436 (16) "Commercial operations" means:

437 (a) any operations of an aircraft for compensation or hire or any services performed
438 incidental to the operation of any aircraft for which a fee is charged or compensation is
439 received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of
440 aircraft, the operation of flight or ground schools, the operation of aircraft for the application or
441 distribution of chemicals or other substances, and the operation of aircraft for hunting and
442 fishing; or

443 (b) the brokering or selling of any of these services; but

444 (c) does not include any operations of aircraft as common carriers certificated by the
445 federal government or the services incidental to those operations.

446 (17) "Dealer" means any person who is actively engaged in the business of flying for
447 demonstration purposes, or selling or exchanging aircraft, and who has an established place of
448 business.

449 ~~[(18) "Division" means the Operations Division in the Department of Transportation;~~

450 created in Section ~~72-1-204.~~]

451 [~~(19)~~] (18) "Experimental aircraft" means:

452 (a) any aircraft designated by the Federal Aviation Administration or the military as
453 experimental and used solely for the purpose of experiments, or tests regarding the structure or
454 functioning of aircraft, engines, or their accessories; and

455 (b) any aircraft designated by the Federal Aviation Administration as:

456 (i) being custom or amateur built; and

457 (ii) used for recreational, educational, or display purposes.

458 [~~(20)~~] (19) "Flight" means any kind of locomotion by aircraft while in the air.

459 [~~(21)~~] (20) "Flying club" means five or more persons who for neither profit nor reward
460 own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

461 [~~(22)~~] (21) "Glider" means an aircraft heavier than air, similar to an airplane, but
462 without a power plant.

463 [~~(23)~~] (22) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or
464 overhauls aircraft, engines, or accessories.

465 [~~(24)~~] (23) "Parachute jumper" means any person who has passed the required test for
466 jumping with a parachute from an aircraft, and has passed an examination showing that he
467 possesses the required physical and mental qualifications for the jumping.

468 [~~(25)~~] (24) "Parachute rigger" means any person who has passed the required test for
469 packing, repairing, and maintaining parachutes.

470 [~~(26)~~] (25) "Passenger aircraft" means aircraft used for transporting persons, in
471 addition to the pilot or crew, with or without their necessary personal belongings.

472 [~~(27)~~] (26) "Person" means any individual, corporation, limited liability company, or
473 association of individuals.

474 [~~(28)~~] (27) "Pilot" means any person who operates the controls of an aircraft while
475 in-flight.

476 [~~(29)~~] (28) "Primary glider" means any glider that has a gliding angle of less than 10 to
477 one.

478 ~~[(30)]~~ (29) "Public aircraft" means an aircraft used exclusively in the service of any
479 government or of any political subdivision, including the government of the United States, of
480 the District of Columbia, and of any state, territory, or insular possession of the United States,
481 but not including any government-owned aircraft engaged in carrying persons or goods for
482 commercial purposes.

483 ~~[(31)]~~ (30) "Reckless flying" means the operation or piloting of any aircraft recklessly,
484 or in a manner as to endanger the property, life, or body of any person, due regard being given
485 to the prevailing weather conditions, field conditions, and to the territory being flown over.

486 ~~[(32)]~~ (31) "Registration number" means the number assigned by the Federal Aviation
487 Administration to any aircraft, whether or not the number includes a letter or letters.

488 ~~[(33)]~~ (32) "Secondary glider" means any glider that has a gliding angle between 10 to
489 one and 16 to one, inclusive.

490 ~~[(34)]~~ (33) "Soaring glider" means any glider that has a gliding angle of more than 16
491 to one.

492 Section 8. Section **72-10-103** is amended to read:

493 **72-10-103. Rulemaking requirement.**

494 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
495 department shall make rules:

- 496 (a) governing the establishment, location, and use of air navigation facilities;
- 497 (b) regulating the use, licensing, and supervision of airports;
- 498 (c) establishing minimum standards with which all air navigation facilities, flying
499 clubs, aircraft, gliders, pilots, and airports must comply; and

500 (d) safeguarding from accident and protecting the safety of persons operating or using
501 aircraft and persons and property on the ground.

