

# **Utah Association of Counties**

**2012 Approved Position Statements**

**Adopted November 18, 2011**



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



# Utah Association of Counties 2012 Approved Position Statements

## Table of Contents

### Health and Human Services #1 - #10

---

Annual Cost of Living Adjustment	#1
Medicaid Eligibility and Inflationary Growth	#2
Commitment of Persons Deemed Mentally Incompetent to the Care of the Local Mental Health Authority	#3
Drug Treatment Services	#4
Preparing for the Increasing Elderly Population	#5
Amendments to Civil Commitment Law	#6
Amendments to Preferred Drugs List for Medicaid Patients	#7
Funding the Department of Health	#8
Division of Aging and Adult Services' Base Budget for Senior Services	#9
Appropriation of Funds for Human Services Programs Administered at the County Level	#10

### Intergovernmental Relations #11 - #23

---

State Mandating of Local Expenditures	#11
Local Elected Officials Retirement System	#12
GIS Funding	#13
Retirement Board Amendments	#14
Cost of Feasibility Studies for Incorporation	#15
Uniform Common Ownership Act	#16
Water Rights Addendum	#17
Right of Residents to Vote for Disincorporation of Their Town	#18
Rural Designation for State Funding Programs	#19
Appraiser Trainees in the Assessor's Office	#20
Spot Zoning	#21
Transfer of State Parks to Local Governments	#22
Amendments to the Election Code	#23

### Lands, Resources and Development #24 - #47

---

R.S. 2477 Appropriation	#24
Funding for Public Use Airports	#25
Redefining the Boundaries of the Grand Staircase National Monument	#26
Elimination of Livestock Grazing	#27
Unqualified Grazing Permittees and Minimal Allotment Use	#28
Use of Mineral Lease Funds	#29
Defense of County Positions on R.S. 2477 Rights of Way and Wilderness	#30
The APPLE Initiative	#31
Keeping Public Roads Across SITLA Lands Open	#32
Partial Redistribution of Revenues from SITLA Exchanged Lands	#33
Redress for Rangeland Damage Caused by Overpopulation of Bison and Elk	#34
Reduced Fuel Loads on Forests and Rangelands	#35
Importance of Utah's Fossil Energy and Uranium Resources	#36
The State of Idaho's Forest Roadless Rule Petition	#37
Opposition to the Clean Water Restoration Act of 2007	#38
Mineral Lease Sharing – Restore the 50-50 Federal-State Sharing Arrangement	#39
Designating Each Wasatch Front County as a Separate PM 2.5 Non-Attainment Ambient Air Quality Area	#40
Keeping the Arizona Strip near Kanab and St. George Open for Reasonable Uranium Exploration and Development	#41
Natural Gas Development in Carbon County's West Tavaputs Plateau	#42
Wildfire Suppression and Mitigation – Clarification of County/City Responsibility for Suppression Costs and Participation in State Wildfire Suppression Fund	#43
Appropriations for RS 2477 Statewide Quiet Title Litigation	#44
Appropriations to Pay Facilitator Costs for RS 2477 Road Negotiation Projects	#45
Appropriations to Combat Phragmites Invasive Weed Problem	#46
Recouping Costs for Suppression of Wildfires	#47



**Law Enforcement, Corrections and Courts #48 - #55**

---

Costs of Operating the Courts at Contract Sites	#48
Grand Jury System	#49
Amendments to the Indigent Defense Act	#50
Constable Services under Contracts with Counties	#51
Amendments to Reimbursement of Legal Fees and Costs to Officers and Employees Act	#52
Involuntary Feeding and Hydration of County Jail Inmates	#53
Inmate Medical Insurance	#54
Payment for Condition of Felony Probation Inmates	#55

**Revenue and Taxation #56 - #79**

---

County Business Tax	#56
Local Economic Development Incentives	#57
Diversification of County Revenues	#58
Utility Franchise Tax Authority for Counties	#59
Truth in Taxation Amendments	#60
Amendments to the Interlocal Cooperation Act	#61
Ad Valorem Taxation of Interlocal Cooperation Act Entities	#62
County-Option Resort Tax	#63
Sales Tax Exemption in Constructing Public Facilities	#64
Exclusion of Mandates from Truth in Taxation	#65
Diversion of Tourism, Recreation, Cultural and Convention Revenues	#66
Interest on Sales Tax Collections	#67
Residential Exemption for Non-Primary Homes	#68
Escrow of Disputed Centrally Assessed Taxes	#69
Severance Tax to Counties	#70
Property Tax Inflationary Adjustment	#71
Counties' Participation in State "Gotcha" Program to Collect Bad Debts	#72
Redistribution of the TRCC Tax	#73
Disclosure of Real Estate Sales	#74
Acquisition Based Property Value	#75
Expansion of the Primary Residential Property Tax Exemption	#76
Expanding the Restaurant Tax to Include Convenient Stores	#77
Assessment of Low-income Housing	#78
Online Travel Companies and the Transient Room Tax	#79

**Transportation and Telecommunications #80 - #93**

---

Functional Classification	#80
Apportion Appropriate Interest to the B & C Road Fund	#81
Transportation Fund Diversions	#82
Funding of Local Roads	#83
Motor Fuel Tax	#84
State/County Coordination for Transportation Projects	#85
Principles of Transportation Funding	#86
Transportation Funding Packages	#87
Revisions to Collector Roads	#88
Amendments to Hold Harmless for B & C Road Funds	#89
Amendments to Corridor Preservation	#90
Transportation Efficiency Issues	#91
Facilitate Trade of Federal Dollars in Rural Areas for State Dollars	#92
Funding for Urban Collector Roads	#93



## HEALTH AND HUMAN SERVICES #1

---

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.

