

# **Utah Association of Counties**

**2009 Approved Position Statements**

**Adopted November 14, 2008**



***Prepared by UAC Staff and Association Members***



# Utah Association of Counties 2009 Approved Position Statements

## Table of Contents

### Health and Human Services #1 – #17

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Two Basic Principles Driving County Health and Human Services	#1
Annual Cost of Living Adjustment	#2
Preparing for the Increasing Elderly Population	#3
Health and Human Services	#4
Provide Affordable Home and Community Based In-Home Care to Utah's Frail Elderly	#5
Providing Adequate Nutrition for Utah's Elderly	#6
Adequate and Appropriate Transportation for the Elderly	#7
Establish an Adequately Staffed Long Term Care Ombudsman Program	#8
Medicaid Eligibility and Inflationary Growth	#9
Drug Court Services	#10
Improving Access to Treatment of Substance Abuse and Mental Health by Building Infrastructure	#11
Commitment of Persons Deemed Mentally Incompetent to the Care of the Local Mental Health Authority	#12
Mental Health and Substance Abuse and the Health Care Reform Task Force	#13
Utah Safe Drinking Water Law Revisions	#14
Drug Offender Reform Act	#15
Impact of September 2008 Special Session General Fund Cuts	#16
Medicaid (FMAP) Increase	#17

### Intergovernmental Relations #18 – #33

---

State Mandating of Local Expenditures	#18
Local Elected Officials Retirement System	#19
GIS Funding	#20
Retirement Board Amendments	#21
Cost of Feasibility Studies for Incorporation	#22
County Personnel Management Act	#23
Antitrust Act Amendments	#24
Government Boundary Changes	#25
Utah Reference Network Global Positioning System	#26
Uniform Common Ownership Act	#27
Changes to Election Law	#28
Repeal of Sunset Provision of Townships	#29
Recording a Subdivision Plat	#30
The Value of Local Government	#31
Definition of Chief Administrative Officer in GRAMA Statutes	#32
Enabling the Disclosure of Protected Information for Research Purposes	#33

### Lands, Resources and Development #34 – #55

---

R.S. 2477 Appropriation	#34
Funding for Public Use Airports	#35
Redefining the Boundaries of the Grand Staircase National Monument	#36
Elimination of Livestock Grazing	#37
Unqualified Grazing Permittees and Minimal Allotment Use	#38
Use of Mineral Lease Funds	#39
Defense of County Positions on R.S. 2477 Rights of Way and Wilderness	#40
The APPLE Initiative	#41
Keeping Public Roads Across SITLA Lands Open	#42
Partial Redistribution of Revenues from SITLA Exchanged Lands	#43
Redress for Rangeland Damage Caused by Overpopulation of Bison and Elk	#44
State's Comments on BLM RMP Drafts and Forest Service Plan Drafts	#45
Reduced Fuel Loads on Forests and Rangelands	#46
Importance of Utah's Fossil Energy and Uranium Resources	#47
The State of Idaho's Forest Roadless Rule Petition	#48
Wildfire Suppression and Mitigation – Statewide Coordination and Funding	#49
Opposition to the Clean Water Restoration Act of 2007	#50
Mineral Lease Sharing – Restore the 50-50 Federal-State Sharing Arrangement	#51
Designating Each Wasatch Front County as a Separate PM 2.5 Non-Attainment Ambient Air Quality Area	#52
Keeping the Arizona Strip Open for Reasonable Uranium Exploration and Development	#53
Giving Counties the Option to Direct Secure Rural Schools Payments into Road Special Service Districts	#54
Defending Utah's Water Interests in Snake Valley	#55



## Law Enforcement, Corrections and Courts #56 – #61

---

Costs of Operating the Courts at Contract Sites	#56
Grand Jury System	#57
Changes in Criminal DNA Collection	#58
Judicial Awards of Attorney Fees in Litigation	#59
Metal Sales to Scrap Dealers	#60
Sex Offenders' Contact with Children	#61

## Revenue and Taxation #62 – #84

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### Ongoing Positions

County Business Tax	#62
Diversification of County Revenues	#63
Local Economic Development Incentives	#64
Utility Franchise Tax Authority for Counties	#65
Truth in Taxation Amendments	#66
Amendments to the Interlocal Cooperation Act	#67
Ad Valorem Taxation of Interlocal Cooperation Act Entities	#68
County-Option Resort Tax	#69
Sales Tax Exemption in Constructing Public Facilities	#70
Exclusion of Mandates from Truth in Taxation	#71
Diversion of Tourism, Recreation, Cultural and Convention Revenues	#72
Interest on Sales Tax Collections	#73
June Disclosure Under Truth in Taxation	#74
Residential Exemption for Non-Primary Homes	#75
Escrow of Disputed Centrally Assessed Taxes	#76
Severance Tax to Counties	#77
Property Tax Inflationary Adjustment	#78
Counties' Participation in State "Gotcha" Program to Collect Bad Debts	#79
Statewide Single Rate Sales Tax	#80
Voted Property Tax Levy Increase	#81
Redistribution of the TRCC Tax	#82
Acquisition Based Property Value	#83
June Truth in Taxation Notice	#84

## Transportation and Telecommunications #85 – #99

---

Functional Classification	#85
Apportion Appropriate Interest to the B & C Road Fund	#86
Transportation Fund Diversions	#87
Funding of Local Roads	#88
Motor Fuel Tax	#89
State/County Coordination for Transportation Projects	#90
Principles of Transportation Funding	#91
Transportation Funding Packages	#92
Revisions to Collector Roads	#93
Amendments to Hold Harmless for B & C Road Funds	#94
Amendments to Corridor Preservation	#95
Transportation Efficiency Issues	#96
Interest on Corridor Preservation Fees	#97
Facilitate Trade of Federal Dollars in Rural Areas for State Dollars	#98
Increase Level for Bid Limits for Bridges and Roads	#99



## ISSUE: Two Basic Principles Driving County Health and Human Services

PRINCIPLE #1: TO ENSURE ADEQUATE DELIVERY OF MANDATED SERVICES, STATE FUNDING FOR COUNTY ADMINISTERED PROGRAMS MUST KEEP UP WITH POPULATION GROWTH AND RESPOND TO IDENTIFIED NEEDS

### BACKGROUND

The population of Utah has grown continuously over the last several years. That growth has had a substantial impact on the ability of county governments to deliver mandated services to their communities. When state and federal funding does not keep pace with growth, services are severely compromised or must be curtailed. Additionally, new information and emerging challenges lead to identification of needs, gaps in services, and insufficient capacity in response systems. The counties and the state are partners in delivering health and human services. There are funding agreements between the state and counties with the state's required portion of funding being much larger than the counties. Unfortunately, the state's funding has not kept pace with inflation and population growth. As a result, counties are often forced into overmatching state funds for these critical programs with limited resources and the challenges become difficult to meet.

PRINCIPLE #2: TO ENSURE THERE ARE ADEQUATE, QUALIFIED SERVICE PROVIDERS AVAILABLE TO MEET COMMUNITY NEEDS, THE ANNUAL COMPENSATION ADJUSTMENT TO PROVIDERS, MUST BE EQUAL TO THE STATE'S ADJUSTMENT RATE

### BACKGROUND

State law requires the Governor and Legislature in their budget deliberations, consider providing for local service providers the same percentage increase for wages and benefits that they include in their budget for persons employed by the State.<sup>1</sup> Over the last several years the compensation adjustment provided by the Legislature has not been consistent with the percentage provided state employees. This shortfall has increased the burden on the counties. In calculating the amount of compensation to be included in the budget, it has been agreed that the amount would not only include proposed changes in employee compensation, but would also take into account benefit changes such as health insurance and retirement. All of these changes, taken together would determine the percentage that is budgeted for local programs.

### CHALLENGES

Growth and funding to meet population growth are the major issues facing health and human service programs.

- The demand for services is directly related to population growth.
- The cost of providing services is increasing faster than population growth.
- Certain segments of the population requiring services, i.e. elderly and indigent, are increasing faster than the general population.

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<sup>1</sup> Utah Code Annotated 63-38-2(10)b

- The population growth rate for the State of Utah has been and is projected to be higher than the national average.
- Continued urbanization intensifies the demand for services.
- Delivering health and human services in rural areas requires varied, innovative and sometimes more expensive approaches.
- Application of innovative strategies requires participation of dedicated and experienced providers who can deliver effective services with limited resources
- Population growth within counties is uneven geographically with new population growth following new housing development where service infrastructure does not exist. Impact on client access to services has suffered, and existing funding streams typically are restricted from use for capital projects. This lack of services increases the burden on local law enforcement.
- Youth treatment is more costly than adult treatment, and the distribution of the youth population is significantly higher in some counties than in others.
- The health of our communities depends on a strong partnership between the state and local governments and a commitment to funding adequate to meet crucial behavioral health and public health needs.

## HEALTH AND HUMAN SERVICES #2

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Annual Cost of Living Adjustment**

#### **BACKGROUND:**

State law requires both the governor and Legislature to consider a cost of living adjustment for Local Authority administered State Programs including mental health, substance abuse, local health and aging programs equal to the percentage increase for wages and benefits provided for state employees.

#### **FINAL POSITION:**

The Legislature should appropriate an amount equal to the cost of living increases granted to state employees for wages and benefits to the Local Authority administered State Programs.

**ISSUE: Preparing for the Increasing Elderly Population**

**BACKGROUND:**

Although Utah has one of the youngest populations in the United States, with a projected increase of 145,000 students in our public schools over the next decade, we are also experiencing a tremendous increase in the number of our older citizens. Within the next 25 years, the number of Utahns age 65 and older is projected to increase by over 165 percent, growing from 180,000 to over 480,000. The number of people in Utah age 85 and older has doubled since 1965 and is the fastest growing segment of our population.

Currently Utah has the fourth fastest growing population of any state in the nation. Utah is the sixth fastest growing state in the U. S. in the 65+ population. Utah and Minnesota are tied, both having the second longest life expectancy in the United States. Beginning in 2015 one person in Utah will turn 65 years old every 23 minutes.

The 65 and older population currently comprises 8.5 percent of the states total population, however, some urban cities and many rural counties have much higher percentages. Seventeen percent of the population of Kane, Piute and Washington Counties is 65 years old or older; and 15 percent of the population of Central City (SLC), Holladay, and Washington Terrace are 65 years old or older.

Less than 3 percent of Utah's elderly reside in nursing homes. However, 39 percent of all individuals over the age of 70 require one or more assistive devises to maintain their independence and 50 percent of those 85 and older will be diagnosed with Alzheimer's disease.

Family and friends provide 80 percent of the assistance our elderly require, but caregivers cannot do it all. It is not uncommon to have elderly providing care to elderly. Caregivers need help too. State funding has never kept pace with the needs of our elderly and the increasing elderly population will put more pressure on the state and local governments to provide assistance. In FY 05 the State provided 28 percent of the total Aging budget, 29 percent came from federal funds, and 10 percent from contributions from the elderly themselves. Local government provided 33 percent of the total Aging budget.

State and local government need to begin developing strategies now on how best to meet the needs of our frail elderly and balance the needs in our state between the needs of our children and our elderly.

**FINAL POSITION:**

The Utah Association of Counties along with the State Legislature and Executive Branch should address the impact the tremendous increase in the state's elderly population will have on our state and develop strategies and methods of funding to provide adequate and affordable services to those who require assistance.

ISSUE: **Health and Human Services**

BACKGROUND:

A major legislative study regarding the responsibility for and the funding of state and local human services programs was conducted in 1986. The review resulted in an agreement for a continued partnership between the state and counties for the delivery of aging, substance abuse, mental health and public health services. Legislation was enacted in 1987, which required the counties to increase their match (county funding) in order to receive state general funds. As a "trade off", the state assumed 100% financial responsibility for juvenile detention and medically indigent programs. The 1987 legislation clarified the state's role as setting policy and program standards and required formula distribution of state funds. Counties, individually or through Associations of Governments (AOGs), provide services throughout the entire state.

In 1993 and 2003, the legislature adopted amendments to the State Budgetary Procedures Act, UCA 63-38-2(10), which require the Governor and Legislature to consider in their budgets, a compensation adjustment for local human service programs similar to the amount provided for state employees. These compensation adjustments have been included in the compensation reserve that is set up by the Executive Appropriations Committee. Such funding (adjustments) has been critical to maintain service delivery levels throughout the state.

The four areas of health and human services established in Utah Code as operated by counties are:

- Aging (12 Districts)
- Mental Health (11 Districts)
- Public Health (12 Districts)
- Substance Abuse (13 Districts)

Counties must provide a certain percentage of matching money in order to received state funds. Levels of match are:

- Aging 15% of service dollars and 25% of administrative dollars
- Mental Health 20%
- Public Health 30%
- Substance Abuse 20%

SERVICES

Aging: (UCA 62A-3-Part 1) Services were initiated primarily with Federal Older American Act funds in 1965. The state is divided into 12 Area Agencies on Aging (AAA's). The state sets policy. Services include senior centers, in-home, transportation, nutrition (congregate and home delivered meals), employment, legal and ombudsman services.

Substance Abuse: (UCA 17-43-201) All county governing bodies in this state are local substance abuse authorities. Within the legislative appropriations and county matching funds required by this section and under the policy direction of the board and the administrative direction of the division, local substance abuse authorities shall provide substance abuse services to residents of their respective counties.

Mental Health: (UCA 17-43-301) All local mental health authorities' plans shall include, but are not limited to, the following: inpatient care and services, residential care and services, day treatment and psychosocial rehabilitation, outpatient care and services, 24-hour crisis care and services, outreach care and services, follow-up care and services, screening for referral services, consultation and education services, and case management.

Public Health: (UCA 26A-Part 1) Local health departments: a) enforce state laws, local ordinances, department rules and local health department standards and regulations, b) establish, maintain and enforce isolation and quarantine for the protections of public health, c) establish and operate reasonable health programs necessary for the promotion and protection of public health and the control of disease, d) abate nuisances and eliminate sources of filth and infectious and communicable diseases and e) make necessary sanitary and health investigations to protect public health.

The health department shall: a) establish programs or measures to promote and protect the health and general wellness of the people, b) investigate infectious and other diseases of public health and implement measures to control communicable diseases, and c) coordinate and implement environmental health programs.

#### FINAL POSITION:

The Legislature should fund the Health and Human Services programs and services requested in the Governor's budget and approve funding for additional services necessary to meet the pressing needs of our local communities.