502 (2) The rules may:

- 503 (a) require that any device or accessory that forms part of any aircraft or its equipment
504 be certified as complying with this chapter;
- 505 (b) limit the use of any device or accessory as necessary for safety; and

506 (c) develop and promote aeronautics within this state.

507 (3) (a) To avoid the danger of accident incident to confusion arising from conflicting
508 rules governing aeronautics, the rules shall conform as nearly as possible with federal
509 legislation, rules, regulations, and orders on aeronautics.

510 (b) The rules may not be inconsistent with paramount federal legislation, rules,
511 regulations, and orders on the subject.

512 (4) The department may not require any pilot, aircraft, or mechanic who has procured a
513 license under the Civil Aeronautics Authority of the United States to obtain a license from this
514 state, other than required by this chapter.

515 (5) The department may not make rules that conflict with the regulations of:

516 (a) the Civil Aeronautics Authority; or

517 (b) other federal agencies authorized to regulate the particular activity.

518 ~~[(6) All schedules of charges, tolls, and fees established by the division shall be
519 approved and adopted by the department.]~~

520 ~~[(7)] (6)~~ The department shall comply with the procedures and requirements of Title
521 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

522 Section 9. Section **72-10-105** is amended to read:

523 **72-10-105. Reports of investigations or hearings -- Restrictions on use --**
524 **Employees of department not required to testify.**

525 (1) The reports of investigations or hearings, or any part of them, may not be admitted
526 in evidence or used for any purpose in any suit, action, or proceeding growing out of any matter
527 referred to in the investigations or hearings, or in any report of them, except in case of criminal
528 or other proceedings instituted by or on behalf of the ~~[division]~~ department under this title.

529 (2) An employee of the ~~[division]~~ department may not be required to testify to any fact
530 ascertained in or information gained by reason of his official capacity.

531 (3) The employees of the ~~[division]~~ department may not be required to testify as expert
532 witnesses in any suit, action, or proceeding involving any aircraft or any navigation facility.

533 Section 10. Section **72-10-106** is amended to read:

534 **72-10-106. Enforcement of chapter -- Fees for services by department.**

535 (1) (a) The [~~division~~] department and every county and municipal officer required to
536 enforce state laws shall enforce and assist in the enforcement of this chapter.

537 (b) The [~~division~~] department may enforce this chapter by injunction in the district
538 courts of this state.

539 (c) Other departments and political subdivisions of this state may cooperate with the
540 department [~~and the division~~] in the development of aeronautics within this state.

541 (2) (a) Unless otherwise provided by statute, the [~~division~~] department may adopt a
542 schedule of fees assessed for services provided by the [~~division~~] department.

543 (b) Each fee shall be reasonable and fair, and shall reflect the cost of the service
544 provided.

545 (c) Each fee established in this manner shall be submitted to and approved by the
546 Legislature as part of the [~~division's~~] department's annual appropriations request.

547 (d) The [~~division~~] department may not charge or collect any fee proposed in this
548 manner without approval by the Legislature.

549 Section 11. Section **72-10-107** is amended to read:

550 **72-10-107. Procedures -- Adjudicative proceedings.**

551 The [~~division~~] department shall conduct adjudicative proceedings in accordance with
552 Title 63G, Chapter 4, Administrative Procedures Act.

553 Section 12. Section **72-10-108** is amended to read:

554 **72-10-108. Payment of expenses of administration.**

555 The [~~division~~] department shall pay the expenses of the administration of this part out
556 of the special funds set up by the state treasurer for that purpose.

557 Section 13. Section **72-10-115** is amended to read:

558 **72-10-115. Certificate carried subject to inspection -- Burden of proving validity
559 of certificate in criminal proceedings.**

560 (1) The certificate of license or permit required of a pilot or a student shall be kept in
561 the personal possession of a licensee or permittee operating an aircraft within the state.

