

STATE AND LOCAL AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Robert F. Montgomery

AN ACT RELATING TO THE MUNICIPAL CODE, COUNTIES, AND STATE AFFAIRS IN GENERAL; MODIFYING PROVISIONS RELATING TO POPULATION ESTIMATES; MODIFYING PETITION REQUIREMENTS FOR TOWN INCORPORATIONS; REPEALING OBSOLETE LANGUAGE RELATING TO CITY WARDS; MODIFYING THE PROCESS FOR CHANGING A CITY'S CLASS; PROVIDING A PROCEDURE FOR CHANGING A COUNTY'S CLASS; MODIFYING LIEUTENANT GOVERNOR DUTIES AND PROCEDURES IN THE PROCESS OF INCORPORATING, DISSOLVING, AND MODIFYING MUNICIPALITIES; MODIFYING THE MUNICIPAL INCORPORATION PROCESS; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

- 10-2-119**, as enacted by Chapter 389, Laws of Utah 1997
- 10-2-125**, as last amended by Chapters 85 and 337, Laws of Utah 1998
- 10-2-425**, as enacted by Chapter 337, Laws of Utah 1998
- 10-2-507**, as last amended by Chapter 337, Laws of Utah 1998
- 10-2-602**, as enacted by Chapter 48, Laws of Utah 1977
- 10-2-611**, as last amended by Chapter 337, Laws of Utah 1998
- 10-2-711**, as last amended by Chapter 227, Laws of Utah 1993
- 10-2-712**, as last amended by Chapter 68, Laws of Utah 1984
- 10-17-102**, as enacted by Chapter 156, Laws of Utah 1998
- 17-42-102**, as enacted by Chapter 156, Laws of Utah 1998
- 17A-2-1038**, as last amended by Chapter 266, Laws of Utah 1997
- 26A-1-115**, as renumbered and amended by Chapter 269, Laws of Utah 1991
- 32A-1-115**, as last amended by Chapter 87, Laws of Utah 1999
- 35A-2-101**, as last amended by Chapter 375, Laws of Utah 1997

59-12-205, as last amended by Chapter 133, Laws of Utah 1999

59-12-801, as last amended by Chapter 261, Laws of Utah 1998

62A-12-209.5, as enacted by Chapter 285, Laws of Utah 1993

63-38c-202, as enacted by Chapter 275, Laws of Utah 1996

63-56-36.1, as last amended by Chapter 26, Laws of Utah 1999

63-63b-101, as enacted by Chapter 312, Laws of Utah 1998

72-2-108, as last amended by Chapter 281, Laws of Utah 1999

77-32-501, as renumbered and amended by Chapter 354, Laws of Utah 1997

77-32-502, as last amended by Chapter 10 and renumbered and amended by Chapter 354,

Laws of Utah 1997

ENACTS:

10-1-117, Utah Code Annotated 1953

10-1-118, Utah Code Annotated 1953

17-1a-101, Utah Code Annotated 1953

17-1a-102, Utah Code Annotated 1953

REPEALS AND REENACTS:

10-2-301, as last amended by Chapter 92, Laws of Utah 1987

10-2-302, as last amended by Chapter 375, Laws of Utah 1997

REPEALS:

10-2-201, as enacted by Chapter 48, Laws of Utah 1977

17-16-13, as last amended by Chapter 226, Laws of Utah 1987

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

Section 1. Section **10-1-117** is enacted to read:

10-1-117. Amending articles of incorporation -- Lieutenant governor certification.

(1) A municipality may amend its articles of incorporation by filing amended articles with the lieutenant governor.

(2) The lieutenant governor may not certify amended articles of incorporation unless they have been:

- (a) approved by the municipal legislative body; and
- (b) signed and verified by the mayor of the municipality.

(3) Within ten days after receiving amended articles of incorporation that comply with Subsection (2), the lieutenant governor shall:

- (a) certify the amended articles; and
- (b) deliver a copy of the certified articles to:
 - (i) the legislative body of the municipality; and
 - (ii) the clerk of the county in which the municipality is located.

(4) Upon certification by the lieutenant governor, the amended articles shall take effect.

(5) The lieutenant governor:

(a) shall furnish a certified copy of the amended articles of incorporation to any person who requests a certified copy; and

(b) may charge a reasonable fee for the certified copy.

Section 2. Section **10-1-118** is enacted to read:

10-1-118. Changing the name of a municipality.

(1) A municipality may change its name by filing amended articles of incorporation as provided in Section 10-1-117.

(2) The name change becomes effective upon the lieutenant governor's certification of the amended articles as provided in Subsection 10-1-117(3).

Section 3. Section **10-2-119** is amended to read:

10-2-119. Filing of articles of incorporation -- Certification of articles by lieutenant governor.

(1) [~~At any time~~] Within seven days after the canvass of the final election of city officers under Section 10-2-116, the mayor-elect of the new city [~~may~~] shall file at least three copies of the articles of incorporation with the lieutenant governor.

(2) The articles of incorporation shall:

- (a) contain the name of the city;
- (b) contain a geographical description of the city;

- (c) contain the city's class according to population as defined in Section 10-2-301; and
- (d) be signed and verified by the mayor-elect of the city.

(3) (a) Within ten days of receipt of the articles of incorporation of the new city, the lieutenant governor shall:

- (i) certify the articles of incorporation;
- (ii) deliver one copy of the articles of incorporation to the clerk of the county in which the new city is located; and
- (iii) return one copy of the articles of incorporation to the mayor-elect of the new city.

(b) The lieutenant governor shall furnish a certified copy of the articles of incorporation to any person on request and may charge a reasonable fee for the copy.

Section 4. Section **10-2-125** is amended to read:

10-2-125. Incorporation of a town.

(1) (a) A contiguous area of a county not within a municipality, with a population of at least 100 but not more than 800, may incorporate as a town as provided in this section.

(b) (i) The population figure under Subsection (1)(a) shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population Estimates Committee.

(2) (a) The process to incorporate an area as a town is initiated by filing a petition with the clerk of the county in which the area is located.

(b) Each petition under Subsection (2)(a) shall:

(i) be signed by the owners of private real property that:

(A) is located within the area proposed to be incorporated;

(B) covers a majority of the total private land area within the area; and

(C) is equal in value to at least 1/3 of the value of all private real property within the area;

[and]

(ii) state the legal description of the boundaries of the area proposed to be incorporated as a town[-]; and

(iii) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

To the Honorable County Legislative Body of (insert the name of the county in which the proposed town is located) County, Utah:

We, the undersigned owners of real property within the area described in this petition, respectfully petition the county legislative body to examine the question of whether the area should incorporate as a town. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a town is described as follows: (insert an accurate description of the area proposed to be incorporated).