## HEALTH AND HUMAN SERVICES #2

---

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 #3

---

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 #4

---

Primary Affiliate: USACCC

Secondary Affiliates: Sheriffs, Attorneys

### ISSUE: **Drug Treatment Services**

#### BACKGROUND:

Substance abuse contributes to or causes 85 percent of all involvement by offenders in the criminal justice system. Resources for assessment and treatment do not meet the expanding needs of the community, recidivism is high, and costs for law enforcement, prisons, and jails are ever increasing.

The Drug Offender Reform Act (DORA) and Drug Court treatment services provide proven effective responses to the alternative of incarceration.

Funding provided by the 2007 and 2008 Legislatures gave a huge boost to efforts to assess and treat substance abuse among convicted offenders and persons charged with crimes related to drug use and possession. More recent reductions in funding have been significant and have narrowed access to and development of programs. Nevertheless, both treatment options have continued and early results of the DORA program and the history of success from the Drug Court program are promising. The Legislature should maintain a strong commitment to both efforts in order to provide significant, long-term benefits to communities across Utah.

#### FINAL POSITION:

The Legislature should expand funding for drug treatment within the Drug Court and DORA programs to enable broader screening, assessment, and treatment of offenders both in custodial and community settings. Funding for assessment and treatment called for by DORA and for treatment related services in Drug Court programs is essential to address the growing need for treatment within our communities and to relieve the burden on other systems feeling the impact of substance abuse linked criminal activity.

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

#### BACKGROUND:

Although Utah has one of the youngest populations in the United States, we are also experiencing a tremendous increase in the number of our older citizens. Government is often criticized for not planning for the future and addressing issues before crises arrive. 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. By 2030 there will be an estimated 43,566 who are 85+ living in Utah. Now is the time to develop strategies on how best to meet the needs of our frail elderly in Utah.

Our network of Area Agencies on Aging and local units of government are actively engaged in educating and encouraging personal responsibility and the involvement of families and friends in caring for the elderly. Nationally, 80 percent of the assistance required by our elderly is provided by families and others. In Utah, because of our strong family values, we already have a higher percentage of families and others helping meet the needs of our elderly.

Our role is to support those caring for a small percentage of the elderly population by providing “safety-net” services which support them in maintaining their health, independence, and to remain at home. The elderly individual benefits and tax supported service costs are reduced. For example, an elderly individual entering a nursing home normally spends all of their assets within 4-6 months and is forced to enroll in Medicaid. The State then assumes the annual cost of approximately \$28,000 each year for their care. In contrast, a wide range of services provided through Area Agencies on Aging can prevent early nursing home placement and help the elderly remain at home costs from \$2,000 to \$5,000, per individual, saving more than \$20,000 per individual each year.

We have waiting lists for services and State funding hasn't kept pace with current needs. Less than 2% of the state's 650 million dollar budget for Human Services is allocated for these services. Local government contributions have exceeded the required 15% match for State funding. The economic downturn has forced local governments to limit or reduce their support for these senior services. The growth of our elderly population will result in larger waiting lists, more elderly being institutionalized, and greater costs for all taxpayers.

#### FINAL POSITION:

The Utah Association of Counties along with the State Legislature and Executive Branch should address the impact of the growth in the state's elderly population on our state and develop strategies and methods of funding to provide adequate and affordable “safety-net” services to those who require assistance today, and in the future.

### ISSUE: **Amendments to Civil Commitment Law**

#### BACKGROUND:

Under Utah's civil commitment process, counties are responsible for the care and supervision of people committed due to a mental illness who, because of their condition, present a risk of injury to themselves or others. Individuals who are temporarily deprived of their liberty under this process are committed to the care of the local mental health authority. As a result, the burden is on the county to ensure the needs of individuals are met and the public is protected. Any increase in the responsibilities that are placed on the local mental health authority under this system places increased burdens on counties.

Legislation that will be introduced in the 2012 General Session, and which has already been approved by the Legislature's Judiciary, Law Enforcement, and Criminal Justice interim committee, intends to make minor changes to the civil commitment system. There is a strong possibility, however, that the impact of this change will be very significant.

The bill proposes to expand the definition of conditions that justify temporary commitment of an individual. The change would allow for civil commitment of persons who, as a result of their mental illness and condition, present a risk to offend sexually against others. Under current law, an individual may be committed only if they present a threat to harm themselves or to commit a specific type of physical injury to others.

The proposed change aims to correct an apparent gap in the law, but threatens to place substantial additional burdens on counties charged with caring for these individuals.

By creating a new category of people who are the responsibility of the local mental health authority, this legislation places a substantial burden on county treatment services. At present, county mental health authorities provide treatment services to address mental health needs. These services do not include sex offender specific treatment. Services to address sexual offenders are normally handled through corrections processes. A new requirement that treatment providers in the public mental health system oversee the care and supervision of mentally ill sex offenders would require the creation of new and complex treatment and housing arrangements. It is unlikely Counties would chose to create these arrangements and, as a result, individuals committed under this legislation will likely remain in the Utah State Hospital until the danger they present is adequately abated. The result will be decreased access to state hospital beds for other members of the community in need.

In addition, the legislation presents an opportunity to extend the segregation of sex offenders exiting the corrections system. Individuals with a diagnosed mental illness who exit the Utah State Prison system after completing their sentence for a crime involving acts that would fit within the definition of "harmful sexual conduct" used in the legislation, would be subject to civil commitment. Anyone who wished to seek commitment of that individual would be able to do so—there are no limits on who has standing to bring an action for commitment. As a result, there is a likelihood that this legislation will be used to broaden the pool of persons who are committed to the custody of the local mental health authority by a lot, not by a little.

Finally, the costs for implementing this change would be placed almost entirely on counties—through loss of access to State Hospital beds, shifting some hospitalization to higher cost acute care hospital beds, and increased responsibilities for court proceedings and management of persons committed to the care of the local mental health authority. That cost burden could be crippling for systems across the state.