562 (2) The certificate of license required for an aircraft shall be carried in the aircraft at all
563 times and shall be conspicuously posted in clear view of passengers.

564 (3) The certificate of pilot's license, student's permit, or aircraft license shall be
565 presented for inspection upon the demand of any peace officer of this state, any authorized
566 official or employee of the [~~division~~] department, or any official, manager, or person in charge
567 of any airport in this state upon which it shall land, or upon the reasonable request of any other
568 person.

569 (4) In any criminal prosecution under this title, a defendant who relies upon a license or
570 permit of any kind has the burden of proving that the defendant is properly licensed or is the
571 possessor of a proper license or permit.

572 (5) The fact of nonissuance of a license or permit may be evidenced by a certificate
573 signed by the official having power of issuance, or his deputy, under seal of office, stating that
574 a diligent search in the office records has been made and that from the records it appears that
575 no license or permit was issued.

576 Section 14. Section **72-10-117** is amended to read:

577 **72-10-117. Aircraft landing permits -- Eligible aircraft -- Special licenses -- Rules**
578 **-- Proof of insurance -- Bonds.**

579 (1) (a) The county executive of any county may issue permits authorizing aircraft to
580 land on or take off from designated county roads.

581 (b) Permits may be issued to aircraft operated:

582 (i) as air ambulances;

583 (ii) as pesticide applicators; or

584 (iii) by or under contract with public utilities and used in connection with inspection,
585 maintenance, installation, operation, construction, or repair of property owned or operated by
586 the public utility.

587 (2) Permits may also be issued by the county executive to other aircraft under rules
588 made by the [~~division~~] department.

589 (3) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

590 the ~~[division]~~ department shall make rules for issuing a special license to:

591 (i) an aircraft permitted by a county executive to land on a county road; and
592 (ii) a pilot permitted to operate an aircraft licensed under this subsection from a county
593 road.

594 (b) The rules made under this subsection shall include provisions for the safety of the
595 flying and motoring public.

596 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
597 department shall make rules for the landing and taking off of aircraft to which permits have
598 been issued, which may include annual reports of activities of the aircraft.

599 (5) Prior to obtaining a permit or license to any aircraft, the applicant shall file with the
600 county executive and the ~~[division]~~ department a certificate of insurance executed by an
601 insurance company or association authorized to transact business in this state upon a form
602 prescribed by the ~~[division]~~ department that there is in full force and effect a policy of
603 insurance covering the aircraft for liability against:

604 (a) personal injury or death for any one person in an amount of \$50,000 or more;

605 (b) any one accident in an amount of \$100,000 or more; and

606 (c) property damage in an amount of \$50,000 or more.

607 (6) In addition to the insurance required under this section, either the county executive
608 or the ~~[division]~~ department may require the posting of a bond to indemnify the county or
609 ~~[division]~~ department against liability resulting from issuing the permit or license.

610 Section 15. Section **72-10-118** is amended to read:

611 **72-10-118. Reason for department order to be stated -- Closing airports -- Notice**
612 **-- Right of inspection.**

613 (1) If the ~~[division]~~ department rejects an application for permission to operate or
614 establish an airport, or issues any order under this chapter that requires or prohibits certain
615 actions, its order shall:

616 (a) contain the reasons for the rejection or order; and

617 (b) state the requirements to be met before approval will be given or the order changed.

618 (2) The [division] department may order the closing of any airport until its
619 requirements have been fulfilled.

620 (3) (a) An airport not meeting the standards required by the [division] department shall:

621 (i) be given notice of its noncompliance; and

622 (ii) have 10 days from the receipt of that notice to respond to the [division] department
623 with a plan and schedule for compliance.

624 (b) If the airport fails to respond within the required time, the [division] department
625 may revoke the airport license and close the airport.