### ISSUE: **Provide Affordable Home and Community Based In-Home Care to Utah's Frail Elderly**

#### BACKGROUND:

Family and friends provide approximately 80 percent of the assistance our elderly require to maintain their independence and forestall premature institutionalization. Assistance through public and private in-home service providers is not meant to replace the family but rather to supplement the family care, thus allowing the individual's health and safety to remain intact while they age at home.

Forestalling premature institutionalization with the assistance of in-home service programs provides benefits in several ways:

- Improving quality of life: an individual can age in the place of their choosing, with the dignity and respect they deserve.
- Empowerment and control for consumers and their families for as long as possible: with professional case management assistance, clients are able to choose the types of services needed and whom they want to provide the services.
- Reduces loss of productivity in the work place as caregivers struggle to do their job, take care of their children, and provide care to aging parents. national estimates of lost productivity due to care giving exceeds \$11.4 billion per year.
- Diversions from premature institutionalization save public funds: nursing home placements in Utah average \$43,416 annually. In-home services programs cost \$ 4,000 – 5,000 annually.

In-home and community care programs allow older people to avoid premature institutionalization. The Home and Community Based Alternatives Program continues to provide services to more Utahns than any of the other in-home service programs. Funding for The Division of Aging's community based in-home care programs is unique in that it draws on federal, state and county dollars.

As our population ages the demand for in-home care will continue to increase. The current system is not adequate to meet the needs of our elderly now and our systems of service delivery will certainly be overwhelmed by the upcoming surge of aging baby boomers.

The Alternatives Program (TAP), the state's longest running home and community based care program for the elderly, (established in 1979) is designed to prevent premature institutionalization but it also enhances the quality of life and promotes independence, assisting the frail elderly to remain in their own home and / or community. As of August 2008, 521 frail elderly were on a waiting list to receive these services. The last funding increase to this vital program occurred in 2005 when the legislature appropriated an additional \$150,000 to address the TAP waiting list.

#### FINAL POSITION:

The Utah Association of Counties encourages the Utah State Legislature to provide adequate funds to fund the TAP waiting list. The Utah Association of Counties further encourages the Utah State Legislature to adequately fund all of the public home and community based in-home care service programs for the state's elderly. They also encourage the Utah State Legislature and the Executive Branch to develop a long term plan to assist Utah's baby boomers in accessing affordable in-home care as they age, forestalling premature institutionalization.

### ISSUE: **Providing Adequate Nutrition for Utah's Elderly**

#### BACKGROUND:

Good nutrition is essential to achieving and maintaining good health at any age. This is especially true for the very young and the elderly. However the elderly exhibit a disproportionate risk of developing nutrition related diseases and disabilities.

Poor nutrition and poor intake of water and other fluids are the leading causes of morbidity and mortality in the elderly population. Good nutrition and hydration leads to fewer illnesses, fewer post surgery complications, shorter hospital stays and less money spent on medication. Research shows that when senior citizens do not eat nutritionally well-balanced diets they often display symptoms similar to those of serious disease or illness, which may result in costly and often unnecessary treatment. To contribute to good health and reduce the problems associated with malnutrition, a nutrition program has become a central part of the Aging Services programs. Good nutrition is essential to maintaining good health and independence. Home delivered and congregate meals are often the mainstay for those who no longer cook for themselves.

The State provides 3 percent of the funding for congregate meals and 25 percent of the funding for Home delivered meals. In contrast 28 percent of the funding for congregate meals and 24 percent of the funding for Home delivered meals comes from local government. The senior citizens themselves provide 28 percent of the congregate and 22 percent of the Home delivered meal funding. The federal government provides the balance, 41 percent for congregate and 29 percent for Home delivered meals.

As of August 2008, 68 seniors were on waiting lists to receive much needed home delivered meals and an estimated 868 additional people in our state could benefit from the congregate meal program.

In addition, 38 meal sites throughout the state serve meals less than 5 days per week and 52 communities in the state as well as portions of Iron County, Garfield County, Kane County and Washington County do not have a meal program.

#### FINAL POSITION:

The Utah Association of Counties further encourages the Legislature to honor the match agreement (85 percent/15 percent) made with local government and provide additional funds for both the Congregate and Home delivered meal programs to ensure all senior citizens have adequate nutrition.

### ISSUE: **Adequate and Appropriate Transportation for the Elderly**

#### BACKGROUND:

One in five older Utahns, age 60 and older, live alone, nearly ½ of those 85 years of age and older live alone. The ability to remain independent and the ability to care for oneself is a strong desire among the senior population. Being able to get to medical appointments, do grocery shopping, pick up prescription drugs, and go to senior centers for a hot meal is a necessary part of maintaining independence. When a person no longer feels safe or is too frail to drive it is difficult to accomplish these tasks.

The most common means of transportation is still the individual licensed automobile. Mass transit, where it exists, often does not meet the needs of the frail elderly, nor is it accessible to the frail. Often times family members, to whom the elderly might rely on for assistance, work during the day, have moved away or pre-deceased them. The lack of adequate transportation is especially detrimental to maintaining independence in the rural areas of our state. As a result, often the elderly continue to drive after they can no longer do so safely because adequate alternative transportation does not exist.

In addition to the current needs of the elderly our state needs to plan for the needs of the escalating senior population. Currently the baby boomers, age 40 -59 years of age, comprise 65 percent of all licensed drivers over the age of 40. Thus a large group of Utah drivers will be aging in the next two decades.

Senior transportation, provided by the Area Agencies on Aging and senior centers offers a viable alternative, including specialized transportation options to assist the elderly get to necessary appointments. However inadequate funding has limited this service. While federal funds to purchase ADA equipped vehicles through the Federal Transportation Administration (FTA) have increased by 3 to 6 percent for the last several years, the lack of state and local fund increases has resulted in agencies being unable to accept new equipment to expand service because they cannot meet the 20 percent matching fund requirement or are unable to fund the associated costs: driver, maintenance, insurance, etc. The previous fiscal year has seen several Area Agencies on Aging and senior citizen centers turn down offers of equipment from UDOT due to lack of supportive funding.

The dramatic increase in fuel costs has also put an additional strain on agency budgets further reducing the capacity to deliver services.

#### FINAL POSITION:

The Utah Association of Counties urges the Utah State Legislature to increase on-going funding for the purpose of funding adequate senior transportation through out the state.

## HEALTH AND HUMAN SERVICES #8

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Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Establish an Adequately Staffed Long Term Care Ombudsman Program**

#### BACKGROUND:

Utah's elderly need adequate protection of their individual rights whether at home or in an assisted living or long-term care facility. Over 10,000 Utahns live in skilled nursing facilities, assisted living facilities, or other long-term care settings. The Long Term Care Ombudsman Program acts solely on behalf of frail elderly residents who live in these facilities to ensure their rights are protected and the facilities are safe. The Long Term Care Ombudsmen strive to solve problems and resolve complaints to increase the quality of life and protect the rights of the residents. The Long Term Care Ombudsmen act as the advocates for this vulnerable population. The Ombudsman program should also be a positive and proactive resource for long-term care facilities. The Older Americans Act mandates ombudsman program activities. Currently, there are a number of mandatory program activities the Ombudsman program is unable to provide due to a lack of funding and inadequate staffing.

Funding for this program was increased in FY 2009 for the first time since 1993 despite a 358 percent increase in the number of complaints received. However, additional Ombudsman positions are needed.

#### FINAL POSITION:

The Utah Association of Counties encourages the Utah State Legislature to appropriate adequate funding to secure an additional six Ombudsmen at the local level.

## HEALTH AND HUMAN SERVICES #9

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Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Medicaid Eligibility and Inflationary Growth**

#### BACKGROUND:

Legislative appropriations to state agencies charged with overseeing mental health and substance abuse services delivered by Local Authorities are insufficient to keep pace with the increased costs arising from growth of Medicaid enrollment and inflation. To meet these costs, funding and services for clients not on Medicaid have had to be reduced. For state Medicaid programs, funding has been included in state budget appropriations. Funding for the match requirements set by Medicaid eligibility and required by inflationary growth should be the same for all state programs whether provided by Local Authorities or by the State.

#### FINAL POSITION:

The Legislature should budget for growth in Medicaid costs to Local Authority programs the same as it does for state Medicaid programs. Earmarked funding for special populations decreases counties' ability to provide treatment for general populations – especially youth and adults not involved in the legal system or DCFS/Juvenile Court.

## HEALTH AND HUMAN SERVICES #10

Primary Affiliate: USACCC

Secondary Affiliates: Sheriffs, Attorneys

### ISSUE: **Drug Court Services**

#### BACKGROUND:

Drug courts and Drug boards both promote public safety and reduce substance abuse. They are extremely effective programs for monitoring and assisting drug offenders and have become a crucial tool for fighting methamphetamine addiction and trafficking. It combines intensive drug rehabilitation services for addicts with legal requirements for completion of treatment and quick response to relapse. Drug Court ensures access to treatment and enables response to co-occurring mental health disorders, through intensive supervision and monitoring compliance with therapeutic recommendations.

Funding for existing Drug courts has come from Tobacco Settlement Funds, State General Fund appropriations, county appropriations and federal grants. Funding is used for treatment, case management, supervision and drug testing services. Additional resources to meet the need for services to appropriate offenders not able to participate are needed. Drug courts and boards are essential counterparts to the processes and services required under the Drug Offender Reform Act and should be strengthened and expanded.

#### FINAL POSITION:

The Legislature should appropriate the proposed \$1,300,000 for additional Drug Court services.

## HEALTH AND HUMAN SERVICES #11

Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Improving Access to Treatment of Substance Abuse and Mental Health by Building Infrastructure**

#### BACKGROUND:

There is a shortage of capital facilities to support treatment across the substance abuse and mental health treatment systems. This shortage will increase commensurate with the ability of the state to get people into treatment. Population growth and the need for resources will grow as we are more effective in efforts to encourage treatment.

#### FINAL POSITION:

Request the Legislature to study the need for infrastructure development and create a mechanism to fund infrastructure development for these state mandated services.

## HEALTH AND HUMAN SERVICES #12

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Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Commitment of Persons Deemed Mentally Incompetent to the Care of the Local Mental Health Authority**

#### BACKGROUND:

Counties operate and oversee the commitment of persons to involuntary treatment due to mental illness. Many of these individuals are eligible for Medicaid funding and the state has provided the required money to match these federal contributions. Many others committed to the care of the local mental health authority are not eligible for Medicaid funding and the entire cost of processing the commitment case and for treatment of the individual falls to the county.

#### FINAL POSITION:

Request that the Legislature convene a task force or interim group to study the state and local authority relationship with regard to civil commitments. The study should address the increasing number of persons civilly committed as a result of population growth in the state and associated treatment costs.

## HEALTH AND HUMAN SERVICES #13

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Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Mental Health and Substance Abuse and the Health Care Reform Task Force**

#### BACKGROUND:

More and more costs for substance abuse and mental health treatment are being shifted from private health insurance to taxpayer subsidized public delivery systems. This cost shift has been dramatic over the past 20 years and is accelerating.

#### FINAL POSITION:

The Utah Association of Counties recommends that the Legislature continues the Health Care Reform Task Force into 2010 and that it includes in its study items the issue of the inclusion of substance abuse and mental health care as part of a health care delivery system.

## HEALTH AND HUMAN SERVICES #14

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Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Utah Safe Drinking Water Law Revisions**

#### BACKGROUND:

In 2008 the Utah Legislature passed a bill entitled Safe Drinking Water Revisions (HB 40). The bill amended the law relating to counties and required counties to adopt an ordinance to protect a source of drinking water. The bill passed without objection from UAC because an agreement was reached with the main sponsor and the floor sponsor that would have amended the bill to make it applicable only to counties of the first or second classes. The final version was passed in a form that applied to all counties.

After reviewing the potential impact of this bill on counties that are primarily rural in character, county representatives have expressed concerns that this bill would impose significant burdens on counties without a large urban base and would be overly restrictive of the county's own ordinance structure.

#### FINAL POSITION:

Support the amending of Title 19, Chapter 4, section 113 to make the requirement to adopt an ordinance applicable only to counties of the first and second class.

## HEALTH AND HUMAN SERVICES #15

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Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Drug Offender Reform Act**

#### BACKGROUND:

In 2008 the Utah Legislature passed a bill entitled Safe Drinking Water Revisions (HB 40). The bill amended the law relating to counties and required counties to adopt an ordinance to protect a source of drinking water. The bill passed without objection from UAC because an agreement was reached with the main sponsor and the floor sponsor that would have amended the bill to make it applicable only to counties of the first or second classes. The final version was passed in a form that applied to all counties.

After reviewing the potential impact of this bill on counties that are primarily rural in character, county representatives have expressed concerns that this bill would impose significant burdens on counties without a large urban base and would be overly restrictive of the county's own ordinance structure.

#### FINAL POSITION:

Support the amending of Title 19, Chapter 4, section 113 to make the requirement to adopt an ordinance applicable only to counties of the first and second class.

## HEALTH AND HUMAN SERVICES #16

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Primary Affiliate: USACCC

Secondary Affiliates: Attorneys, Sheriffs

### ISSUE: **Impact of September 2008 Special Session General Fund Cuts**

#### BACKGROUND:

Current projections indicate the State legislature may need to make additional budget cuts in SFY 2009 and beyond. Budget reductions made in the recent special session disproportionately impacted Substance Abuse Services like DORA. Statewide the budget was reduced by 3.5 percent. However, the cut imposed on substance abuse equates to a 16.5 percent reduction. These services reductions caused by those budget reductions will fall mostly on county services.

#### FINAL POSITION:

If additional cuts are necessary the Legislature should consider the impact of special session cuts already imposed on substance abuse services. Additional cuts in substance abuse should only be made after other options are explored.

## HEALTH AND HUMAN SERVICES #17

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Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Medicaid (FMAP) Increase**

#### BACKGROUND:

There is discussion that the federal government may make a short-term increase in its share of the Medicaid match to 100 percent (from 70 percent to 100 percent) available to state and local governments. This match shift might be as much as \$30 million to County substance abuse and mental health.

#### FINAL POSITION:

UAC requests the Legislature and the Governor advocate to the Federal Government to encourage this short-term (18-24 mos.) 100 percent FMAP match for county government., and if the 100 percent FMAP is granted, pass on this enhanced match to county government programs which use Medicaid to provide services to its citizens.



