

1 **STATE AND LOCAL AMENDMENTS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Robert F. Montgomery**

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

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

15 AMENDS:

16 **10-2-119**, as enacted by Chapter 389, Laws of Utah 1997

17 **10-2-125**, as last amended by Chapters 85 and 337, Laws of Utah 1998

18 **10-2-425**, as enacted by Chapter 337, Laws of Utah 1998

19 **10-2-507**, as last amended by Chapter 337, Laws of Utah 1998

20 **10-2-602**, as enacted by Chapter 48, Laws of Utah 1977

21 **10-2-611**, as last amended by Chapter 337, Laws of Utah 1998

22 **10-2-711**, as last amended by Chapter 227, Laws of Utah 1993

23 **10-2-712**, as last amended by Chapter 68, Laws of Utah 1984

24 **10-17-102**, as enacted by Chapter 156, Laws of Utah 1998

25 **17-42-102**, as enacted by Chapter 156, Laws of Utah 1998

26 **17A-2-1038**, as last amended by Chapter 266, Laws of Utah 1997

27 **26A-1-115**, as renumbered and amended by Chapter 269, Laws of Utah 1991

28 **32A-1-115**, as last amended by Chapter 87, Laws of Utah 1999
 29 **35A-2-101**, as last amended by Chapter 375, Laws of Utah 1997
 30 **59-12-205**, as last amended by Chapter 133, Laws of Utah 1999
 31 **59-12-801**, as last amended by Chapter 261, Laws of Utah 1998
 32 **62A-12-209.5**, as enacted by Chapter 285, Laws of Utah 1993
 33 **63-38c-202**, as enacted by Chapter 275, Laws of Utah 1996
 34 **63-56-36.1**, as last amended by Chapter 26, Laws of Utah 1999
 35 **63-63b-101**, as enacted by Chapter 312, Laws of Utah 1998
 36 **72-2-108**, as last amended by Chapter 281, Laws of Utah 1999
 37 **77-32-501**, as renumbered and amended by Chapter 354, Laws of Utah 1997
 38 **77-32-502**, as last amended by Chapter 10 and renumbered and amended by Chapter 354,

39 Laws of Utah 1997

40 ENACTS:

41 **10-1-117**, Utah Code Annotated 1953
 42 **10-1-118**, Utah Code Annotated 1953
 43 **17-1a-101**, Utah Code Annotated 1953
 44 **17-1a-102**, Utah Code Annotated 1953

45 REPEALS AND REENACTS:

46 **10-2-301**, as last amended by Chapter 92, Laws of Utah 1987
 47 **10-2-302**, as last amended by Chapter 375, Laws of Utah 1997

48 REPEALS:

49 **10-2-201**, as enacted by Chapter 48, Laws of Utah 1977
 50 **17-16-13**, as last amended by Chapter 226, Laws of Utah 1987

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

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

53 **10-1-117. Amending articles of incorporation.**

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

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

58 (a) approved by the municipal legislative body; and

- 59 (b) signed and verified by the mayor of the municipality.
- 60 (3) Within ten days after receiving amended articles of incorporation that comply with
- 61 Subsection (2), the lieutenant governor shall:
- 62 (a) certify the amended articles; and
- 63 (b) deliver a copy of the certified articles to:
- 64 (i) the legislative body of the municipality; and
- 65 (ii) the clerk of the county in which the municipality is located.
- 66 (4) Upon certification by the lieutenant governor, the amended articles shall take effect.
- 67 (5) The lieutenant governor:
- 68 (a) shall furnish a certified copy of the amended articles of incorporation to any person
- 69 who requests a certified copy; and
- 70 (b) may charge a reasonable fee for the certified copy.

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

72 **10-1-118. Changing the name of a municipality.**

- 73 (1) A municipality may change its name by filing amended articles of incorporation as
- 74 provided in Section 10-1-117.
- 75 (2) The name change becomes effective upon the lieutenant governor's certification of the
- 76 amended articles as provided in Subsection 10-1-117(3).