626 (4) The [division] department and any state, county, or municipal officer charged with
627 the duty of enforcing this chapter may inspect and examine at reasonable hours any premises,
628 buildings, or other structures where regulated airports are operated.

629 Section 16. Section 72-10-126 is amended to read:

630 **72-10-126. Marking buildings to aid navigation.**

631 (1) The [division] department may cooperate with the officials of all state institutions
632 for the purpose of marking one building within their group as an aid to aerial navigation.

633 (2) The marking is subject to the approval of the [division] department and shall
634 comply with the requirements of the United States civil aeronautics authority for air marking.

635 Section 17. Section 72-10-129 is amended to read:

636 **72-10-129. Expenditures for Civil Air Patrol.**

637 (1) The [division] department may expend state aeronautics funds for the Utah wing of
638 the Civil Air Patrol to be used to:

639 (a) purchase aviation facilities, training, supplies, and equipment;

640 (b) defray maintenance and rental costs of hangar facilities and aircraft;

641 (c) purchase maintenance supplies and equipment for the communications network of
642 the Civil Air Patrol; and

643 (d) provide administrative costs approved by the [division] department.

644 (2) The expenditures may not exceed in any fiscal year the amount appropriated to the
645 Utah wing of the Civil Air Patrol by the Legislature.

646 Section 18. Section **72-10-201** is amended to read:

647 **72-10-201. Powers of department -- Acceptance of property.**

648 The [~~division~~] department, a county, or municipal legislative body may accept
649 contributions of money or real or personal property for the purpose of establishing, developing,
650 operating, or maintaining airports under this part.

651 Section 19. Section **72-10-202** is amended to read:

652 **72-10-202. Cooperation with counties, municipalities, and federal government --**
653 **Expenditures by department.**

654 (1) The [~~division~~] department may:

655 (a) cooperate with counties and municipalities in developing and constructing airports;

656 (b) make agreements on behalf of the state with any county or municipality regarding
657 the financial participation, construction, and operation of any airports;

658 (c) cooperate with the federal government in establishing airports; and

659 (d) accept from the United States of America, money to be matched with the funds of
660 the state and funds appropriated by any county or municipality in developing and constructing
661 airports under the Uniform Airports Act.

662 (2) The [~~division~~] department may expend not to exceed 10% of its annual
663 appropriation from the Aeronautics Restricted Account upon any one project under this
664 chapter.

665 Section 20. Section **72-10-203** is amended to read:

666 **72-10-203. Department and counties, municipalities, and airport authorities**
667 **authorized to acquire and regulate airports.**

668 (1) The [~~division~~] department and municipalities, counties, and airport authorities may
669 acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate,
670 regulate, and police airports for the use of aircraft and may use for these purposes any available
671 property that is owned or controlled by the [~~division~~] department or by a municipality, county,
672 or airport authority.

673 (2) A county may not exercise the authority conferred in this section outside of its

674 geographical limits except jointly with an adjoining county.

675 Section 21. Section **72-10-204** is amended to read:

676 **72-10-204. Lands acquired by department and counties, municipalities, and**
677 **airport authorities -- Declaration of public purpose.**

678 Any land acquired, owned, leased, controlled, or occupied by the [division] department
679 or by a county, municipality, or airport authority for the purposes enumerated in Section
680 **72-10-203**, is acquired, owned, leased, controlled, or occupied for public, governmental, and
681 municipal purposes.

682 Section 22. Section **72-10-205** is amended to read:

683 **72-10-205. Acquisition of property -- Condemnation.**

684 (1) Private property needed by the [division] department or a county, municipality, or
685 airport authority for an airport or landing field or for the expansion of an airport or landing
686 field may be acquired by grant, purchase, lease, or other means if the [division] department or
687 the political subdivision is able to agree with the owners of the property on the terms of
688 acquisition.

689 (2) If no agreement can be reached, the private property may be obtained by
690 condemnation in the manner provided for the state or a political subdivision to acquire real
691 property for public purposes.