(c) A petition under this section may not describe an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

- (i) was filed before the filing of the petition; and
- (ii) is still pending on the date the petition is filed.

(3) Section 10-2-104 applies to a petition for incorporation as a town, except that the notice under Subsection 10-2-104(1) shall be sent within seven calendar days of the filing of a petition under Subsection (2).

(4) (a) A county legislative body may treat a petition filed under Subsection (2) as a request for a feasibility study under Section 10-2-103 and process it as a request under that section would be processed under this part to determine whether the feasibility study results meet the requirements of Subsection 10-2-109(3).

(b) If the results of a feasibility study under Subsection (4)(a) do not meet the requirements of Subsection 10-2-109(3), the county legislative body may not approve the incorporation petition.

(c) If the results of the feasibility study under Subsection (4)(a) meet the requirements of Subsection 10-2-109(3), the county legislative body may approve the incorporation petition, if the county legislative body determines that the incorporation is in the best interests of the citizens of the county and the proposed town.

(5) Upon approval of a petition filed under Subsection (2), the legislative body of the county

in which the proposed town is located shall appoint a mayor and members of the town council who shall hold office until the next regular municipal election and until their successors are elected and qualified.

(6) (a) (i) Each mayor appointed under Subsection (5) shall, within seven days of appointment, file articles of incorporation of the new town with the lieutenant governor.

(ii) The articles of incorporation shall meet the requirements of Subsection 10-2-119(2).

(b) Within ten days of receipt of the articles of incorporation, the lieutenant governor shall:

(i) certify the articles of incorporation;

(ii) return a copy of the articles of incorporation to the appointed mayor; and

(iii) send a copy of the articles of incorporation to the recorder of the county in which the town is located.

(7) A town is incorporated upon the lieutenant governor's certification of the articles of incorporation.

(8) (a) Within 30 days of incorporation, the legislative body of the new town shall record with the recorder of the county in which the new town is located a plat or map, prepared by a licensed surveyor and approved by the legislative body, showing the boundaries of the town.

(b) The legislative body of the new town shall comply with the notice requirements of Section 10-1-116.

Section 5. Section **10-2-301** is repealed and reenacted to read:

10-2-301. Classification of municipalities according to population.

(1) Each municipality shall be classified according to its population, as provided in this section.

(2) (a) A municipality with a population of 100,000 or more is a city of the first class.

(b) A municipality with a population of 60,000 or more but less than 100,000 is a city of the second class.

(c) A municipality with a population of 800 or more but less than 60,000 is a city of the third class.

(d) A municipality with a population under 800 is a town.

Section 6. Section **10-2-302** is repealed and reenacted to read:

10-2-302. Change of class of municipality.

(1) Each municipality shall retain its classification under Section 10-2-301 until changed as provided in this section.

(2) The lieutenant governor shall monitor the population figure for each municipality as shown on:

(a) each official census or census estimate of the United States Bureau of the Census; or

(b) if the population figure for a municipality is not available from the United States Bureau of the Census, the population estimate from the Utah Population Estimates Committee.

(3) If the applicable population figure under Subsection (2) indicates that a municipality's population has increased beyond the limit for its current class, the lieutenant governor shall:

(a) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(b) within ten days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

(4) A municipality's change in class is effective on the date of the lieutenant governor's certificate under Subsection (3).

Section 7. Section **10-2-425** is amended to read:

10-2-425. Filing of plat or map and amended articles -- Notice requirements.

(1) Within 30 days after enacting an ordinance annexing an unincorporated area or adjusting a boundary under this part, the municipal legislative body shall:

(a) record with the county recorder a certified copy of the ordinance approving the annexation or boundary adjustment, together with a plat or map prepared by a licensed surveyor and approved by the municipal legislative body, showing the new boundaries of the affected area[-]; and

(b) file with the lieutenant governor amended articles of incorporation reflecting the annexation or boundary adjustment, as provided in Section 10-1-117.

(2) The municipal legislative body shall comply with the notice requirements of Section 10-1-116.

Section 8. Section **10-2-507** is amended to read:

10-2-507. Decree -- Filing of documents -- Notice requirements.

(1) Upon entering a disconnection order, the court shall file a certified copy of the order and a transparent reproducible copy of the map or plat in the county recorder's office.

(2) Within 30 calendar days of the court's disconnection order, the municipality shall file amended articles of incorporation in the lieutenant governor's office, as provided in Section 10-1-117, and county recorder's [~~offices~~] office.

(3) The amended articles of incorporation shall:

(a) describe the postdisconnection geography of the municipality; and

(b) specify the postdisconnection population of the municipality.

(4) Any cost incurred by the municipality in complying with this section may be charged against the disconnected territory.

(5) The legislative body of each municipality that has had territory disconnected shall comply with the notice requirements of Section 10-1-116.

Section 9. Section **10-2-602** is amended to read:

10-2-602. Contents of resolution or petition.

(1) The resolution of the governing body or the petition of the electors shall include:

[~~(1)~~] (a) a statement fully describing each of the areas to be included within the consolidated municipality;

[~~(2)~~] (b) the name of the proposed consolidated municipality; and

[~~(3)~~] (c) the names of the municipalities to be consolidated.

(2) (a) The resolution or petition shall [~~have attached a statement from any current official census showing~~] state the population of each of the municipalities within the area of the proposed consolidated municipality and the total population of the proposed consolidated municipality.

(b) (i) The population figure under Subsection (2)(a) shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population Estimates Committee.

Section 10. Section **10-2-611** is amended to read:

10-2-611. Lieutenant governor certification of articles of consolidation -- When incorporation complete -- Disincorporation of original municipalities.

(1) ~~(a) [On filing]~~ Within ten days after receiving the articles of consolidation [with], the lieutenant governor shall:

(i) certify the articles;

(ii) deliver one copy of the certified articles to the clerk of the county in which the new municipality is located; and

(iii) return one copy of the certified articles to the legislative body of the new municipality.

(b) The lieutenant governor:

(i) shall furnish a certified copy of the articles of consolidation to any person who requests a certified copy; and

(ii) may charge a reasonable fee for the certified copy.