## FINAL POSITION:

UAC recognizes the need for a structure that allows for protection of the community and civil commitment of persons who present a risk of immediate harm to themselves or others. The costs for this system should be recognized and the Legislature should fund the system adequately to meet treatment needs. This funding should include an increase to funding for the Utah State Hospital equal to the cost for each individual committed under this legislation, and to Counties for the cost of participating in legal proceeding relating to these commitments. UAC opposes this change to state law and the increased burden on counties unless the Legislature appropriates funds to address the cost of meeting that responsibility.

## HEALTH AND HUMAN SERVICES #7

---

Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Amendments to Preferred Drugs List for Medicaid Patients**

#### BACKGROUND:

Utah law provides that Medicaid shall utilize a process for restricting costs of medications that prefers certain medications over others and allows for the Department of Health to restrict access to some drugs. Administrative processes have been established to put this process into effect. The law exempts from that process certain mental health drugs. Many of those drugs are used by mental health services consumers who are patients of the local mental health centers managed by the counties. The effectiveness of mental health drugs is a major factor in limiting the rate of and cost of hospitalization for local mental health authority clients. Legislation will be introduced in the 2012 General Session that will propose to remove this exemption. Removing the exemption makes accessing these drugs more complicated and potentially limits their availability for clients of the mental health centers. Loss of access will lead directly to increases in treatment needs which will lead to increases in costs to county treatment systems.

#### FINAL POSITION:

Oppose any change to the exemption for mental health drugs that does not include provisions that 1) allow for the continued exemption of specific types of psychiatric medications for which there are not adequate substitutes and 2) allow a prescribing physician to direct the medication be dispensed as prescribed.

### ISSUE: **Funding the Department of Health**

#### BACKGROUND:

Utah's local Health Departments are charged with providing Utah's citizens a number of services mandated to the state by the federal government. The Utah Association of Counties acknowledges that these services are best provided at the local level under the direction of county government. However, county government is concerned over the amount of pass through funds that are kept at the state level within the public health division of the Utah Department of Health for administrative purposes. These funds would be better used at the local level assisting Utah's citizenry.

#### FINAL POSITION:

The Utah Association of Counties supports a Legislative Audit of the public health division of the Utah Department of Health considering the proper expense of pass through funding from the federal government.

### ISSUE: **Division of Aging and Adult Services' Base Budget for Senior Services**

#### BACKGROUND:

In 2008 Area Agencies on Aging in the State performed a funding analysis based on waiting lists, inflation, and population growth which demonstrated a \$7,000,000 shortfall in meeting the needs for these programs. Since the date of that analysis, budgets for senior services have declined, albeit at a slower rate than that of other agencies. A \$1,000,000 increase in the Division's budget, four years after an analysis showing how much services lag behind need, is a modest request in response to pressing needs even in challenging economic times. The services most in need of funding increases are:

#### Senior meals – Need \$500,000

- Helping seniors remain healthy and independent by providing home delivered meals and meals in senior centers is the highest service priorities for counties/Area Agencies on Aging.
- State support for meals has decreased over \$500,000 the last few years when federal stimulus funding was available. Federal funding for meals, which is discretionary, will be flat funded or cut to reduce deficit spending and the national debt.
- 840,654 meals were provided to 19,125 seniors at approximately 105 senior center sites and 1,224,195 meals were provided to 9,961 Meals-on-Wheels participants during the previous year.
- Seniors donate nearly 20 percent of the cost of their meals.
- County support of these programs exceeds the 15 percent match requirement.

#### In-Home Services: Alternatives program and caregiver support – Need \$500,000

##### The Alternatives Program

- This statewide program provides in-home services to individuals with low incomes, limited assets, and who are 18 years of age and older and at risk of institutionalization. Most clients are female and on average, 80 years old. 1,078 individuals were assisted during the previous year.
- Statewide, over 550 individuals are at risk of being placed in costly nursing home care while they wait to receive assistance.
- The State saves \$10,000 per year per client in Medicaid-funded nursing home care costs.

##### Caregiver Support

- The Caregiver Support program provides services such as information and assistance, counseling, support groups, respite and other home and community-based services to family caregivers of frail older individuals. Respite services prevent caregiver burnout and allow them to continue providing no-cost services to their family members. Unpaid caregivers provide 90 percent of long term care, and prevent costly nursing home placement paid for by Medicaid and Medicare.
- Care receivers are typically near 80 years of age, and have some physical or cognitive impairment, such as Alzheimer's.
- Over 1,000 caregivers received much needed respite services during the previous year but statewide over 230 caregivers are on a waiting list to receive respite services.

#### FINAL POSITION:

Support an increase in the Division of Aging and Adult Services' Base Budget for Senior Services by \$1,000,000.

### ISSUE: **Appropriation of Funds for Human Services Programs Administered at the County Level**

#### BACKGROUND:

Pursuant to the Utah Human Services Code, Counties manage and oversee programs that deliver state mandated services in behavioral healthcare and aging services. The effectiveness of these programs and the ability of the counties to fulfill their statutory duties is dependent on a funding partnership between the state legislature, state executive branch agencies and county governments. So long as funding of these programs is shared through this partnership, these safety net services can continue to function effectively.

Each year the Department of Human Services requests, and the Governor proposes, funding for these programs. During the coming state fiscal year there will be requests for funding increases on behalf of some programs that are in dire need of support through ongoing or one-time money. These programs are vital to the counties' efforts to meet their own service delivery needs. These funding items include:

- Medicaid funding to address the increase in state dollars needed to match the Federal increase in expectations due to growth in Medicaid eligibility;
- Division of Aging and Adult Services base budget;
- Forensic mental health examinations;
- Utah State Hospital adult civil and acute care beds; and
- The Drug Offender Reform Act.

All of these programs are state funded programs operated in cooperation with counties. All are in need of increased funding to ensure continued effective operations.