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

78 **10-2-119. Filing of articles of incorporation -- Certification of articles by lieutenant**

79 **governor.**

- 80 (1) [At any time] Within seven days after the canvass of the final election of city officers
- 81 under Section 10-2-116, the mayor-elect of the new city [may] shall file at least three copies of the
- 82 articles of incorporation with the lieutenant governor.
- 83 (2) The articles of incorporation shall:
- 84 (a) contain the name of the city;
- 85 (b) contain a geographical description of the city;
- 86 (c) contain the city's class according to population as defined in Section 10-2-301; and
- 87 (d) be signed and verified by the mayor-elect of the city.
- 88 (3) (a) Within ten days of receipt of the articles of incorporation of the new city, the
- 89 lieutenant governor shall:

- 90 (i) certify the articles of incorporation;
- 91 (ii) deliver one copy of the articles of incorporation to the clerk of the county in which the
- 92 new city is located; and
- 93 (iii) return one copy of the articles of incorporation to the mayor-elect of the new city.
- 94 (b) The lieutenant governor shall furnish a certified copy of the articles of incorporation
- 95 to any person on request and may charge a reasonable fee for the copy.

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

97 **10-2-125. Incorporation of a town.**

98 (1) (a) A contiguous area of a county not within a municipality, with a population of at

99 least 100 but not more than 800, may incorporate as a town as provided in this section.

100 (b) (i) The population figure under Subsection (1)(a) shall be derived from the most recent

101 official census or census estimate of the United States Bureau of the Census.

102 (ii) If the population figure is not available from the United States Bureau of the Census,

103 the population figure shall be derived from the estimate from the Utah Population Estimates

104 Committee.

105 (2) (a) The process to incorporate an area as a town is initiated by filing a petition with the

106 clerk of the county in which the area is located.

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

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

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

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

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

112 [and]

113 (ii) state the legal description of the boundaries of the area proposed to be incorporated as

114 a town[-]; and

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

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

117 To the Honorable County Legislative Body of (insert the name of the county in which the

118 proposed town is located) County, Utah:

119 We, the undersigned owners of real property within the area described in this petition,

120 respectfully petition the county legislative body to examine the question of whether the area should

121 incorporate as a town. Each of the undersigned affirms that each has personally signed this
122 petition and is an owner of real property within the described area, and that the current residence
123 address of each is correctly written after the signer's name. The area proposed to be incorporated
124 as a town is described as follows: (insert an accurate description of the area proposed to be
125 incorporated).

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

128 (i) was filed before the filing of the petition; and

129 (ii) is still pending on the date the petition is filed.

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

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

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

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

143 (5) Upon approval of a petition filed under Subsection (2), the legislative body of the
144 county in which the proposed town is located shall appoint a mayor and members of the town
145 council who shall hold office until the next regular municipal election and until their successors
146 are elected and qualified.

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

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

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

151 (i) certify the articles of incorporation;

152 (ii) return a copy of the articles of incorporation to the appointed mayor; and
 153 (iii) send a copy of the articles of incorporation to the recorder of the county in which the
 154 town is located.

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

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

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

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

163 **10-2-301. Classification of municipalities according to population.**

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

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

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

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

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

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

173 **10-2-302. Change of class.**

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

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

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

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

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

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

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

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

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

190 **10-2-425. Filing of plat or map -- Notice requirements.**

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

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

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

199 (2) The municipal legislative body shall comply with the notice requirements of Section
200 10-1-116.

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

202 **10-2-507. Decree -- Filing of documents -- Notice requirements.**

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

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

208 (3) The amended articles of incorporation shall:

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

210 (b) specify the postdisconnection population of the municipality.

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

213 (5) The legislative body of each municipality that has had territory disconnected shall

214 comply with the notice requirements of Section 10-1-116.

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

216 **10-2-602. Contents of resolution or petition.**

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

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

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

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

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

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

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

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

231 **10-2-611. Lieutenant governor certification -- When incorporation complete --**
232 **Disincorporation of original municipalities.**

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

235 (i) certify the articles;

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

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

239 (b) The lieutenant governor:

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

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

243 (2) Upon the lieutenant governor's certification of the articles of consolidation, the
244 incorporation of the new municipality shall be complete and the original municipalities involved

245 in the consolidation shall be considered to be disincorporated.

246 ~~[(2)]~~ (3) The legislative body of the new municipality shall comply with the notice
247 requirements of Section 10-1-116.

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

249 **10-2-711. Dissolution by the county legislative body.**

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

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

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

258 (2) Notice of the application shall be served on the municipality in the manner prescribed
259 by law or by publication in the manner provided by law if the municipal authorities cannot be
260 served.

