

### **AGENDA ITEM #3**

**DATE:** September 12, 2016

**SUBJECT:** **INTERLOCAL AGREEMENT WITH UTAH COUNTY - HEALTH PREVENTION CLASSES**

**PREPARED BY:** Scott McBeth – MAG Director of Aging & Family Services Department

**BACKGROUND:** Our funding requires that we provide evidenced based health prevention classes for seniors. Utah County's Health Department is already providing these classes with trained staff. The Aging Department would like them to continue providing fall prevention, diabetes, and living with chronic health conditions classes for seniors.

For the current fiscal year, these services will cost the Aging Department \$12,000.

**RECOMMENDATION:** Authorize the Chair to sign the resolution to amend the current interlocal agreement with Utah County to provide health prevention classes on behalf of Mountainland's Aging Department.

**SUGGESTED MOTION:** I authorize the Chair to sign the resolution to amend the current Interlocal Agreement with Utah County to provide health prevention classes on behalf of Mountainland's Aging Department.

**CONTACT PERSON:** Scott McBeth – 801-229-3805 w  
801-652-6215 c

**ATTACHMENTS:** Resolution 2016-09-22-4 authorizing the execution of an Amendment 2016-569 to the Interlocal Cooperation Agreement 2015-54 with Utah County.  
  
Amendment of Agreement 2016-569

**RESOLUTION AUTHORIZING THE EXECUTION OF AN  
AMENDMENT TO THE INTERLOCAL COOPERATION AGREEMENT (NO. 2015-54)  
BETWEEN MOUNTAINLAND ASSOCIATION OF GOVERNMENTS AND UTAH  
COUNTY RELATING TO THE PROVISION OF HEALTH PREVENTION CLASSES**

WHEREAS, pursuant to the provisions of the Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated, 1953 as amended, public agencies, including political subdivisions of the State of Utah as therein defined, are authorized to enter into mutually advantageous agreements to provide services and facilities; and

WHEREAS, the governing bodies of Mountainland Association of Governments and Utah County have by resolution agreed to enter into an Interlocal Cooperation Agreement relating to the provision of health prevention services; and

WHEREAS, Mountainland Association of Governments has determined that the interests and welfare of the public within Mountainland Association of Governments will best be served by an Interlocal Cooperation Agreement with Utah County regarding the provision of health prevention services;

NOW THEREFORE, be it resolved by the Mountainland Association of Governments Executive Council, that Mountainland Association of Governments execute an Interlocal Cooperation Agreement with Utah County relating to the health prevention services.

APPROVED AND ADOPTED THIS \_\_\_\_ day of \_\_\_\_\_, 2016.

MOUNTAINLAND ASSOCIATION OF  
GOVERNMENTS

\_\_\_\_\_  
KENDALL CRITTENDEN, Chairman

ATTEST:  
ANDREW JACKSON, Executive Director

By:\_\_\_\_\_

APPROVED AS TO FORM AND COMPATIBILITY WITH THE LAWS OF THE STATE OF UTAH:  
ROBERT SCHUMACHER, Attorney

By:\_\_\_\_\_

**AMENDMENT OF AGREEMENT NO. 2015-54**

This is an amendment of Utah County Agreement No. 2015-54, which was executed the 20<sup>th</sup> day of January, 2015 by and between Utah County, a body corporate and politic of the State of Utah, located at 100 East Center Street, Provo, Utah 84606, hereinafter referred to as COUNTY, and Mountainland Association of Governments, an interlocal entity, a body corporate and politic, and a political subdivision of the State of Utah, with its office located at 586 East 800 North, Orem UT 84097-4146, hereinafter referred to as MOUNTAINLAND.

1. Pursuant to Section 11 of Agreement 2015-54, the terms of the Agreement are amended as follows, to be effective as of the signing of this Amendment:

**Section 4. NATURE OF SERVICES PROVIDED BY COUNTY**

COUNTY agrees to provide the following services for MOUNTAINLAND, pursuant to this Agreement:

1. COUNTY shall advertise, coordinate and teach "Stepping On" fall prevention, "Living Well with Diabetes," "Chronic Disease Self Management," or other jointly-approved courses for seniors through its Health Department.
2. COUNTY shall provide two facilitators for each of the courses who have been trained and certified to teach, and attend each class session.
3. COUNTY shall follow the adopted curriculum, teaching the "Stepping On" course in seven class sessions, two hours each; and the "Living Well with Diabetes," or "Chronic Disease Self Management" course in six sessions, two hours each; and the adopted curriculum of other jointly-approved courses in the number of class sessions as agreed upon by the parties. The number of individuals in each course shall be 8-16 or as otherwise agreed to.
4. COUNTY shall conduct three "Stepping On" courses and four "Living Well with Diabetes" or

“Chronic Disease Self Management” courses at various geographical locations to serve Utah County seniors between July 1, 2016 and June 30, 2017.

5. If mutually agreed in written communication between MOUNTAINLAND (by and through the Mountainland Aging and Family Services Department) and COUNTY (by and through the Utah County Health Department), additional “Stepping On,” “Living Well with Diabetes,” “Chronic Disease Self Management,” or other jointly-approved courses may be conducted by COUNTY in various geographical locations throughout Utah County, Such a writing is contemplated by this agreement and does not constitute an amendment to the Agreement.
6. COUNTY shall acknowledge in its advertising, marketing, etc. that the “Stepping On,” “Living Well with Diabetes,” “Chronic Disease Self Management,” or other jointly-approved courses conducted by COUNTY are sponsored by the Mountainland Aging and Family Services Department.
7. COUNTY shall report to MOUNTAINLAND all data relating to the participation of seniors in the “Stepping On,” “Living Well with Diabetes,” “Chronic Disease Self Management,” or other jointly-approved courses, including any data reported to these entities or the State of Utah Health Department.

## **Section 5. MANNER OF FINANCING**

The parties agree that they shall provide the following resources and/or assistance for this agreement:

1. COUNTY shall invoice MOUNTAINLAND on a monthly basis for courses completed.
2. MOUNTAINLAND shall pay to the COUNTY the sum of \$2,000.00 for each “Stepping On” course and \$1,500.00 for each for either “Living Well with Diabetes” or “Chronic Disease Self Management” course and an amount agreed upon in writing for other jointly-approved courses completed under the terms of this agreement, which payments shall be the total amount payable

by MOUNTAINLAND for each course and shall include all related costs incurred by COUNTY.

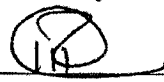
IN WITNESS WHEREOF, the parties have caused this Amended Agreement to be duly executed on this 9<sup>th</sup> day of August, 2016.

BOARD OF COUNTY COMMISSIONERS

UTAH COUNTY, UTAH

By:   
LARRY ELLERTSON, Chairman

ATTEST:  
BRYAN E. THOMPSON  
Utah County Clerk/Auditor

By:   
Deputy

APPROVED AS TO FORM:  
JEFFREY R. BUHMAN  
Utah County Attorney

By:   
Deputy Utah County Attorney

MOUNTAINLAND ASSOCIATION OF GOVERNMENTS

\_\_\_\_\_  
By:  
Its:

## **AGENDA ITEM #4**

**DATE:** September 15, 2016

**SUBJECT:** **911 ADVISORY COMMITTEE REPRESENTATIVE**

**PREPARED BY:** Bob Allen

**BACKGROUND:** Utah Code 63H-7a-307 creates the 911 Advisory Committee within the 911 Division of Utah Communications Authority. The purpose of the committee is to provide input and guidance to the 911 Division concerning the public safety communications network and advise the 911 Division regarding professional development.

As an AOG, MAG is to appoint one representative to the committee. In the past, Executive Council has agreed to appoint a representative from either Summit or Wasatch Counties. (Utah County automatically has a representative on the committee as a county of the second class.)

Melanie Crittenden of the Summit County Sherriff's Office has served as MAG's representative on the 911 Committee but her 4-year term is nearing completion. Sheriff Martinez of Summit County and Sheriff Bonner of Wasatch County propose that Melanie be appointed to another 4-year term on the committee. Please see their joint letter.

**RECOMMENDATION:** Staff recommends that Executive Council appoint Melanie Crittenden of the Summit County Sheriff's Office as MAG's representative on the 911 Advisory Committee for another 4-year term.

**SUGGESTED MOTION:** I move that Executive Council appoint Melanie Crittenden of the Summit County Sheriff's Office as MAG's representative on the 911 Advisory Committee for another 4-year term.

**CONTACT PERSON:** Bob Allen (801) 229-3813, [rallen@mountainland.org](mailto:rallen@mountainland.org)

**ATTACHMENTS:** Joint Letter from Summit and Wasatch County Sheriffs.



**SUMMIT COUNTY SHERIFF OFFICE  
WASATCH COUNTY SHERIFF OFFICE**

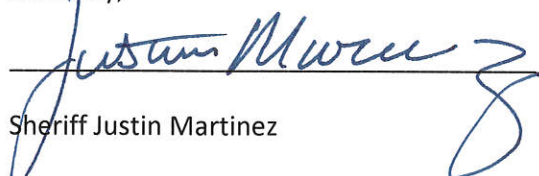


To Whom it May Concern:

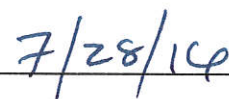
Utah State Statute 634-7a-307 (1)(b)(vi) allows for representation on the UCA 911 Advisory Committee by a member of the primary public safety answering point from the Mountainland Association of Governments Region. We request that your board entertain a nomination letter for Melanie Crittenden to stay serving in this position. Melanie is the Director for the Summit County Sheriff's Office Communications Center, the agency responsible for all public safety communications occurring within Summit County. Melanie has represented the Mountainland Association of Governments Region on the 911 Committee since 2012 and presently serves on the UCA 911 Advisory Committee as the co-chair and if nominated for a second term by your board, will serve as the Chair of this committee in 2017. She works diligently to advance Utah's 911 system. She has vast experience and knowledge with all aspects of public safety communications and is very aware of the issues and problems that face our dispatch centers. She is passionate about the integral role communications centers play in public safety and for the past sixteen years has been dedicated to the 911 industry while working at the Summit County Sheriff's Office Communications Center. She has had the opportunity to interact with many different agencies and jurisdictions during her career. Locally and statewide, she attends meetings with law enforcement, EMS, and fire administrators, to establish and maintain high quality dispatch services to both the citizens and the public safety community.