## **INTERGOVERNMENTAL RELATIONS #18**

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Primary Affiliate: All

Secondary Affiliates: None

### **ISSUE: State Mandating of Local Expenditures**

#### **BACKGROUND:**

Counties have unsuccessfully attempted to pass legislation for the past several years requiring the state to fund mandated services and expenditures. Local government officials in other states such as Florida and Nevada have passed constitutional amendments, thereby circumventing the state legislature, prohibiting state mandating of local expenditures. Such a proposition could be placed before the voters either by the legislature itself or through the initiative process. A coalition of cities, counties, school districts and special districts could easily obtain the required signatures to place such an initiative on the ballot.

#### **FINAL POSITION:**

The state, its agencies, departments and branches should be constitutionally prohibited from mandating local expenditures and services without funding.

## **INTERGOVERNMENTAL RELATIONS #19**

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Primary Affiliate: All

Secondary Affiliates: None

### **ISSUES: Local Elected Officials Retirement System**

#### **BACKGROUND:**

Local elected officials are covered by the State Retirement System at the present time unless they have exercised the option to exempt themselves.

Elected officials face problems regarding future retirement which most public employees do not and should have a separate retirement system to meet their needs, similar to what has been done for judges, the state legislature, public safety, etc.

#### **FINAL POSITION:**

A separate retirement system for local elected officials should be provided in place of the State Retirement System.

## INTERGOVERNMENTAL RELATIONS #20

Primary Affiliate: Surveyors

Secondary Affiliates: Recorders, USACCC

### **ISSUE: GIS Funding**

#### **BACKGROUND:**

In the 1998 session, UAC was successful in obtaining grant money to assist counties in developing their Geographic Information Systems. AGRC works through UAC to award the grant amounts. Counties clearly demonstrated need for this funding.

#### **FINAL POSITION:**

Support a continuation of AGRC assistance to counties for GIS development.

## INTERGOVERNMENTAL RELATIONS #21

Primary Affiliate: USACCC

Secondary Affiliates: All

### **ISSUE: Retirement Board Amendments**

#### **BACKGROUND:**

The current makeup of the Retirement Board includes a representative of education employees, public employees, four representatives of the investment community and the State Treasurer. There is not a designated representative on the Board for local governments even though counties and cities, as employers, are responsible for far more employees in the retirement system than the state. Decisions of the Retirement Board have a large financial impact on county governments and there should be an opportunity for counties to participate in those decisions. In addition, county employees need a stronger voice in their retirement decisions.

#### **FINAL POSITION:**

Support expanding the Retirement Board to include a county representative appointed by the Utah Association of Counties.

## **INTERGOVERNMENTAL RELATIONS #22**

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Primary Affiliate: Clerk/Auditors

Secondary Affiliate: USACCC

### **ISSUE: Cost of Feasibility Studies for Incorporation**

#### **BACKGROUND:**

Under the current incorporation procedures, counties are required to pay for feasibility studies relating to the proposed incorporation. There is no restriction on the cost or how often the studies can be performed. In the past, counties have found it costly to pay for such feasibility studies when there is little support for the incorporation.

#### **FINAL POSITION:**

Counties should have the option to pay all or part of the cost associated with incorporation feasibility studies.

## **INTERGOVERNMENTAL RELATIONS #23**

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Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: County Personnel Management Act**

#### **BACKGROUND:**

The County Personnel Management Act is optional for counties having fewer than 130 full-time, part-time, and seasonal employees and elected officials not covered by other merit systems. The purpose of the state imposing a personnel management system on counties is to formalize systems and practices for career service employees. Part-time and seasonal employees are not career employees unless they become full-time employees; therefore they should not be counted towards the optional cutoff point. Elected officials are not subject to actions of a career service council and should also be excluded.

#### **FINAL POSITION:**

Amend state code to eliminate part-time, seasonal, FLSA exempt employees and elected officials counting towards the threshold of the County Personnel Management Act.

## INTERGOVERNMENTAL RELATIONS #24

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Primary Affiliate: All  
Secondary Affiliates: None

### ISSUE: **Antitrust Act Amendments**

#### BACKGROUND:

A court decision in the third judicial district ruled that counties do not have or benefit from protection against antitrust actions in the same way municipalities do because there is no provision in section 76-10-915(1)(f) exempting counties. This court decision was later overturned, but the case still places many county activities in question where there may be private providers doing business or attempting to do business that may be perceived to be in competition with county services or functions. The statute should be changed to clarify that counties have the same exemption from antitrust claims as municipalities have.

#### FINAL POSITION:

Support legislation amending section 76-10-915 clarifying that counties have the same antitrust protection that has been provided to municipalities.

## INTERGOVERNMENTAL RELATIONS #25

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Primary Affiliate: Recorders  
Secondary Affiliates: Surveyors

### ISSUE: **Government Boundary Changes**

#### BACKGROUND:

During the 2005 General Session, legislation was introduced that changed the way government boundary changes are recorded. Since the implementation of the new process, certain deficiencies have been detected and corrected in practice—if not, necessarily in statute.

#### FINAL POSITION:

Support legislation that would modify the flow of information and make technical changes to HB 113 which affects when a governmental boundary is created, modified or dissolved for a county, municipality, special district, local district, redevelopment agency, local school district, or an entity created by interlocal agreement.

## INTERGOVERNMENTAL RELATIONS #26

Primary Affiliate: Surveyors

Secondary Affiliates: Recorders

### ISSUE: **Utah Reference Network Global Positioning System**

#### BACKGROUND:

The State of Utah has worked with county and city partners to begin developing the Utah Reference Network Global Positioning System. This network strategically locates GPS Reference Stations throughout the state providing statewide coverage for high accuracy GPS survey and mapping. The network total cost is estimated at \$1.5 million. Of that, the State of Utah has appropriated \$800,000 and local government has matched \$300,000; leaving \$400,000 remaining cost to complete the network.

#### FINAL POSITION:

UAC, along with AGRC, urges the Legislature to appropriate the remaining \$400,000 to complete the Utah Reference Network Global Positioning System.

## INTERGOVERNMENTAL RELATIONS #27

Primary Affiliate: Recorders

Secondary Affiliates: Assessors

### ISSUE: **Uniform Common Ownership Act**

#### BACKGROUND:

A nationwide effort has been undertaken to uniformly address condominium laws from state to state. There is a movement in Utah to replace the current Condominium Act with the Uniform Common Ownership Act. While a uniform law throughout the nation might have its advantages, replacing current law in one swoop is problematic. Terms are defined differently in the proposed act than throughout the Utah State Code and the act would do away with processes (like the recording of plats when creating condominium projects) that work well in Utah.

#### FINAL POSITION:

Oppose legislation until full impacts of the legislation can be studied and errors corrected.

**ISSUE: Changes to Election Law**

**BACKGROUND:**

County clerks are proposing legislation for the 2009 General Session that would deal with four issues associated with election law.

1) Voter Challenges. There have been instances (most recently in 2007) where a losing candidate has made a number of voter challenges without merit to slow down the election process. County clerks are proposing an update to voter challenge laws that would require clear, documented reasons for challenge and provide penalties for malicious challenges.

2) Text on Ballot Questions. In recent elections the text on ballot questions has become too lengthy to maintain a single ballot sheet for paper ballots. Legislation would limit the number of characters or words for questions on the ballot due to space constraints.

3) Voter Records. As identification fraud increases in an ever more connected world, the necessity of protecting a person's date of birth also increases. County clerks are confident that a replacement of a voter's date of birth with the voter's age on the public record along with the rest of the data available in the public record would still allow poll workers to verify a voter's identification. Legislation proposed by county clerks would add voters' dates of birth to the list of records classified as private and classify voters' ages as a public record.

4) Early Vote Locations. At the time of the introduction of early voting, the Legislature passed legislation requiring Salt Lake County to have an early voting location within each state senate district in the county. The legislation was intended to ensure that early voting was available and convenient to all of Salt Lake County's citizens. After several election cycles, however, the county has found that some locations aren't being fully utilized (especially in those areas of the county where a senate district only captures a small population). Salt Lake County should be afforded the privilege all other counties have in deciding how many early voting locations should be used and where to place those locations for the optimal convenience to its citizenry while prudently spending taxpayer money.

**FINAL POSITION:**

Support legislation proposed by county clerks to update election law regarding voter challenges, text on ballot questions, voter records, and early vote locations.

## **INTERGOVERNMENTAL RELATIONS #29**

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Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Repeal of Sunset Provision of Townships**

#### **BACKGROUND:**

In 2005 the Utah Legislature extended the sunset date for townships to 2010 in order for Salt Lake County and the municipalities adjacent to township areas to conduct a survey of residents and property owners within townships in regards to their desire to annex, incorporate, or to remain in the unincorporated county. The Survey was to be conducted in 2008 and the findings presented to the Legislature in 2009. The survey results indicated an overwhelming desire by the residents to stay within townships and the unincorporated county.

#### **FINAL POSITION:**

The Legislature should repeal the sunset provision for townships. In addition, a township dissolution provision should be added to existing statute. This mirrors the municipal dissolution statute requiring that petition signatures equal in number to 25 percent of all votes cast in the township at the last congressional election before placing the question before voters on the next general election ballot.

## **INTERGOVERNMENTAL RELATIONS #30**

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Primary Affiliate: Recorders

Secondary Affiliates: None

### **ISSUE: Recording a Subdivision Plat**

#### **BACKGROUND:**

County recorders are responsible to strictly follow the Utah State Code in their duties. From time to time, in the course of fulfilling their responsibilities county recorders discover sections of the code that should be written clearer or sections of the code that policy changes should be considered.

During the 2009 General Legislative Session, county recorders are recommending one small policy change in addition to some cleanup to unclearly written sections of the code. Currently, Utah State Code requires a single signature to record a subdivision plat even in instances where the subdivision may have more than one owner. The code should be changed to require the signatures of all owners of record in order to record a subdivision plat.

#### **FINAL POSITION:**

Support legislation that would require the signatures of all owners of record in order to record a subdivision plat. Also support legislation cleaning up unclear language in the code dealing with the responsibilities of county recorders.

## **INTERGOVERNMENTAL RELATIONS #31**

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Primary Affiliate: All  
Secondary Affiliates: None

### **ISSUE: The Value of Local Government**

#### **BACKGROUND:**

It's generally recognized that local government more so than state or federal government is best qualified to meet the immediate needs of its citizens and that issues and problems are generally resolved best by those closest to the constituents affected. With this understanding, a resolution recognizing the value of local government is being sponsored during the 2009 Legislative Session.

#### **FINAL POSITION:**

Support legislative resolution recognizing the value of local government, its locally elected officials, and their decision making authority.

## **INTERGOVERNMENTAL RELATIONS #32**

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Primary Affiliate: USACCC  
Secondary Affiliates: Attorneys

### **ISSUE: Definition of Chief Administrative Officer in GRAMA Statutes**

#### **BACKGROUND:**

As currently drafted, GRAMA requires that the initial step in the appeal hearing process be conducted before a person designated in statute as the "chief administrative officer." This title is not specifically defined and creates problems for counties in deciding who will hear a GRAMA appeal. For counties, this person might be the chair of the county commission, the county commission as a whole, an elected or appointed executive, or an independent elected official, such as the Clerk, Sheriff, or Auditor. This lack of clarity and direction can be resolved through a simple change to definitions within the GRAMA statutes.

#### **FINAL POSITION:**

Amend GRAMA statutes to enable counties to define which individual, under the county's form of government, is the "chief administrative officer" required by statute to be designated to hear appeals from records access decisions.

### ISSUE: **Enabling the Disclosure of Protected Information for Research Purposes**

#### BACKGROUND:

In 2005, the Legislature added a general prohibition against the disclosure of "commercial information" by governmental entities as defined in statute (Section § 59-1-404). Since that time, some county archives offices have received commercial tax appraisal cards that may not be released under section current law without redaction. This limitation affects environmental historians, real estate and title company researchers, and members of the public who may have a historical interest in a particular property. For example, environmental historians have EPA guidelines they must follow when writing reports for prior land use on a particular piece of property, such as an old gas station. Technically, that former use may qualify as "commercial information" under the statute, and would have to be redacted from the appraisal cards or other records. This may prevent a historian from being able to comply with the EPA guidelines he or she is required to follow. If Archives does release this information, they violate statutory limitations. The law could be modified to allow for historical research without harming present commercial interests.

#### FINAL POSITION:

Amend section 59-1-404 to allow a governmental entity to disclose "commercial information" for historical research purposes if the commercial information was obtained by a governmental entity more than ten years from the date of the research request.



## LANDS, RESOURCES AND DEVELOPMENT #34

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: R.S. 2477 Appropriation**

#### **BACKGROUND:**

Counties are the principal defenders of the public's right to access the public lands using rights-of-way granted under the 1866 R.S. 2477 law. Counties are engaged in litigation on various RS 2477 roads in court—which is very expensive.

#### **FINAL POSITION:**

The state legislature must continue to assist counties who are leading the way to defend against legal challenges and related activities being waged against R.S. 2477 rights of way.

## LANDS, RESOURCES AND DEVELOPMENT #35

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Funding for Public Use Airports**

#### **BACKGROUND:**

The State Aeronautical Division has determined that \$2,000,000 per year is needed to maintain Utah's public use airports in a safe and useable condition. Many counties and cities contribute to the support of their airports with general fund monies. Utah is one of the few states in the nation that does not regularly provide needed revenue for maintenance of its public use airports. An ongoing appropriation of \$2,000,000 annually is needed to keep public airports open, safe and usable.

#### **FINAL POSITION:**

The state legislature is urged to authorize and appropriate \$2,000,000 annually to maintain Utah's public use airports.

**ISSUE: Redefining the Boundaries of the Grand Staircase National Monument**

**BACKGROUND:**

The current boundaries of the Grand Staircase National Monument include energy reserve areas. These energy reserve areas are currently untapped while located within the national monument. It would be in the best interest of the State of Utah and the United States of America that these energy reserve areas be excluded from the boundaries of the Grand Staircase National Monument and utilized to the benefit of local economy, the State of Utah, and the Nation as a whole.

**FINAL POSITION:**

The Utah Association of Counties urges the congressional delegation of the State of Utah to prepare legislation to redefine the boundaries of the Grand Staircase National Monument to exclude the energy reserve areas. In the event that that proves fruitless, the Utah Association of Counties further urges the congressional delegation of the State of Utah to encourage the President of the United States to use his executive powers to redefine the boundaries of the Grand Staircase National Monument to exclude the energy reserve areas.