(2) Upon the lieutenant governor's certification of the articles of consolidation, the incorporation of the new municipality shall be complete and the original municipalities involved in the consolidation shall be considered to be disincorporated.

~~[(2)]~~ (3) The legislative body of the new municipality shall comply with the notice requirements of Section 10-1-116.

Section 11. Section **10-2-711** is amended to read:

10-2-711. Dissolution by the county legislative body.

~~[Any]~~ (1) (a) A municipality having fewer than 50 residents~~[, according to any official federal, state, or county census,]~~ may be dissolved on application to the district court by the county legislative body of the county where the municipality is located.

(b) (i) The population figure under Subsection (1)(a) shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population Estimates Committee.

(2) Notice of the application shall be served on the municipality in the manner prescribed by

law or by publication in the manner provided by law if the municipal authorities cannot be served.

(3) The district court may order the municipality dissolved on a finding that the existence of the municipality serves no valid municipal purpose, its existence is a sham, or on a clear and convincing showing that the best interests of the community would be served by the dissolution.

(4) If the municipality is dissolved, the district court shall wind down the affairs and dissolve the municipality as quickly as possible in the same manner as is provided in Sections 10-2-705 through 10-2-709.

Section 12. Section **10-2-712** is amended to read:

10-2-712. Power of court -- Articles of dissolution -- Lieutenant governor certification.

(1) The district court may:

(a) enforce compliance with any order issued to give effect to this part by proceedings for contempt[~~-. The district court may~~]; and

(b) appoint any person to assist it in carrying out the provisions of this part.

(2) (a) The district court shall cause articles of dissolution to be filed with the lieutenant governor on the dissolution of the municipality.

(b) Within ten days after receiving the articles of dissolution, the lieutenant governor shall:

(i) certify the articles; and

(ii) deliver one copy of the certified articles to the clerk of the county in which the dissolved municipality was located.

(c) The lieutenant governor:

(i) shall furnish a certified copy of the articles of dissolution to any person who requests a certified copy; and

(ii) may charge a reasonable fee for the certified copy.

(d) Upon the lieutenant governor's certification of the articles of dissolution, the municipality is dissolved.

Section 13. Section **10-17-102** is amended to read:

10-17-102. Definitions.

As used in this chapter:

- (1) "Animal" means a cat or dog.
- (2) "Animal shelter" means a facility or program:
 - (a) providing services for stray, lost, or unwanted animals, including holding and placing the animals for adoption, but does not include an institution conducting research on animals, as defined in Section 26-26-1; and
 - (b) operated by:
 - (i) a first or second class county as defined in Section [~~17-16-13~~] 17-1a-101;
 - (ii) a municipality with a population of 40,000 or greater;
 - (iii) a first or second class county operating the shelter jointly with any municipality; or
 - (iv) a private humane society or private animal welfare organization located within a first or second class county or within a municipality with a population of 40,000 or greater.
- (3) "Person" means an individual, an entity, or a representative of an entity.
- (4) "Proof of sterilization" means a written document signed by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, stating:
 - (a) a specified animal has been sterilized;
 - (b) the date on which the sterilization was performed; and
 - (c) the location where the sterilization was performed.
- (5) "Recipient" means the person to whom an animal shelter transfers an animal for adoption.
- (6) "Sterilization deposit" means the portion of a fee charged by an animal shelter to a recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in accordance with an agreement between the recipient or the claimant and the animal shelter.
- (7) "Sterilized" means that an animal has been surgically altered, either by the spaying of a female animal or by the neutering of a male animal, so it is unable to reproduce.
- (8) "Transfer" means that an animal shelter sells, gives away, places for adoption, or transfers an animal to a recipient.

Section 14. Section **17-1a-101** is enacted to read:

CHAPTER 1a. CLASSIFICATION

17-1a-101. Classification of counties.

(1) Each county shall be classified according to its population.

(2) (a) A county with a population of 700,000 or more is a county of the first class.

(b) A county with a population of 125,000 or more but less than 700,000 is a county of the second class.

(c) A county with a population of 18,000 or more but less than 125,000 is a county of the third class.

(d) A county with a population of 10,000 or more but less than 18,000 is a county of the fourth class.

(e) A county with a population of 3,500 or more but less than 10,000 is a county of the fifth class.

(f) A county with a population less than 3,500 is a county of the sixth class.

Section 15. Section **17-1a-102** is enacted to read:

17-1a-102. Change of class of county.

(1) Each county shall retain its classification under Section 17-1a-101 until changed as provided in this section.

(2) The lieutenant governor shall monitor the population figure for each county as shown on:

(a) each official census or census estimate of the United States Bureau of the Census; or

(b) if the population figure for a county is not available from the United States Bureau of the Census, the population estimate from the Utah Population Estimates Committee.

(3) If the applicable population figure under Subsection (2) indicates that a county's population has increased beyond the limit for its current class, the lieutenant governor shall:

(a) prepare a certificate indicating the class in which the county belongs based on the increased population figure; and

(b) within ten days after preparing the certificate, deliver a copy of the certificate to the legislative body and, if the county has an executive that is separate from the legislative body, the executive of the county whose class was changed.

(4) A county's change in class is effective on the date of the lieutenant governor's certificate under Subsection (3).

Section 16. Section **17-42-102** is amended to read:

17-42-102. Definitions.

As used in this chapter:

- (1) "Animal" means a cat or dog.
- (2) "Animal shelter" means a facility or program:
 - (a) providing services for stray, lost, or unwanted animals, including holding and placing the animals for adoption, but does not include an institution conducting research on animals, as defined in Section 26-26-1; and
 - (b) operated by:
 - (i) a first or second class county as defined in Section [~~17-16-13~~] 17-1a-101;
 - (ii) a municipality with a population of 40,000 or greater;
 - (iii) a first or second class county operating the shelter jointly with any municipality; or
 - (iv) a private humane society or private animal welfare organization located within a first or second class county or within a municipality with a population of 40,000 or greater.
- (3) "Person" means an individual, an entity, or a representative of an entity.
- (4) "Proof of sterilization" means a written document signed by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, stating:
 - (a) a specified animal has been sterilized;
 - (b) the date on which the sterilization was performed; and
 - (c) the location where the sterilization was performed.
- (5) "Recipient" means the person to whom an animal shelter transfers an animal for adoption.
- (6) "Sterilization deposit" means the portion of a fee charged by an animal shelter to a recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in accordance with an agreement between the recipient or the claimant and the animal shelter.
- (7) "Sterilized" means that an animal has been surgically altered either by the spaying of a female animal or by the neutering of a male animal, so it is unable to reproduce.
- (8) "Transfer" means that an animal shelter sells, gives away, places for adoption, or transfers an animal to a recipient.