We believe that Melanie Crittenden would continue to bring a wide range of knowledge and experience to the committee and to represent Utah's Mountainland Region-Summit, Utah and Wasatch Cities & Counties in a professional and effective manner. Thank you for your time and consideration.

Sincerely,


  
Sheriff Justin Martinez

Summit County Sheriff

  
Date

  
Sheriff Todd L. Bonner

Wasatch County Sheriff

  
Date

## AGENDA ITEM #5

**DATE:** 22 September 2016

**SUBJECT:** **FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION (FEMA) HAZARD MITIGATION PLAN UPDATE**

**PREPARED BY:** Aaron Cloward, MAG Staff

**BACKGROUND:** In conjunction with Summit, Wasatch and Utah county and city planners, MAG has been developing a multi-jurisdictional hazard mitigation plan for the MAG region. This plan identifies potential hazards threatening each area and presents strategies to eliminate or minimize conditions which would have an undesirable impact on our citizens, the economy, environment, and the well-being of the state of Utah. This plan is an aid in enhancing city and state officials, agencies, and public awareness to the threat that hazards have on property and life and what can be done to help prevent or reduce the vulnerability and risk of each Utah jurisdiction.

Since 2010, FEMA has allocated more than \$523 million, in non-emergency disaster assistance (under this grant), to states and territories as part of this program. Participants in hazard mitigation plans become eligible to receive funding for project level mitigation efforts and emergency response funding. Examples include Midway's town hall renovation. Utah's participating cities combined, have received grants totaling ~\$1.1 million.

The updated plan passed review by the Utah Department of Emergency Management and is currently under review by FEMA. Upon their pre-approval MAG staff recommends that each city and county adopt the plan by resolution, thus becoming eligible for FEMA funding.

**TAC  
RECOMMENDATION  
AND MOTION:** Not Applicable

**STAFF  
RECOMMENDATION:** Each City and County in MAG adopt this plan by resolution once approve by FEMA (expected in October of 2016) in order to qualify for future funding through FEMA.

**SUGGESTED MOTION:** Informational

**CONTACT PERSON:** Aaron Cloward, [acloward@mountainland.org](mailto:acloward@mountainland.org); 801-229-3847

**ATTACHMENTS:** [FEMA's Hazard Mitigation Plan Requirement](#)  
[MAG's Hazard Mitigation Website](#)  
[Further information on mitigation actions](#)

## **AGENDA ITEM #6**

**DATE:** 22 September 2016

**SUBJECT:** B & C Road Fund Gas Tax Update

**PREPARED BY:** Andrew Jackson

**BACKGROUND:** As you may be aware, in 2015 the State Legislature passed HB362, which among other things, added 4.9 cents per gallon to the price of motor fuel. This was about an 18% increase in the excise tax. In 2016, the Legislature passed HB60. HB60 was in response to concerns from 11 rural counties in Utah that felt they were being disadvantaged by the HB362 modification. It was expected that there would be a minor shift in funding from urban areas to the rural areas. In reality, most communities were expecting approximately an 18% increase in their B or C road funds, however with the application of HB60 most communities are seeing less than half of the funds they had expected. To this end, the ULCT has been working with UAC and other stakeholders to come up with a solution. The Legislature has asked UDOT to withhold the June B & C payment.

This staff report will give you an update of where we are with the gas tax funds. The most up to date information will be provided at the meeting.

**STAFF  
RECOMMENDATION:** Information only

**SUGGESTED MOTION:** Informational

**CONTACT PERSON:** Andrew Jackson [ajackson@mountainland.org](mailto:ajackson@mountainland.org) 801-367-0699

**ATTACHMENTS:** History of B & C Funds  
ULCT Powerpoint  
ULCT Gas Tax Change

## **Section I**

### **HISTORY OF CLASS B & C ROAD PROGRAM**

The Class B & C road system with a funding program was established by the Utah Legislature in 1937 as a means of providing assistance to counties and incorporated municipalities for the improvement of roads and streets throughout the State.

The funds differ from ordinary local revenues inasmuch as they are subject to administrative direction by the State in accordance with legislative provisions. The Utah Department of Transportation is the administrative authority on behalf of the State (Utah Code 72-2-109). The procedures and regulations are designed to function by mutual accord among all agencies concerned. They have the approval and the endorsement of both the Utah Association of Counties and the Utah League of Cities and Towns through the Joint Highway Committee and are looked upon as measures necessary in the perpetuation of the annual allocations that are so vital to each local authority in meeting ever increasing traffic demands. Commendable accomplishments have been made in the use of Class B & C funds due to the continued cooperation extended by the individual agencies.

In accordance with changes passed by the 1982 Legislature, the Collector Road Program was eliminated on June 30, 1982. The funds previously allocated to that program were added to the B & C program funds. At the request of the counties and municipalities the 1982 State Legislature also modified the formula for the distribution of the B & C funds among the counties and municipalities.

In the 1997 legislature, the B & C distribution formula was changed to apportion money 50% to population and 50% to weighted road miles. The road miles were weighted at a 5 for a paved road mile, a 2 for a graveled road mile and a 1 for any other type of road mile.

In the 1998 legislature, the Transportation Code was moved from Section 27 of the Utah Code to Section 72.

In the 2015 legislature, changes were made to the weighting portion of the B&C distribution formula. Weighted road miles remain a 5 for a paved road, 2 for a gravel road and changed to a 2 for a dirt road.

Much of the correspondence and all field duties associated with the administration of Class B and Class C road funds are now handled by the Utah Department of Transportation, Program Development.

As the Administrative Agent, the Utah Department of Transportation stresses the importance of Class B & C road funds and is willing at all times to cooperate to the fullest extent possible with each agency. Agencies should be aware that these monies are intended for, and are limited to, construction and maintenance of eligible county roads and municipal streets. They are never to be used as a supplement to other fund accounts.

# HB 362 (2015)/HB 60 (2016) Data projections for HB 362 & HB 60 at: [www.ulct.org](http://www.ulct.org)

Motor fuel tax formula history

Hold harmless component

HB 362/HB 60 process, data, & expectations

Key question: what was the intent of all of the stakeholders (ULCT, UAC, Utah Transportation Coalition, WFRC, UDOT, SL Chamber, & Legislators)?

Result of HB 60: see [www.ulct.org](http://www.ulct.org) for your entity  
HB 362 increased B&C fund 17.38% from FY 15 to FY 17

Entity	FY 15 Distribution	FY 17, HB 60	Increase from FY 15	\$ increase, FY 15
11 Hold harmless counties	\$17,253,995	\$31,359,253	\$14,105,258	81.75%
18 counties	29,779,559	32,408,196	2,628,637	8.83%
All cities/towns	84,103,211	91,359,952	7,256,741	8.63%

# HB 60 hold harmless communities now in perpetuity (\*communities who *re-qualified* after 2016 HB 60)

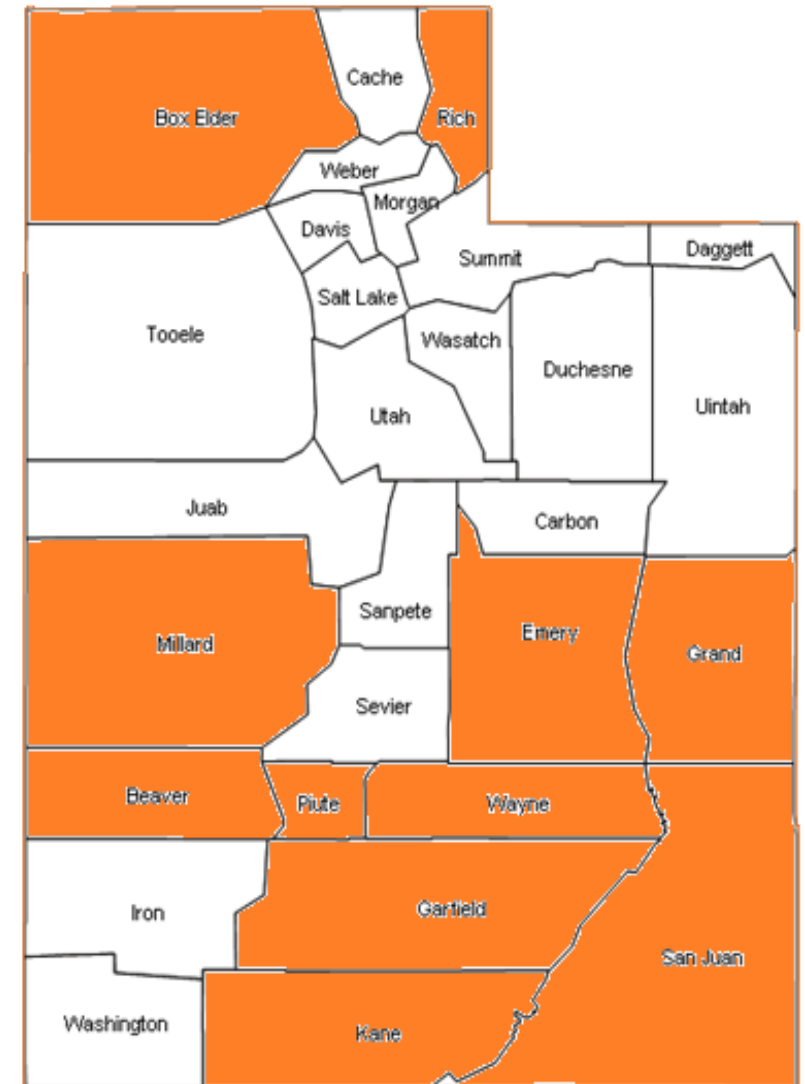
Counties (in orange):