**ISSUE: Elimination of Livestock Grazing**

**BACKGROUND:**

Continued grazing use of federally managed lands is vital if the livestock industry is to survive in Utah. The stability of the livestock industry is essential to support community economic stability and to preserve rural custom and culture.

Conservation organizations and federal agencies have collaborated in utilizing conservation organization buyouts and subsequent relinquishments of grazing preferences to federal agencies in order to initiate agency management action to eliminate domestic livestock grazing for conservation purposes, including wildlife uses.

Federal agency livestock grazing elimination efforts are currently being legally challenged by Utah counties with assistance from the Utah State Legislature and the Utah State Attorney General's Office.

**FINAL POSITION:**

The State Legislature is urged to continue to appropriate sufficient funding to legally challenge the elimination of domestic livestock grazing for conservation purposes.

## LANDS, RESOURCES AND DEVELOPMENT #38

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Unqualified Grazing Permittees and Minimal Allotment Use**

#### **BACKGROUND:**

In Public Lands Council v. Babbitt Wyoming ranchers' underlying concern was that a scheme to end grazing on public lands would be accomplished by federal action allowing individuals to acquire a few livestock, obtain a federal permit, and then effectively "mothball the permit." Livestock grazing allotments in Utah are currently being permitted to organizations intending to make no to minimum grazing use of allotments for conservation purposes, including wildlife uses.

Federal agencies are reducing AUMs, stocking rates, and seasons of use without scientific validity or adequate consultation with local ranchers or government officials. Such grazing reductions are never returned to previous levels. Existing levels of grazing are essential for the economic stability of rural communities and to their people's custom and culture. All temporary non-use and reductions in stocking rates and seasons of use should be increased to previous levels upon correction of the resource condition. "Substantial use" of the grazing preference, as required by law, should be the principle guiding grazing allotment, management, and use.

#### **FINAL POSITION:**

The State Legislature should assist in funding county and state efforts to challenge unqualified persons from acquiring livestock grazing permits and federal and state agency actions to reduce levels of livestock grazing not based on valid resource protection criteria and for not returning grazing use to pre-existing levels when resource conditions improve.

## LANDS, RESOURCES AND DEVELOPMENT #39

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Use of Mineral Lease Funds**

#### **BACKGROUND:**

Mineral producing counties are currently authorized to create districts to use mineral lease funds for the purpose of road and transportation funding as well as recreation funding. There is a need in these impacted counties to create a diverse economy to offset the boom/bust cycles associated with mineral, oil, and gas extraction. Furthermore, general funds of these counties do not benefit from mineral extraction.

#### **FINAL POSITION:**

The Utah Association of Counties opposes legislation reapportioning the existing use of mineral lease revenues.

## LANDS, RESOURCES AND DEVELOPMENT #40

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Defense of County Positions on R.S. 2477 Rights of Way and Wilderness**

#### **BACKGROUND:**

The 2006 ruling of the 10<sup>th</sup> Circuit Appeals Court on the trespass case brought against Kane, Garfield and San Juan Counties has shed a whole new light on the question of the ownership of RS 2477 rights-of-way. In this new light, the Counties and the State of Utah have begun a process to identify, record and maintain roads within each county in a manner consistent with the 10<sup>th</sup> Circuit ruling. A Recent district court ruling has thrown into question some of the gains made under that 2006 10<sup>th</sup> Circuit Court ruling. Hence UAC filed an amicus brief supporting the appeal of that ruling.

In advocating these positions, counties can expect to be criticized by various special interest groups who oppose reasonable use of established County roads on public lands.

#### **FINAL POSITION:**

The Utah Association of Counties must aggressively and vigorously defend these efforts. Additionally, UAC must seek to educate the public, the press, Congress, and others as to the need for resolution of these issues and the correctness of the counties' positions for resolving them.

## LANDS, RESOURCES AND DEVELOPMENT #41

Primary Affiliate: All

Secondary Affiliates: None

### **ISSUE: The APPLE Initiative**

#### **BACKGROUND:**

Western states bear a particularly onerous burden because of federal ownership and management of an overwhelming amount of the land. This is especially true in education funding and in the ability of government, particularly local government which is property tax dependent, to provide services and properly provide educational opportunities for our children.

The APPLE initiative seeks to redress the inequalities created as a result of government ownership of the land. The Utah legislature should, by resolution or legislation, also move these proposals forward.

#### **FINAL POSITION:**

The Utah Association of Counties supports the APPLE initiative and encourages those advocating this proposal to continue to move it forward to fruition without disturbing the current PILT program.

## LANDS, RESOURCES AND DEVELOPMENT #42

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Keeping Public Roads Across SITLA Lands Open**

#### **BACKGROUND:**

Many county roads over federal lands pass through sections of land administered by the Utah School and Institutional Trust Lands Administration (SITLA). For each such road in place prior to January 1, 1992, State law granted a temporary easement to keep the SITLA portion of the road open to the public. In turn, the Counties keep the non-SITLA portion of each such road open, which gives SITLA access to and from its property.

Under the current law, if a given tract of SITLA property goes up for sale, each temporary road easement across that tract is subject to being extinguished unless the County petitions and persuades SITLA to make the easement permanent before the sale goes through.

Making these temporary road easements permanent as a matter of law is consistent with SITLA's trust responsibilities and in the best interest of the State and Counties.

#### **FINAL POSITION:**

The Utah Association of Counties supports legislation or other processes to convert temporary road easements across SITLA property into permanent public rights of way in order to ensure access to SITLA property as well as continuity and integrity of County roads overall.

## LANDS, RESOURCES AND DEVELOPMENT #43

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Partial Redistribution of Revenues from SITLA Exchanged Lands**

#### **BACKGROUND:**

For SITLA lands acquired through exchanges with the Federal Government, mineral revenues currently go to special districts as opposed to counties. Because revenues from exchanged lands are no longer federal in nature, revenues from those lands could be distributed to counties without detrimentally impacting payment in lieu of taxes (PILT) funding for the counties.

It is appropriate to distribute part of SITLA exchanged-lands revenue to counties, with special consideration for those counties that have been impacted by SITLA/federal land exchanges.

#### **FINAL POSITION:**

The Utah Association of Counties supports legislation to distribute exchanged lands revenue to all counties, with special consideration for counties most impacted by SITLA/federal land exchanges.

**ISSUE: Redress for Rangeland Damage Caused by Overpopulation of Bison and Elk**

**BACKGROUND:**

The livestock protection provisions of House Bill 264 (2005 Session) codified at Utah Code § 63-38d-401(6)(m)

- require that forage AUMs restored from suspended use back to active use go to livestock instead of wildlife until 100% of the historically permitted forage is restored,
- permit the allocation of additional wildlife forage only when range conditions have improved to the point that more than 100% of the historically permitted forage has been restored to the active use category and is all going to livestock,
- oppose the relinquishment, retirement or other transfer of grazing AUMs to or for wildlife uses, and
- require the quick and effective adjustment of wildlife population goals and census numbers in response to variations in the amount of available forage, giving preference to the needs of the livestock industry provided that endangered species are not impacted.

There is a widespread perception in Utah's agricultural industry that the Utah Division of Wildlife Resources' herd enhancement agenda pays too little heed to these livestock protection provisions. A recent acute example of this problem centers around the current mismanaged and grossly overpopulated bison herd on and around the Henry Mountains, which has overpopulated way beyond the maximum population at which DWR previously committed to keep the herd, have wandered off the Henry Mountains proper where DWR previously committed to keep the herd, and have overgrazed winter ranges near the Henry Mountains to the point where those ranges are greatly diminished and damaged. Similar problems are occurring around the State with respect to overpopulated and mismanaged elk herds.

This bison and elk overpopulation problem and related overpopulation/mismanagement problems with various elk herds around the state threaten the livestock industry by undermining the protection provisions set forth above. To begin with, additional legislation is needed to address this problem. That legislation should (1) ensure that Utah DWR will quickly and effectively control the bison and elk overpopulation problem around the state and (2) effectively compensate livestock grazers in that area whose winter ranges have been or will be damaged by bison and elk grazing.

**FINAL POSITION:**

The State Legislature should enact a law to redress the rangeland damage caused by overpopulated wildlife. That law should (1) give the grazers greater latitude to move bison off the ranges without incurring liability under current restrictions against wildlife movement, (2) stringently require DWR to more quickly and effectively reduce the overpopulation of bison and elk, and (3) establish the issuance of a reasonable quantity of bison and elk hunting tags in the name of the impacted grazers, the revenue from the sale of which tags would go to the grazers for range restoration and to otherwise compensate for the bison-caused impacts to their livestock ranges, somewhat similar to how current laws provide redress for wildlife damage to private landowners.

**ISSUE: State's Comments on BLM RMP Drafts and Forest Service Plan Drafts**

**BACKGROUND:**

The State Planning Coordinator and all who assist him (including the State Public Lands Policy Coordinator and his staff) are required by law to adhere to State public lands policy codified in HB 264 (2005 Session), codified at Utah Code §§ 63-38d-401(6), 63-38d-4401(7), 63-38d-401(8) when submitting comments on the BLM RMP revision process or Forest Service plan revision process that occur around the State. Furthermore these State comments should uphold and support County positions to the maximum extent the Planning Coordinator finds those County positions to be consistent with State and Federal law. Utah Code § 63-38d-301(3)(a). Furthermore Counties are entitled by law to review these State comments in advance and make suggestions before the State actually submits those comments to the BLM. Utah Code §§ 63-38d-401(4), 63C-4-102(7).

It is in the Counties' best interest that the State take special care to execute and comply with the foregoing provisions.

**FINAL POSITION:**

The State Planning Coordinator and all who assist him (including the State Public Lands Policy Coordinator and his staff) (1) should adhere to State public lands policy codified in HB 264 (2005 Session), codified at Utah Code §§ 63-38d-401(6), 63-38d-4401(7), 63-38d-401(8) when submitting comments on any BLM or Forest plan revision process, (2) should uphold and support County positions to the maximum extent the Planning Coordinator finds those County positions to be consistent with State and Federal law as required by Utah Code § 63-38d-301(3)(a), and (3) should give Counties the full amount of time required by law to review these State comments in advance and make suggestions before the State actually submits those comments to the BLM of Forest Service, as required by Utah Code §§ 63-38d-401(4), 63C-4-102(7).

**ISSUE: Reduced Fuel Loads on Forests and Rangelands**

**BACKGROUND:**

The "de-facto wilderness" and other "leave-it-alone" land management policies of the late 20<sup>th</sup> century have produced the following scenario:

- Bio-mass and dense old-growth buildup in forests
- Pinion and juniper succession on range lands
- Unreasonable restrictions on grazing to control cheat grass and other invasive weeds.

This all adds up to:

- Dead and dying mountain alpine stands.
- Choked, bio-mass laden forests.
- Degraded slopes and foothills.
- Depleted watersheds.
- Tinder boxes waiting to flame on in '08 ala Southern California, Milford Flat and Neola,

An active aggressive program to reduce the fuel load in Utah's forests and public range lands would produce the following win-win scenario. Reducing fuel load = healthier forests and ranges = improved watershed (pinion and juniper root systems suck up water and reduce watershed yield for streams and rivers) = better control of invasive plants = more forage for livestock and wildlife = less fire = less CO<sub>2</sub> = less global warming (for those who subscribe the scientifically questionable view that increased CO<sub>2</sub> causes increased global warming) = greater public safety = increased air quality = less haze and pollution on Wasatch Front = more rural jobs and economic activity for wood products and bio-fuels production, etc., etc.

**FINAL POSITION:**

The Legislature and Governor should issue resolutions, letters and undertake all reasonable efforts to motivate the BLM and Forest Service to permit early spring grazing in high-risk areas in '08 and permit more aggressive, pro-active fuel load reduction programs including grazing and the harvesting of timber in the long-term on forests and rangelands.

**ISSUE: Importance of Utah's Fossil Energy and Uranium Resources**

**BACKGROUND:**

The development and promotion of renewable energy resources are laudable and should continue. However, renewable energy cannot possibly meet more than a tiny fraction of Utah and America's energy demand for many decades to come.

The State of Utah should responsibly embrace and accept this reality and promote Utah's significant fossil and uranium energy reserves.

**FINAL POSITION:**

To properly promote the importance of energy resources to the State's economy, the Governor's office should:

1. Champion Utah's natural gas resources as the least carbon emitting of all fossil fuels.
  - The Governor should promote access to Utah's world-class natural gas fields, while requiring energy companies to properly reclaim at least to the extent of their footprint, resulting in a net win for the environment.
2. Promote exploration and development of Utah's oil resources.
  - To help achieve energy independence for America, Utah's oil resources should continue to be developed. Recent discoveries throughout the State indicate that Utah has significant untapped oil reserves that may be responsibly extracted without damaging the environment.
3. Promote the construction of oil refineries in Utah.
  - Utah's oil is of a grade that requires a special refinery process not currently available in the State. The result: Utah imports Canadian oil for refinement while much of Utah's oil resource lies untapped. Refineries engineered to refine Utah's special grade of oil should be constructed in Utah.
4. Promote the exploration and development of oil shale and tar sands.
  - Utah has some of the world's largest oil shale and tar sands reserves, with an equivalent oil content rivaling that of Middle East oil reserves. Recent oil price trends make it more feasible than ever to develop energy from Utah's the oil shale and tar sands reserves. The Governor should lead out in this area in order to achieve his stated number one priority of developing Utah's economy.
5. Promote Utah's nuclear energy resources as having no carbon emissions at all.
  - Responsible 21<sup>st</sup> century energy policy must recognize nuclear energy's non carbon-emitting seat at the table and hence Utah's abundant nuclear resources.
6. Promote responsible high-tech use of Utah's coal resources.

- All reputed energy policy analysts agree that clean burning coal is a critical component of Utah's and America's electricity needs for many decades to come.
  - Categorically opposing another clean burning coal-fired electric plant in Utah, illogically ignores the foregoing reality.
  - Support is needed for additional high-tech clean burning plants in Utah where local governments responsibly identify a need.
7. Promote the development of technologies for renewable energy such as solar, wind and hydro-electric power.
- Continued research and development are needed to enhance the capacity and affordability of solar, wind and hydro-electric energy.