Section 17. Section **17A-2-1038** is amended to read:

17A-2-1038. Board of directors -- Appointment -- Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.

(1) (a) All powers, privileges, and duties vested in any incorporated district shall be performed by a board of directors.

(b) The board may delegate the exercise of any duty to any of the offices created under this part.

(2) If 200,000 people or less reside within the district boundaries:

(a) the board of directors shall consist of directors appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one director for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year;

(b) the number of service miles comprising a unit shall be determined jointly by the legislative bodies of the municipalities or counties comprising the district;

(c) directors shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures; and

(d) municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection (2)(a), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one director for each whole unit formed.

(3) If more than 200,000 people reside within the district boundaries, the board of directors shall consist of 15 directors appointed as described under Subsections (4) and (5).

(4) (a) Except as provided under Subsections (4)(b) and (c), the board shall apportion members to each county within the district based on:

(i) From the effective date of this act until the apportionment following the year 2000 decennial United States Census Bureau report, the proportion of population included in the district

and residing within each county, rounded to the nearest 1/15 of the total transit district population; and

(ii) Beginning with the first apportionment following the year 2000 decennial United States Census Bureau report, an average of:

(A) the proportion of population included in the district and residing within each county, rounded to the nearest 1/15 of the total transit district population; and

(B) the proportion of transit sales and use tax collected from areas included in the district and within each county, rounded to the nearest 1/15 of the total transit sales and use tax collected for the transit district.

(b) The board shall join an entire or partial county not apportioned a member under this subsection with an adjacent county for representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.

(c) If rounding to the nearest 1/15 of the total transit district apportionment basis under Subsection (4)(a) results in an apportionment of:

(i) more than 15 members, the county or combination of counties with the smallest additional fraction of a whole member proportion shall have one less member apportioned to it; or

(ii) less than 15 members, the county or combination of counties with the largest additional fraction of a whole member proportion shall have one more member apportioned to it.

(5) (a) If the unincorporated area of a county is at least 1/15 of the district's population, the county executive, with the advice and consent of the county legislative body, shall appoint one director to represent each 1/15 of the district's population within a county's unincorporated area population.

(b) If a municipality's population is at least 1/15 of the district's population, the chief municipal executive, with the advice and consent of the municipal legislative body, shall appoint one director to represent each 1/15 of the district's population within a municipality.

(c) The number of directors appointed from a county and municipalities within a county under Subsections (5)(a) and (b) shall be subtracted from the county's total member apportionment under Subsection (4).

(d) If the entire county is within the district, the remaining directors for the county shall represent the county or combination of counties if Subsection (4)(b) applies, or the municipalities within the county.

(e) If the entire county is not within the district, and the county is not joined with another county under Subsection (4)(b), the remaining directors for the county shall represent a municipality or combination of municipalities.

(f) Except as provided under Subsection (5)(a) and (b), directors representing counties, combinations of counties if Subsection (4)(b) applies, or municipalities within the county shall be designated and appointed by a simple majority of the chief executives of the municipalities within the county or combinations of counties if Subsection (4)(b) applies. The appointments shall be made by joint written agreement of the appointing municipalities, with the consent and approval of the county legislative body of the county that has at least 1/15 of the district's apportionment basis.

(g) Directors representing a municipality or combination of municipalities shall be designated and appointed by the chief executive officer of the municipality or simple majority of chief executive officers of municipalities with the consent of the legislative body of the municipality or municipalities.

(h) The appointment of directors shall be made without regard to partisan political affiliation from among citizens in the community.

(i) Each director shall be a bona fide resident of the municipality, county, or unincorporated area or areas which the director is to represent for at least six months before the date of appointment, and must continue in that residency to remain qualified to serve as a director.

(j) (i) Each director whose term has not expired and is serving on the effective date of this act shall continue to serve as a director until the expiration of the term for which the director was appointed, subject to the term limitations under which the director was initially appointed.

(ii) Beginning on the effective date of this act, any vacancy for which the successor has not taken the oath of office shall be filled in the following order:

(A) by a municipality eligible to make an appointment under Subsection (5)(b);

(B) by a county eligible to make an appointment for its unincorporated area under Subsection (5)(a); and

(C) as otherwise provided under this section.

(k) (i) All population figures used under this section shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If population estimates are not [~~made for any county, city, or town by~~] available from the United States Bureau of Census, population figures shall be [~~determined according to~~] derived from the [~~biennial~~] estimate from the Utah Population Estimates Committee.

(iii) All transit sales and use tax totals shall be obtained from the Tax Commission.

(l) After the initial apportionment immediately following the effective date of this act, the board shall be apportioned as provided under this section in conjunction with the decennial United States Census Bureau report every ten years.

(6) (a) Except the initial directors, the terms of office of the directors shall be three years or until their successors are appointed, qualified, seated, and have taken the oath of office.

(b) At the first meeting of the initial directors, the directors shall designate by the drawing of lots 1/3 of their number to serve for one-year terms, 1/3 for two-year terms, and 1/3 for three-year terms.

(c) A director may not be appointed for more than two successive full terms.

(7) (a) Vacancies shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.

(b) If the appointing official under Subsection (2) does not fill the vacancy within 90 days, the board of directors of the authority shall fill the vacancy.

(c) If the appointing official under Subsection (5) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

(8) (a) Each director may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of directors.

(b) A majority of all members of the board of directors are a quorum for the transaction of business.

(c) The affirmative vote of a majority of all directors present at any meeting at which a quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to

carry any order, resolution, ordinance, or proposition before the board of directors.

(9) The district shall pay to each director:

(a) an attendance fee of \$50 per board or committee meeting attended, not to exceed \$200 in any calendar month to any director; and

(b) reasonable mileage and expenses necessarily incurred to attend board or committee meetings.

(10) (a) Members of the initial board of directors shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.

(b) Immediately upon convening, the board of directors shall elect from its membership a president, vice president, and secretary who shall serve for a period of two years or until their successors shall be elected and qualified.