- Beaver
- Box Elder\*
- Emery
- Grand\*
- Garfield
- Kane
- Millard
- Piute\*
- Rich\*
- San Juan
- Wayne

City: Rockville

2016 HH counties have  
**124,674 people, or 4.2%  
of Utah's population**

HH counties have 36% of  
all lane miles and 25% of  
all weighted lanes in  
Utah, BUT **only 13% of  
the lane miles in HH  
counties are paved**



# History lesson: Pre-1997 motor fuel tax

- 19.5 cents
  - 75% for UDOT Class A state roads
  - 25% for Class B & C roads for counties, cities, and towns
- Formula for B&C: 32-54-14
  - 32% ratio of road mileage within city/county compared to B&C road mileage statewide
  - 54% ratio of population within city/county compared to total population statewide
  - 14% ratio of land area in each city/county compared to total land area in state
- If unincorporated population is less than 14%, then county still got 14%

# 1997 modernization of motor fuel tax

**I) 5 cent increase from 19.5 to 24.5 cents**

**II) Local distribution formula changed from 32-54-14 to 50-50**

- **50% weighted mileage (instead of 32% lanes, 14% land area)**
  - 1 paved road mile = 5 weighted miles
  - 1 gravel road miles = 2 weighted miles
  - 1 non-paved, non-gravel road mile = 1 weighted mile
- **50% population (within city/town OR unincorporated county)**
  - In counties whose unincorporated population is less than 14% of the overall county pop., they get credit in the formula for 14% (2016 unincorp. Pop. is 9.3% of state's pop.)
    - Rationale: counties without unincorporated pop. still have road needs

**III) Introduction of Hold Harmless component**

- **Legislative intent: align B&C revenues with actual road costs; shift from rural to urban**

# 1997 Motor fuel tax: “Hold Harmless”

If Class B/C apportionment in FY 1997-98 is LESS THAN 110% of B/C apportionment was in FY 1994-95 (pre 5 cent increase), then UDOT must provide the GREATER OF:

- 110% of FY 1994-1995 (pre 5 cent increase) or 100% of FY 95-1996 (pre 5 cent increase)

**Legislative intent:** provide a floor of transportation funding for communities who would lose revenue due to the **1997 formula change**

**Growth component** beginning in **1998-1999** (post 5 cent increase)

- If the overall B/C account increases from year to year, and the B/C apportionment for HH is less than the formula, then HH entities have floor of:
  - % increase in overall account x 1/3 PLUS the B/C apportionment

# 2007-08 changes to motor fuel tax “Hold Harmless”

**I) B&C Allocation change: 70% to UDOT, 30% to locals**

**II) Change to population calculation for hold harmless formula**

- If B/C apportionment is less than 120% of B/C apportionment from FY 1996-97 to county/city w/pop. of less than 10,000, then UDOT must give 120% of B/C from FY 96-97
- Population threshold increased to 14,000 in 2008

**III) Change to hold harmless floor 110% to 120%**

**IV) Change to growth component**

- HH county/city gets % change in overall B/C account COMPOUNDED ANNUALLY, beginning in 2006-07 (not pre 1997 5 cent increase)

**V) Valentine 1997 amendment—future gas tax increase does not divert to hold harmless counties—removed in 2008 without discussion, and opened door to HB 60**

# 2007-08 changes to motor fuel tax “Hold Harmless”

2007 legislative intent for 30/70 split instead of 25/75:

- Better reflect the 31% ratio of vehicle miles traveled on local roads (69% VMT on state roads)

County representative testified to the House Revenue & Taxation Committee:

- *“if the 31/69 split was funded, it would set the stage for eliminating the hold harmless all together”*

Value of the extra 1% in the 31/69 in 2007 dollars: **\$4,152,174.17**

# 2015, HB 362 impact on motor fuel tax

## I) Rate change

- 24.5 cents replaced with 12% sales tax per gallon, the equivalent of a 4.9 cent tax increase (floor & ceiling on tax rate)
  - **20% increase**
  - Growth component

## II) Weighted lane mile change

- 1 paved road mile = 5 weighted lane miles
- 1 other road type mile = 2 weighted lane miles
  - Previous: paved = 5, gravel = 2, other = 1
  - **Double of value of “other roads:” dirt and other unpaved, non-gravel roads**

## III) Hold harmless formula (started in 1997; increased in 1998, 2007, & 2008)

# HB 362: impact of doubling value of dirt roads

Value of dirt roads doubled: 8,688 to 17,376

- 97.4% of dirt roads are county roads
- 77.6% of dirt roads are county roads in *hold harmless counties*
- County increased weighted lane mile value from 52% to 55% of all local roads

FINANCIAL RESULT: **\$4,387,946** *shift from paved roads to unpaved roads*

# 2015: HB 362 Hold Harmless

If apportionment in FY 2014 to city/county of less than 14,000 people is less than 120% apportioned in 1996-97, then city/county receives an amount equal to the 96-97 apportionment multiplied by the % increase in B/C account from FY 96-97 to most recent year

- ***ALL parties, including counties, worked on local revenue projections***

Utah League of Cities and Towns, Wasatch Front Regional Council, Utah Association of Counties, Salt Lake Chamber, Utah Transportation Coalition, UDOT, and other stakeholders reviewed & prepared projections based on HB 362 with the weighted lane mile change and the hold harmless language

- ***UDOT aided in computing HH impact for ULCT/WFRC projections***

Cities, towns, and counties anticipated an approximate but proportional 20% increase in motor fuel tax revenue (4.9 cents on 24.5 cents)

# Transportation Funding Analysis - February 23, 2015

## General Assumptions and Notes:

1. Gallons of fuel sold based on FY2014 statewide motor fuel and special fuel tax revenues at \$0.245/gallon.
2. Allocation of gallons of fuel sold by city and county is based on FY2014 B&C distribution.
3. B&C distribution split from FY2014 allocations.
4. B&C allocation is based on 50% population and 50% weighted centerline miles.
5. County sales tax estimates based on CY2013 taxable sales.
6. City sales tax based on CY2013 county sales estimates apportioned by B&C percentage within the county.
7. Vehicle registration fees apportioned to cities and counties by FY2014 B&C distribution.

## Scenario Assumptions:

- A. Convert \$0.094 of Existing Fuel Tax to a 4.7% Sales Tax on Fuel (assumes fuel @ \$2.00/gallon). This would be revenue neutral in year one; thereafter, the actual revenue would vary depending on the price of fuel.
- B. Increase Fuel User Fee \$0.05 per gallon (State/Local split 70/30).
- C. Increase Vehicle Registration Fee \$10.00 (State/Local split 70/30).
- D. Increase Local Option Sales Tax Statewide (0.25%).
  - i. Cities and unincorporated county (0.10%)
  - ii. Counties without UTA (0.15%)
  - iii. Counties with UTA: 0.05% to County, 0.10% to UTA

**County: 36% of B&C fund, per 50-50 formula**  
**City: 64% of B&C fund, per 50-50 formula**

	A. Existing \$0.245 Fuel Tax		B. Increase Statewide Fuel Tax (\$0.05 /gal.)	C. Vehicle Registration Fee (\$10.00)	D. Local Option Sales Tax (0.25%)				Total New Annual Revenues
	Per Gallon Split (\$ 0.151/gal.)	4.7% Sales Tax Split (\$0.094 /gal.)			All Cities & Unincorporated County Areas (0.10%)	Counties (non-UTA) (0.15%)	Counties (with UTA) (0.05%)	UTA (0.10%)	
State Portion (UDOT)	\$ 154,652,378	\$ 96,273,666	\$ 51,209,397	\$ 17,279,241	\$ -	\$ -	\$ -	\$ -	\$ 68,488,638
County Portion	\$ 23,862,887	\$ 14,855,042	\$ 7,901,618	\$ 1,888,917	\$ 12,093,848	\$ 18,503,485	\$ 18,686,782	\$ -	\$ 59,074,649
City Portion	\$ 42,416,704	\$ 26,405,100	\$ 14,045,266	\$ 5,516,472	\$ 37,345,393	\$ -	\$ -	\$ -	\$ 56,907,132
UTA Portion	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 37,373,563	\$ 37,373,563
<b>TOTAL</b>	<b>\$ 220,931,969</b>	<b>\$ 137,533,808</b>	<b>\$ 73,156,281</b>	<b>\$ 24,684,630</b>	<b>\$ 49,439,241</b>	<b>\$ 18,503,485</b>	<b>\$ 18,686,782</b>	<b>\$ 37,373,563</b>	<b>\$ 221,843,981</b>

# HB 362 passed in 2015, so why HB 60 in 2016?

UAC: hold harmless counties did not receive the \$ they anticipated from HB 362

- UAC met with UDOT to run data without sharing the impact with other stakeholders

ULCT/WFRC/Transportation Coalition/Chamber: everybody gets 17% increase

UDOT HB 362 interpretation: 22% increase for cities, 11% increase for counties, and 9.2% decrease for HH counties

- ULCT learned of specific UDOT & UAC data in June 2016

Key question: what did stakeholders *intend & expect* from HB 362 & thus HB 60?