#### FINAL POSITION:

Support appropriations to the Department of Human Services that increase funding to programs that support behavioral health and aging services delivery at the county level.

## INTERGOVERNMENTAL RELATIONS #11

---

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 #12

---

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 #13

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 #14

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 #15

---

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 #16

---

Primary Affiliate: Records

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.

## INTERGOVERNMENTAL RELATIONS #17

---

Primary Affiliate: Recorders

Secondary Affiliates: None

### ISSUE: **Water Rights Addendum**

#### BACKGROUND:

During the 2008 General Session legislation was introduced that would have required a water rights addendum be attached to every deed as a condition of recording. County recorders would then be required to send each deed and addendum to the State Engineer's Office. The bill further would have required recorders to reject any deed that lacked a water rights addendum. Those provisions would have been very expensive to county government. The provisions would also have been very confusing for transactions involving condominiums or time shares where water rights are not part of the transaction.

A far better approach would be to require closing agents to secure and mail a water rights disclosure report to the State Engineer.

#### FINAL POSITION:

Oppose any legislation that would require the county recorder to make the inclusion of a water rights addendum a condition of recording or would require county recorders to notify the State Engineer.

## INTERGOVERNMENTAL RELATIONS #18

---

Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Right of Residents to Vote for Disincorporation of Their Town**

#### BACKGROUND:

In 2007 the Legislature passed a bill that increased the ability of citizens to incorporate a town by removing the requirement for a feasibility study or approval by a majority of persons who would be affected by the incorporation. The change to incorporation statutes led to the creation of a number of new towns, generally without input from the residents in the area to be incorporated. This authority was modified in 2008 to again provide some ability for people impacted by incorporation to be involved in the process. It was generally agreed that the change restored some balance to the process and provided residents with some measure of control over their own destiny. The change to the law exempted any incorporation petition that was filed prior to the effective date of the legislation, however. This left some citizens without a method to challenge the incorporation. Legislation to correct this exemption will be introduced during the coming session.

#### FINAL POSITION:

UAC supports legislation to provide citizens of a newly incorporated town the ability to vote to disincorporate.

## INTERGOVERNMENTAL RELATIONS #19

---

Primary Affiliate: All

Secondary Affiliates: None

### ISSUE: **Rural Designation for State Funding Programs**

#### BACKGROUND:

There are a number of state programs where funding is available for counties which qualify as rural. Unfortunately, there are no uniform standards to determine what a "rural" county is. Programs such as the Rural Fast Track Program, the Rural Development Grant, and the Utah Enterprise Zone Program all have different population qualifications to qualify as a rural county.

#### FINAL POSITION:

The Utah Association of Counties supports legislation that would standardize a population of 65,000 or under as a "rural" county qualifying those counties for all state programs where funding is available for rural counties.

## INTERGOVERNMENTAL RELATIONS #20

---

Primary Affiliate: Assessors

Secondary Affiliates: None

### ISSUE: **Appraiser Trainees in the Assessor's Office**

#### BACKGROUND:

Current Utah law allows for an uncertified or unlicensed appraiser trainee to work in the County Assessor's Office appraising property under the supervision of a licensed appraiser for up to three years. After the three years, the trainee either has to become licensed or can no longer appraise property.

In the fee appraiser world outside of county government, there is no three-year probationary deadline for trainees. As long as they continue to receive continuing education and work towards their license, fee appraiser trainees can continue to work indefinitely. The three-year deadline for unlicensed appraiser trainees within the Assessor's Office is arbitrary and unfair and should be removed to standardize the process both within and without county government.

#### FINAL POSITION:

Support legislation that would remove the three-year probationary deadline for unlicensed appraiser trainees within the County Assessor's Office.

## INTERGOVERNMENTAL RELATIONS #21

---

Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Spot Zoning**

#### BACKGROUND:

From time to time members of the Utah State Legislature will deem a particular development project too important to deal with local planning and zoning requirements. One such example of this was SB 231 of the 2011 General Legislative Session. SB 231 would have created a non-public process for a movie studio to forego any public zoning requirements and develop on land that would otherwise be in violation of local zoning ordinances.

Local planning and zoning ordinances benefit local citizens by giving them a say in how their communities should develop. Heavy-handed edicts from the Legislature that ignore local planning and zoning requirements fail to consider the wishes of residents, local government officials, and community leaders.

#### FINAL POSITION:

Oppose any legislation that would limit local planning and zoning authority.

## INTERGOVERNMENTAL RELATIONS #22

---

Primary Affiliate: USACCC

Secondary Affiliates: None

### ISSUE: **Transfer of State Parks to Local Governments**

#### BACKGROUND:

Utah's State Parks are facing serious budget shortfalls. To address these shortfalls, the Legislature recently approved a performance audit to consider ways to more effectively manage these parks. One proposal from the legislative audit was "that the Legislature consider closing some of the state's high-cost parks with low visitation or transferring the oversight of those parks to county or local governments."

State Parks are managed by the state for a reason. They are a service and an attraction to citizens throughout the state and beyond, not just local citizens. Counties face the same budget constraints that the state does and it would be very difficult for a county to take the responsibility and cost of a State Park at even the fiscally best of times.

#### FINAL POSITION:

Oppose any efforts to transfer the oversight or funding of any State Parks to county government.

### ISSUE: **Amendments to the Election Code**

#### BACKGROUND:

Each year the Lt. Governor's Office, in consultation with County Clerks, introduces several pieces of legislation dealing with election law. Two such pieces of legislation set to be introduced during the 2012 Legislative Session would benefit Utah's registered voters.

First is a bill that would allow the Lt. Governor's Office the option to offer a more extensive voter information website in lieu of the current voter information pamphlet that is mailed out to the electorate. In addition to the ability to offer greater information than the restraints of publishing a pamphlet currently allow, the website would also be precinct-specific giving Utah voters nothing but the pertinent information to their ballot. The Lt. Governor's Office would prepare a limited number of traditional voter information pamphlets for those citizens who might request it.