(11) (a) At the time of a director's appointment or during a director's tenure in office, a director may not:

(i) hold any elected public office with the United States, the state, or any political subdivision of either; or

(ii) any employment, except as an independent contractor, with a county or municipality within the district.

(b) Each director shall:

(i) take an oath of office before entering the office; and

(ii) file a copy of the oath with the lieutenant governor and the secretary of the district.

Section 18. Section **26A-1-115** is amended to read:

26A-1-115. Apportionment of costs -- Contracts to provide services -- Percentage match of state funds -- Audit.

(1) (a) The cost of establishing and maintaining a local health department may be apportioned among the participating municipalities and counties on the basis of population in proportion to the total population of all municipalities and counties within the boundaries of the local health department, or upon other bases agreeable to the participating counties and municipalities. Money available from fees, contracts, surpluses, grants, and donations may also be used to establish and

maintain local health departments.

(b) As used in this Subsection (1), "population" means population estimates prepared by the ~~[Office of Planning and Budget]~~ Utah Population Estimates Committee.

(2) The cost of providing, equipping, and maintaining suitable offices and facilities for a local health department is the responsibility of participating governing bodies.

(3) Local health departments that comply with all department rules and secure advance approval of proposed service boundaries from the department may by contract receive funds under Section 26A-1-116 from the department to provide specified public health services.

(4) Contract funds distributed under Subsection (3) shall be in accordance with Section 26A-1-116 and policies and procedures adopted by the department.

(5) Department rules shall require that contract funds be used for public health services and not replace other funds used for local public health services.

(6) All state funds distributed by contract from the department to local health departments for public health services shall be matched by those local health departments at a percentage determined by the department in consultation with local health departments.

(7) (a) Each local health department shall cause an annual financial and compliance audit to be made of its operations by a certified public accountant. The audit may be conducted as part of an annual county government audit of the county where the local health department headquarters are located.

(b) The local health department shall provide a copy of the audit report to the department and the local governing bodies that contribute funds to the local health department.

Section 19. Section **32A-1-115** is amended to read:

32A-1-115. Appropriation from the General Fund to municipalities and counties for law enforcement and treatment -- Distribution to municipalities and counties.

(1) (a) The Legislature shall annually appropriate to municipalities and counties an amount not to exceed \$4,350,000 from the revenues in the General Fund generated by:

(i) liquor control profits; and

(ii) proceeds of the beer excise tax deposited in the General Fund in accordance with Section

59-15-109.

(b) (i) The appropriation under Subsection (1)(a) shall be used exclusively for programs or projects related to prevention, treatment, detection, prosecution, and control of violations of this title and other offenses in which alcohol is a contributing factor except as provided in Subsection (1)(b)(ii).

(ii) The portion distributed under this section to counties may also be used for the confinement or treatment of persons arrested for or convicted of offenses in which alcohol is a contributing factor.

(iii) Any municipality or county entitled to receive funds shall use the funds exclusively as required by this Subsection (1)(b).

(c) The appropriation provided for under Subsection (1)(a) is intended to supplement the budget of the appropriate agencies of each municipality and county within the state to enable the municipalities and counties to more effectively fund the programs and projects described under Subsection (1)(b). The appropriation is not intended to replace funds that would otherwise be allocated for those programs and projects.

(2) The appropriation provided for in Subsection (1)(a) shall be distributed to municipalities and counties on the following basis:

(a) 25% to municipalities and counties based upon the percentage of the state population residing in each municipality and county;

(b) 30% to municipalities and counties based upon each municipality and county's percentage of the statewide convictions for all alcohol-related offenses;

(c) 20% to municipalities and counties based upon the percentage of all state stores, package agencies, liquor licensees, and beer licensees in the state which are located in each municipality and county; and

(d) 25% to the counties for confinement and treatment purposes authorized in this section based upon the percentage of the state population located in each county.

(3) To determine the amount of the 30% due each municipality and county based on convictions described in Subsection (2)(b), the State Tax Commission semiannually shall:

(a) double the total number of convictions in the state obtained between July 1, 1982, and June 30, 1983, and during the same period in succeeding years for violation of Section 41-6-44, or an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section 76-5-207, and to that number, add the number of convictions obtained during the same period for all other alcohol-related offenses;

(b) divide the figure equal to the 30% due each municipality and county by the sum obtained in Subsection (3)(a), to obtain the quotient for alcohol-related offenses statewide; and

(c) multiply the quotient obtained in Subsection (3)(b), by the number of convictions obtained in each municipality and county between July 1, 1982 and June 30, 1983, and for the same period in succeeding years, for violation of Section 41-6-44, or an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section 76-5-207, and for all other alcohol-related offenses to determine the total revenue due each entity, based on convictions. The number of convictions for purposes of this Subsection (3) shall be determined in the manner prescribed in Subsection (3)(a).

(4) For purposes of this section, the number of state stores, package agencies, and licensees located within the limits of each municipality and county is the number determined by the department to be so located, and includes all private clubs, restaurants, airport lounges, package agencies, and state stores, but not on-premise beer retailer licensees. For purposes of this section, the number of state stores, package agencies, and licensees in a county consists only of that number located within unincorporated areas of the county.

(5) (a) Population figures, for the purposes of this section, shall be determined according to the most current population estimates prepared by the [~~Office of Planning and Budget~~] Utah Population Estimates Committee.

(b) A county's population figure for the 25% distribution to municipalities and counties shall be determined only with reference to the population in the unincorporated areas of the county, and a county's population figure for the 25% distribution to counties only shall be determined with reference to the total population in the county, including that of municipalities.

(6) (a) For purposes of this section, a conviction occurs in the municipality or county that actually prosecutes the offense to judgment. In the case of a conviction based upon a guilty plea, the

municipality or county that, except for the guilty plea, would have prosecuted the offense is entitled to credit for the conviction.

(b) For purposes of this section, "alcohol-related offense" means a violation of Section 41-6-44, or an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section 76-5-207, or an offense involving the illegal sale, distribution, transportation, possession, or consumption of alcohol.

(7) Except as provided in Subsection (9), payments under this section shall be made semiannually to each municipality and county.

(8) (a) The state court administrator, not later than September 1 each year, shall certify to the State Tax Commission the number of convictions obtained for violation of Section 41-6-44, an ordinance that complies with the requirements of Subsection 41-6-43(1), or Section 76-5-207, and for other alcohol-related offenses in each municipality or county in the state during the period specified in Subsection (3)(a), and for the same period each succeeding year.