# 2016: HB 60 Hold Harmless

If apportionment made in FY 2013-14 is less than 120% of amount apportioned in FY 1996-97, then city/county of less than 14,000 receives:

- 1996-97 apportionment, **PLUS** 96-97 apportionment multiplied by % increase in B/C account from FY 96-97 to most recently completed FY
- Counties indicated to stakeholders and legislators that HB 60 “corrects a calculation and error in HB 362” & retroactive to Jan 2016
- Total hearing time in interim, House floor, Senate committee, & Senate floor
  - 10 min, 47 sec with no public data or disclosure about financial impact; **no nay votes**

Fiscal Analyst did NOT contact ULCT about HB 60 fiscal impact

- Fiscal Analyst determined that since total amount did not change, no local impact
- ULCT received & filled 365 requests about fiscal impacts on legislation in 2016

# What was the *intent* of HB 60?

- ULCT, Transportation Coalition, Salt Lake Chamber, WFRC & others expected:
  - HB 60 would facilitate distribution of HB 362 gas tax increase per 50/50 formula as published in Feb & Apr 2015 projections
  - 17% increase for cities & counties
  - HB 60 NOT about re-distribution of \$, but language to enable the 17% distribution
- UAC, specifically the 11 hold harmless counties, expected:
  - HB 60 would distribute the majority of new HB 362 gas tax revenues to 11 hold harmless counties at the expense of other counties & cities
  - HB 60 reflected what UAC intended in HB 362: expand the hold harmless
  - UAC never shared data with stakeholders, including ULCT, about what the expanded hold harmless formula would mean to the distribution of the new gas tax revenues

# 2016: HB 60 Hold Harmless impact

Legal result: instead of 120% of 96-97 \$ plus growth, HH get 217% of 96-97 \$ in FY 2017 and potentially more in future

Value of 5 cent motor fuel tax B&C increase: \$23,990,635

***Expectation result: shift of \$8.5-\$8.8 million in ULCT/WFRC/UDOT projections from cities & towns to counties***

***Expectation result: shift of \$11,821,564 million in ULCT/WFRC/UDOT projections from non-hold harmless cities, towns, & counties to 11 hold harmless counties and 1 hold harmless town***

UAC had a different intent than the other stakeholders on HB 362 (ULCT, Utah Transportation Coalition, SL Chamber)  
Note: HB 362 increased B&C fund by 17.38%

ENTITY	ULCT 362 projection, intent, & info for legislators	WFRC 362 projection, intent, & info for legislators	HB 60, 2016, UAC intent for HB 362, but never shared
All Cities	17.25% increase	17.62% increase	8.63% increase
All Counties	17.59% increase	16.94% increase	35.58% increase (81.75% HH, 8.83% non-HH)

# Why the decrease in the county share of B&C?

1996: counties got 52% of B&C \$

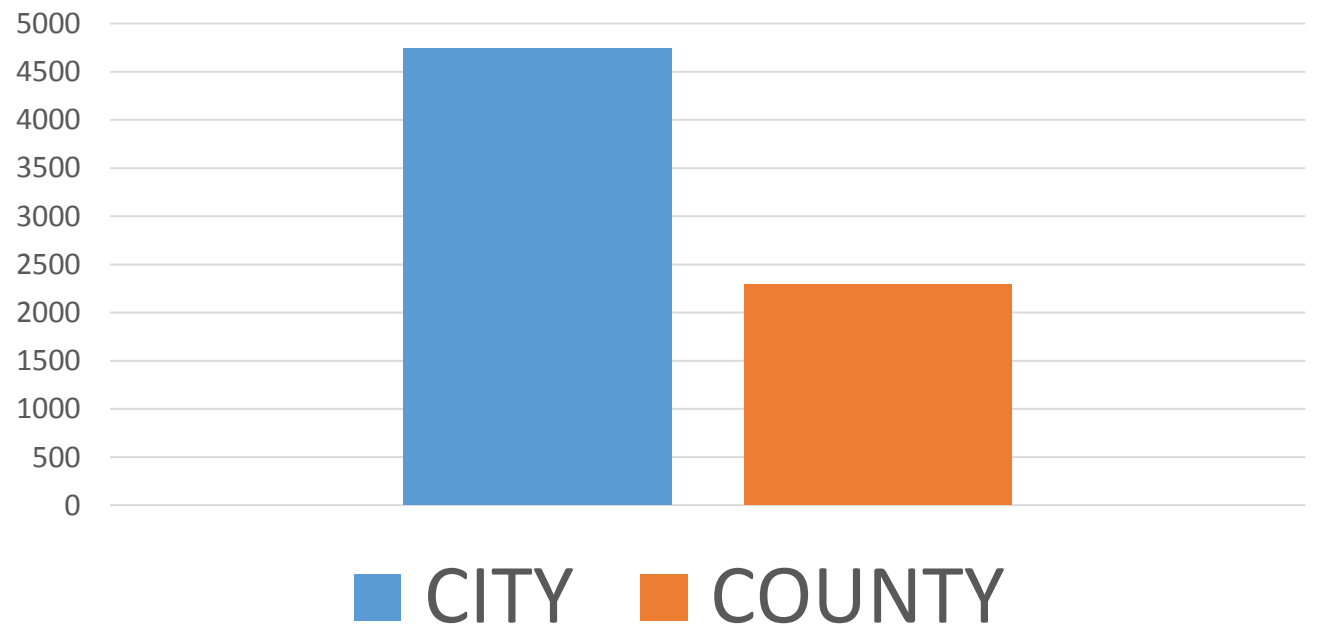
2015: counties got 36% of B&C \$

206% MORE new CITY road miles  
than new COUNTY road miles since  
1995

*NEW CITY miles: 4,739*

*NEW COUNTY miles: 2,295*

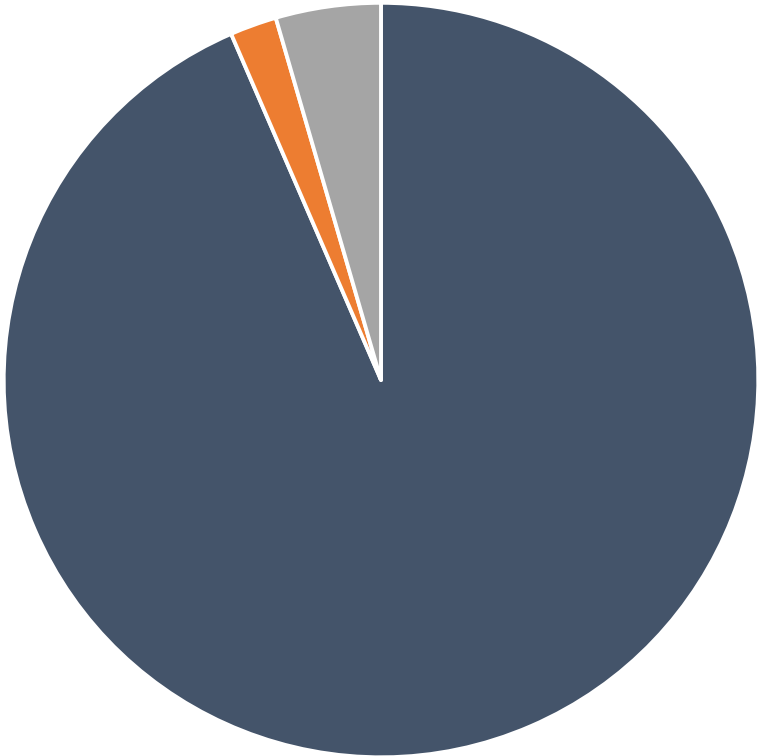
New road lane miles from  
1995-2014



# Why the decrease in the county share of B&C?

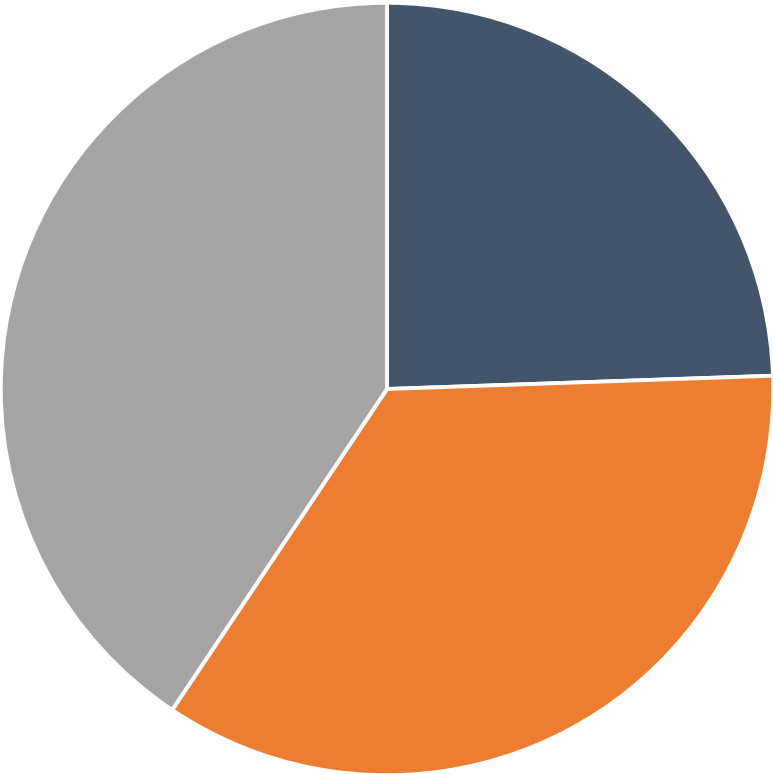
City paved roads: 10,408      County paved roads: 5,924