692 Section 23. Section **72-10-209** is amended to read:

693 **72-10-209. Acquisition of air rights -- Condemnation.**

694 (1) To provide unobstructed air space for the landing and taking off of aircraft using
695 airports acquired or maintained under this chapter, the [division] department and a county,
696 municipality, or airport authority may acquire the air rights over private property necessary to
697 insure safe approaches to the landing areas of the airports.

698 (2) The air rights may be acquired by grant, purchase, lease, or condemnation in the
699 same manner provided under Section **72-10-205** for the acquisition or expansion of airports.

700 Section 24. Section **72-10-210** is amended to read:

701 **72-10-210. Easements for marks or lights -- Condemnation.**

702 (1) The [~~division~~] department and a county, municipality, or airport authority may
703 acquire the right or easement for a term of years or perpetually to place and maintain suitable
704 marks for the daytime, and to place, operate, and maintain suitable lights for the nighttime
705 marking of buildings or other structures or obstructions for the safe operation of aircraft using
706 airports and landing fields acquired or maintained under this chapter.

707 (2) The rights or easements may be acquired by grant, purchase, lease, or
708 condemnation in the same manner provided under Section 72-10-205 for the acquisition or
709 expansion of airports.

710 Section 25. Section 72-10-211 is amended to read:

711 **72-10-211. Police regulations.**

712 The [~~division~~] department and a county, municipality, or airport authority acquiring,
713 establishing, developing, operating, maintaining, or controlling airports outside the
714 geographical limits of the subdivisions, under this chapter may amend and enforce police
715 regulations for the airports.

716 Section 26. Section 72-10-303 is amended to read:

717 **72-10-303. Submission of requests for aid -- Approval by department -- Receipt**
718 **and disbursement of funds.**

719 (1) The state, a county, municipality, or airport authority may not submit to any federal
720 agency or department of the United States any requests for aid under any act of congress that
721 provides funds for airports or commercial airport construction, development, expansion, or
722 improvements, unless the project and the requests for aid have been first approved by the
723 [~~division~~] department.

724 (2) The state, a county, municipality, or airport authority may not directly accept,
725 receive, receipt for, or disburse any funds granted by the United States under the act, but it shall
726 designate the [~~division~~] department as its agent and in its behalf to accept, receive, receipt for,
727 and disburse the funds.

728 (3) The state, a county, municipality, or airport authority shall enter into an agreement
729 with the [~~division~~] department, prescribing the terms and conditions of the agency in

730 accordance with federal laws, rules, and regulations and applicable laws of this state.

731 (4) Money paid by the United States government shall be retained by the state or paid
732 to a county, municipality, or airport authority under terms and conditions imposed by the
733 United States government in making the grant.

734 Section 27. Section **72-10-304** is amended to read:

735 **72-10-304. Powers and duties of department.**

736 (1) The [~~division~~] department may make available its engineering and other technical
737 services, with or without charge, to the state, a county, municipality, or airport authority or
738 person desiring them in connection with the planning, acquisition, construction, improvement,
739 maintenance, or operation of airports or air navigation facilities.

740 (2) (a) The [~~division~~] department may render financial assistance by grant, loan, or
741 both, to any county, municipality, or airport authority, in the planning, acquisition,
742 construction, improvement, maintenance, or operation of an airport owned or controlled, or to
743 be owned or controlled by the county, municipality, or airport authority, out of appropriations
744 made by the Legislature for these purposes.

745 (b) Financial assistance may be furnished in connection with federal or other financial
746 aid for the same purposes.

747 (3) (a) The [~~division~~] department may use the facilities and services of other state
748 agencies and of the counties and municipalities to the utmost extent possible.

749 (b) The state agencies, counties, and municipalities shall make available their facilities
750 and services.

751 (4) All powers granted to any county, municipality, or airport authority by this chapter
752 may be exercised jointly with any county, municipality, or airport authority, and jointly with
753 any state agency or the United States if the laws of the other state or of the United States permit
754 the joint exercise.