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

264 (4) If the municipality is dissolved, the district court shall wind down the affairs and
265 dissolve the municipality as quickly as possible in the same manner as is provided in Sections
266 10-2-705 through 10-2-709.

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

268 **10-2-712. Power of court -- Articles of dissolution -- Lieutenant governor**
269 **certification.**

270 (1) The district court may:

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

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

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

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

277 (i) certify the articles; and

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

280 (c) The lieutenant governor:

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

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

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

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

287 **10-17-102. Definitions.**

288 As used in this chapter:

289 (1) "Animal" means a cat or dog.

290 (2) "Animal shelter" means a facility or program:

291 (a) providing services for stray, lost, or unwanted animals, including holding and placing
292 the animals for adoption, but does not include an institution conducting research on animals, as
293 defined in Section 26-26-1; and

294 (b) operated by:

295 (i) a first or second class county as defined in Section [~~17-16-13~~] 17-1a-101;

296 (ii) a municipality with a population of 40,000 or greater;

297 (iii) a first or second class county operating the shelter jointly with any municipality; or

298 (iv) a private humane society or private animal welfare organization located within a first
299 or second class county or within a municipality with a population of 40,000 or greater.

300 (3) "Person" means an individual, an entity, or a representative of an entity.

301 (4) "Proof of sterilization" means a written document signed by a veterinarian licensed
302 under Title 58, Chapter 28, Veterinary Practice Act, stating:

303 (a) a specified animal has been sterilized;

304 (b) the date on which the sterilization was performed; and

305 (c) the location where the sterilization was performed.

306 (5) "Recipient" means the person to whom an animal shelter transfers an animal for

307 adoption.

308 (6) "Sterilization deposit" means the portion of a fee charged by an animal shelter to a
309 recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in
310 accordance with an agreement between the recipient or the claimant and the animal shelter.

311 (7) "Sterilized" means that an animal has been surgically altered, either by the spaying of
312 a female animal or by the neutering of a male animal, so it is unable to reproduce.

313 (8) "Transfer" means that an animal shelter sells, gives away, places for adoption, or
314 transfers an animal to a recipient.

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

316 **CHAPTER 1a. CLASSIFICATION**

317 **17-1a-101. Classification of counties.**

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

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

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

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

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

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

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

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

330 **17-1a-102. Change of class.**

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

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

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

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

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

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

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

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

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

348 **17-42-102. Definitions.**

349 As used in this chapter:

350 (1) "Animal" means a cat or dog.

351 (2) "Animal shelter" means a facility or program:

352 (a) providing services for stray, lost, or unwanted animals, including holding and placing
353 the animals for adoption, but does not include an institution conducting research on animals, as
354 defined in Section 26-26-1; and

355 (b) operated by:

356 (i) a first or second class county as defined in Section [~~17-16-13~~] 17-1a-101;

357 (ii) a municipality with a population of 40,000 or greater;

358 (iii) a first or second class county operating the shelter jointly with any municipality; or

359 (iv) a private humane society or private animal welfare organization located within a first
360 or second class county or within a municipality with a population of 40,000 or greater.

361 (3) "Person" means an individual, an entity, or a representative of an entity.

362 (4) "Proof of sterilization" means a written document signed by a veterinarian licensed
363 under Title 58, Chapter 28, Veterinary Practice Act, stating:

364 (a) a specified animal has been sterilized;

365 (b) the date on which the sterilization was performed; and

366 (c) the location where the sterilization was performed.

367 (5) "Recipient" means the person to whom an animal shelter transfers an animal for
368 adoption.

369 (6) "Sterilization deposit" means the portion of a fee charged by an animal shelter to a
370 recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in
371 accordance with an agreement between the recipient or the claimant and the animal shelter.

372 (7) "Sterilized" means that an animal has been surgically altered either by the spaying of
373 a female animal or by the neutering of a male animal, so it is unable to reproduce.

374 (8) "Transfer" means that an animal shelter sells, gives away, places for adoption, or
375 transfers an animal to a recipient.

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

377 **17A-2-1038. Board of directors -- Appointment -- Apportionment -- Qualifications**
378 **-- Quorum -- Compensation -- Terms.**

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

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

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

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

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

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

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

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

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

402 (i) From the effective date of this act until the apportionment following the year 2000
403 decennial United States Census Bureau report, the proportion of population included in the district
404 and residing within each county, rounded to the nearest 1/15 of the total transit district population;
405 and

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

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

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

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

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

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

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

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

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

430 (c) The number of directors appointed from a county and municipalities within a county

431 under Subsections (5)(a) and (b) shall be subtracted from the county's total member apportionment
432 under Subsection (4).