(b) The State Tax Commission shall prepare forms for use by municipalities and counties in applying for revenues. The forms may require the submission of information the State Tax Commission considers necessary to enable it to comply with this section.

(9) A municipality or county that receives any monies under this section during a fiscal year shall report to the Utah Substance Abuse and Anti-Violence Coordinating Council created in Section 63-25a-201 by no later than October 1 following the fiscal year:

(a) the programs or projects of the municipality or county that receive monies under this section;

(b) if the monies for programs or projects were exclusively used as required by Subsection (1)(b);

(c) indicators of whether the programs or projects that receive monies under this section are effective;

(d) if any monies received under this section were not expended by the municipality or county; and

(e) a signature of the chief executive officer of the county or municipality attesting that the

monies received under this section were used in addition to any monies appropriated or otherwise available for the local government's law enforcement and were not used to supplant those monies.

(10) (a) The Utah Substance Abuse and Anti-Violence Coordinating Council may, by a majority vote:

(i) suspend future payments under Subsection (7) to a municipality or county that does not file a report that meets the requirements of Subsection (9); and

(ii) cancel the suspension under Subsection (10)(a)(i).

(b) The State Tax Commission shall retain monies that a municipality or county does not receive under Subsection (10)(a) and notify the Utah Substance Abuse and Anti-Violence Coordinating Council of the balance after each semiannual payment under Subsection (7).

(c) The Utah Substance Abuse and Anti-Violence Coordinating Council shall award the balance under Subsection (10)(b) as grants to any county or municipality or to the Department of Public Safety, as prioritized by a majority vote.

(d) The Utah Substance Abuse and Anti-Violence Coordinating Council shall notify the State Tax Commission of any changes under Subsection (10)(a) or grants awarded under Subsection (10)(c).

(e) The State Tax Commission shall make payments of grants upon receiving notice as provided under Subsection (10)(d).

Section 20. Section **35A-2-101** is amended to read:

35A-2-101. Regional workforce services areas -- Creation.

(1) (a) The executive director jointly with the Utah Association of Counties shall establish regional workforce services areas to furnish the services described in Section 35A-2-201.

(b) In establishing regional workforce services areas, the executive director and the Utah Association of Counties shall seek input from:

(i) state and local government agencies and departments;

(ii) the groups representing public employees;

(iii) employers, business, education, and other entities affected by the structure of the regional workforce services areas; and

(iv) the public.

(2) In establishing the regional workforce services areas, the executive director and the Utah Association of Counties shall consider:

- (a) areas comprised of multiple counties;
- (b) the alignment of transportation and other infrastructure or services;
- (c) the interdependence of the economy within a geographic area;
- (d) the ability to develop regional marketing and economic development programs;
- (e) the labor market areas;
- (f) the population of the area, as established in the most recent estimate by the Utah

Population Estimates Committee;

- (g) the number of individuals in the previous year receiving:
 - (i) services under Chapter 3, Employment Support Act; and
 - (ii) benefits under Chapter 4, Employment Security Act; and
- (h) other factors that relate to the management of the programs administered or that relate

to the delivery of services provided under this title.

Section 21. Section **59-12-205** is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenues.

(1) Each county, city, and town, in order to maintain in effect sales and use tax ordinances pursuant to this part, shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as they relate to sales and use taxes.

(2) Any county, city, or town may distribute its sales or use tax revenues by means other than point of sale or use by notifying the commission in writing of such decision, no later than 30 days before commencement of the next tax accrual period. After such notice is given, a county, city, or town may increase the tax authorized by this part to a total of 1% from and after January 1, 1990, of the purchase price paid or charged, excluding a public transit sales and use tax as provided in Section 59-12-501 and a resort communities sales tax as provided in Section 59-12-401. This tax

shall be collected and distributed as follows:

(a) from July 1, 1992, through June 30, 1993, 45% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town providing notice under this section, based upon the percentage that the population of the county, city, or town bears to the total population of all such entities providing notice under this section, and 55% based upon the point of sale or use of the transaction; and

(b) from and after July 1, 1993, 50% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town providing notice under this section, based upon the percentage that the population of the county, city, or town bears to the total population of all such entities providing notice under this section, and 50% based upon the point of sale or use of the transaction.

(3) Notwithstanding any provision of Subsection (2), a county, city, or town that has given notice under this section may not receive a tax revenue distribution less than $\frac{3}{4}$ of 1% of the taxable sales within its boundaries. The commission shall proportionally reduce quarterly distributions to any county, city, or town, which, but for the reduction, would receive a distribution in excess of 1% beginning January 1, 1990, of the sales and use tax revenue collected within its boundaries.

(4) (a) Notwithstanding any other provision of this section, from January 1, 1990, through June 30, 1999, the commission shall determine and retain the amount of revenue generated by a $\frac{1}{64}$ % tax rate and deposit it in the Olympics Special Revenue Fund or funds provided for in Subsection 59-12-103(4) for the purposes of the Utah Sports Authority described in Title 63A, Chapter 7, Utah Sports Authority Act.

(b) Except for sales and use taxes deposited under Subsection (4)(c), beginning on July 1, 1999, the amount of revenue generated by the $\frac{1}{64}$ % tax rate under Subsection (4)(a) shall be distributed to each county, city, and town as provided in this section.

(c) Notwithstanding any other provision of this section, beginning on July 1, 1999, the commission shall:

(i) determine and retain the portion of the sales and use tax imposed under this section:

(A) by a city or town that will have constructed within its boundaries the Airport to

University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(B) that is equal to the revenues generated by a 1/64% tax rate; and

(ii) deposit the revenues described in Subsection (4)(c)(i) in the Airport to University of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes described in Section 17A-2-1064.

(5) (a) Population figures for purposes of this section shall be ~~based on~~ derived from the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population ~~[estimates are not made for any county, city, or town by]~~ estimate is not available from the United States Bureau of Census, population figures shall be ~~[determined according to]~~ derived from the ~~[biennial]~~ estimate from the Utah Population Estimates Committee.

(6) The population of a county for purposes of this section shall be determined solely from the unincorporated area of the county.

Section 22. Section **59-12-801** is amended to read:

59-12-801. Definitions.

As used in this part:

(1) "Nursing care facility" is as defined in Section 26-21-2.

(2) "Rural county health care facility" means a rural county hospital or a rural county nursing care facility.