CITY WEIGHTED LANE MILES



■ PAVED ■ DIRT ■ GRAVEL

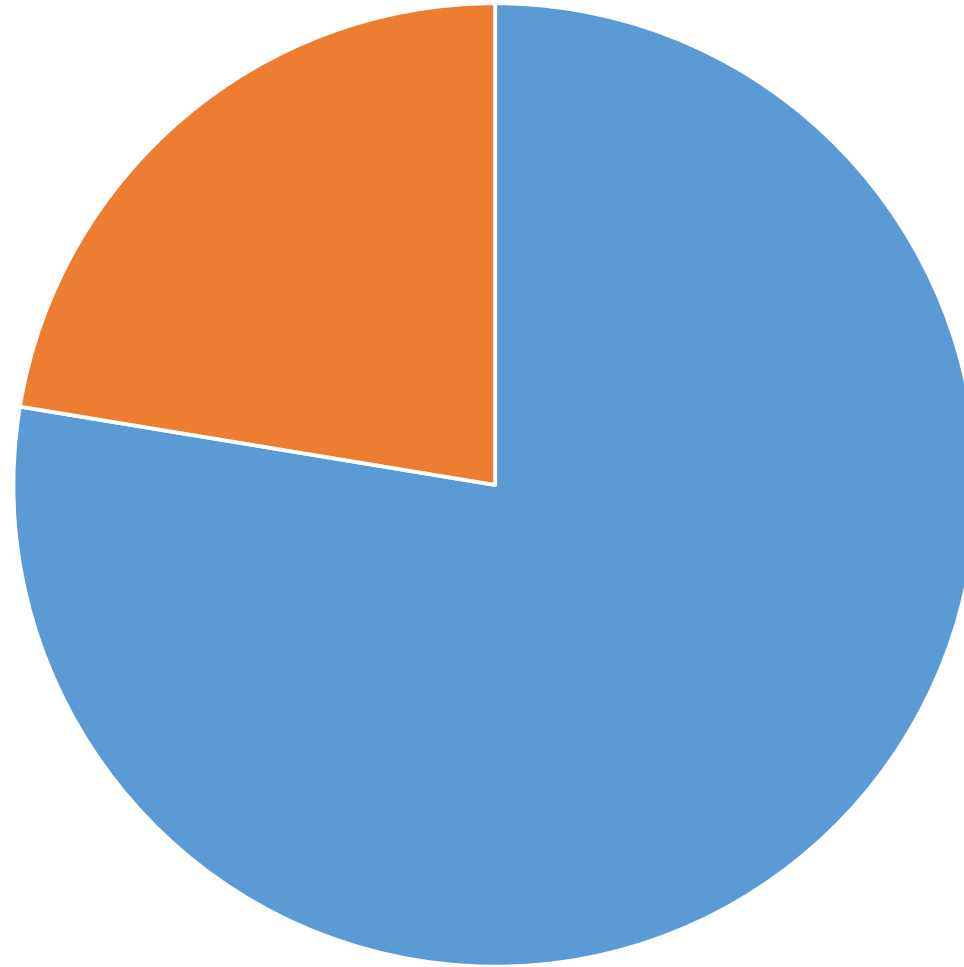
COUNTY WEIGHTED LANE MILES



■ PAVED ■ DIRT ■ GRAVEL

# VEHICLE MILES TRAVELED, LOCAL ROADS

1997 & 2007 changes sought to align funds to needs



■ CITIES 78%

■ COUNTIES 22%

# UAC narrative & ULCT reply about hold harmless

## **UAC: Hold harmless formula negotiated as part of HB 362**

*ULCT: Hold harmless formula was never discussed with ULCT reps, other stakeholders, in committee meetings, or on the floor*

*ULCT: no transparency about HH financial impact with stakeholders & legislators*

## **UAC: counties agreed to take a lesser share of the local option because of the hold harmless counties**

*ULCT: Counties NEVER offered to ULCT or publicly to legislators to take a lesser share of the local option because of the hold harmless counties*

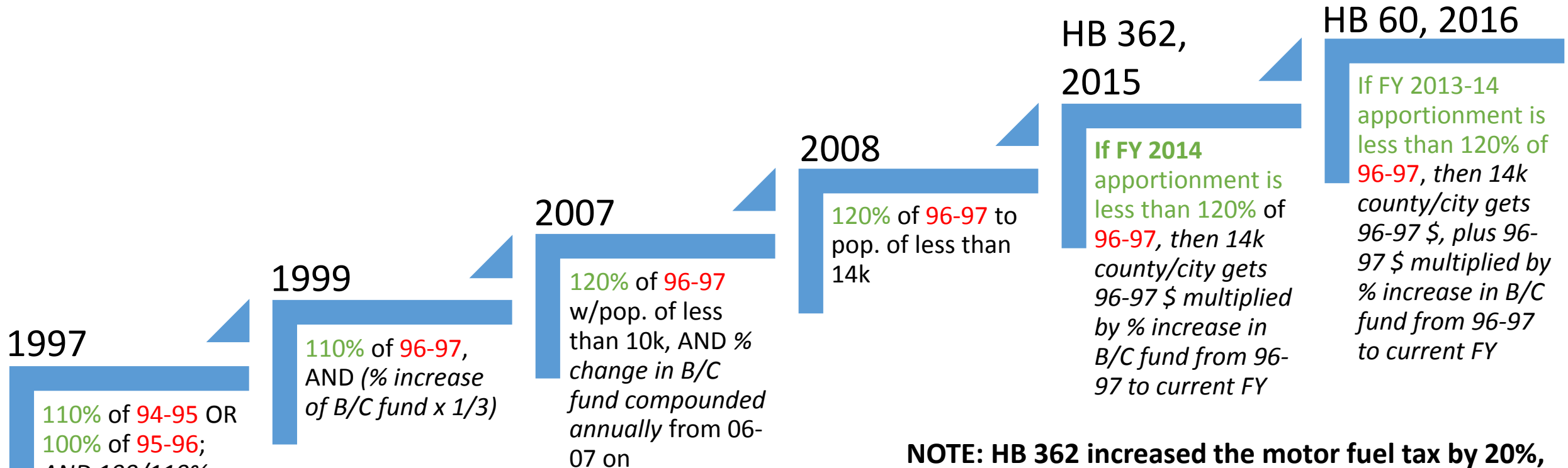
*ULCT: initial draft of HB 362 used the B/C formula instead of the municipal 50/50 sales tax formula, which would have disproportionately benefited counties (cities would have received just 79% of the .10)*

# How Hold Harmless counties benefit from HB 60 & HB 362

UDOT: state part of HB 362 gas tax increase for 1,975 miles of rural state roads (>1000 cars/day)

County	Dirt road <i>increase</i> in weighted land mile, HB 362 ratio (\$4.3 million)	.25, county (local opt in HB 362)	City .10; 50% pop. (local opt in HB 362)	HH boost, HB 60 vs. FY 2015 distributions
Beaver	33% WLM shift	.15 (60%)	18% of pop.	80%
Box Elder	10% WLM shift	.05 & .15	18% of pop.	87%
Emery	24% WLM shift	.15 (60%)	17% of pop.	80%
Garfield	41% WLM shift	.15 (60%)	27% of pop.	80%
Grand	46% WLM shift	.15 (60%)	40% of pop.	85%
Kane	33% WLM shift	.15 (60%)	19% of pop.	80%
Millard	23% WLM shift	.15 (60%)	29% of pop.	80%
Piute	17% WLM shift	.15 (60%)	17% of pop.	93%
Rich	15% WLM shift	.15 (60%)	38% of pop.	91%
San Juan	33% WLM shift	.15 (60%)	63% of pop.	80%
Wayne	42% WLM shift	.15 (60%)	47% of pop.	80%