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

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

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

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

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

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

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

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

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

461 (B) by a county eligible to make an appointment for its unincorporated area under

462 Subsection (5)(a); and

463 (C) as otherwise provided under this section.

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

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

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

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

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

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

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

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

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

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

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

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

489 (c) The affirmative vote of a majority of all directors present at any meeting at which a
490 quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to
491 carry any order, resolution, ordinance, or proposition before the board of directors.

492 (9) The district shall pay to each director:

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

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

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

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

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

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

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

508 (b) Each director shall:

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

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

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

512 **26A-1-115. Apportionment of costs -- Contracts to provide services -- Percentage**
513 **match of state funds -- Audit.**

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

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

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

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

527 (4) Contract funds distributed under Subsection (3) shall be in accordance with Section
528 26A-1-116 and policies and procedures adopted by the department.

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

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

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

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

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

541 **32A-1-115. Appropriation from the General Fund to municipalities and counties for**
542 **law enforcement and treatment -- Distribution to municipalities and counties.**

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

545 (i) liquor control profits; and

546 (ii) proceeds of the beer excise tax deposited in the General Fund in accordance with
547 Section 59-15-109.

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

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

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

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

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

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

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

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

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

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

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

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

582 (c) multiply the quotient obtained in Subsection (3)(b), by the number of convictions
583 obtained in each municipality and county between July 1, 1982 and June 30, 1983, and for the
584 same period in succeeding years, for violation of Section 41-6-44, or an ordinance that complies
585 with the requirements of Subsection 41-6-43(1) or Section 76-5-207, and for all other

586 alcohol-related offenses to determine the total revenue due each entity, based on convictions. The
587 number of convictions for purposes of this Subsection (3) shall be determined in the manner
588 prescribed in Subsection (3)(a).

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

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

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

602 (6) (a) For purposes of this section, a conviction occurs in the municipality or county that
603 actually prosecutes the offense to judgment. In the case of a conviction based upon a guilty plea,
604 the municipality or county that, except for the guilty plea, would have prosecuted the offense is
605 entitled to credit for the conviction.

606 (b) For purposes of this section, "alcohol-related offense" means a violation of Section
607 41-6-44, or an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section
608 76-5-207, or an offense involving the illegal sale, distribution, transportation, possession, or
609 consumption of alcohol.

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

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

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

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

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

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

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

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

631 (e) a signature of the chief executive officer of the county or municipality attesting that the
632 monies received under this section were used in addition to any monies appropriated or otherwise
633 available for the local government's law enforcement and were not used to supplant those monies.

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

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

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

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

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

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

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

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

651 **35A-2-101. Regional workforce services areas -- Creation.**

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

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

656 (i) state and local government agencies and departments;

657 (ii) the groups representing public employees;

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

660 (iv) the public.

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

663 (a) areas comprised of multiple counties;

664 (b) the alignment of transportation and other infrastructure or services;

665 (c) the interdependence of the economy within a geographic area;

666 (d) the ability to develop regional marketing and economic development programs;

667 (e) the labor market areas;

668 (f) the population of the area, as established in the most recent estimate by the Utah
669 Population Estimates Committee;

670 (g) the number of individuals in the previous year receiving:

671 (i) services under Chapter 3, Employment Support Act; and

672 (ii) benefits under Chapter 4, Employment Security Act; and

673 (h) other factors that relate to the management of the programs administered or that relate
674 to the delivery of services provided under this title.

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

676 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax**
677 **revenues.**

678 (1) Each county, city, and town, in order to maintain in effect sales and use tax ordinances

679 pursuant to this part, shall, within 30 days of any amendment of any applicable provisions of Part
680 1, Tax Collection, adopt amendments of their respective sales and use tax ordinances to conform
681 with the amendments to Part 1, Tax Collection, insofar as they relate to sales and use taxes.