The other bill introduced by the Lt. Governor's Office would protect the email addresses provided as part of the voter registration process as a private record.

#### FINAL POSITION:

Support election code legislation that would benefit the electorate by 1) offering an extensive voter information website and 2) classifying the email addresses provided as part of voter registration as a private record.



## LANDS, RESOURCES AND DEVELOPMENT #24

---

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 #25

---

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.

## LANDS, RESOURCES AND DEVELOPMENT #26

Primary Affiliate: USACCC

Secondary Affiliates: None

### **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.

## LANDS, RESOURCES AND DEVELOPMENT #27

Primary Affiliate: USACCC

Secondary Affiliates: None

### **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 #28

---

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 #29

---

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 reappropriating the existing use of mineral lease revenues.

## **LANDS, RESOURCES AND DEVELOPMENT #30**

---

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. Some counties have initiated quiet title actions to redress improper closures and/or travel restrictions on valid RS 2477 roads. More such quiet title actions are expected in the future as additional threatened RS 2477 roads are identified.

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 #31**

---

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 #32**

---

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 #33**

---

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 percent 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 percent 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: **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 burn catastrophically in 2010 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 2010 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 #37**

---

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. The final Idaho rule went into effect Oct. 16, 2008 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: **Opposition to the Clean Water Restoration Act of 2007**

#### BACKGROUND:

The Clean Water Restoration Act of 2009 ("CWRA"), S. 787, 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.

S. 787 was referred to the Senate Committee on Environment and Public Works, who conducted a hearing on the bill June 18, 2009 and ordered the bill to be reported with an amendment in the nature of a substitute favorably. 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.

## LANDS, RESOURCES AND DEVELOPMENT #40

Primary Affiliate: USACCC

Secondary Affiliates: None

### 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.

## LANDS, RESOURCES AND DEVELOPMENT #41

Primary Affiliate: USACCC

Secondary Affiliates: None

### 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.

#### FINAL POSITION:

Congress and the BLM should keep the Arizona Strip open for reasonable exploration and development of uranium resources.

### ISSUE: **Natural Gas Development in Carbon County's West Tavaputs Plateau**

#### BACKGROUND:

Full Field Development of the West Tavaputs Natural Gas Field has the Potential to Provide Major Long-Term Contributions to the Economy and Much Needed Tax Revenues for Education and All Levels of Government. According to a December 2007 University of Utah Bureau of Economic and Business Research report, natural gas companies operating in Carbon and Emery Counties are responsible \$22,000,000 in wages annually with an average of over \$52,000 in salary per worker. These high paying natural gas related jobs with benefits enable workers to stimulate the economy by purchasing homes and vehicles, adequately support their families including health care and education, and purchase a wide array of goods and services from local and state-wide businesses. Over 60% of all of Carbon County's property taxes are derived from energy industries with 67% of property tax revenues distributed to Carbon School District.

State of Utah Institutional Trust Lands collects from natural gas and coal mining companies operating in Carbon County tens of millions of dollars annually in mineral lease royalties which benefit all of the State's 500,000 plus school children. A large portion of the State of Utah's share of mineral lease royalties paid by oil, gas and coal companies is dedicated to its Community Impact Board (CIB) which funds on average 107 projects yearly totaling \$110,000,000 to rural towns, cities and counties throughout the state in the form of grants and low or 0% loans for infrastructure.

#### FINAL POSITION:

The BLM should proceed in a timely manner to approve EIS for the full field development of the West Tavaputs natural gas field in Carbon County. It is not only important to Utah's and Carbon County's economic base, but to the energy needs of this nation.

**ISSUE: Wildfire Suppression and Mitigation – Clarification of County/City Responsibility for Suppression Costs and Participation in State Wildfire Suppression Fund**

**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 clarified that (1) cities are responsible for suppression costs for wildfires inside city limits to the same extent that counties are responsible for suppression costs for wildfires in unincorporated areas, and (2) cities are allowed to participate in the state wildland fire suppression fund to the same extent that counties are allowed.

State law currently provides that the actual costs of suppression taken by the Utah Division of Forestry, Fire and State Lands on privately owned lands shall be a charge against the county in which the lands lie, unless otherwise provided by cooperative agreement. See e.g., Utah Code § 65A-8-202(4). No clarification is provided in current state law to make cities responsible for suppression of costs if the wildfire takes place inside a city limits as opposed to the unincorporated parts of a county. The need for such clarification increases as more and more cities throughout the state annex lands which extend into wildland urban interfaces.

**FINAL POSITION:**

The Legislature should enact a law which amends relevant provisions in Utah Code Title 65A, Chapter 8 to provide that:

- cities are responsible for suppression costs for wildfires inside city limits to the same extent that counties are responsible for suppression costs for wildfires in unincorporated areas, and
- cities are allowed to participate in the state wildland fire suppression fund to the same extent that counties are allowed.

## **LANDS, RESOURCES AND DEVELOPMENT #44**

---

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Appropriations for RS 2477 Statewide Quiet Title Litigation**

#### **BACKGROUND:**

The State Public Lands Policy Coordinating Office and Attorney General's Office are filing notices of intent in preparation for a June 2012 statewide quiet title lawsuit for R.S. 2477 county B and D roads across BLM lands. This is a massive undertaking requiring an ongoing commitment from the Legislature to fund the attorneys and other specialists who are staffing and supporting this litigation effort. UAC appreciates the level of commitment shown thus far by the Legislature and Governor's office to underwrite and fund this effort.

#### **FINAL POSITION:**

The State Legislature should continue to fund this effort and appropriate funds necessary to staff the needed attorneys, paralegals and other technical specialists to support the statewide RS 2477 Quiet Title Litigation in 2012 and beyond. If nothing else, the continuation of this litigation effort could increase the likelihood of a long-overdue negotiated settlement to resolve many if not all of the Counties' road claims on BLM lands throughout the State.