## **LANDS, RESOURCES AND DEVELOPMENT #48**

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: The State of Idaho's Forest Roadless Rule Petition**

#### **BACKGROUND:**

In 2006 the State of Idaho submitted a detailed petition on how to manage all 9.3 million acres of its "forest roadless areas." The demise of the Forest Service 2004 roadless rule did not doom Idaho's petition. Instead Idaho proceeded under a pre-existing Forest Service rule that allows State and Local Governments to petition for rule making. Idaho's petition is currently going through forest service rule-making. An Idaho-friendly draft forest service roadless rule is expected soon, under which all 9.3 million acres of "roadless areas" in Idaho will be managed according to Idaho's own values, policies and desires.

Utah should follow Idaho's example. Counties in Utah could provide grass-roots planning support to expedite creation of a state-level, quality "Idaho-Style" petition. The Forest Service planning rule allows counties to petition themselves, and many counties are ready to do so if necessary. But the counties would rather see Utah lead out, with the counties providing substantive grass-roots level planning support like what happened in Idaho.

#### **FINAL POSITION:**

The State of Utah should work with the counties to fashion a petition for the management of so-called "forest roadless areas" in Utah, following the procedure and process currently followed by the State of Idaho.

**ISSUE: Wildfire Suppression and Mitigation – Statewide Coordination and Funding****BACKGROUND:**

Wildfires in Utah typically involve multiple jurisdictions (cities, counties, BLM, Forest Service, SITLA, etc.). Wildfire suppression efforts and the post-fire accounting of financial responsibility would improve if the law provided for a central unified command to fight wildfires after the initial attack stage, plus a state-wide fire suppression and mitigation fund in which all willing local governments could participate.

State law currently gives counties the option to participate in a wildfire suppression insurance program administered by the Utah State Division of Forestry, Fire and State Lands ("Division"). Premium rates are based on acreage of unincorporated land and are weighted according to the assessed value of that land. Counties receive coverage in the form of a certain level of fire suppression services provided by the Division, plus payment of other fire suppression costs. Some counties feel their premium assessment for the current insurance program is disproportionately high. Some years the current insurance fund is insufficient to pay the cost of fire suppression, in which case counties must approach the Legislature for assistance. Municipalities currently are not allowed to participate in the current insurance fund. This creates controversy in deciding who between counties and municipalities pays for a given wildfire that crosses those jurisdictional boundaries.

**FINAL POSITION:**

The Legislature should enact a law which provides for:

- Unified command of the fire suppression effort;
- A state-wide wildfire suppression and mitigation fund administered by the Division pursuant to appropriate rules;
- A state-wide funding mechanism to raise enough money to realistically and adequately suppress all wildfires in Utah on non-federal land. Funding rates should be adjusted yearly to replenish the suppression and mitigation fund to a reasonable level – with higher rates following large fire years that deplete the fund more, and vice versa. The funding mechanism could be in the form of a state uniform property tax or sales tax but should not be a county or a municipal property tax. The funding mechanism could be in the form of a surcharge on fire insurance for residences and commercial structures, weighted to charge more for structures located in wildland urban interfaces;
- The creation of cooperative agreements between the Division and each participating county as a condition for that county's participation in the wildfire suppression and mitigation fund, with provisions to govern fire suppression coordination, unified command, mitigation efforts, etc;
- The creation of cooperative agreements between each participating county and its municipalities as a condition for each municipality's participation in the wildfire suppression and mitigation fund, with provisions to govern county wide fire suppression coordination, command, mitigation efforts, etc.

**ISSUE: Opposition to the Clean Water Restoration Act of 2007**

**BACKGROUND:**

The Clean Water Restoration Act of 2007 ("CWRA"), H.R. 2421 and S. 1870, would amend the Federal Water Pollution Control Act (22 U.S.C. 1251 et seq.) (commonly known as the Clean Water Act ("CWA")) to replace the term "navigable waters" throughout the Act, with the term "Waters of the United States," defined to mean all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing, to the fullest extent that these waters, or activities affecting them, are subject to the legislative power of Congress under the Constitution.

The CWRA's definition of "waters of the United States" could mean other types of water such as ditches, pipes, streets, gutters, manmade ponds, drainage features, desert washes and other features, even though they are not specifically listed. The Act could be interpreted broadly to allow federal regulation of any and all activities that "affect" waters.

H.R. 2421 was referred to the House Committee on Transportation and Infrastructure and in turn referred to the Subcommittee on Water Resources and Environment, who conducted hearings on the bill July 17, 2007, July 19, 2007 and April 16, 2008. S. 1870 was referred to the Senate Committee on Environment and Public Works, who conducted a hearing on the bill April 9, 2008. No other major House or Senate action has occurred on the CWRA, but the bill is still pending.

The CWRA would shift the boundaries between federal waters and state waters, resulting in expensive, far reaching and unintended consequences for states and local governments. Every county would have to obtain a CWA Army Corps of Engineers permit (404 and 402) for any project that would impact "waters of the United States" which would be defined to include but limited to: man-made ditches, culverts and pipes, roads, curbs, and sidewalks (may include mere stormwater runoff from roads), water rights and water transfer rights, routine maintenance (clean-up of debris) in flood control channels, waste treatment systems, including settling ponds, and pesticide applications including mosquito abatement and fire retardant sprays.

The CWRA would require counties to obtain wetland permits for virtually every public infrastructure project, whether new or maintenance related, if the project affects intrastate water including potentially groundwater. Counties are responsible for public infrastructure projects that include roads, gutters and ditches, drainage channel maintenance, pesticide application, mosquito control and fire retardant sprays, sewers and wastewater disposal, including settling ponds, water supply, transfers and rights, solid waste disposal, county owned/operated airports, storm water detention infrastructure, erosion control, maintenance/construction of county-owned schools, nursing homes, hospitals, any municipal buildings, marinas, dams and reservoirs; parks, greenways and forestlands, cleanup/ rebuild after natural disasters; and economic development. All of these would be subject to Army Corps of Engineers wetland permitting under the CWRA.

**FINAL POSITION:**

The CRWA should be defeated.

**ISSUE: Mineral Lease Sharing – Restore the 50-50 Federal-State Sharing Arrangement**

**BACKGROUND:**

For many years now, Counties in Utah have depended on the Federal Mineral Lease Act at 30 U.S.C. 191(a), which provides that 50 percent of all federal oil and gas lease royalties shall be paid to the State where the leased lands or deposits are or were located. 30 U.S.C. 191(b) requires that such payments to the States “shall not be reduced by any administrative or other costs incurred by the United States.”

This long-standing 50/50 sharing arrangement was disrupted in December, 2007, when the FY 2008 Interior Appropriations Act was amended to allow the Secretary of Interior to deduct and keep 2 percent from the amount payable to each State. See Division F, Title I of Public Law 110-161, Dec. 26, 2007, 121 STAT. 2109.

A significant portion of Utah’s share of mineral lease revenues goes to special accounts, special districts and other programs that directly benefit Counties in a variety of ways. This 2 percent readjustment of the 50/50 sharing formula arbitrarily affects Counties in a negative way.

**FINAL POSITION:**

Congress should reverse this 2 percent take-away from the States and restore the longstanding 50/50 formula for Federal/State sharing of mineral lease royalties. Utah’s Governor and Congressional Delegation should employ all means available to urge this Congressional action.

**ISSUE: Designating Each Wasatch Front County as a Separate PM 2.5 Non-Attainment Ambient Air Quality Area**

**BACKGROUND:**

The Environmental Protection Agency (EPA) proposes to designate a single, "super" PM 2.5 non-attainment ambient air quality area along the entire Wasatch Front, to include all of Salt Lake and Davis Counties and substantial portions of Utah, Tooele, Weber, and Box Elder Counties.

An aggregation of these different areas into one super area will create potential implementation problems and confusion. A possible conformity lapse in one part of the proposed super area would make other parts of the super area subject to non-conformity penalties and regulations even though those areas never experience a violation of ambient air quality standards.

**FINAL POSITION:**

The Utah Association of Counties favors designating the counties of Weber, Davis, Salt Lake, Utah, Tooele and Box Elder each as separate PM 2.5 non-attainment areas, not as one aggregate super area.

Alternatively, if EPA insists on combining some municipal areas into an aggregate PM 2.5 area, that should be limited to combining the Weber/Davis areas. All other counties along the Wasatch Front, namely Utah, Salt Lake, Tooele and Box Elder Counties, should remain separate PM 2.5 non-attainment areas.

**ISSUE: Keeping the Arizona Strip near Kanab and St. George Open for Reasonable Uranium Exploration and Development**

**BACKGROUND:**

The Arizona Strip region, located in the Utah-Arizona border region, is known to contain the second most prolific reserve of high grade uranium deposits in the United States. Uranium exploration and mining activities in the Arizona Strip provide jobs, tax base and economic growth and stability for communities in the region in and around Kane and Washington Counties, help our nation achieve energy independence and security, and provide a non-carbon emitting reliable proven source of electricity generation. Past uranium exploration activities in the Arizona Strip are shown to have been fully backfilled and reclaimed, producing a relatively small foot print over a relatively short mine life (3–5 years), which is barely detectible after reclamation. Uranium mining activities are proven medically safe to human life, due to the regulations under MSHA, OSHA, NRC, etc., that were not in place during the first half of the 20th century.

H.R. 5583 (110th Cong., 2d Session), introduced March 11, 2008, proposes to withdraw much of the Arizona Strip from all forms of further mining development, including uranium exploration and development. In June of 2008, the House Natural Resources Committee, acting by itself as opposed to the full House and Senate, adopted an emergency resolution requiring the U.S. Secretary of the Interior to withdraw over a million acres of federal land in the Arizona Strip from any new uranium mining for up to the next three years. The Justice Department has found similar resolutions to be unconstitutional, because they escape review by both bodies of Congress and the American people. The BLM has begun procedures to revoke the administrative rule on which the unconstitutional resolution is based.

**FINAL POSITION:**

1. The House Natural Resources Committee resolution ordering DOI to ban uranium development in the Arizona Strip, exceeds a House committee's constitutional powers and should be abolished.
2. H.R. 5583 (110th Cong. 2d Session), a bill to ban and withdrawal of the Arizona Strip from further uranium exploration and development, should be defeated.

**ISSUE: Giving Counties the Option to Direct Secure Rural Schools Forest Service Payments into Road Special Service Districts**

**BACKGROUND:**

Current Utah Law (the Utah Mineral Lease Act) gives a county the option to direct the Utah Department of Transportation to give Federal mineral lease revenues that are due to a county, over to one or more special service districts in that county, to be spent and used according to the sole wishes of that special service district. Monies so diverted are considered to have never been received by a county, and thus do not count as an offset to the money due that county the following year under the U.S. Department of Interior's payments in lieu of taxes (PILT) program.

Thanks to a 2009 Congressional reauthorization Act, many counties in Utah are set to receive substantially larger payments in January 2009, 2010, 2011 and 2012 under the U.S. Department of Agriculture/National Forest Reserve "Secure Rural Schools" (SRS) program, for fiscal years 2008 – 2011.

Federal law requires counties to split their SRS payments evenly with school districts and spend the county's portion for maintenance and improvement of public roads. Counties should have the option to direct their portion of SRS monies into road special service districts, just like counties may currently do with Federal mineral lease revenues. SRS monies diverted into a road special service district would not be counted as an offset to the PILT money that is due to the county the following year.

**FINAL POSITION:**

The Utah Legislature and Governor in the 2009 General Session, should promptly enact a law, retroactive back to January 1, 2009, to give counties the option to direct the State Treasurer to divert the county portion of Forest Reserve SRS payments into road special service districts.

**ISSUE: Defending Utah's Water Interests in Snake Valley****BACKGROUND:**

Utah will lose billions of gallons of scarce groundwater every year if the Nevada Water Engineer allows Southern Nevada Water Authority's (SNWA) to divert 50,000 acre feet of groundwater each year from Snake Valley to Las Vegas. Snake Valley lies mainly in Utah, except for a small corner in Nevada where SNWA wants to pump groundwater meant for the Utah side, where it sustains the water tables, seeps and springs that are so critical to Utah's ranching, agriculture, municipal, wildlife and ecosystem needs. Millard County protested SNWA's Snake Valley application, as did four federal agencies, the National Park Service, the United States BLM, the U.S. Bureau of Indian Affairs, and the U.S. Fish and Wildlife Service. The Nevada Engineer hearing on these and other protests will occur during autumn of 2009.

Meanwhile, Utah and Nevada are exploring whether they can agree how to divide the water in Snake Valley between them. By law, Utah and Nevada must come to such an agreement and BLM must complete a NEPA EIS on the effects of the SNWA proposed project, before SNWA may actually pipe water across BLM ground to Las Vegas. Millard, Juab and Tooele Counties are involved in the EIS process. Salt Lake and Utah Counties are voicing concerns that the project will drop water tables enough to destabilize soils and degrade Wasatch Front ambient air quality.

**FINAL POSITION:**

1. The Department of Interior should pursue its agencies' Snake Valley protests all the way to the Nevada Engineer hearing and not make an agreement with SNWA to drop those protests.
2. The BLM and Nevada Water Engineer should study, factor and mitigate for air quality impacts.
3. Washington BLM should put Utah State BLM, not Nevada BLM, in charge of the EIS for project impacts on the Utah side.
4. The BLM EIS process should go on hold until the Nevada Engineer groundwater hearings are completed, and the Nevada Engineer hearings should go on hold until the Utah/Nevada negotiations run their course. Any other manner or order of proceeding is arbitrary and ill advised.
5. The Utah groundwater negotiating team in its negotiations with Nevada, should:
  - a. Negotiate for the maximum allowable amount of diverted water annually, not the minimum guaranteed amount;
  - b. Insist on monitoring wells placed reasonably close to SNWA's extraction wells with sensitive triggering mechanisms for early detection of water table draw-downs, monitoring equipment to measure and warn of impacts to seeps and springs, and plainly worded, enforceable measures to turn off the pumping when these monitoring mechanisms are triggered; and
  - c. Insist on protection against impacts that harm vegetation or that destabilize soils and cause dust storms.