682 (2) Any county, city, or town may distribute its sales or use tax revenues by means other
683 than point of sale or use by notifying the commission in writing of such decision, no later than 30
684 days before commencement of the next tax accrual period. After such notice is given, a county,
685 city, or town may increase the tax authorized by this part to a total of 1% from and after January
686 1, 1990, of the purchase price paid or charged, excluding a public transit sales and use tax as
687 provided in Section 59-12-501 and a resort communities sales tax as provided in Section
688 59-12-401. This tax shall be collected and distributed as follows:

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

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

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

705 (4) (a) Notwithstanding any other provision of this section, from January 1, 1990, through
706 June 30, 1999, the commission shall determine and retain the amount of revenue generated by a
707 $\frac{1}{64}$ % tax rate and deposit it in the Olympics Special Revenue Fund or funds provided for in
708 Subsection 59-12-103(4) for the purposes of the Utah Sports Authority described in Title 63A,
709 Chapter 7, Utah Sports Authority Act.

710 (b) Except for sales and use taxes deposited under Subsection (4)(c), beginning on July 1,
711 1999, the amount of revenue generated by the 1/64% tax rate under Subsection (4)(a) shall be
712 distributed to each county, city, and town as provided in this section.

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

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

716 (A) by a city or town that will have constructed within its boundaries the Airport to
717 University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub.
718 L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

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

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

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

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

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

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

732 **59-12-801. Definitions.**

733 As used in this part:

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

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

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

740 (4) "Rural county nursing care facility" means a nursing care facility owned by a third,

741 fourth, fifth, or sixth class county, as defined in Section [17-16-13] 17-1a-101, which is located
742 outside of a standard metropolitan statistical area, as designated by the United States Bureau of the
743 Census.

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

745 **62A-12-209.5. Allocation of state hospital beds -- Formula.**

746 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

775 **63-38c-202. Computing formula elements.**

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

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

781 (a) the actual quarterly data released by the U.S. Department of Commerce as of January
782 31 of each year; and

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

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

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

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

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

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

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

798 (b) If the bureau changes the state's July 1, 1983 base year population after it conducts the
799 1990 Census, appropriate adjustments shall be made in this chapter to accommodate those
800 changes.

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

802 **63-56-36.1. Procurement of design-build transportation project contracts.**

803 (1) As used in this section:

804 (a) "Design-build transportation project contract" means the procurement of both the
805 design and construction of a transportation project in a single contract with a company or
806 combination of companies capable of providing the necessary engineering services and
807 construction.

808 (b) "Transportation agency" means:

809 (i) the Department of Transportation;

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

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

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

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

816 (2) Except as provided in Subsection (3), a transportation agency may award a design-build
817 transportation project contract for any transportation project that has an estimated cost of at least
818 \$50,000,000 by following the requirements of this section.

819 (3) The Department of Transportation may:

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

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

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

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

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

831 (i) construction experience;

832 (ii) design experience;

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

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

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

838 (5) (a) The transportation agency shall:

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

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

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

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

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

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

849 (i) preliminary design concepts;

850 (ii) design criteria, needs, and objectives;

851 (iii) warranty and quality control requirements;

852 (iv) applicable standards;

853 (v) environmental documents;

854 (vi) constraints;

855 (vii) time expectations or limitations;

856 (viii) incentives or disincentives; and

857 (ix) other special considerations;

858 (b) requires submitters to provide:

859 (i) a sealed cost proposal;

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

861 (iii) proposal security; and

862 (iv) other items required by the department for the project; and

863 (c) may include award of a stipulated fee to be paid to submitters who submit unsuccessful
864 proposals.

865 (7) The transportation agency shall:

866 (a) evaluate the submissions received in response to the request for proposals from the
867 prequalified proposers;

868 (b) comply with rules relating to discussion of proposals, best and final offers, and
869 evaluations of the proposals submitted; and

870 (c) after considering price and other identified factors, award the contract to the
871 responsible proposer whose proposal is most advantageous to the state.

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

873 **63-63b-101. Traffic mitigation surcharge -- Application and exemptions.**

874 (1) (a) In addition to any surcharge imposed under Section 63-63a-1, a traffic mitigation
875 surcharge shall be paid on all criminal fines, penalties, and forfeitures imposed by a court within
876 a county of the first class, as defined in Section [~~17-16-13~~] 17-1a-101, for any offense described
877 in Subsection (1)(b).

878 (b) The traffic mitigation surcharge is \$10 upon conviction of any moving traffic violation,
879 including a violation of county or municipal ordinances.