(3) "Rural county hospital" means a hospital owned by a third, fourth, fifth, or sixth class county, as defined in Section ~~[17-16-13]~~ 17-1a-101, which is located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

(4) "Rural county nursing care facility" means a nursing care facility owned by a third, fourth, fifth, or sixth class county, as defined in Section ~~[17-16-13]~~ 17-1a-101, which is located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

Section 23. Section **62A-12-209.5** is amended to read:

62A-12-209.5. Allocation of state hospital beds -- Formula.

(1) As used in this section:

(a) "Adult beds" means the total number of patient beds located in the adult general psychiatric unit and the geriatric unit at the state hospital, as determined by the superintendent of the state hospital.

(b) "Mental health catchment area" means a county or group of counties governed by a local mental health authority.

(2) The board shall establish by rule a formula to separately allocate to local mental health authorities adult beds for persons who meet the requirements of Subsection 62A-12-209(2)(a). On July 1, 1993, two hundred twelve beds shall be allocated to local mental health authorities under this section. That number shall be reviewed and adjusted as necessary every three years according to the state's population. All population figures utilized shall reflect the most recent available population estimates from the ~~[governor's Office of Planning and Budget]~~ Utah Population Estimates Committee.

(3) The formula established under Subsection (2) becomes effective on July 1, 1993, and shall provide for allocation of beds based on:

(a) the percentage of the state's adult population located within a mental health catchment area; and

(b) a differential to compensate for the additional demand for hospital beds in mental health catchment areas that are located in urban areas.

(4) A local mental health authority may sell or loan its allocation of beds to another local mental health authority.

(5) The division shall allocate 212 adult beds at the state hospital to local mental health authorities for their use in accordance with the formula established under this section. If a local mental health authority is unable to access a bed allocated to it under that formula, the division shall provide that local mental health authority with funding equal to the reasonable, average daily cost of an acute care bed purchased by the local mental health authority.

(6) The board shall periodically review and make changes in the formula established under Subsection (2) as necessary to accurately reflect changes in population.

Section 24. Section **63-38c-202** is amended to read:

63-38c-202. Computing formula elements.

(1) For purposes of computing the most recent fiscal year's personal income, the Office of Planning and Budget shall use the quarterly data produced by the Bureau of Economic Analysis, U.S. Department of Commerce.

(2) For purposes of calculating fiscal year inflation indexes and fiscal year personal income for the previous fiscal year, the Office of Planning and Budget shall use:

(a) the actual quarterly data released by the U.S. Department of Commerce as of January 31 of each year; and

(b) the most recent U.S. Bureau of Census population estimates as of January 31 of each year.

(3) (a) For purposes of computing the inflation index, the Office of Planning and Budget shall:

(i) assign the bureau's 1982 calendar year inflation index value of 100 to fiscal year 1989 for purposes of computing fiscal year index values;

(ii) compute all subsequent fiscal year inflation indexes after having assigned the fiscal year 1989 inflation index a value of 100; and

(iii) use the quarterly index values published by the Bureau of Economic Analysis, U.S. Department of Commerce, to compute fiscal year index values.

(b) If the bureau changes its calendar base year, appropriate adjustments are to be made in this chapter to accommodate those changes.

(4) (a) For purposes of computing the most recent fiscal year's population, the Office of Planning and Budget shall convert the April 1 decennial census estimate to a July 1 estimate, unless otherwise estimated by the Bureau of Census.

(b) If the bureau changes the state's July 1, 1983 base year population after it conducts the 1990 Census, appropriate adjustments shall be made in this chapter to accommodate those changes.

Section 25. Section **63-56-36.1** is amended to read:

63-56-36.1. Procurement of design-build transportation project contracts.

(1) As used in this section:

(a) "Design-build transportation project contract" means the procurement of both the design

and construction of a transportation project in a single contract with a company or combination of companies capable of providing the necessary engineering services and construction.

(b) "Transportation agency" means:

(i) the Department of Transportation;

(ii) a county of the first or second class, as defined in Section [~~17-16-13~~] 17-1a-101;

(iii) a municipality of the first class, as defined in Section 10-2-301;

(iv) a public transit district that has more than 200,000 people residing within its boundaries;

and

(v) a public airport authority, as created under Title 17A, Chapter 2, Part 15, Airport Authorities.

(2) Except as provided in Subsection (3), a transportation agency may award a design-build transportation project contract for any transportation project that has an estimated cost of at least \$50,000,000 by following the requirements of this section.

(3) The Department of Transportation may:

(a) award a design-build transportation project contract for any transportation project by following the requirements of this section; and

(b) make rules, by following the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act, establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.

(4) (a) Before entering a design-build transportation project contract, a transportation agency may issue a request for qualifications to prequalify potential contractors.

(b) Public notice of the request for qualifications shall be given in accordance with policy board rules.

(c) A transportation agency shall require, as part of the qualifications specified in the request for qualifications, that potential contractors at least demonstrate their:

(i) construction experience;

(ii) design experience;

(iii) financial, manpower, and equipment resources available for the project; and

(iv) experience in other design-build transportation projects with attributes similar to the project being procured.

(d) The request for qualifications shall identify the number of eligible competing proposers that the transportation agency will select to submit a proposal, which must be at least two.

(5) (a) The transportation agency shall:

(i) evaluate the responses received from the request for qualifications;

(ii) select from their number those qualified to submit proposals; and

(iii) invite those respondents to submit proposals based upon the transportation agency's request for proposals.

(b) If the transportation agency fails to receive at least two qualified eligible competing proposers, the transportation agency shall readvertise the project.

(6) The transportation agency shall issue a request for proposals to those qualified respondents that:

(a) includes a scope of work statement constituting an information for proposal that may include:

(i) preliminary design concepts;

(ii) design criteria, needs, and objectives;

(iii) warranty and quality control requirements;

(iv) applicable standards;

(v) environmental documents;

(vi) constraints;

(vii) time expectations or limitations;

(viii) incentives or disincentives; and

(ix) other special considerations;

(b) requires submitters to provide:

(i) a sealed cost proposal;

(ii) a critical path matrix schedule, including cash flow requirements;

(iii) proposal security; and

- (iv) other items required by the department for the project; and
 - (c) may include award of a stipulated fee to be paid to submitters who submit unsuccessful proposals.
- (7) The transportation agency shall:
- (a) evaluate the submissions received in response to the request for proposals from the prequalified proposers;
 - (b) comply with rules relating to discussion of proposals, best and final offers, and evaluations of the proposals submitted; and
 - (c) after considering price and other identified factors, award the contract to the responsible proposer whose proposal is most advantageous to the state.