## **LANDS, RESOURCES AND DEVELOPMENT #45**

---

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Appropriations to Pay Facilitator Costs for RS 2477 Road Negotiation Projects**

#### **BACKGROUND:**

Iron County with the assistance of UAC staff and the support of the Governor's office, have entered into negotiations with the BLM and a broad range of public lands stakeholders for a universal settlement of all claimed roads (approximately 2200 miles) on all BLM lands in Iron County. This is a map-based negotiation which is open and transparent to all stakeholders. The prospects of success in this negotiation are encouraging. The parties to this negotiation engaged the services of a professional facilitator, and the facilitation provided has proved invaluable to the success of this pilot project. The BLM and the State of Utah have committed to pay the vast majority of the facilitator's costs, with the small remaining portion of costs being paid by Iron County and other stakeholders. The Governor's office has also demonstrated leadership and commitment to support and participate in this negotiation effort. Continued commitments from the Legislature to underwrite a portion of the facilitator's costs are needed, both in this Iron County pilot project and in future similar projects involving other counties.

#### **FINAL POSITION:**

UAC supports the Iron County road negotiation pilot project and similar projects that may follow involving road claims by other counties. The State Legislature and Governor's office should continue its commitment toward the Iron County project and similar projects by funding a significant portion of the costs to be incurred by the professional facilitators involved in the ongoing Iron County road negotiation project and similar projects for other counties.

**ISSUE: Appropriations to Combat Phragmites Invasive Weed Problem**

**BACKGROUND:**

The phragmites invasive weed threatens the fragile native eco-systems of many wetlands around the State, including vast wetland regions of Great Salt Lake, Utah Lake, the Jordan River corridor and other lake and river regions around the State. Ongoing legislative appropriations are need sufficient to eradicate the phragmites weed, beginning in the above-mentioned areas. These appropriations should include money sufficient to pay for two full-time positions in the State Division of Forestry, Fire and State Lands ("Division") devoted solely to working with county personnel on invasive weed eradication, plus investment in necessary mechanical equipment for phragmites eradication, plus materials and supplies available for use by the Division and the Counties, including chemical spray materials and the means to apply those chemicals, all necessary to combat phragmites and restore native bulrush and other native plant species, beginning in the Great Salt Lake and Utah Lake regions and moving elsewhere, in order to restore watersheds and eco-systems for migratory fowl, wildlife and hunting enthusiasts.

**FINAL POSITION:**

The State Legislature should provide ongoing funding sufficient to eradicate the phragmites problem in the State, beginning in the Great Salt Lake and Utah Lake regions and moving throughout the State from there, including monies sufficient to fund at least two full-time positions in the State Division of Forestry, Fire and State Lands ("Division") devoted solely to working with county personnel on invasive weed eradication, plus investment in necessary mechanical equipment for phragmites eradication, plus materials and supplies available for use by the Division and the Counties, including chemical spray materials and the means to apply those materials, all necessary to combat phragmites and restore native bulrush and other native plant species, beginning in the Great Salt Lake and Utah Lake regions and moving elsewhere, in order to restore watersheds and eco-systems for migratory fowl, wildlife and hunting enthusiasts.

### ISSUE: **Recouping Costs for Suppression of Wildfires**

#### BACKGROUND:

The Utah Division of Forestry, Fire and State Lands (“the Division”) has a long history of assisting counties in the suppression of wildfires throughout the state of Utah, on both State-owned and non State-owned lands. Utah Code Section 65A-3-4 authorizes the Division to recoup fire suppression costs from persons who are liable for causing the fire. However, courts have recently construed this statute to limit the Division’s right to recoup costs only for fires that occur on State-owned lands. But much of the benefit counties receive from the Division happens when the Division suppresses wildfires on non State-owned land. In light of these recent court decisions, unless the statute is revised by the Legislature to authorize the Division to recoup wildfire suppression costs for fires that occur on non-State owned lands as well as State-owned lands, it is feared that the Division will no longer be in a position to assist counties in the suppression of wildfires that occur on non-State owned lands.

#### FINAL POSITION:

The State Legislature should amend Utah Code Section 65A Chapter 3 to authorize the Division of Forestry, Fire and State Lands to recoup fire suppression costs from responsible persons for fires that occur on non State-owned lands as well as State-owned lands.



## LAW ENFORCEMENT, CORRECTIONS & COURTS #48

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 #49

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.

**ISSUE: Amendments to the Indigent Defense Act**

**BACKGROUND:**

Counties are responsible for providing defense representation for criminal defendants who are indigent. Counties are also responsible for providing defense resources (e.g. expert witnesses) to defendants who are indigent. In recent years, counties have seen a number of instances in which a defendant hires private counsel to represent them in the case and then later approaches the court with a request that they be found indigent for the purpose of requesting the county pay for defense resources. These costs can be substantial.

A recent ruling from the Utah Supreme Court concluded that the statutory structure of the Indigent Defense Acts requires a county to pay these extra defense costs even when a defendant is represented by a private attorney. In light of this ruling, counties can anticipate an increase in requests for defense resources from defendants represented by attorneys who have not contracted with the county to provide indigent services. The potential financial burdens from are significant and counties must determine the most cost efficient way to meet the requirements of the ruling.

**FINAL POSITION:**

The Utah Association of Counties proposes to amend the Indigent Defense Act to avoid extra, unexpected, non-contractual costs for defense experts by expressly allowing a county to contract for all legal services and prohibiting extra defense costs to be covered by the county outside of that contract. Additional court and county “escape valves” would be enacted to allow for exemptions to the Act.