## LAW ENFORCEMENT, CORRECTIONS & COURTS #56

Primary Affiliate: Sheriffs

Secondary Affiliates: USACCC, Attorneys

### **ISSUE: Costs of Operating the Courts at Contract Sites**

#### **BACKGROUND:**

Inadequate funding in the overall court contracts and particularly in the areas of salary and benefits is leaving a burden on counties in court contract sites, which the legislature did not expect these counties to bear when it passed the District Court Assumption Act in 1988. Requests have been made to the State Judicial Council to redress these funding shortfalls. The council has been receptive, but requests for additional funding must be made to the legislature.

#### **FINAL POSITION:**

UAC requests that the Court Administrator's Office request full funding to properly and adequately operate contract court sites.

## LAW ENFORCEMENT, CORRECTIONS & COURTS #57

Primary Affiliate: Attorneys

Secondary Affiliates: Sheriffs

### **ISSUE: Grand Jury System**

#### **BACKGROUND:**

Utah currently has a system for impaneling a Grand Jury, however, the Grand Jury process is seldom used because of the difficulty in assembling a Grand Jury and because of the cost involved in utilizing a Grand Jury. The Federal system regularly uses the Grand Jury process for initiating criminal actions against defendants. In certain types of cases the Grand Jury system would save time and provide a method of moving a case to trial with minimum publicity and reduced stress and pressure on the victim of certain types of crimes.

It would be advantageous to revise Utah's Grand Jury system so that County and District Attorneys have the ability to petition the Presiding Judge, of their Judicial District to impanel a Grand Jury to hear certain types of sensitive cases, such as child and adult sex abuse, and thus avoid the difficult and often intimidating process of using a preliminary hearing to process the case and prepare for trial.

#### **FINAL POSITION:**

The Grand Jury system in Utah should be revised to make it easier for a Prosecutor to request a Grand Jury on cases where the Prosecutor feels it would be appropriate to use a Grand Jury rather than a preliminary hearing.

## LAW ENFORCEMENT, CORRECTIONS & COURTS #58

Primary Affiliate: Sheriffs

Secondary Affiliates: None

### **ISSUE: Changes in Criminal DNA Collection**

#### **BACKGROUND:**

Currently, all individuals convicted of felonies and Class A and misdemeanors are required to provide a DNA sample and to be included in the national database. Many Class B misdemeanors are serious in nature and the individuals committing those offenses should be also included in the national database.

#### **FINAL POSITION:**

Utah law should be amended to require individuals convicted of selected, violent Class B misdemeanors to provide DNA samples for inclusion in the national database.

## LAW ENFORCEMENT, CORRECTIONS & COURTS #59

Primary Affiliate: USACCC

Secondary Affiliates: Attorneys

### **ISSUE: Judicial Awards of Attorney Fees in Litigation**

#### **BACKGROUND:**

In 1994, the Utah Supreme Court adopted a doctrine, embraced by very few jurisdictions in the country, which allowed lower courts to consider whether to award attorney fees incurred by litigants to the prevailing party in a lawsuit. The court justified this decision under the "equitable" powers of the courts and adopted the so called "private attorney general doctrine." The decision rested without much attention until 2006 when the Utah Supreme Court determined that it had the authority to conduct a de novo, or entirely new, review of a trial court decision whether to allow a plaintiff to recover the costs of the fees paid to its attorneys. The court thereby gave appellate courts sole authority to determine whether an issue presents an important enough policy that the cost of raising it before the court should be borne by the public.

Over the last two years, county attorneys from several jurisdictions have requested and recommended that legislation be adopted to overturn this judicial policy making. The current proposal under consideration is to pursue legislation that would prohibit an award of attorney fees against a governmental entity unless such an award is based on grounds specifically stated in statute or in a contract applicable to the governmental entity.

#### **FINAL POSITION:**

Support legislation to prohibit an award of attorney fees to a prevailing party in litigation unless the issue raised is sufficiently important to be defined by statute as grounds for awarding fees or is anticipated and agreed to by the parties to a contract.

## **LAW ENFORCEMENT, CORRECTIONS AND COURTS #60**

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Primary Affiliate: Sheriffs  
Secondary Affiliates: None

### **ISSUE: Metal Sales to Scrap Dealers**

#### **BACKGROUND:**

With the escalating price of metals we are seeing more and more thefts of products containing metal from construction sites, farms, ranches and homes. The stolen metal products are often taken to scrap dealers and sold as scrap. Utah law currently provides some protection by requiring scrap dealers to obtain identification information from individuals selling metal as scrap (see UCA 76-10-907 to 910). Sheriffs recommend that these requirements be enhanced to require that a seller of metal as scrap be required to provide a finger print at the time of the sale and that the scrap dealer be required to hold the scrap purchased for a period of time before sale or other disposition.

#### **FINAL POSITION:**

Utah law should be amended to require that each time scrap metal is sold to a scrap dealer a fingerprint of the seller be taken for the purpose of identifying the individual if the products sold are found to be stolen property. In addition, scrap dealers should be required to hold the material purchased for at least ten days prior to disposing or melting it down, so that law enforcement has the opportunity to identify the stolen property and return it to the victim.

## **LAW ENFORCEMENT, CORRECTIONS AND COURTS #61**

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Primary Affiliate: Sheriffs  
Secondary Affiliates: None

### **ISSUE: Sex Offenders' Contact with Children**

#### **BACKGROUND:**

Currently child sex offenders on probation or parole are prohibited from having contact with children except in certain clearly defined situations outlined in their probation or parole agreements. When probation or parole ends the restriction on contact with children also ends, even though the offender must register on the sex offender register for a number of years after termination from probation or parole. We have experienced a number of situations around the state where child sex offenders have approached and tried to lure children into accompanying them. If the offender actually takes the child the crime of kidnapping may occur. However, if the child is astute enough to leave and to not accompany the offender, law enforcement is left with no ability to take action against the offender for trying to abduct the child.

#### **FINAL POSITION:**

Law enforcement should be allowed to charge the offender with a Class A Misdemeanor for attempting to abduct a child under 14 years of age if the offender has been convicted for offending against a child and is on the state's sex offender register. The provision will exclude offenders that have appropriate permission to be in the company of the child, that are legally with their own child or that are acting in an emergency to assist the child.



ISSUE: **County Business Tax**

BACKGROUND:

Under present state law, cities may impose a business license tax for the purpose of raising local revenue. Counties do not have the same authority and may only impose such a tax to cover the costs of regulation.

A Legislative Tax Task Force has recommended legislation that would grant this authority to counties. Municipalities often oppose counties use of this authority to fund municipal services. If business license taxes are not a proper source of funding for municipal services, then city authority to impose the tax should be repealed.

FINAL POSITION:

Counties should be granted authority by the legislature to impose a business license tax for the purpose of raising revenue. Cities and counties may not levy a business license tax on agriculture.

**ISSUE: Diversification of County Revenues**

**BACKGROUND:**

The Utah Association of Counties establishes, as a principle, the goal of providing control of essential public services at the level of government most capable of delivering them. In order for the counties to be effective partners with the state and federal governments, county commissions and councils must have the authority to generate optional revenues at the local level which are sufficient to meet public service needs and which are responsive to any single revenue source.

A proper balance of service responsibility and revenue raising authority is imperative for effective governance by counties. Any restructuring or responsibilities assigned to counties should be coupled with restructuring of local revenue sources to meet those responsibilities.

A successful revenue system will incorporate three or four major sources of revenue into its revenue stream. A single source revenue stream jeopardizes the ability of government to provide services. Large refunds, changes in law either through legislation or litigation and economic downturns play havoc with government that is too heavily dependent on one source of revenue.

The introduction of the county option sales tax in 1997 has allowed counties to diversify their revenue base, but county revenue sources still fall below the state's three major sources of revenue and the cities' five.

Truth in taxation has effectively limited property tax increases while at the same time exemptions and the growth of redevelopment agencies have eroded a major source of revenue—property tax base, which counties have. For these reasons, counties must diversify their tax base and seek other optional countywide revenue sources.

**FINAL POSITION:**

In order for counties to continue to participate as partners with the state in providing a variety of shared services, as well as local service, counties must have access to diverse countywide revenue sources that are equitable in terms of impact on residents.

Support diversifying county revenue sources through a balanced revenue base imposed by the governing body countywide. The revenue generated must be available to be allocated for general government purposes.

## REVENUE AND TAXATION #64

Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Local Economic Development Incentives**

#### BACKGROUND:

Economic development incentives, granted by the state through exemptions, to the sales and use tax have been imposed statewide by type of industry. Accordingly, many counties fail to receive the benefits of increased economic growth because the exempted industries are not located in their jurisdictions. Furthermore, elected county officials in many different areas of the state face similar problems of economic intonation and underdevelopment, as do those areas that have received the benefits of the statewide incentives.

#### FINAL POSITION:

Local elected officials should be granted authority by the legislature to provide economic development incentives through sales and use tax exemptions. State exemptions and incentives should be limited to state portions of exemptions or other incentives.

## REVENUE AND TAXATION #65

Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Utility Franchise Tax Authority for Counties**

#### BACKGROUND:

Counties in Utah are more heavily dependent on property taxes than any other unit of government. The introduction of the county option sales tax in 1997 has decreased the counties' dependence on property tax, but counties are still charged to provide services with fewer revenue sources than municipalities. With such an unbalanced revenue scheme, counties' ability to provide services—many of which are mandate services by the state and federal government is in jeopardy. Economic downturns, legislative changes and valuation challenges presents serious obstacles for the fiscal health and viability of county government. Truth in taxation and ever increasing amounts of tax increment financing has eliminated any growth in property tax revenues, leaving counties solely dependent on a source of revenue that has little public support and no ability to keep pace with rising costs. Property owners are now being forced to bear the entire burden of paying for incarcerations, aging and mental health services. Indigent rightfully should be spread upon a larger segment of the county population through revenue sources other than property taxes.

#### FINAL POSITION:

Counties should be given authority to impose utility franchise taxes up to six percent within the unincorporated-incorporated areas of the county and up to one percent countywide.

**ISSUE: Truth in Taxation Amendments****BACKGROUND:**

In 1969, in an effort to standardize property tax values in the state of Utah, the legislature enacted a statewide revaluation program. In conjunction with this revaluation program the legislature passed a revenue limitation bill that limited taxing entities in the amount of tax revenue they were able to charge. This revenue cap prevented taxing entities from setting a tax rate that would generate an amount greater than 106% of the property tax revenues charged the previous year. The rate could be increased above the 106% maximum if approved by a vote of the people.

In 1985 the legislature passed a legislative package known as "Truth in Taxation".

One bill changed the level of property assessment and rates of taxation. Prior to 1986, properties were assessed on a fraction of their fair market value and tax rates were expressed in mills. Fractional assessments combined with mill levies made it difficult for the average property owner to understand the property tax process. These problems were particularly apparent in counties where property valuation notices reflected fractional assessments only and not full market value. House Bill 32B helped clarify the taxation process by requiring assessments to be based on 100% of fair market value and tax rates to be expressed as a percentage of taxable value.

A companion bill created specific public notice requirements and required hearings to be held whenever a taxing entity intended to increase its property tax revenues above those levied in the previous year, excluding revenues generated by new growth.

Truth in Taxation laws is not an attempt by the state to limit tax rates or tax revenue but are merely an effort to provide taxpayers public notice of proposed property tax revenue increases in an understandable format and on a timely basis. With this information the taxpayers become more actively involved in the budget setting process and will more readily exercise their appeal rights at County Boards of Equalization.

Some are advocating a change in Truth in Taxation laws making it a rate limitation rather than a revenue limitation. Such a change would impact counties and other taxing entities with large valuation reductions (i.e., oil production, minerals, industry layoffs and closures) severely and prevent responsible actions by county officials to maintain vital programs and services.

**FINAL POSITION:**

Resist proposals to change Truth in Taxation laws from a revenue limitation to a rate limitation.

## REVENUE AND TAXATION #67

Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Amendments to the Interlocal Cooperation Act**

#### BACKGROUND:

Exemptions from paying a fee in lieu of property taxes were given to municipally owned portions of electrical generating facilities and energy suppliers on the basis that the power would be utilized by the citizens of those exempt municipalities. Until recently, approximately eighty-nine percent of the power generated by the Intermountain Power Project was being sold to California municipalities and subject to the in lieu fee. Until recently the remaining eleven percent was being used by Utah municipalities and therefore, exempted from the in-lieu fees. Utah municipalities are now selling their portion of the power to California cities but continue to receive the exemption.

#### FINAL POSITION:

Support legislation requiring in-lieu fees on the sale or transfer by an exempt supplier to an entity not exempted by the Utah constitution.

## REVENUE AND TAXATION #68

Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Ad Valorem Taxation of Interlocal Cooperation Act Entities**

#### BACKGROUND:

Intermountain Power Agency was organized under the Interlocal Cooperation Act, which imposed a fee, in lieu of ad valorem tax, in place of an ad valorem tax. The Constitution of the State was later amended to allow for the taxation of municipally owned property outside its boundaries. IPA is now drawing the benefits of a tax-exempt entity as well as a utility company. From the date of commercial operation one hundred percent of the power has been sold out of state.

#### FINAL POSITION:

Ad valorem taxation should be imposed on all entities formed under the Interlocal Cooperation Act to the extent the entity sells, contracts to sell or delivers for sale any capacity, service or other benefit to a non-exempt entity.

## REVENUE AND TAXATION #69

Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **County-Option Resort Tax**

#### BACKGROUND:

A number of counties located near National Parks and other recreation areas are so heavily impacted by tourists and non-resident visitors they are unable to continue to finance impacted services from small property tax revenues. Certain counties have contemplated a repeal of TRT taxes to try to decrease tourism. Grand County proposed legislation in 1994 to mitigate the impacts. The Governors Office created a Tourism Finance Task Force to refine the legislation for 1995. The key to assisting counties in their recommendation is to give counties the options of imposing an additional sales tax up to one percent. Cities already have this option. The tax would become a new general fund revenue source but would exempt any item over \$2,500. Counties qualifying to use the option are those where the Transient Room Tax is equal to or greater than 3% of county personnel income. The tax would apply only in areas outside of cities that have an existing city resort tax unless approved by a majority of all residents affected.

#### FINAL POSITION:

Support legislation authorizing a County-Option Resort Tax.

## REVENUE AND TAXATION #70

Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Sales Tax Exemption in Constructing Public Facilities**

#### BACKGROUND:

Prior to 1995, local governments were exempt from paying sales tax on materials used in constructing public facilities purchased by contractors. A Utah Supreme Court decision upheld that exemption. The State Tax Commission advocated and obtained a change in the law to prevent local governments from receiving this exemption in 1995. School Districts passed legislation in 1996 restoring the exemption for their benefit but no change was made to allow the exemption to counties.