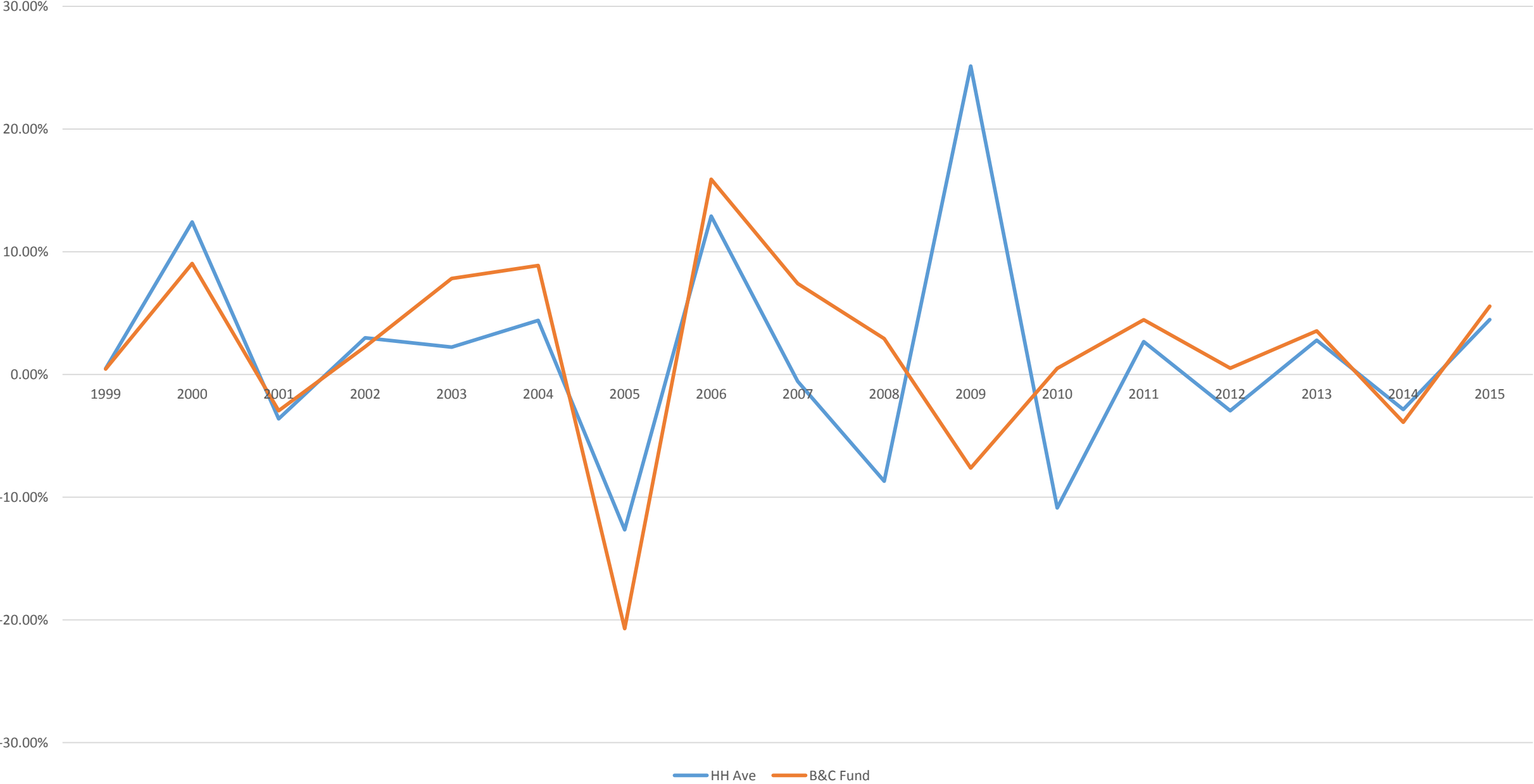
UAC: Hold harmless counties have not grown since 97  
ULCT: No sunset, increasing floor, constant growth %



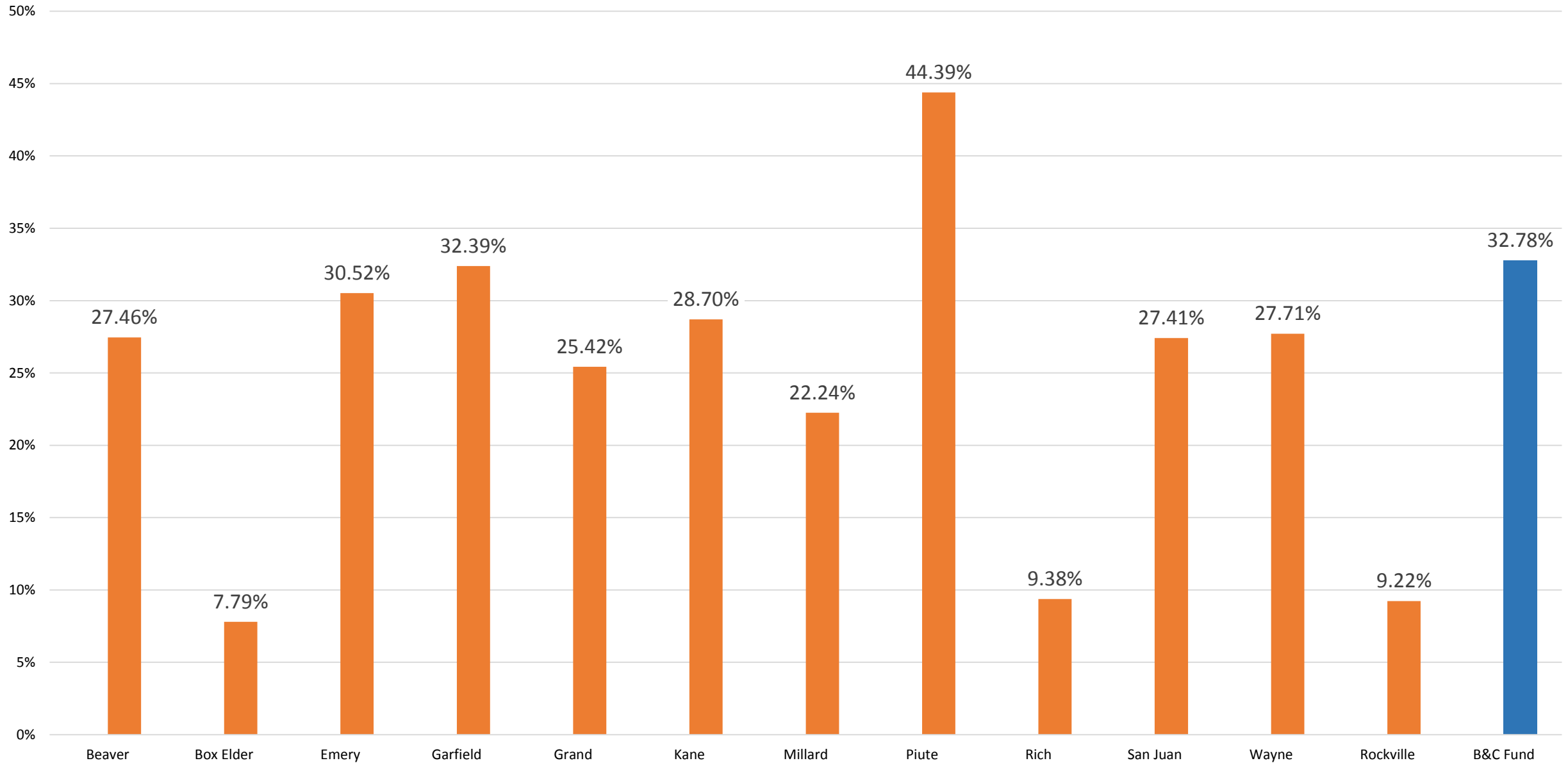
**NOTE: HB 362 increased the motor fuel tax by 20%, which would have naturally nearly ended the 1997-2015 hold harmless.**

**Instead, the new FY 2013-2014 floor freezes HH participants & extends HH protection indefinitely!**

Yearly % Change



Percent Change from 1998 to 2015



# Specific 2016--HB 60 impact (UAC intent for HB 362)

Entity	Population	FY 2015	Est. FY 2017	Increase from FY 15	Increase %
11 Hold harmless	124,674 (4.2%)	\$17,270,052	<i>\$31,359,253</i>	<i>\$14,105,258</i>	81.75%
SL Co cities	947,398 (32%)	\$28,834,544	<i>\$31,419,822</i>	<i>\$2,585,279</i>	8.95%

Entity	FY 15 Distribution	FY 17, HB 60	Increase from FY 15	\$ increase, FY 15
11 Hold harmless counties	\$17,253,995	<i>\$31,359,253</i>	\$14,105,258	81.75%
18 counties	29,779,559	32,408,196	2,628,637	8.83%
All cities/towns	84,103,211	91,359,952	7,256,741	8.63%

# Fundamental question: what did the Legislature intend to do in HB 362?

- ULCT (and Utah Transportation Coalition, WFRC, & other stakeholders) intent of HB 362 gas tax increase:
  - 17% increase, distributed according to the 50/50 formula
  - Basis of HB 362 projections, both in February (during the 2015 session) and April
- UAC intent of HB 362 gas tax increase:
  - 81.4% increase for hold harmless counties and 8.83% increase for cities & other counties
  - No data provided publicly or to stakeholders about scope of HH impact
- What was the legislative intent with the HB 362 gas tax increase?

# ULCT June timeline & contacts

May 27: ULCT learns of B&C concerns from WVC (Fri before Memorial Day)

Jun 7: ULCT met w/UDOT comptroller

Jun 9: ULCT met w/UAC

Jun 15: ULCT finished data analysis, presented to Baci group

Jun 16: ULCT released data to ULCT membership

- 1,050 viewed emails

Jun 21: ULCT does webcast to ULCT membership

- 130ish attendees, including legislators & county officials

Jun 23: ULCT presents to SL Conf of Mayors

Jun 24: ULCT Board meeting

Jun 24: UDOT, UAC, WFRC Data meeting

ULCT has met with the following:

Lt. Governor Spencer Cox

Senate President Wayne Niederhauser

House Speaker Greg Hughes

Salt Lake County Mayor Ben McAdams

Davis County Commissioner Bret Millburn

UDOT Comptroller Janet Steadman

Salt Lake Chamber's Abby Albrecht

Wasatch Front Regional Council's Andrew Gruber

Multiple lobbyists who were involved in HB 362, including Greg Curtis, Rob Jolley, Dave Stewart, Chris Bleak, Ryan & Craig Peterson (former Senate Majority Leader, 1997)

Many legislators & former legislators

# Where do we go from here?

- ULCT & UAC have met multiple times in last 2 weeks & UAC meeting next week with membership
- Potential special session
- January 2017 legislation
- Return to previous hold harmless language
  - HB 362 as UDOT interpreted?
  - HB 362 as all stakeholders other than HH counties/UAC intended?
  - HH pre HB 362?
- Re-consider motor fuel tax formula
  - 14% unincorporated population assumption
  - Weighted lane miles
  - Hold harmless

## **AGENDA ITEM #7**

**DATE:** 22 September 2016

**SUBJECT:** Open and Public Meeting Training

**PREPARED BY:** Andrew Jackson

**BACKGROUND:** State Law requires an annual training on the Open Meetings Law.

This is our annual training

**STAFF  
RECOMMENDATION:** Information only

**SUGGESTED MOTION:** Informational

**CONTACT PERSON:** Andrew Jackson [ajackson@mountainland.org](mailto:ajackson@mountainland.org) 801-367-0699

**ATTACHMENTS:** Open and Public Meetings Act PDF

## **Chapter 4**

### **Open and Public Meetings Act**

#### **Part 1**

#### **General Provisions**

##### **52-4-101 Title.**

This chapter is known as the "Open and Public Meetings Act."

Enacted by Chapter 14, 2006 General Session

##### **52-4-102 Declaration of public policy.**

- (1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.
- (2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
  - (a) take their actions openly; and
  - (b) conduct their deliberations openly.

Renumbered and Amended by Chapter 14, 2006 General Session

##### **52-4-103 Definitions.**

As used in this chapter:

- (1) "Anchor location" means the physical location from which:
  - (a) an electronic meeting originates; or
  - (b) the participants are connected.
- (2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.
- (3) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.
- (4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.
- (5) "Electronic message" means a communication transmitted electronically, including:
  - (a) electronic mail;
  - (b) instant messaging;
  - (c) electronic chat;
  - (d) text messaging as defined in Section 76-4-401; or
  - (e) any other method that conveys a message or facilitates communication electronically.
- (6)
  - (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.
  - (b) "Meeting" does not mean:
    - (i) a chance gathering or social gathering; or

- (ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405.
- (c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:
  - (i) no public funds are appropriated for expenditure during the time the public body is convened; and
  - (ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:
    - (A) for which no formal action by the public body is required; or
    - (B) that would not come before the public body for discussion or action.
- (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.
- (8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.
- (9)
  - (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:
    - (i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
    - (ii) consists of two or more persons;
    - (iii) expends, disburses, or is supported in whole or in part by tax revenue; and
    - (iv) is vested with the authority to make decisions regarding the public's business.
  - (b) "Public body" includes, as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking.
  - (c) "Public body" does not include a:
    - (i) political party, political group, or political caucus;
    - (ii) conference committee, rules committee, or sifting committee of the Legislature; or
    - (iii) school community council or charter trust land council as defined in Section 53A-1a-108.1.
- (10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.
- (11)
  - (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.
  - (b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.
- (12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.
- (13) "Specified body":
  - (a) means an administrative, advisory, executive, or legislative body that:
    - (i) is not a public body;
    - (ii) consists of three or more members; and
    - (iii) includes at least one member who is:
      - (A) a legislator; and
      - (B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and
  - (b) does not include a body listed in Subsection (9)(c)(ii).

- (14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Amended by Chapter 77, 2016 General Session

**52-4-104 Training.**

The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

Enacted by Chapter 263, 2006 General Session

## **Part 2 Meetings**

**52-4-201 Meetings open to the public -- Exceptions.**

- (1) A meeting is open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206.
- (2)
- (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.
  - (b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:
    - (i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;
    - (ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;
    - (iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section 52-4-207; or
    - (iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

Renumbered and Amended by Chapter 14, 2006 General Session

Amended by Chapter 263, 2006 General Session

**52-4-202 Public notice of meetings -- Emergency meetings.**

- (1)
- (a)
    - (i) A public body shall give not less than 24 hours' public notice of each meeting.
    - (ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.
  - (b) The public notice required under Subsection (1)(a) shall include the meeting:
    - (i) agenda;
    - (ii) date;
    - (iii) time; and

- (iv) place.
- (2)
  - (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.
  - (b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.
- (3)
  - (a) A public body or specified body satisfies a requirement for public notice by:
    - (i) posting written notice:
      - (A) at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and
      - (B) on the Utah Public Notice Website created under Section 63F-1-701; and
    - (ii) providing notice to:
      - (A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or
      - (B) a local media correspondent.
  - (b) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63F-1-701(4)(d).
  - (c) A public body whose limited resources make compliance with Subsection (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.
- (4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).
- (5)
  - (a) The notice requirement of Subsection (1) may be disregarded if:
    - (i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and
    - (ii) the public body or specified body gives the best notice practicable of:
      - (A) the time and place of the emergency meeting; and
      - (B) the topics to be considered at the emergency meeting.
  - (b) An emergency meeting of a public body may not be held unless:
    - (i) an attempt has been made to notify all the members of the public body; and
    - (ii) a majority of the members of the public body approve the meeting.
- (6)
  - (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.
  - (b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.
  - (c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:
    - (i) listed under an agenda item as required by Subsection (6)(a); and
    - (ii) included with the advance public notice required by this section.
- (7) Except as provided in this section, this chapter does not apply to a specified body.

Amended by Chapter 77, 2016 General Session

**52-4-203 Written minutes of open meetings -- Public records -- Recording of meetings.**

- (1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.
- (2) Written minutes of an open meeting shall include:
  - (a) the date, time, and place of the meeting;
  - (b) the names of members present and absent;
  - (c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
  - (d) a record, by individual member, of each vote taken by the public body;
  - (e) the name of each person who:
    - (i) is not a member of the public body; and
    - (ii) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;
  - (f) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(e); and
  - (g) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.
- (3) A recording of an open meeting shall:
  - (a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and
  - (b) be properly labeled or identified with the date, time, and place of the meeting.
- (4)
  - (a) As used in this Subsection (4):
    - (i) "Approved minutes" means written minutes:
      - (A) of an open meeting; and
      - (B) that have been approved by the public body that held the open meeting.
    - (ii) "Electronic information" means information presented or provided in an electronic format.
    - (iii) "Pending minutes" means written minutes:
      - (A) of an open meeting; and
      - (B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.
    - (iv) "Specified local public body" means a legislative body of a county, city, or town.
    - (v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.
    - (vi) "Website" means the Utah Public Notice Website created under Section 63F-1-701.
  - (b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.
  - (c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.
  - (d) A state public body and a specified local public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.
  - (e) A state public body shall:

- (i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;
  - (ii) within three business days after approving written minutes of an open meeting, post to the website and make available to the public at the public body's primary office a copy of the approved minutes and any public materials distributed at the meeting; and
  - (iii) within three business days after holding an open meeting, post on the website an audio recording of the open meeting, or a link to the recording.
- (f)
- (i) A specified local public body shall:
    - (A) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;
    - (B) subject to Subsection (4)(f)(ii), within three business days after approving written minutes of an open meeting, post to the website and make available to the public at the public body's primary office a copy of the approved minutes and any public materials distributed at the meeting; and
    - (C) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
  - (ii) A specified local public body of a city of the fifth class or town is encouraged to comply with Subsection (4)(f)(i)(B) but is not required to comply until January 1, 2015.
- (g) A public body that is not a state public body or a specified local public body shall:
- (i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;
  - (ii) within three business days after approving written minutes, make the approved minutes available to the public; and
  - (iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
- (h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.
- (i) Approved minutes of an open meeting are the official record of the meeting.
- (5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.
- (6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (7) Notwithstanding Subsection (1), a recording is not required to be kept of:
- (a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or
  - (b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

Amended by Chapter 83, 2014 General Session

**52-4-204 Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.**

- (1) A closed meeting may be held if:
- (a)

- (i) a quorum is present;
- (ii) the meeting is an open meeting for which notice has been given under Section 52-4-202;  
and
- (iii)
  - (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;
  - (B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;
  - (C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or
  - (D) for the Political Subdivisions Ethics Review Commission established in Section 11-49-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 11-49-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or
- (b)
  - (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";
  - (ii) for the Political Subdivisions Ethics Review Commission established in Section 11-49-201, the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 11-49-602, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; or
  - (iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint."
- (2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.
- (3) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.
- (4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:
  - (a) the reason or reasons for holding the closed meeting;
  - (b) the location where the closed meeting will be held; and
  - (c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

- (5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Amended by Chapter 426, 2013 General Session

**52-4-205 Purposes of closed meetings -- Certain issues prohibited in closed meetings.**

- (1) A closed meeting described under Section 52-4-204 may only be held for:
- (a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;
  - (b) strategy sessions to discuss collective bargaining;
  - (c) strategy sessions to discuss pending or reasonably imminent litigation;
  - (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:
    - (i) disclose the appraisal or estimated value of the property under consideration; or
    - (ii) prevent the public body from completing the transaction on the best possible terms;
  - (e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:
    - (i) public discussion of the transaction would:
      - (A) disclose the appraisal or estimated value of the property under consideration; or
      - (B) prevent the public body from completing the transaction on the best possible terms;
    - (ii) the public body previously gave public notice that the property would be offered for sale; and
    - (iii) the terms of the sale are publicly disclosed before the public body approves the sale;
  - (f) discussion regarding deployment of security personnel, devices, or systems;
  - (g) investigative proceedings regarding allegations of criminal misconduct;
  - (h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;
  - (i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);
  - (j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;
  - (k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;
  - (l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;
  - (m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:
    - (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;
    - (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Controversies and Protests; or
    - (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;
  - (n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;
  - (o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

- (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and
  - (ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process; or
  - (p) a purpose for which a meeting is required to be closed under Subsection (2).
- (2) The following meetings shall be closed:
- (a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);
  - (b) a meeting of the Child Welfare Legislative Oversight Panel to:
    - (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or
    - (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5); and
  - (c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law.
- (3) In a closed meeting, a public body may not:
- (a) interview a person applying to fill an elected position;
  - (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or
  - (c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Amended by Chapter 196, 2014 General Session

**52-4-206 Record of closed meetings.**

- (1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:
  - (a) shall make a recording of the closed portion of the meeting; and
  - (b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.
- (2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.
- (3) The recording and any minutes of a closed meeting shall include:
  - (a) the date, time, and place of the meeting;
  - (b) the names of members present and absent; and
  - (c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.
- (4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (5) Both a recording and written minutes of closed meetings are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section 52-4-304.
- (6) If a public body closes a meeting exclusively for the purposes described under Subsection 52-4-205(1)(a), (1)(f), or (2):

- (a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a),(1)(f), or (2); and
- (b) the provisions of Subsection (1) of this section do not apply.