### ISSUE: **Constable Services under Contracts with Counties**

#### BACKGROUND:

Utah statutes provide that counties and municipalities may enter into agreement with constables to serve process, and other legal documents, and to provide court security services in justice courts. These services are valuable and necessary and private constables serve important purposes. In some instances, however, problems have arisen. Some of these problems arise from confusion among members of the public regarding under whose authority constables act, what their role is in relation to county Sheriffs and other law enforcement officers, and how to seek redress for perceived inappropriate behavior or performance. This confusion can be increased when constables are serving documents or otherwise acting outside the boundaries of a county or municipality with which they have contracted to provide services. This confusion causes problems for local law enforcement, legal counsel and ultimately the county.

Changes to current law that would clarify the scope of a constable's authority, increase identification requirements for constables, and shorten the term of contracts with counties, would help to correct some of the problems that have been identified under the current statutory construction.

#### FINAL POSITION:

Support legislation that modifies the statutory provisions relating to constables in order to address the problems with current practice that have been identified by county attorneys, sheriffs and members of the public.

## **LAW ENFORCEMENT, CORRECTIONS AND COURTS #52**

Primary Affiliate: USACCC

Secondary Affiliates: Attorneys

### **ISSUE: Amendments to Reimbursement of Legal Fees and Costs to Officers and Employees Act**

#### **BACKGROUND:**

County governments are required under current law to reimburse legal fees and costs to officers or employees of the county when the individual incurs those costs defending against criminal proceedings that arose as a result of actions taken while employed by the county and when the employee was acting within the scope of their duties. The county may escape this responsibility, however, if the individual is found guilty of criminal activity.

In recent years, this statute has been used by public employees to recover attorney fees and legal costs when the employee has been acquitted of criminal charges, but found guilty of malfeasance in civil and administrative actions. The result has been that an employee may be found responsible for inappropriate conduct and terminated, and still be able to receive reimbursement for the fees and costs incurred in a criminal action. This places an unreasonable burden on county resources.

#### **FINAL POSITION:**

Support legislation that provides that an officer or employee is not entitled to recover from the county attorney fees and court costs incurred in a criminal proceeding if through a court or administrative hearing to terminate the officer or employee, the county proves that the officer or employee engaged in the misconduct that formed the basis of the criminal proceeding.

## **LAW ENFORCEMENT, CORRECTIONS AND COURTS #53**

Primary Affiliate: Attorneys

Secondary Affiliates: Sheriffs, USACCC

### **ISSUE: Involuntary Feeding and Hydration of County Jail Inmates**

#### **BACKGROUND:**

Recent events in more than one county have identified the need for clarification of statutory authority and for procedures relating to involuntary feeding and hydration of inmates who refuse food or water, either on a reasoned basis or due to mental health issues. There are precedents from the United States Supreme Court that define authority of jail commanders to forcibly feed or medicate patients, but the process and standards for doing so under Utah law needs development. There is a need for legislation that would create a defined process for obtaining a court order to allow correctional officers to take action to protect the health of an inmate who refuses food or water.

#### **FINAL POSITION:**

Support legislation that clarifies the authority to jail administrators and corrections administrators to obtain court orders approving involuntary feeding and hydration of county jail inmates.

## **LAW ENFORCEMENT, CORRECTIONS AND COURTS #54**

---

Primary Affiliate: Sheriffs  
Secondary Affiliates: USACCC

### **ISSUE: Inmate Medical Insurance**

#### **BACKGROUND:**

Health and dental insurance companies currently refuse to cover policy holders while those policy holders are confined to a state prison or county jail. This practice is observed even when insurance premiums are still being paid and the policy is current. In the event that an inmate requires medical or dental treatment while incarcerated, the public is left to cover the cost. Legislation has been introduced in the past and will continue to be introduced in the future that would require an insurance company to honor an active policy in the event that an inmate requires medical or dental care that isn't directly related to inmate life within the prison or jail.

#### **FINAL POSITION:**

Support legislation requiring health and dental insurance companies to honor the insurance policies of inmates held within county jails.

## **LAW ENFORCEMENT, CORRECTIONS AND COURTS #55**

---

Primary Affiliate: Sheriffs  
Secondary Affiliates: USACCC

### **ISSUE: Payment for Condition of Felony Probation Inmates**

#### **BACKGROUND:**

Felony Condition of Probation inmates have been tried on state charges, sentenced in state courts to time in the state prison. However, the judge suspends the prison sentence and grants probation on the condition that the prisoner spends time in a county jail for a period of up to one year. Counties must accept and house these prisoners. The sentencing court retains jurisdiction over these prisoners for a variety of judicial purposes.

The Counties and the Legislature have agreed and placed in statute the percentage of the cost the state should pay for housing condition of probation inmates in county jails. Year after year the state has failed to appropriate and pay it's agreed upon amount. In an attempt to partially resolve this long standing funding problem the counties will propose legislation that will allocate the unappropriated portion of the state beer tax that currently goes to the state general fund to counties for the purpose of partially funding the cost of housing condition of probation inmates under Utah Code Section 64-13e-104.

Currently the Utah State beer tax brings in revenues to the state of approximately \$13 million. The unappropriated portion of that tax is approximately \$8 million. The additional amount needed to fund the state's statutory portion of the cost of housing condition of probation inmates will continue to be requested by the counties from the legislature each year.

#### **FINAL POSITION:**

Support legislation that would allocate the existing beer tax revenue, currently going to the state general fund, to the counties to partially pay the cost of housing condition of felony probation inmates.



## REVENUE AND TAXATION #56

---

Primary Affiliate: All

Secondary Affiliates: None

### 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.

## REVENUE AND TAXATION #57

---

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.

### 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.

### 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 #61

---

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 #62

---

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 #63

---

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 #64

---

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 #65

---

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 #66

---

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 #67

---

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 #68

---

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 #69

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 the 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 #70

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 #71

---

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 certified property tax rate.