#### FINAL POSITION:

Support changes that would exempt materials purchased by contractors from sales tax on public facilities.

## REVENUE AND TAXATION #71

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Primary Affiliate: All  
Secondary Affiliates: None

### ISSUE: **Exclusion of Mandates from Truth in Taxation**

#### BACKGROUND:

The primary purpose for the legislature to require counties to disclose their intentions of raising property taxes is to make the elected officials, who raise the taxes above the certified tax rate, accountable for their actions. Thereby, the public may bring pressure to reduce or eliminate the proposed increase or ultimately defeat those elected officials in an election if local citizens feel strongly enough. Accountability inherently requires that the officials making the decision have sole discretion or control over the increase, otherwise accountability is void of any meaning. Many times elected officials are forced to increase the certified rates to pay for expenditures mandated upon them by the courts, legislature, state executive departments or the federal government. In those instances, there is no discretion or control and consequently the public loses accountability.

#### FINAL POSITION:

Exclude mandates imposed on counties by judicial decisions or legislative and executive actions from disclosure under Truth in Taxation certified rate calculations.

## REVENUE AND TAXATION #72

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Primary Affiliate: USACCC  
Secondary Affiliates: None

### ISSUE: **Diversion of Tourism, Recreation, Cultural and Convention Revenues**

#### BACKGROUND:

In November of 2000, the Legislative Auditor released a performance audit of state and county tourism revenues and expenditures. Legislation has been proposed that would restrict counties' uses of TRCC revenues. The legislation would also require certain percentage of the revenues to be spent on direct promotion.

#### FINAL POSITION:

Oppose any action that restricts county authority to expend Transient Room Tax or Restaurant Tax (TRCC) revenues.

## **REVENUE AND TAXATION #73**

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Primary Affiliate: Clerk/Auditors

Secondary Affiliates: Treasurers

### **ISSUE: Interest on Sales Tax Collections**

#### **BACKGROUND:**

Sales tax revenues collected by the Tax Commission are distributed to cities, towns, and counties after a 30-day lag time. Interest collected on sales tax revenues during that 30-day lag time remains with the state.

#### **FINAL POSITION:**

Support legislation that would require the Tax Commission to deposit all taxes administered by it which are imposed by a city, town, or county into an interest bearing sales tax trust account with the state treasurer within twenty-four hours of receipt by the Commission and require interest from that account to be paid out to each city, town, and county.

## **REVENUE AND TAXATION #74**

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Primary Affiliate: USACCC

Secondary Affiliates: All

### **ISSUE: June Disclosure Under Truth in Taxation**

#### **BACKGROUND:**

Truth in Taxation laws passed in 1985 require calendar year budget entities to advertise and hold hearings, when proposing to exceed the certified rate, in both December and June. Fiscal year entities are only required to advertise once in June. June hearings for calendar year entities are meaningless, confusing to the public and create public animosity. Those attending the June hearings resent attending twice once they realize they cannot influence a tax increase.

#### **FINAL POSITION:**

Support legislation eliminating the June disclosure requirements for calendar year entities.

## REVENUE AND TAXATION #75

Primary Affiliate: Assessors

Secondary Affiliates: All

### ISSUE: Residential Exemption for Non-Primary Homes

#### BACKGROUND:

The statutory constitutional exemption for residential properties defines those properties that qualify for the exemption as primary residential properties. This definition excludes non-primary residential homes, second homes, cabins and other types of recreational residential properties from receiving the exemption in ad valorem taxation. In the past legislative session, secondary homeowners introduced legislation extending up to a \$100,000 exemption to certain non primary residential properties that are not serviced by a public water system and are not included in a rental pool. Counties are held harmless in the most recent drafts. Revenues lost through the exemption will be reimbursed by the state similar to a circuit breaker.

#### FINAL POSITION:

As long as the circuit breaker provisions are included in the legislation, UAC takes no position. If the circuit breaker provisions are deleted, UAC is strongly opposed.

## REVENUE AND TAXATION #76

Primary Affiliate: USACCC

Secondary Affiliates: Assessors

### ISSUE: Escrow of Disputed Centrally Assessed Taxes

#### BACKGROUND:

In 1997 HB 129 allowed for disputed centrally assessed taxes to be placed into an escrow account until the dispute was settled. In the meantime, the county could invest the disputed amount with property tax base calculated minus the disputed amount. After reaching a resolution, the disputed amount would go to either the property tax payer or the taxing entity. If it is awarded to the taxing entity, it would return to the tax base and the tax rate would decrease accordingly.

In a 1997 special session, the Legislature repelled the previous session's HB 129 due to lobbying in part by centrally assessed taxpayers. Some centrally assessed taxpayers have since had a change of heart and have expressed interest in assisting the Utah Association of Counties in introducing this bill again.

#### FINAL POSITION:

Support legislation that would allow for disputed centrally assessed taxes to be removed from the tax base and placed in an escrow until the dispute is resolved.

## REVENUE AND TAXATION #77

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Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Severance Tax to Counties**

#### BACKGROUND:

During the 2002 General Session, HB 152 was enrolled. This bill provided a portion of the severance tax collected from oil and gas mining to the counties within that mining takes place. This bill also created the Oil and Gas Severance Tax Board, consisting of county officials from the nine counties that produce oil and natural gas, whose responsibilities included the distribution of the counties' portion of the severance tax. However, the Governor vetoed the bill rather than sign it into law.

#### FINAL POSITION:

Support legislation that provides a portion of the severance tax to county government.

## REVENUE AND TAXATION #78

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Primary Affiliate: All

Secondary Affiliates: None

### ISSUE: **Property Tax Inflationary Adjustment**

#### BACKGROUND:

Unlike the sales tax or income tax, property taxes are based off the previous year's budget. Thus, the only way for a county to capture inflation through property taxes is by going through truth-in-taxation. And because of the politically painful nature of truth-in-taxation, taxing entities (including counties) will hold off on truth-in-taxation for as long as possible. The results are periodic lurches in property taxes when the taxing entity has decided that they have no choice but to go through truth-in-taxation. A proposal to include an inflationary index exempt from truth-in-taxation to the property tax would do away with the lurches. The proposal would allow for the lesser of 2 percent growth or ½ CPI to be added to the property tax.

#### FINAL POSITION:

Support legislation that would allow for an inflationary index to the property tax.

## REVENUE AND TAXATION #79

Primary Affiliate: Clerk/Auditors

Secondary Affiliates: USACCC

### ISSUE: **Counties' Participation in State "Gotcha" Program to Collect Bad Debts**

#### BACKGROUND:

When a debtor has not paid the state or a state agency an account receivable for over 90 days, the state may collect the debt through any income tax overpayment or refund. The Utah Association of Counties would like to see that ability to collect bad debts extended to county government.

#### FINAL POSITION:

Support legislation expanding the state's "gotcha" program to include county government.

## REVENUE AND TAXATION #80

Primary Affiliate: All

Secondary Affiliates: None

### ISSUE: **Statewide Single Rate Sales Tax**

#### BACKGROUND:

Under current law, a use tax from Internet sales is a legal obligation of the purchaser. However, no mechanism exists to effectively collect the tax. As a result, every year millions of dollars of sales and use tax are not being collected. The State of Utah has joined with 19 other states in the Streamlined Sales Tax Project. The Streamlined Sales Tax Project simplifies the process of calculating sales tax for Internet and catalogue sellers to the point where sales tax can be affixed to an Internet purchase based on point of purchase. The Streamlined Sales Tax Project will recoup lost sales tax revenues for state and local government and provides Internet sellers and traditional brick and mortar businesses equal playing field.

In order to fully participate in the Streamlined Sales Tax Project, Utah would have to greatly simplify its sales tax system. Legislation has been proposed in the past that would affix a single statewide sales tax rate to all of Utah. This single rate would preclude local option sales tax rates in the future, but would allow for a larger tax base with the addition of Internet and catalog sales.

#### FINAL POSITION:

The Utah Association of Counties supports the Streamlined Sales Tax Project. The Utah Association of Counties supports a statewide single rate sales tax provided the following conditions are met:

1. The use of arts taxes (ZAP, RAP, etc.) imposed on third through sixth class counties be permitted to be used for general fund purposes.
2. Counties of the third through sixth class be afforded greater flexibility in the spending of the three quarter percent transit and transportation taxes than is currently prescribed in law. Specifically, these sales taxes should be used for general transportation projects and not tied to transit in the areas of the state where transit does not make sense.

## REVENUE AND TAXATION #81

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Primary Affiliate: All  
Secondary Affiliates: None

### ISSUE: **Voted Property Tax Levy Increase**

#### BACKGROUND:

Legislation has been drafted that would require a taxing entity to submit to a vote of the people in lieu of the truth in taxation process if the entity desired a property tax levy increase greater than the rate of inflation. Currently, Utah is below the national average when it comes to property tax burden, due, in no small part, to truth in taxation. Requiring a vote of the people for property tax levy increases would shift an even greater emphasis towards sales tax revenues for local governments and proliferate the harmful “zoning for dollars” practice some taxing entities currently employ.

Citizens can already vote on property tax levy increases, as many an ex-locally elected official can attest.

#### FINAL POSITION:

Oppose legislation that would require a vote of the people in lieu of the truth in taxation process when considering property tax levy increases.

## REVENUE AND TAXATION #82

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Primary Affiliate: USACCC  
Secondary Affiliates: None

### ISSUE: **Redistribution of the TRCC Tax**

#### BACKGROUND:

The tourism, recreation, cultural, and convention facilities (TRCC) tax is imposed by county government on prepared food. Commonly referred to as the restaurant tax, the TRCC tax plays an important role in promoting county tourism through advertising as well as helping to fund recreational and cultural properties that encourage tourism. Additionally, TRCC tax funds can be used towards convention facilities.

In the past couple of years there have been several attempts from city government in the form of legislation to grab some percentage of the revenues generated from the restaurant tax for general fund city purposes. Not only would this proposed legislation discount the emphasis of the TRCC tax on tourism but it would also require counties to find a new funding source to pay down bonds for recreational, cultural, and convention facilities.

#### FINAL POSITION:

Oppose any efforts to change the distribution of the TRCC tax.

**ISSUE: Acquisition Based Property Value**

**BACKGROUND:**

The extraordinary housing bubble that has led to huge economic troubles worldwide in 2008 also affected Utah's property owners' property tax bills over the past couple of years. With residential property appreciating at a faster rate than commercial, individual tax payers saw an increase in their property taxes in 2006 and 2007 as property taxes shifted from commercial to residential property owners. This shift has left some property owners angry and the Legislature looking for possible solutions.

One idea that's gained some traction would be a move from a fair market property value system to an acquisition property value system. Proponents of an acquisition based property value system (much like the system used in California) argue that it would remove much of the uncertainty that plaques the current system. Property owners would know their property value from year to year and, correspondingly, their property tax bill.

Opponents of acquisition based property value system counter that the system neglects fairness for certainty. Property owners of identical property would see radically different property taxes based on when they purchased the property. Additionally, acquisition based property value systems have resulted in unintended consequences in those states where they're used. Acquisition based systems have resulted in properties being controlled by trusts that then permit a change in ownership without a change in the acquisition value and an unintended impact on the real estate market.

**FINAL POSITION:**

With Utah's property taxes below the national average, UAC maintains that the current system continues to work. The cons to an acquisition based property value system outweigh the pros. Oppose any attempts to move Utah's property value system from a fair market based system to an acquisition based system.

**ISSUE: June Truth in Taxation Notice**

**BACKGROUND:**

Truth in Taxation laws passed in 1985 require calendar year budget entities to advertise and hold hearings, when proposing to exceed the certified rate, in both December and June. Fiscal year entities are only required to advertise once in June.

Counties and other calendar year budget entities should be allowed to advertise tax increases in June even if no December advertisement occurred if necessary to address revenue shortfalls or other circumstances arising between December and June.

**FINAL POSITION:**

Support legislation that would allow for June Truth in Taxation notices without a December notice in the event of extraordinary circumstances.

## **TRANSPORTATION AND TELECOMMUNICATIONS #85**

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Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Functional Classification**

#### **BACKGROUND:**

Section 72-4-102.5 of the Utah Code requires the Department of Transportation to make rules establishing and defining a functional classification for roadways. The legislation requires that the Department recognize the differences in character of the services provided by urban and rural highways.

Functional classification of highways will have to include the local highways to provide results that will be consistent as roads change from one classification to another. Local governments should be included in the process of making rules, establishing classifications and determining urban and rural differences.

#### **FINAL POSITION:**

Support the effort to arrive at rules and select routes for proper functional classification of all roads in the state as long as local governments have input in the process.

## **TRANSPORTATION AND TELECOMMUNICATIONS #86**

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Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Apportion Appropriate Interest to the B & C Road Fund**

#### **BACKGROUND:**

Interest accruing to the State Transportation Fund is not accounted separately in any published documents. It is doubtful that the interest is apportioned between the state and local governments.

B & C payments are made to counties and cities every two months based on receipts to the State Transportation Fund for those two months. Interest is not shown as an income item to the State Transportation Fund.

#### **FINAL POSITION:**

Support actions to appropriate a percentage share of interest earned by the State Transportation Fund to the B & C Road Fund or transfer B & C Road Fund money to local governments on a monthly basis.

### ISSUE: **Transportation Fund Diversions**

#### BACKGROUND:

Over the years, diversions from the State Transportation Fund have fluctuated from as much as \$31.3 million in 1987 to the latest diversion for Fiscal Year 2002 of \$10,920,900. The present diversions include \$5,495,500 for the State Highway Patrol, \$4,857,400 for the Tax Commission, \$450,000 for the DAS Finance Administration, and \$118,000 for Travel Development. In 1997, all Drivers License Fees were dedicated to the operation of the Drivers License Division. Prior to that time they had been income to the Transportation Fund with a diversion for expenses.

Recently the State Tax Commission has asked for an additional \$5 million from the Transportation Fund. Off Highway Vehicle users have also asked for \$4 million from the Transportation Fund.

Even though the Highway Patrol enforces traffic laws on State roads, the use of funds collected for maintenance and construction of roads diminishes much needed funding for roads. The creation of the Centennial Highway Fund for use on State roads is an indication that State General Fund money can be used for road related purposes. Local traffic law enforcement does not use B or C Road funds.