Amended by Chapter 239, 2010 General Session

**52-4-207 Electronic meetings -- Authorization -- Requirements.**

- (1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.
- (2)
  - (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.
  - (b) The resolution, rule, or ordinance may:
    - (i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;
    - (ii) require a quorum of the public body to:
      - (A) be present at a single anchor location for the meeting; and
      - (B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;
    - (iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;
    - (iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or
    - (v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.
- (3) A public body that convenes or conducts an electronic meeting shall:
  - (a) give public notice of the meeting:
    - (i) in accordance with Section 52-4-202; and
    - (ii) post written notice at the anchor location;
  - (b) in addition to giving public notice required by Subsection (3)(a), provide:
    - (i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and
    - (ii) a description of how the members will be connected to the electronic meeting;
  - (c) establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;
  - (d) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; and
  - (e) if comments from the public will be accepted during the electronic meeting, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.
- (4) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Amended by Chapter 31, 2011 General Session

**52-4-208 Chance or social meetings.**

- (1) This chapter does not apply to any chance meeting or a social meeting.
- (2) A chance meeting or social meeting may not be used to circumvent the provisions of this chapter.

Enacted by Chapter 14, 2006 General Session

**52-4-209 Electronic meetings for charter school board.**

- (1) Notwithstanding the definitions provided in Section 52-4-103 for this chapter, as used in this section:
  - (a) "Anchor location" means a physical location where:
    - (i) the charter school board would normally meet if the charter school board were not holding an electronic meeting; and
    - (ii) space, a facility, and technology are provided to the public to monitor and, if public comment is allowed, to participate in an electronic meeting during regular business hours.
  - (b) "Charter school board" means the governing board of a school created under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act.
  - (c) "Meeting" means the convening of a charter school board:
    - (i) with a quorum who:
      - (A) monitors a website at least once during the electronic meeting; and
      - (B) casts a vote on a website, if a vote is taken; and
    - (ii) for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the charter school board has jurisdiction or advisory power.
  - (d) "Monitor" means to:
    - (i) read all the content added to a website by the public or a charter school board member; and
    - (ii) view a vote cast by a charter school board member on a website.
  - (e) "Participate" means to add content to a website.
- (2)
  - (a) A charter school board may convene and conduct an electronic meeting in accordance with Section 52-4-207.
  - (b) A charter school board may convene and conduct an electronic meeting in accordance with this section that is in writing on a website if:
    - (i) the chair verifies that a quorum monitors the website;
    - (ii) the content of the website is available to the public;
    - (iii) the chair controls the times in which a charter school board member or the public participates; and
    - (iv) the chair requires a person to identify himself or herself if the person:
      - (A) participates; or
      - (B) casts a vote as a charter school board member.
- (3) A charter school that conducts an electronic meeting under this section shall:
  - (a) give public notice of the electronic meeting:
    - (i) in accordance with Section 52-4-202; and
    - (ii) by posting written notice at the anchor location as required under Section 52-4-207;
  - (b) in addition to giving public notice required by Subsection (3)(a), provide:

- (i) notice of the electronic meeting to the members of the charter school board at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present;
  - (ii) a description of how the members and the public may be connected to the electronic meeting;
  - (iii) a start and end time for the meeting, which shall be no longer than 5 days; and
  - (iv) a start and end time for when a vote will be taken in an electronic meeting, which shall be no longer than four hours; and
- (c) provide an anchor location.
- (4) The chair shall:
  - (a) not allow anyone to participate from the time the notice described in Subsection (3)(b)(iv) is given until the end time for when a vote will be taken; and
  - (b) allow a charter school board member to change a vote until the end time for when a vote will be taken.
- (5) During the time in which a vote may be taken, a charter school board member may not communicate in any way with any person regarding an issue over which the charter school board has jurisdiction.
- (6) A charter school conducting an electronic meeting under this section may not close a meeting as otherwise allowed under this part.
- (7)
  - (a) Written minutes shall be kept of an electronic meeting conducted as required in Section 52-4-203.
  - (b)
    - (i) Notwithstanding Section 52-4-203, a recording is not required of an electronic meeting described in Subsection (2)(b).
    - (ii) All of the content of the website shall be kept for an electronic meeting conducted under this section.
  - (c) Written minutes are the official record of action taken at an electronic meeting as required in Section 52-4-203.
- (8)
  - (a) A charter school board shall ensure that the website used to conduct an electronic meeting:
    - (i) is secure; and
    - (ii) provides with reasonably certainty the identity of a charter school board member who logs on, adds content, or casts a vote on the website.
  - (b) A person is guilty of a class B misdemeanor if the person falsely identifies himself or herself as required by Subsection (2)(b)(iv).
- (9) Compliance with the provisions of this section by a charter school constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Amended by Chapter 363, 2014 General Session

#### **52-4-210 Electronic message transmissions.**

Nothing in this chapter shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting.

Enacted by Chapter 25, 2011 General Session

## **Part 3 Enforcement**

### **52-4-301 Disruption of meetings.**

This chapter does not prohibit the removal of any person from a meeting, if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

Enacted by Chapter 14, 2006 General Session

### **52-4-302 Suit to void final action -- Limitation -- Exceptions.**

- (1)
  - (a) Any final action taken in violation of Section 52-4-201, 52-4-202, 52-4-207, or 52-4-209 is voidable by a court of competent jurisdiction.
  - (b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection 52-4-202(3)(a)(i)(B) if:
    - (i) the posting is made for a meeting that is held before April 1, 2009; or
    - (ii)
      - (A) the public body otherwise complies with the provisions of Section 52-4-202; and
      - (B) the failure was a result of unforeseen Internet hosting or communication technology failure.
- (2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.
- (3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

Amended by Chapter 403, 2012 General Session

### **52-4-303 Enforcement of chapter -- Suit to compel compliance.**

- (1) The attorney general and county attorneys of the state shall enforce this chapter.
- (2) The attorney general shall, on at least a yearly basis, provide notice to all public bodies that are subject to this chapter of any material changes to the requirements for the conduct of meetings under this chapter.
- (3) A person denied any right under this chapter may commence suit in a court of competent jurisdiction to:
  - (a) compel compliance with or enjoin violations of this chapter; or
  - (b) determine the chapter's applicability to discussions or decisions of a public body.
- (4) The court may award reasonable attorney fees and court costs to a successful plaintiff.

Renumbered and Amended by Chapter 14, 2006 General Session  
Amended by Chapter 263, 2006 General Session

### **52-4-304 Action challenging closed meeting.**

- (1) Notwithstanding the procedure established under Subsection 63G-2-202(7), in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:

- (a) review the recording or written minutes of the closed meeting in camera; and
  - (b) decide the legality of the closed meeting.
- (2)
- (a) If the judge determines that the public body did not violate Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall dismiss the case without disclosing or revealing any information from the recording or minutes of the closed meeting.
  - (b) If the judge determines that the public body violated Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall publicly disclose or reveal from the recording or minutes of the closed meeting all information about the portion of the meeting that was illegally closed.

Amended by Chapter 382, 2008 General Session

**52-4-305 Criminal penalty for closed meeting violation.**

In addition to any other penalty under this chapter, a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.

Enacted by Chapter 263, 2006 General Session

## **AGENDA ITEM #8**

**DATE:** 22 September 2016

**SUBJECT:** **MAG BUDGET UPDATE**

**PREPARED BY:** Andrew Jackson

**BACKGROUND:** This is a budget update for the first quarter of our fiscal year. Currently we are tracking below our budgeted amounts due to more of our budget spending occurring in the second and third quarters of our budget cycle.

Additionally, I will take less of a lobbying role at the legislature and have our consultants take a greater role as we are dealing with some detailed funding issues with transportation and aging. It does not require any modification of the budget, but the strategic planning line item will be allocated 100 % to our consultants rather than a portion going into my funding. I will be back filled with Local Planning Assistance funding through the State.

The most current budget numbers will be distributed at the meeting.

**STAFF  
RECOMMENDATION:** Information only

**SUGGESTED MOTION:** Informational

**CONTACT PERSON:** Andrew Jackson [ajackson@mountainland.org](mailto:ajackson@mountainland.org) 801-367-0699

**ATTACHMENTS:** Current numbers will be handed out at the meeting

## Budget Update

At August 31st or 17% of the year:

Percent spent

17% - CPG

17% - RPO

80% - PDM (HAZARD) - extended to December

15% - LPA

55% - EDA - ends December

14% - CDBG STATE FUNDS

17% - CDBG URBAN COUNTY

52% - HEAT - remains open until complete

16% - SSBG

17% - NEW CHOICE WAIVER

21% - MEDICAID WAIVER

17% - MEDICAID WAIVER ADMIN

20% - MOW DRIVERS

15% - AGING STAFF

41% - RSVP STAFF - ends March '17

17% - ADMIN

These percentages are for staff only. At this time of the year, contracts and pass-through are still gearing up and the percent spent figures are not meaningful.

These ratios confirm that MAG is on track to complete the budget year properly.