## REVENUE AND TAXATION #72

---

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 #73

---

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 both city government and the Restaurant Association in the form of legislation to grab some percentage of the revenues generated from the restaurant tax for their 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.

## REVENUE AND TAXATION #74

---

Primary Affiliate: Assessors

Secondary Affiliates: All

### ISSUE: **Disclosure of Real Estate Sales**

#### BACKGROUND:

Utah is a non-disclosure state when it comes to real estate sales. That means that there is no requirement for a property buyer to disclose to the county assessor's office the purchase price of a property for assessing purposes. This has added additional challenges to county assessors in determining fair market value.

For years, the Legislature has been hesitant to introduce legislation that would make Utah a disclosure state for fear of the introduction of a transfer tax (which has traditionally followed disclosure in states that have made the transition from non-disclosure to disclosure). Recently, certain Legislators have expressed interest in the idea of a move to disclosing property sales provided there is in place a constitutional amendment banning a transfer tax.

#### FINAL POSITION:

Support legislation that would 1) place a constitutional ban on the creation of a transfer tax and 2) move Utah from a non-disclosure to a limited disclosure state that shares sales information with MCAT, County Assessors, and the State Tax Commission.

**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.

## REVENUE AND TAXATION #76

Primary Affiliate: Assessors

Secondary Affiliates: All

### ISSUE: **Expansion of the Primary Residential Property Tax Exemption**

#### BACKGROUND:

Currently, Utah law allows for a 45 percent exemption on a primary residence's first acre. Legislation has been introduced in recent years that would include up to six acres for the primary residential exemption provided that local zoning does not allow for smaller lots. The legislation was first introduced in 2008 in response to certain counties' failure to keep up with property values throughout their counties. Since then, several pieces of legislation have been passed that force counties to more accurately assess all properties within their counties.

An expansion of the primary residential property tax exemption would result in a property tax shift from owners of primary property larger than an acre to other business and homeowners. Additionally, it would prove very difficult to track which homes are zoned for low-density lots larger than an acre.

#### FINAL POSITION:

UAC does not believe an expansion of the residential exemption is warranted at this time, that such an expansion would be an unfair tax shift, and that such a change in policy would create difficult administrative issues.

## REVENUE AND TAXATION #77

Primary Affiliate: USACCC

Secondary Affiliates: All

### ISSUE: **Expanding the Restaurant Tax to Include Convenient Stores**

#### BACKGROUND:

Currently, the tourism, recreation, cultural, and convention facilities (TRCC) tax is imposed by county government on prepared food in restaurants. Commonly referred to as the restaurant tax, it has been opposed to by the Utah Restaurant Association for a number of reasons—on of which is that the tax is not imposed upon prepared food sold in other venues like convenient stores. On this point, UAC agrees with the Restaurant Association: the TRCC tax should be imposed on prepared food regardless of where the prepared food is sold.

#### FINAL POSITION:

UAC supports legislation that would expand the TRCC tax to include all prepared food, regardless of where the prepared food is sold.

### ISSUE: **Assessment of Low-income Housing**

#### BACKGROUND:

In 2003, legislation was passed requiring the County Assessor to consider the effect a low-income housing covenant would have on the market value of real property. The legislature required the State Tax Commission to write a rule spelling out what information needed to be submitted to the Assessor by the property owner and a time line for submitting the information.

The State Tax Commission clarified in rule, that in order for low-income housing to qualify for the reduced market value on the property, the owner of the property must submit the required information to the County Assessor by April 30th of every year. These requirements are necessary, as is the deadline, to ensure the tax rate is properly calculated.

Recent appeals to extend the deadline have highlighted the necessity to codify current State Tax Commission rule concerning the assessment of low-income housing.

#### FINAL POSITION:

Support legislation that would codify current State Tax Commission rule concerning the assessment of low-income housing including the application deadline of April 30.

**ISSUE: Online Travel Companies and the Transient Room Tax**

**BACKGROUND:**

Currently, hotels calculate and charge taxes on the full price paid by their customers. They then remit that tax in its entirety to the appropriate jurisdiction. Online travel companies (such as Expedia, Orbitz, and Priceline), in contrast, charge customers an amount for rooms but remit taxes based not on the full price paid by the customer, but rather on their wholesale rate—the amount they agree to pay hotels—and keep the balance.

During the 2011 General Session, SB 296 was introduced to address the discrepancy between the taxes remitted by local hotels and online travel companies. Had it passed, SB 296 would have required online travel companies to remit based on what the customer paid for the hotel room. This would have leveled the playing field between online travel companies and local hotels as well as provided local government additional funds to promote tourism and recreation.

Conversely, the online travel companies are interested in codifying the current practice effectively creating two types of tax treatments for nearly identical transactions.

**FINAL POSITION:**

Support legislation that would require online travel companies to remit transient room tax based on the price the customer pays for rooms. Oppose any legislation that would codify the current remittance practice of online travel companies.



## **TRANSPORTATION AND TELECOMMUNICATIONS #80**

---

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 #81**

---

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 #84

---

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 #85

---

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:

*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 #92**

---

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.

## **TRANSPORTATION AND TELECOMMUNICATIONS #93**

---

Primary Affiliate: USACCC

Secondary Affiliates: None

### **ISSUE: Funding for Urban Collector Roads**

#### **BACKGROUND:**

Current law does not allow the 0.25 percent Local County Option Sales and Use Tax for Transportation to be used towards collector roads in first and second class counties. The funds from this tax are prescribed to "regionally significant transportation facility projects" including principal and minor arterial highways in first and second class counties and major collector highway in a rural area. County and municipal officials within counties of the first and second class argue that urban collector roads within their counties meet the qualifications of a regional significant roadway.

#### **FINAL POSITION:**

UAC supports legislation that would include projects on urban collector roads in a county of the first or second class as a permitted expense of the 0.25 percent Local County Option Sales and Use Tax for Transportation.