Section 26. Section **63-63b-101** is amended to read:

63-63b-101. Traffic mitigation surcharge -- Application and exemptions.

- (1) (a) In addition to any surcharge imposed under Section 63-63a-1, a traffic mitigation surcharge shall be paid on all criminal fines, penalties, and forfeitures imposed by a court within a county of the first class, as defined in Section [~~17-16-13~~] 17-1a-101, for any offense described in Subsection (1)(b).
- (b) The traffic mitigation surcharge is \$10 upon conviction of any moving traffic violation, including a violation of county or municipal ordinances.
- (2) The traffic mitigation surcharge may not be imposed:
- (a) upon nonmoving traffic violations;
 - (b) upon court orders when the offender is ordered to perform community service work in lieu of paying a fine; and
 - (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section 78-3a-502.
- (3) The traffic mitigation surcharge does not include amounts assessed or collected separately by juvenile courts for the Juvenile Restitution Account, which is independent of this chapter and does not affect the imposition or collection of the traffic mitigation surcharge.
- (4) The traffic mitigation surcharge under this section shall be imposed in addition to the fine

charged for a criminal offense, and no reduction may be made in the fine charged due to the traffic mitigation surcharge imposition.

Section 27. Section **72-2-108** is amended to read:

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

- (1) For purposes of this section:
 - (a) "Graveled road" means a road:
 - (i) that is:
 - (A) graded; and
 - (B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;
 - (ii) that has an improved surface; and
 - (iii) that has a wearing surface made of:
 - (A) gravel;
 - (B) broken stone;
 - (C) slag;
 - (D) iron ore;
 - (E) shale; or
 - (F) other material that is:
 - (I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and
 - (II) [~~is~~] coarser than sand.
 - (b) "Paved road" includes a graveled road with a chip seal surface.
 - (c) "Road mile" means a one-mile length of road, regardless of:
 - (i) the width of the road; or
 - (ii) the number of lanes into which the road is divided.
 - (d) "Weighted mileage" means the sum of the following:
 - (i) paved road miles multiplied by five;
 - (ii) graveled road miles multiplied by two; and

(iii) all other road type road miles multiplied by one.

(2) Subject to the provisions of Subsections (3) through (5), funds in the class B and class C roads account shall be apportioned among counties and municipalities in the following manner:

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

(b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not ~~[made for a county or municipality by]~~ available from the United States Bureau of Census, population figures shall be ~~[determined according to]~~ derived from the ~~[biennial]~~ estimate from the Utah Population Estimates Committee.

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

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

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

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

(A) 14%; and

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

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

(4) (a) If an apportionment under Subsection (2) to a county or municipality is less than 110% of the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97, the department shall:

(i) reapportion the funds under Subsection (2) to ensure that the county or municipality receives an amount equal to 110% of the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97; and

(ii) decrease proportionately as provided in Subsection (4)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4)(a)(i) does not apply.

(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (4)(a)(ii) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4)(a)(i).

(5) (a) (i) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned monies under Subsection (4)(a)(i) shall receive 1/3 of the percentage increase in the class B and C road account for the current fiscal year over the previous fiscal year.

(ii) Any percentage increase calculated under Subsection (5)(a)(i) may not include any increases from increases in fees or tax rates.

(b) The adjustment under Subsection (5)(a) shall be made in the same way as provided in Subsection (4)(a)(ii) and (b).

(6) The governing body of any municipality or county may issue bonds redeemable up to a period of ten years under Title 11, Chapter 14, Utah Municipal Bond Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

Section 28. Section **77-32-501** is amended to read:

77-32-501. Contracts for defense of indigent inmates -- Qualifications -- Prosecutorial duties.

(1) The board shall enter into contracts with qualified legal defense counsel to provide defense counsel services for an indigent inmate who is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section [~~17-16-13~~] 17-1a-101, is charged with having committed a crime within that facility, and will require defense counsel.

(2) Payment for the representation, costs, and expenses of legal defense counsel shall be made from the Indigent Inmate Trust Fund as provided in Section 77-32-502.

(3) The defense counsel shall maintain the minimum qualifications as provided in Section 77-32-301.

(4) The county attorney or district attorney of a county of the third, fourth, fifth, or sixth class shall function as the prosecuting entity.

(5) (a) The county of the third, fourth, fifth, or sixth class where a state prison is located may impose an additional tax levy by ordinance at .0001 per dollar of taxable value in the county.

(b) If the county governing body imposes the additional tax levy by ordinance, the money shall be deposited in the Indigent Inmate Trust Fund as provided in Section 77-32-502 to fund the purposes of this section.

(c) A county that chooses not to impose the additional levy by ordinance may not receive any benefit from the Indigent Inmate Trust fund.

Section 29. Section **77-32-502** is amended to read:

77-32-502. Indigent Inmate Trust Fund -- Creation.

(1) There is created an expendable trust fund known as the Indigent Inmate Trust Fund to be disbursed by the Division of Finance at the direction of the board and in accordance with contracts made under Section 77-32-402.

(2) Monies deposited in this trust fund only shall be used:

(a) to pay for the representation, costs, and expenses of legal defense counsel for an indigent inmate in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section [~~17-16-13~~] 17-1a-101 who is charged with having committed a crime within the facility, and who will require defense counsel; and

(b) for administrative costs pursuant to Section 77-32-401.

(3) The trust fund consists of:

(a) proceeds received from counties that impose the additional tax levy by ordinance under Subsection 77-32-501(5)[-] which shall be the total county obligation for payment of costs listed in Subsection (2) for defense of indigent inmates;

- (b) appropriations made to the fund by the Legislature; and
- (c) interest and earnings from the investment of fund monies.

(4) Fund monies shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) In any calendar year in which the fund runs a deficit, or is projected to run a deficit, the board shall request a supplemental appropriation from the Legislature in the following general session to pay for the deficit. The state shall pay any or all of the reasonable and necessary monies for the deficit into the Indigent Inmate Trust Fund.

(6) Notwithstanding Subsection (1), any fund balance in excess of \$1,000,000 remaining in the trust fund as of June 30 of any fiscal year shall be transferred to the General Fund.

Section 30. Repealer.

This act repeals:

Section 10-2-201, Division of city into wards -- Number and boundaries.

Section 17-16-13, Classification of counties.