Since the amounts diverted annually to the State Tax Commission and Administration have remained fairly constant for several years, it appears the amounts are arbitrary. An audit is probably needed to determine the actual costs the Tax Commission incurs in collecting highway user funds for the State Transportation Fund. Future transfers should be based on collection costs.

#### FINAL POSITION:

Correct the problems with diversions from the State Transportation Fund by:

1. Refusing to use money collected for road maintenance and construction for other purposes.
2. Passing a constitutional amendment limiting the amount of funds that can be diverted from the State Transportation Funds.
3. Funding the State Highway Patrol from other funds of the state.
4. Basing the transfers to the State Tax Commission on the costs of collecting highway user fees.

### ISSUE: **Funding of Local Roads**

#### BACKGROUND:

Road funding needs to be adequate for all segments of the highway system and needs to provide for preventative maintenance, equipment, safety, rehabilitation and improvements necessary to keep up with growth.

Most of the money now available to local governments for roads is being used for maintenance activities. Local governments are providing large amounts from their general funds to keep up with maintenance. A large number of local government roads are in need of reconstruction. Very little money is available to bring local government roads to a higher standard.

Even though substantial amounts of money for local roads is coming from Property Tax and other General Fund sources, the local road needs continue to accelerate due to the growth in the state. Local government road needs are estimated to be over five billion dollars at the present time. New sources of funding need to be identified if local governments are expected by the public to keep up with growth.

Congestion is becoming a major problem in urban areas of the State causing accidents, speeding, red light running, road rage, etc. Requests for federal funding of local roads far exceed the available funding. Many proposed local roads in the State should have been built or upgraded several years ago. Funding is desperately needed for additional local roads.

Rural roads are deteriorating due to lack of funding. Many rural roads are receiving only minimum maintenance even though traffic demands are increasing. Very few rural roads were built to handle the traffic loads that are being imposed upon them. A large percentage of the traffic on the rural roads in the state is created by out-of-area users.

All local road agencies are receiving demands from their citizens to provide road funding for maintenance, road reconstruction and additional road capacity. For many agencies, after road fund dollars are used for maintenance, very little money is available to provide for road reconstruction and additional road capacity.

#### FINAL POSITION:

Seek legislative approval of additional revenue for local roads while keeping all existing funding in place.

## **TRANSPORTATION AND TELECOMMUNICATIONS #89**

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Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Motor Fuel Tax**

#### **BACKGROUND:**

Approximately \$365 million was generated as highway user revenue during Fiscal Year 2002, of this total, \$228 million was generated by the motor fuel tax. After Tax Commission, Highway Patrol, and Travel Council diversions from the highway fund, 30 percent of the remaining revenue is transferred to Utah's counties, cities and towns through the Class B & C program.

The need for this revenue increases each year as the local budgets continue to tighten, thus forcing all municipal governments to increase their reliance on revenues in the Class B & C Road Fund. The road construction and maintenance needs of state and local government are increasing annually while the amount of revenue available remains constant or decreases. There is a need to increase road construction and maintenance funding at the local level in order to assure a continuing effort to make counties, cities and towns attractive to new business and economic growth. The need for additional revenue must not be connected with revenue erosion from the Class B & C Road Fund.

#### **FINAL POSITION:**

If a motor fuel tax change or increase is proposed, support the increase in the motor fuel tax, if at least 30 percent of the increase is appropriated to the Class B & C Road Fund. The revenue raised by the increase in the motor fuel tax must be in addition to the revenue currently allocated in the Class B & C Road Fund, and not replace existing revenue. This support is solely contingent upon an agreement that the increased revenue be used to supplement existing revenue and not replace existing revenue.

## **TRANSPORTATION AND TELECOMMUNICATIONS #90**

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Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: State/County Coordination for Transportation Projects**

#### **BACKGROUND:**

The Transportation Planning Task Force was charged in the 2003 General Session to consider future transportation needs as Utah continues to face challenges associated with growth. The task force is recommending legislation that would require the Transportation Commission to develop guidelines in dealing with local government in financing state highway capacity improvement projects.

#### **FINAL POSITION:**

Oppose state matching proposed legislation unless there are provisions for equal partnering where state matching funding can be used to assist on local road projects.

### ISSUE: Principles of Transportation Funding

#### BACKGROUND:

Transportation funding is a critical issue in the State of Utah. In 2004, an extensive study determined that with continued growth throughout the state over the next 25 years, Utah is facing huge transportation funding shortfalls. Best projections suggest that we're facing a deficit of \$16.5 billion for highway funding and a deficit of \$7.1 billion for transit funding to cover transportation needs up to the year 2030. Totaled together this is a \$23.6 billion shortfall. These projections do not include costs in local road maintenance and construction.

County government recognizes the need for new sources of transportation funding. We also recognize that not all sources of revenue are created equal. The Utah Association of Counties endorses the following principles of transportation funding, drafted by the Wasatch Front Regional Council (WFRC) and Mountainland Association of Governments (MAG).

1. Gas taxes should first be used to maintain and preserve the existing street and highway system.
2. Revenues from new sources ought to grow over time to allow funding to keep up with inflation.
3. Transportation needs are a concern at both the state and local level. Funding considerations should address both state and local needs.
4. The State Transportation Commission and local officials ought to be the ones to set priorities for the use of transportation funding.

#### FINAL POSITION:

Actively seek solutions to transportation funding needs that incorporate the above principles of transportation funding.

### ISSUE: **Transportation Funding Packages**

#### BACKGROUND:

Several revenue sources are being considered in the attempt to address Utah's highway and transit transportation shortfalls of \$23.6 billion through the year 2030 (As estimated in 2004). In applying the principles of transportation funding espoused by the Wasatch Front Regional Council and the Mountainland Association of Governments, the Utah Association of Counties supports the following possible revenue sources addressing transportation needs.

1. Statewide sales tax on gasoline purchases
2. Statewide local option sales tax on gasoline purchases
3. Statewide gas tax increase of five cents a gallon
4. Indexed statewide gas tax
5. Vehicle fee-in-lieu of tax increase with new revenues earmarked for transportation

The following possible revenue sources addressing transportation needs are ones the Utah Association of Counties does not support.

1. Local option gas tax that is collected for the state
2. Statewide property tax levy
3. Impact fee for state highways

#### FINAL POSITION:

Continue to work with all levels of government in Utah in establishing a transportation funding package that both meets future needs and adheres to sound transportation funding principles.

### ISSUE: **Revisions to Collector Roads**

#### BACKGROUND:

Collector roads in Utah do not get the attention they deserve because these roads fall in the middle of the state functional classification system. State Collector roads have to compete for funding against Interstates and Arterials. Local Collector roads have to compete for funding with local roads. A better option would be to establish a procedure for Collector roads to compete for funding against other Collector roads. With this end in mind, the following revisions are potential options in jurisdiction and funding of Collector roads.

1. Based on which agency can provide the most efficient road maintenance and construction, transfer as many as possible of the roads that are now classified in the Urban Collector and Rural Major Collector classes from the state to local government. Likewise, transfer local Principle Arterial and Minor Arterial roads to the state.
2. Create a new Collector Road Maintenance Fund with new funding of \$30 million per year. Fund Urban Collectors and Rural Major Collectors from this new fund instead of from the Transportation Fund. Allocate the money from the Collector Road Maintenance Fund to the individual agencies on a lane mile basis. Money received from the Collector Road Maintenance Fund can only be used for maintenance of roads classified as Urban Collectors or Rural Major Collectors.
3. Create a new Collector Road State Construction Fund with new funding of \$45 million per year allocated to the Utah Department of Transportation to be distributed on a project basis to local governments in exchange for \$50 million per year of Federal Funds that UDOT could use for their projects. This would better leverage federal road funds allowing more roads at both the state and local level to be improved. Collector Road State Construction Funds would be allocated on a project application basis through the MPOs or the Joint Highway Committee.

#### FINAL POSITION:

Support revisions to jurisdiction and funding of Collector roads on conditions that adequate transportation funding is enacted. The result would be a more effective use of funding provided by the state and federal government and better Collector roads.

### ISSUE: Amendments to Hold Harmless for B & C Road Funds

#### BACKGROUND:

The distribution formula for the B & C road funds was changed about twenty five years ago from 45 percent road mile, 45 percent land area, and 10 percent population to 54 percent road mile, 32 percent land area, and 14 percent population. As part of the stakeholder process which occurred in negotiating the formula change a hold harmless provision was added to the law in section 72-2-108 providing the population of the unincorporated area could not be reduced below 14 percent of the total county population. In 1996 the distribution formula was amended again to 50 percent weighted road mileage and 50 percent population. At that time another hold harmless was added guaranteeing no city or county would receive less than 110 percent of the 1996-97 B & C allocation.

Over the past ten year several incorporations and annexations have taken place in Salt Lake County having the effect of reducing the county's population and roads. The UDOT staff has proposed amending 72-2-108 to exclude incorporations and annexations from the hold harmless provisions. The result will be a several million dollar shift in B road funds from Salt Lake County to the new incorporated cities or cities that have annexed incorporated areas of the county.

#### FINAL POSITION:

Oppose amending the hold harmless provisions until the B & C revenues are increased and the distribution formula is changed to provide for countywide road responsibilities.

### ISSUE: **Amendments to Corridor Preservation**

#### BACKGROUND:

Two pieces of legislation in the past few years have attempted to address Utah's growing transportation crisis by providing counties the option of imposing a tax or a fee to be used expressly for the purpose of purchasing future rights of way. SB 8, passed during the 2005 General Session, allows counties to impose an additional \$10 fee on motor vehicle registrations and renewals of registration and requires that all the money collected from that fee be used toward corridor preservation. HB 4001, passed during the 2006 Fourth Special Session, allows a county to put to the vote of the public a .25 percent sales tax for transportation uses—25 percent of which must be used for corridor preservation if the county is a county of the first or second class.

While the county imposes both the fee and the tax prescribed in SB 8 and HB 4001, any expenditures of revenues generated by the fee or tax are to be decided upon by the county's council of government (COG) which includes all cities within the county. With one county vote and numerous city votes on a COG, it makes little sense for a county to go through the political headache of imposing either a fee or tax for corridor preservation when the county can't use the revenue generated as it would like.

#### FINAL POSITION:

Amend SB 8 and HB 4001 to remove the COG from the process. If the Legislature trusts county government to impose a fee or tax for corridor preservation, then it should trust county government to properly spend the fee or tax as well. Additionally, amend SB 8 to create a revolving loan fund from revenues generated from the \$10 fee to better leverage those funds.

**ISSUE: Transportation Efficiency Issues****BACKGROUND:**

Transportation issues have risen to the forefront in recent years. The legislature tends to focus on State needs and issues. Many things can be done to facilitate the care of the local transportation network. Some ideas are:

*Corridor Preservation Funding – Remove the requirement to apply federal standards when local governments use the fund.* The current law requires entities using the funding to meet full federal standards. It is well known and documented that federal requirements increase costs and difficulty for transportation projects—especially at the local level. The funding source is a local source therefore requirements for using the funding should be under local control. If an entity wants to use federal standards it can, but it should not be required.

*Require Recycled Asphalt Pavement (RAP) from State Highway Projects to be used in public roadways.* RAP from State Highway projects was originally purchased with taxpayer dollars. The residual product should be used to benefit the motoring public. RAP is a viable product for many roadways. It should be put to its highest and best use (in roadways) and not left in stockpiles or used for secondary functions like weed control, side slopes, or parking lots. Since the RAP was purchased with public funds, it should be made available to local governments at no cost.

*Establish a task force to identify the cost of maintaining roads of the various functional types.* UDOT receives \$70,000 or more per mile of State Highway. Counties generally vary from about \$1,000 to \$1,800 per mile, but one county receives more than \$29,000 per mile. Costs for maintaining similar roads should be similar—not necessarily identical but reasonably similar. Establishing Legislature supported/approved maintenance rates could provide a rational basis for reexamining the State/Local split of the Transportation Fund.

**FINAL POSITION:**

Encourage the Legislature to look at opportunities to facilitate more efficient use of transportation funds including but not limited to the ideas expressed above.

## TRANSPORTATION AND TELECOMMUNICATIONS #97

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Interest on Corridor Preservation Fees**

#### **BACKGROUND:**

In 2005, SB 8 created the corridor preservation fund which allowed counties to impose an additional \$10 fee on motor vehicle registrations and renewals of registration to be used toward corridor preservation. That money is collected by the Tax Commission and then remitted to the counties monthly. However, the Tax Commission has been keeping any interest earned on the \$10 fee over the course of the month it is held by the Tax Commission.

#### **FINAL POSITION:**

Support legislation that would require the Tax Commission to include any interest earned on the corridor preservation fee with the funds remitted to county government for corridor preservation.

## TRANSPORTATION AND TELECOMMUNICATIONS #98

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Facilitate Trade of Federal Dollars in Rural Areas for State Dollars**

#### **BACKGROUND:**

For most small, rural governments federal aid highway and bridge replacement projects are complicated, difficult to manage, and only occur once every few years. Often, elected officials have come, served their terms, and retired prior to receiving a second federal aid project. The process almost always requires hiring a private consultant and developing a project in a very formal setting. For some years local government has requested UDOT to trade federal dollars for state dollars that can be used with fewer strings. UDOT has taken steps to institute such a program in the non-urban area and is considering legislation which would allow them the flexibility to expand the concept. At this point UDOT is only interested in considering the nonurban, small urban, and bridge replacement program.

#### **FINAL POSITION:**

UAC supports efforts by UDOT and local governments to facilitate transfer of federal and state dollars to make the transportation program more efficient.

**ISSUE: Increase Level for Bid Limits for Bridges and Roads**

**BACKGROUND:**

Currently the bid limit for bridges and roads is set at \$125,000 with an inflationary index. This bid limit requires that any governmental agency interested in a construction project built with Class B funds that costs more than the roughly \$137,000 where the bid limit sits at now, must put the project to bid rather than complete the project in-house.

Since the bid limit was last adjusted, the cost of road construction has far outpaced the inflationary adjustment. Some change needs to be made to allow the inflationary adjustment to be more compatible with actual costs.

**FINAL POSITION:**

Support legislation that increases the bid limit (suggested at \$500,000) and allows the inflationary factor to more closely follow actual costs, including tying it to UDOT's average annual bid prices.