880 (2) The traffic mitigation surcharge may not be imposed:

881 (a) upon nonmoving traffic violations;

882 (b) upon court orders when the offender is ordered to perform community service work
883 in lieu of paying a fine; and

884 (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment of
885 a case under Section 78-3a-502.

886 (3) The traffic mitigation surcharge does not include amounts assessed or collected
887 separately by juvenile courts for the Juvenile Restitution Account, which is independent of this
888 chapter and does not affect the imposition or collection of the traffic mitigation surcharge.

889 (4) The traffic mitigation surcharge under this section shall be imposed in addition to the
890 fine charged for a criminal offense, and no reduction may be made in the fine charged due to the
891 traffic mitigation surcharge imposition.

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

893 **72-2-108. Apportionment of funds available for use on class B and class C roads --**
894 **Bonds.**

895 (1) For purposes of this section:

- 896 (a) "Graveled road" means a road:
897 (i) that is:
898 (A) graded; and
899 (B) drained by transverse drainage systems to prevent serious impairment of the road by
900 surface water;
901 (ii) that has an improved surface; and
902 (iii) that has a wearing surface made of:
903 (A) gravel;
904 (B) broken stone;
905 (C) slag;
906 (D) iron ore;
907 (E) shale; or
908 (F) other material that is:
909 (I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and
910 (II) is coarser than sand.
911 (b) "Paved road" includes a graveled road with a chip seal surface.
912 (c) "Road mile" means a one-mile length of road, regardless of:
913 (i) the width of the road; or
914 (ii) the number of lanes into which the road is divided.
915 (d) "Weighted mileage" means the sum of the following:
916 (i) paved road miles multiplied by five;
917 (ii) graveled road miles multiplied by two; and
918 (iii) all other road type road miles multiplied by one.
919 (2) Subject to the provisions of Subsections (3) through (5), funds in the class B and class
920 C roads account shall be apportioned among counties and municipalities in the following manner:
921 (a) 50% in the ratio that the class B roads weighted mileage within each county and class
922 C roads weighted mileage within each municipality bear to the total class B and class C roads
923 weighted mileage within the state; and
924 (b) 50% in the ratio that the population of a county or municipality bears to the total
925 population of the state as of the last official federal census or the United States Bureau of Census
926 estimate, whichever is most recent, except that if population estimates are not [made for a county

927 or municipality by] available from the United States Bureau of Census, population figures shall
928 be [~~determined according to~~] derived from the [biennial] estimate from the Utah Population
929 Estimates Committee.

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

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

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

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

938 (A) 14%; and

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

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

943 (4) (a) If an apportionment under Subsection (2) to a county or municipality is less than
944 110% of the amount apportioned to the county or municipality from the class B and class C roads
945 account for fiscal year 1996-97, the department shall:

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

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

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

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

958 over the previous fiscal year.

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

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

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

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

969 **77-32-501. Contracts for defense of indigent inmates -- Qualifications --**
970 **Prosecutorial duties.**

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

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

977 (3) The defense counsel shall maintain the minimum qualifications as provided in Section
978 77-32-301.

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

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

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

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

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

989 **77-32-502. Indigent Inmate Trust Fund -- Creation.**

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

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

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

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

999 (3) The trust fund consists of:

1000 (a) proceeds received from counties that impose the additional tax levy by ordinance under
1001 Subsection 77-32-501(5). which shall be the total county obligation for payment of costs listed
1002 in Subsection (2) for defense of indigent inmates;

1003 (b) appropriations made to the fund by the Legislature; and

1004 (c) interest and earnings from the investment of fund monies.

1005 (4) Fund monies shall be invested by the state treasurer with the earnings and interest
1006 accruing to the fund.

1007 (5) In any calendar year in which the fund runs a deficit, or is projected to run a deficit, the
1008 board shall request a supplemental appropriation from the Legislature in the following general
1009 session to pay for the deficit. The state shall pay any or all of the reasonable and necessary monies
1010 for the deficit into the Indigent Inmate Trust Fund.

1011 (6) Notwithstanding Subsection (1), any fund balance in excess of \$1,000,000 remaining
1012 in the trust fund as of June 30 of any fiscal year shall be transferred to the General Fund.

1013 **Section 30. Repealer.**

1014 This act repeals:

1015 Section **10-2-201, Division of city into wards -- Number and boundaries.**

1016 Section **17-16-13, Classification of counties.**

Legislative Review Note

as of 2-3-00 3:58 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel