



2019 BILL REVIEW

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By the end of the 2019 session of the Utah State Legislature, the Association was following and addressing a record number of 200 Bills. This number does not include the many additional Bills that were reviewed and investigated to make sure they had no impact on local districts or special service districts and, once the lack of impact was confirmed, they were dropped from the weekly legislative summary.

“H.B.” stands for “House Bill” and “S.B.” stands for “Senate Bill.” Most of the Bills were “tracked,” but a number of them were actively supported or opposed by the Association. The majority of priority bills that the Association supported passed. Over 20 Bills were opposed by the Association during the session. Several were amended or substituted, and as a result, the Association changed its position to Support or Track on those Bills. Of the eight remaining Bills that were opposed by the Association as of the end of the session, all failed to pass. Of the 62 bills supported by the Association, 55 passed. Of the seven Bills that did not pass, time ran out on some as the final hour arrived on the last day of the session.

This analysis does not include every passed Bill that may impact your district, and no one district will be impacted by all of the Bills that are reviewed. The reviews, in most instances, merely touch upon some of the salient features of the Bill. Most of the reviewed Bills are not limited to local districts and special service districts. They may, for example, also apply to counties, municipalities, etc. However, this review generally is limited to the impact on local and special service districts. If, from the brief summary presented below, it appears that a Bill may be applicable to your district, you are urged to review the entire Bill, which may be viewed online at www.le.utah.gov (go to “Bills,” then click on “Passed Bills,” then scroll down and click on the desired Bill number) and, if appropriate, to consult your attorney. You may also contact LeGrand Bitter, Heather Anderson, Mark Anderson, or Rachel Anderson with further questions.

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DISTRICT CREATIONS, BOARD SELECTION, COMPOSITION, AND OPERATION

H.B. 72 – Local District Board Amendments

Sponsor: Representative Stephen G. Handy

UASD Position: Support (UASD Bill)

H.B. 72 is one of UASD's Bills, the Bill establishes the procedure for filling open local district board-member positions when the number of board members is increased. When the number of board members increases, the length of the terms of new board members must be staggered to ensure that the expiration of half of the board-member terms will occur every two years. If a member of a board of trustees fails to assume or qualify for office on January 1 for any reason, the term begins on the date the member assumes or qualifies for office. The term of that board member will be shortened as necessary to allow the term to expire at the regular time. In the event of a vacancy on a local district board of trustees, H.B. 72 requires that a notice be published in a newspaper of general circulation, posted in three public places within the local district, and posted on the Utah Public Notice Website.

H.B. 86 – Service Area Board of Trustees Amendments

Sponsor: Representative Steve Waldrip

UASD Position: Support

H.B. 86 will allow the governing body of a municipality that is located entirely within the boundary of a service area, but is not part of the service area, to appoint a member of the service area's board of trustees if the following conditions are met: the service area provides a service to the municipality pursuant to an interlocal cooperation agreement; and the service area board of trustees approves the municipality's petition requesting the right to appoint, which approval may later be rescinded. This Bill was requested by a service area that provides parks and recreation services in the Ogden Valley.

S.B. 26 – Governmental Nonprofit Corporation Act Amendments

Sponsor: Senator Deidre M. Henderson

UASD Position: Track

S.B. 26 requires that each board member of a governmental nonprofit corporation must complete training, developed by the State Auditor to aid a governmental nonprofit corporation in implementing best practices for financial controls and board governance, within six months after the day on which the member becomes a board member. Those who are currently serving on a governmental nonprofit board must receive the training from the State Auditor before November 14, 2019. The State Auditor will issue a letter of noncompliance if the training does not occur within the above stated timeframe. The board member will then have 30 days to comply. If the board member fails to complete the training within 30 days after receiving the noncompliance notice, the board member is disqualified and may not act as a board member.

This training must be completed each time the board member is elected or appointed to a new term.

S.B. 228 – Public Infrastructure District Act

Sponsor: Senator Daniel McCay

UASD position: Track (UASD amended)

S.B. 228 came out relatively late in the session. It enacts the Public Infrastructure District Act, which may provide a tool for developers and municipalities to finance the cost of infrastructure such as streets, sidewalks, street lighting, water, sewer, cable, natural gas and electricity. In its original form, the Bill was problematic. UASD worked with the attorneys who drafted the Bill to remove or modify a number of its most troubling aspects. Passage of this Bill may supplant “basic local districts,” a local district type that was created by the Legislature 12 years ago. Public infrastructure districts are very different from other types of local districts. For example, the creating municipality or county, through the approval of a “governing document” before the creation of the public infrastructure district, may place restrictions and requirements upon the public infrastructure district, including controls over the district by the creating entity. These differences may justify future removal of this district type from Title 17B of the Utah Code, which governs local districts, and placing the Public Infrastructure District Act elsewhere in the Utah Code.

ELECTIONS AND POLITICAL ACTIVITY

H.B. 64 – Lobbyist Expenditures Amendments

Sponsor: Representative Michael K. McKell

UASD Position: Track (amended)

H.B. 64 was modified a great deal from its original version to adjust for concerns raised by UASD, the Utah League of Cities and Towns, and the Utah Association of Counties. The original intent of Representative McKell, the Bill’s sponsor, was to create parity between local elected or appointed officials and state legislators with respect to lobbying requirements. Any statutory provision related to lobbying a state legislator now applies to lobbying any local government official or education official. A local government official includes any elected or appointed district board member and any employee of a district who occupies a policymaking position or makes purchasing or contracting decisions, drafts ordinances, drafts rules, drafts resolutions, determines rates or fees, makes adjudicative decisions, or makes rules (hereafter a “local official”). The rules dealing with lobbyist expenditures extend to the immediate family members of a local official. The local government designation includes cities, counties, towns, metro townships, local districts, special service districts, community reinvestment agencies, conservation districts, redevelopment agencies, and interlocal entities.

Lobbyists who meet with a local official must file expenditure reports with the Lieutenant Governor. The Bill makes most of the provisions of the Lobbyist Disclosure and

Regulation Act, Title 36, Chapter 11 of the Utah Code, applicable to expenditures for a local official or an education official. Criminal and civil penalties apply to lobbyists who fail to comply with these provisions.

An important amendment achieved by the UASD was to clarify that a local official is not required to report an expenditure made by the local official to another local official of the same government type. For example, a county commissioner may take another county commissioner to a sporting event or make an expenditure on his or her behalf, other than for food or a beverage costing over \$10, without being required to report the expenditure. A local district manager could do the same for another district manager, a mayor for another mayor, and so forth. A mayor not serving as a board member of a district board could not do the same for a district manager or county commissioner, however.

Each expenditure made for the benefit of a local official must be reported quarterly. A lobbyist, principal, or government officer may make aggregate daily expenditures that exceed the limits if the expenditure is reported in accordance with Utah Code Section 36-11a-201 for food, beverage, travel, lodging, or admission to or attendance at a tour or meeting, or if the expenditure is made for a purpose solely unrelated to the local official's or education official's position as a local official or education official.

With the passage of H.B. 64, many people who were previously not considered to be lobbyists will now be considered as lobbyists. For instance, if an engineering firm employee takes a district employee who is part of the RFP process to dinner, the engineer may have to register as a lobbyist and file a report for the expenditure.

There will be a session explaining the new rules and guidelines established in H.B. 64 for district board members, managers, employees, and lobbyists during the 2019 Annual UASD Convention held the first week of November.

H.B. 119 – Initiatives, Referenda, and other Political Activities

Sponsor: Representative Brad Daw

UASD position: Track (amended)

H.B. 119 was the subject of a series of Substitute Bills. Local initiatives and referenda primarily impact counties and municipalities. However, H.B. 119 could impact voter approved district bonds (general obligation bonds), or a district board approved tax rate that exceeds the certified rate. This Bill adopts and modifies legal requirements respecting voter participation areas, proposition informational pamphlets, public meetings to discuss the proposed initiative or referendum, information materials on the Lieutenant Governor's website, the number of voter signatures required to initiate an initiative or referendum, the expenditure of public funds in the initiative or referendum process, etc. The Bill draws a distinction between a referendum challenging a local law other than a land use law and a referendum challenging a land use law.

H.B. 272 – Election Law Amendments

Sponsor: Representative Merrill F. Nelson

UASD Position: Support

H.B. 272 concerns write-in candidates. The Bill prohibits a voter from using a sticker to vote for a write-in candidate on a paper ballot. For the vote to count, the voter will have to write the name on the ballot. One reason for this change is that labels and stickers come off and damage the counting machines. The Bill also requires a filing fee for write-in candidates to be equal to the filing fee for all other candidates. It also moves up the filing date for write-in candidates to correspond with the deadline for other information on the ballot. The Bill correlates the nominating convention dates with the filing dates for other candidates. Any third, fourth, or fifth class city or town must hold its nominating convention no later than May 30 of an odd-numbered year to allow candidates from the nominating conventions to qualify and file as other candidates do.

S.B. 61 – Poll Hours for Early Voting

Sponsor: Senator Jani Iwamoto

UASD Position: Track

S.B. 61 deletes a provision requiring polls to close by 5 p.m. on the last day of the early voting period.

S.B. 90 – Political Signs Amendments

Sponsor: Senator Todd Weiler

UASD Position: Track

With the passage of S.B. 90, a municipality or county may not adopt or enforce an ordinance that prohibits a political sign in a residentially zoned parking strip if the property owner has title to the parking strip, as long as the political sign is 24 inches by 36 inches or smaller.

EMPLOYMENT

H.B. 30 – Utah Retirement Systems Amendments

Sponsor: Representative Adam Robertson

UASD Position: Support (UASD amended)

H.B. 30 increases the Utah State Retirement Board's Membership Council by two members. One of the newly designated members of the Council was added at the request of UASD to represent local and special service districts.

Please contact LeGrand Bitter if you know of a person who would do a good job representing district interests on the Membership Council.

ETHICS

H.B. 163 – Offenses Against the Administration of Government Amendments

Sponsor: Representative Craig Hall

UASD Position: Support

H.B. 163 is an ethics bill that deals with the misuse of public funds and, more specifically, public property, as public property wasn't previously included to the same extent as public money. The prohibitions against the misuse of public property or public money also applies to an independent contractor of a public entity who is given public funds or public property for the purpose of providing a service or program for the public entity. If an employee, board member, or contractor misuses public money or public property, or fraudulently alters any entry or account that is valued over \$5,000, that person may be charged with a second-degree felony.

A public entity may adopt a written policy that authorizes a public servant to use or possess the designated public property for personal use in addition to its primary purpose of fulfilling the public servant's duties, if the public purpose substantially outweighs the personal benefit received by the employee from the incidental personal use of the public property. However, a public entity may not modify or adopt a policy or law, or take any other action, to retroactively authorize or approve the personal use of public property by a public servant.

This Bill takes effect on July 1, 2019.

FINANCE AND BUDGETS

H.B. 63 – Local Government Financial Amendments

Sponsor: Representative Stephen G. Handy

UASD Position: Support (UASD amended)

The changes reflected in H.B. 63 came about as a result of discussions between the Utah State Auditor's Office and the UASD. The Bill encourages a district with a budget of \$50,000 or less to obtain liability insurance, as considered appropriate by the district board.

The Bill also modifies and clarifies the balance a local district may accumulate in the district's general fund. Prior to the passage of H.B. 63, a district could not accumulate a fund balance in the general fund that exceeded the greater of 100% of the current year's property tax or 25% of the total general fund revenues for a district with an annual general fund greater than \$100,000, or 50% of the total general fund revenues for a district with an annual general fund budget equal to or less than \$100,000. This clarification in the law will allow an entity funded by property taxes to hold a balance of 100% of the current year's property tax (to cover operations for the next 12 months, January through December), and to maintain a rainy-day fund balance of up to the total of the most recently adopted general fund budget. This will

allow an entity to have a rainy-day fund of one year's operations on any day of the year, in addition to funding normal operations.

The Bill allows an entity receiving mineral lease funds to hold those funds for future beneficial and highest use regardless of the amount, rather than being forced to expend funds so as to not exceed a statutory limit -- a limit which was established to avoid the excessive assessment of fees and taxes. This will allow for effective long-term planning and the highest and best use of resources to assist local communities in Utah to mitigate the impact of mineral extraction activities on those communities. The mineral lease exception allows communities to hold those funds for future beneficial use, which is important to protect and preserve the mineral lease funds.

The Bill also clarifies that the additional reserve allowed for a mosquito abatement district in existing statute to be used for extraordinary abatement measures in dealing with a vector-borne public health emergency is in addition to the general fund balance allowed in Utah Code Section 17B-1-612. The 100% cap remains in the statute.

H.B. 95 – Bad Check Fee Amendments

Sponsor: Representative Ken Ivory

UASD Position: Track

H.B. 95 increases the maximum collection cost for a dishonored check from \$20 to \$35. The allowed service charge remains \$20.

H.B. 240 – Money Management Act Amendments

Sponsor: Representative Melissa G. Ballard

UASD Position: Support

H.B. 240 allows public funds to be deposited or invested in negotiable brokered certificates of deposit, subject to rules made by the State Money Management Council.

S.B. 120 – Accounts Receivable Collection Revisions

Sponsor: Senator Lyle W. Hillyard

UASD Position: Track

S.B. 120 concerns collections on past due accounts receivable. When any governmental entity executes, or intends to execute, on a lien created due to an unpaid account receivable, the entity to which the receivable is owed must send a notice by first class mail to the debtor at the debtor's last known address. Along with all previous items that must be included in the notice to the debtor, this Bill requires that the entity include a statement explaining the right of the debtor to file a written response to the notice and to request a hearing within 21 days of the date of the notice. If the Office of State Debt Collection has agreed to collect accounts receivable for the entity, the Office may send the required notice, instead of the entity to which

the receivable is owed. Unless otherwise prohibited by law, the required notice must also be sent to any individuals who are joint filers with a debtor of an affected tax filing, if the governmental entity attempting to levy on a debtor's tax overpayment or refund is aware of the joint filer. If the debtor does not request a hearing or pay the delinquent receivable, the governmental entity may levy on the debtor's income tax overpayment or refund up to the amount of the receivable, plus interest, penalties and collection costs allowed by law, and thereafter collect any remaining balance due.

If a governmental entity receives a written response from a debtor requesting a hearing within the 21-day deadline, the governmental entity must set a hearing date within 28 days of receipt of the response and use first class mail to send written notice of the hearing to the debtor at least 14 days before the hearing. If the governmental entity releases the lien, the entity is no longer required by law to hold a hearing. If a hearing occurs and the hearing examiner determines that a receivable is owed, in whole or part, the governmental entity may levy on the debtor's income tax overpayment or refund to collect the amount determined to be owed, plus interest, penalties and collection costs allowed by law, and thereafter collect any remaining balance due. The governmental entity may charge the debtor reasonable, actual collection costs for the amount charged by the hearing examiner. The state or other governmental entity may retain a debtor's tax overpayment or refund while a decision from a hearing conducted under this part is being reviewed by an agency, court, or other authority of the state pursuant to the Administrative Procedures Act, Utah Code Title 63G, Chapter 4.

FUNDING/TAXATION

H.B. 235 – Local Tax Amendments

Sponsor: Representative John Knotwell

UASD Position: Track (UASD amended)

The original draft of H.B. 235 purported to grant authority to municipalities to levy a property tax to provide a service that “(a) a special service district may provide under Section 17D-1-201; (b) a local district may provide under Section 17B-1-202; or (c) a local district may provide under Title 17B, Chapter 2a.” The Bill was requested by State Auditor John Dougall. His intent was to recodify and clarify taxing authority that is already held by municipalities. As a result of meetings with UASD and the State Auditor, the Bill was amended to eliminate references to local districts and special service districts and limit the Bill to the stated intent. In its final form, the Bill enables municipalities and counties to create special funds to hold property tax revenues collected for a specified purpose, and to preserves the money in the fund for the specified purpose, without expanding the taxing authority of municipalities or counties.

H.B. 245 – Community Reinvestment Agency Revisions

Sponsor: Representative Mike Winder

UASD Position: Track with concern

H.B. 245 went through revisions and substitutions prior to reaching the finish line. It changes the way community reinvestment agencies operate by, among other things, requiring that, commencing May 14, 2019, an interlocal agreement be executed authorizing an agency to receive the limited purpose taxing entity's project area funds. The changes will not impact community reinvestment project areas created before that date. Other changes include replacing the term "blight" with "development impediment." Due to H.B. 245, a taxing entity committee will play no role in a "Development Impediment Study," which will solely be under the control of the Community Reinvestment Agency.

H.B. 305 – Post Disaster Recovery and Mitigation Restricted Account

Sponsor: Representative Michael K. McKell

UASD Position: Support (UASD Amended)

H.B. 305 creates the Post Disaster Recovery and Mitigation Restricted Account that will be capped at \$10 million. The Bill allows local communities, including local districts and special service districts, to access these funds for post disaster recovery and mitigation. The funds may cover up to 75% of the cost deemed necessary by the Division of Emergency Management for post disaster recovery and mitigation. In order to access these funds, (a) the President of the United States or the Governor must declare a state of emergency, (b) an official damage assessment with the financial assessment of the damage to an affected community, caused by a disaster, that is conducted under the direction of the governing body of the affected community must be given to the Division, and (c) the Division must provide the official damage assessment with a written report of the Division's activities to the Governor and the Criminal Justice Appropriations Subcommittee no later than December 31 of each year.

H.B. 423 – Disaster Recovery Fund Amendments

Sponsor: Representative Joel Ferry

UASD Position: Track

H.B. 423 increases the amount the Division of Emergency Management may expend from the Disaster Recovery Restricted Account to fund costs due to a declared disaster from \$250,000 to \$500,000. The division may commit to expend up to \$5,000,000, up from the previous amount of \$3,000,000, in response to a declared disaster if approval is given from the Governor with written notice to the speaker of the House of Representatives, the President of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend.

H.B. 446 – Truth in Taxation Revisions

Sponsor: Representative Robert M. Spendlove

UASD Position: Support

H.B. 446 amends the date by which municipalities are required to make a final budgeting decision relating to additional ad valorem tax revenue after a truth in taxation hearing and amends the date by which municipalities are required to conduct specified budgeting activities, moving the critical date from August 17 to September 1. H.B. 446 also amends two sections in the tax code that are applicable to districts.

If a taxing entity, including a district, does not make a final decision on budgeting additional ad valorem tax revenue during the meeting when the public hearing is held, the taxing entity must announce at that time the scheduled time and place of the next public meeting during which the taxing entity will consider budgeting the additional ad valorem tax revenue and, if the taxing entity is a fiscal year taxing entity (July 1 to June 30), hold the public meeting before September 1. If a taxing entity adopts a resolution to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity must forward the resolution to the State Tax Commission, along with a statement of the amount and purpose of the levy.

H.B. 495 – Tax Restructuring and Equalization Task Force

Sponsor: Representative Mike Schultz

UASD position: Track

The Tax Equalization and Reduction Act, H.B. 441 sponsored by Rep. Tim Quinn, was an attempt to restructure sales taxes in Utah by broadening the base to impose a sales taxes upon products and services that aren't currently taxed, such as accountants, attorneys, barbers, retail water and sewer, etc., and lower both the state sales and income tax rates. The Bill "gored" industries and individuals, resulting in a great deal of opposition. In the end, it was determined that restructuring the state's sales tax system should be considered over the interim by the Tax Restructuring and Equalization Task Force created by H.B. 495. Five members of the Senate and five members of the House of Representatives constitute the voting members of the Task Force, with up to four non-voting members appointed by the President of the Senate and the Speaker of the House of Representatives. The Task Force is charged with studying "state and local revenue systems with the purpose of making recommendations to address structural imbalances among revenue sources" and is to report to the Executive Appropriations Committee and the Revenue and Taxation Interim Committee. Buckle up! It may be an interesting ride.

S.B. 179 – Truth in Taxation Amendments

Sponsor: Senator Lincoln Fillmore

UASD Position: Support (UASD amended)

The original version of S.B. 179 stated that no other meeting could be held on the same day as a truth in taxation hearing and no limit could be placed on the number of people who could speak during the public hearing. This meant it would have been illegal to hold a budget hearing on the same day as the truth in taxation hearing, which is held to consider levying an ad valorem tax rate above the certified tax rate. This original language was problematic. Over the past ten years, the Legislature has made a concerted effort to allow the truth in taxation and budget hearings to be held at the same time in an effort to increase public participation. There can be synergy by combining the two hearings.

UASD worked on S.B. 179 for many weeks in an effort to address these concerns. With the amended language suggested by UASD, which were passed, governmental entities may hold a meeting on the same day as a hearing to discuss (a) the taxing entity's intent to levy a tax rate that exceeds the certified tax rate, (b) the budget, and (c) a local district or special service district's fee implementation or increase, as long as the meeting portion is held before the public hearing portion, and is adjourned before the public hearing begins.

Under current law, a truth in taxation and budget hearing may not begin before 6 p.m. If your district desires to hold a meeting for the purpose of addressing general business on the same day as this type of hearing, you must have separate agendas for the meeting and the public hearing, close the meeting of general business before opening the public hearing, have no other meeting after the public hearing, and allow public comment within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment. A taxing entity may not hold a public hearing for a tax rate increase, the budget and/or a fee increase on the same date as another public hearing of the taxing entity. Municipalities may hold an enterprise fund hearing on the same day as the proposed tax increase and budget hearing.

LAW ENFORCEMENT AND FIRE

H.B. 5 – Retirement and Independent Entities Base Budget

Sponsor: Representative Craig Hall

UASD Position: Support

H.B. 5 is an appropriations Bill. The two appropriations that are of importance to districts relate to making the Firefighter Retirement Trust and Agency Fund whole. H.B. 5 allocates \$17,000,000 for the fiscal year ending June 30, 2019 and another \$12,000,000 for the fiscal year ending June 30, 2020. This appropriation is designed to make up for the loss created by the software change that is discussed in H.B. 466, which is discussed elsewhere in this Review.

H.B. 57 – Electronic Information or Data Privacy

Sponsor: Representative Craig Hall

UASD Position: Track

H.B. 57 adds data provided by a remote computing service provider to the list of items that a law enforcement agency may not use, copy, or disclose, for any purpose, if the information is not the subject of the agency's search warrant. The information may be used if the law enforcement agency reasonably believes that the transmitted data is necessary to achieve the objective of the warrant. Law enforcement may obtain location information from an electronic device if the remote computing service provider voluntarily discloses the location information under a belief that an emergency exists involving an imminent risk to an individual of death, serious physical injury, sexual abuse, live-streamed sexual exploitation, kidnapping, or human trafficking. The information is also available to law enforcement without a warrant if it is inadvertently discovered by the remote computing service provider and appears to pertain to the commission of a felony, or of a misdemeanor involving physical violence, sexual abuse, or dishonesty.

A law enforcement agency may obtain stored or transmitted data from an electronic device, or electronic information or data transmitted by the owner of the electronic information or data to a remote computing service provider, without a warrant with the informed consent of the owner of the electronic device or electronic information or data in accordance with a judicially recognized exception to warrant requirements in connection with a report forwarded by the National Center for Missing and Exploited Children under 18 U.S.C. Sec. 2258A or subject to Utah Code Section 77-23c-102(2)(a)(vi)(B), from a remote computing service provider if the remote computing service provider voluntarily discloses the stored or transmitted data as otherwise permitted under 18 U.S.C. Sec. 2702. A provider of an electronic communication service or remote computing service, or the provider's officers, employees, agents, or other specified persons, may not be held liable for providing information, facilities, or assistance in good faith.

The 14-day notification requirement applicable to a law enforcement agency that obtained a warrant for electronic data is not triggered until the identity of the owner of the electronic device or data is known by the agency. A court may grant an additional 60-day extension to the notification period if a further extension is justified by the investigation. If the owner of the electronic device or data is located outside of the United States, law enforcement is not obligated to notify the owner of the warrant. Any electronic information or data obtained without a warrant, that does not meet the exceptions to the law, will be treated as a Fourth Amendment violation and be excluded from subsequent criminal or judicial proceedings.

H.B. 61 – State Databases Amendments

Sponsor: Representative Paul Ray

UASD Position: Support

Under H.B. 61, municipalities and counties are encouraged to receive a recommendation from the fire authority and the public safety authority before approving a plat. Within 30 days after approving a final plat, a corporation, municipality, county, or state agency that is utilizing an existing county coordinate system or establishing a new countywide coordinate network for surveying or mapping, or both, must conform to the current Utah Coordinate System, and with the current federal coordinate update by January 1, 2021.

The State Geographic Information Database for each public highway in the state must include an accurate representation of the highway's centerline, physical characteristics, and associated street address ranges. The Automated Geographic Reference Center, in coordination with municipalities, counties, emergency communications centers, and the Department of Transportation, must develop the information described above and update that information in a timely manner after a county recorder records a final plat. An electronic copy of the approved final plat, or preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat, must be included in the unified statewide 911 emergency service database.

If requested by the Automated Geographic Reference Center, a municipality or county that approves a final plat under Utah Code Section 10-9a-603 or Section 17-27a-603 must coordinate with the Automated Geographic Reference Center to validate the information and assist the Center in creating electronic files that contain the information for inclusion in the unified statewide 911 emergency service database.

H.B. 99 – Catastrophic Wildfire and Other Public Nuisance Revisions

Sponsor: Representative Ken Ivory

UASD Position: Support (amended)

With the passage of H.B. 99, the State will indemnify, defend, and hold harmless a chief executive officer of a political subdivision or a county sheriff for any damages that result from their actions in abating a catastrophic public nuisance—a condition on state or federal land where natural resources and biota (the animal and plant life of a particular region) have been managed or neglected to such an extent as to cause the threat of a catastrophic wildfire. H.B. 99 passed the House with only an “up to 90%” indemnification for a chief executive officer or county sheriff. UASD worked hard in the Senate to make sure the language was amended to hold the chief executive officer or county sheriff 100% harmless. The Bill passed with the 100% indemnification. For more information on the procedures to be followed when abating a catastrophic public nuisance on federal land, see Utah Code Title 11, Chapter 51a, Part 1.

H.B. 135 – Wildfire Preparedness Amendments

Sponsor: Representative Derrin R. Owens

UASD Position: Support

H.B. 135 creates the Wildland Fire Preparedness Grants Fund and establishes the source of funding. The fund will allow the State Forester to make grants to local fire departments or volunteer fire departments to assist in building capacity for the suppression of wildland fires.

H.B. 154 – Mental Health Protections for First Responders

Sponsor: Representative Karen Kwan

UASD Position: Support

H.B. 154 creates the Mental Health Protections for First Responders Workgroup with the purpose of establishing criteria for workers' compensation claims from first responders due to mental stress. First responders include law enforcement officers, emergency medical technicians, advanced EMTs, paramedics, firefighters, 911 dispatchers, and correctional officers. The Workgroup is tasked to review and make recommendations on ways to alleviate barriers to mental health treatment for first responders inside and outside of the Workers' Compensation System, improve accessibility to mental health treatment, and any additional issues related to workers' compensation for first responders deemed important by the Workgroup.

UASD worked with the Bill sponsor in 2018 to make sure the Workgroup has a representative from UASD. If you would like to nominate someone to serve as UASD's representative on this Workgroup, please contact LeGrand Bitter ASAP.

The Workgroup will be repealed January 1, 2021.

H.B. 155 – Fire Management Provisions

Sponsor: Representative Casey Snider

UASD Position: Support

H.B. 155 provides that the Division of Forestry, Fire, and State Lands may only permit a land manager to conduct a large prescribed fire or large prescribed pile fire after the land manager describes the use of state, county, or municipal resources in the large prescribed fire or large prescribed pile fire burn plan. This plan must be submitted no later than one week before the day of the burn window. The land manager must notify the Division of a nonfull suppression event once a naturally ignited wildland fire becomes a nonfull suppression event.

H.B. 173 – Emergency Services Volunteer Employment Protection Act
Sponsor: Representative Casey Snider
UASD Position: Support (UASD Amended)

H.B. 173 prohibits an employer from firing an employee who leaves work or misses a shift to respond to an emergency call as an emergency services volunteer. The employer may require the employee to provide written verification, including the date and time of the emergency service, from the emergency service volunteer's supervisor to confirm that the employee was responding to an emergency call. Employees still need to make a reasonable effort to inform their employers of their tardiness or absence from work due to the emergency response. An employer may not terminate the employment of an employee solely for being an emergency services volunteer. If an employer terminates the employee in violation of the statute, the employee may bring a civil action against the employer within one year after the date of termination.

UASD worked to amend the Bill making it clear that, if the employee is a full-time employee of a public safety agency, the employee must receive permission to respond to the emergency from the public safety employer. Public safety districts (fire and police) should consider creating a policy dealing with this issue.

H.B. 223 – Unlawful Installation of a Tracking Device
Sponsor: Representative Marie H. Poulson
UASD Position: Track

H.B. 223 makes it a class A misdemeanor to install a tracking device on a vehicle owned or leased by another person without the owner or lessee's permission. If a district owns or is leasing a vehicle, the district may install a tracking device. If it is an employee's personal vehicle, the district must receive permission from the employee before placing a tracking device on the vehicle. There are exceptions for peace officers who install a tracking device in the course of a criminal investigation or pursuant to a court order. There is also an exception for licensed private investigators acting within the scope of their legitimate business purposes. However, the private investigator must check with a state entity, including a law enforcement agency, with access to protective order records to confirm or refute the existence of a protective order before placing a tracking device.

H.B. 228 – Towing Revisions
Sponsor: Representative Cory A. Maloy
UASD Position: Track

H.B. 228 began as a Bill that UASD firmly opposed. We worked with the sponsor and the Utah League of Cities and Towns for several weeks to amend the Bill to get it to a place where UASD members were comfortable. Originally, the Bill would have mandated law enforcement officers to issue a criminal citation to the owner of a vehicle who failed to pay for the vehicle to

be released within five days after being in a tow company's possession. Among other things, the original language also drastically changed the tow rotation schedules for cities and law enforcement agencies, required uniform parking signage across the state, and immediately made it illegal to charge for the true cost of 911 dispatch to manage the tow rotation calls.

The Bill that passed does only a fraction of things that were included in the original language. A tow truck motor carrier may not be required to maintain insurance coverage at a higher level than required in Utah Administrative Rules. The current level of coverage required in Rule is \$1,000,000. Beginning July 1, 2021, a political subdivision or state agency may not begin charging an application fee or dispatch costs in order for a tow truck operator to be part of the towing rotation. Towing companies may charge a fee to cover the dispatch fee charged by a political subdivision or state agency. Anyone not charging a dispatch fee as of January 1, 2019, may not begin charging a dispatch fee. This was a compromise between the towing industry and 911 dispatch special service districts. The Bill clarifies that a political subdivision or state agency may not require a tow truck operator who has received an authorized towing certificate from the Department of Transportation to submit an additional background check in order to be included in the tow truck motor carrier rotation. The Bill also clarifies some rules that a tow truck motor carrier must follow to be included in a political subdivision or state agency towing rotation and requires any entity that establishes a towing rotation to facilitate an appeals process to hear and decide appeals from a decision to suspend or remove a tow truck operator from the rotation.

H.B. 270 – Criminal Code Amendments

Sponsor: Representative Michael K. McKell

UASD Position: Support

H.B. 270 adds clearer definitions to what constitutes “touching” which is sufficient to constitute a criminal offense. It also makes it clear that anyone distributing an intimate image to any third party who knows or should know that the distribution would cause a reasonable person to suffer emotional distress or harm is guilty of class A misdemeanor for the first offense and a third-degree felony for any subsequent offense. Management and HR personnel should be aware of the requirements of this Bill.

H.B. 302 – Traffic Code Modifications

Sponsor: Representative Eric K. Hutchings

UASD Position: Track

H.B. 302 is an effort to promptly clear non-injury vehicular accidents off roadways in the State in an effort to decrease traffic congestion. The driver of a vehicle involved in a car accident resulting in only damage to the vehicle and other property may move the vehicle out of the travel lanes on any roadway to an adjacent shoulder, the nearest suitable cross street, or other suitable location that does not obstruct traffic. The changes are meant to move vehicles

out of the roadway quickly. The damage requirement for law enforcement to be called to issue a report of the accident is increased from \$1,500 to \$2,500 or more.

H.B. 313 – Hit and Run Amendments

Sponsor: Representative Steve Eliason

UASD Position: Track

H.B. 313 states that an individual who does not comply with the law by providing the required information when involved in a motor vehicle accident will be guilty of a class B misdemeanor. It was a class C misdemeanor before the passage of this Bill.

H.B. 348 – Utah Emergency Medical Services System Act Amendments

Sponsor: Representative Kay J. Christofferson

UASD Position: Track

As a result of H.B. 348, a non-911 ground ambulance or paramedic provider may use the provisions of H.B. 348 to upgrade its licensed level of service without going through a cumbersome hearing process, unless it encroaches upon another licensee. The Bill only affects the level of service that the licensee may provide. It does not affect any other terms, conditions, or limitations of the licensee's original license; and may not impact the rights of other licensees.

H.B. 466 – Firefighter Retirement Amendments

Sponsor: Representative Bradley G. Last

UASD Position: Support

Since 1972, a portion of the insurance premium tax has been designated by law to fund a portion of firefighter retirement within the Utah Retirement System (URS). A few years ago, new software was implemented within the URS which caused an unintended consequence. The software did not have an algorithm to break apart the portion of the insurance premium tax that historically had been funding firefighter retirement, so the funds have been going to the State's General Fund. There was no penalty in the law to require the Tax Commission to separate the funds. This unintentional technological glitch caused the firefighter retirement fund to be short by more than \$10,000,000 each year since the software change.

H.B. 466 is the mechanism to implement a simple fix. This Bill writes into law the percentage of the insurance premium tax, based on historical amounts, that must be placed in the Firefighter Retirement Trust and Agency Fund. To put it simply, it fixes the software glitch so the firefighter retirement fund within the URS will be whole from the implementation date going forward.

S.B. 74 – Air Ambulance Revisions
Sponsor: Senator Wayne A. Harper
UASD Position: Track

S.B. 74 requires the Air Ambulance Committee to provide recommendations to the Health and Human Services Interim Committee regarding the development of state standards before November 30 of every odd-numbered year. The Committee must prepare a report that states (a) which insurers in Utah cover air ambulance services, (b) the average charge for a patient who is uninsured or out of network, and (c) whether the air medical transport bills the patient for any charge not paid by the patient's health insurer. The Committee must distinguish between helicopter and airplane services, and distinguish any other differences that may substantially affect the cost of the air medical transport service. The Insurance Department must post the Committee's findings on its website. An emergency medical service provider must inform the patient or the patient's representative of the cost of air ambulance services, as well as allow the patient to choose between air medical transport providers if there are multiple providers before calling for an air ambulance. There is an exception if the patient is unable, due to a medical condition, to make an informed decision about the choice of an air medical transport provider, and the patient's representative is not physically present with the patient.

S.B. 129 – Public Safety and Firefighter Tier II Retirement Enhancements
Sponsor: Senator Wayne A. Harper
UASD Position: Support

S.B. 129 enhances certain retirement benefits in the New Public Safety and Firefighter Tier II Contributory Retirement System ("Tier II"). In particular, the Legislature authorized an increase to the multiplier calculation of the retirement allowance that is to be provided to a member of Tier II hybrid retirement system, commencing July 1, 2020. Presently, 1.5% of the retiree's final average salary is multiplied by the number of years of accrued service credit. That will continue to be the formula that is applicable before July 1, 2020. However, after July 1, 2020, 2% of the retiree's final average salary will be multiplied by the number of years of service credit accrued on and after July 1, 2020. In addition, provided that it does not exceed the amount allowed by federal law, participating employers will be required to make a non-elective contribution of 14% of the participant's compensation into a defined contribution plan that is qualified under Section 401(k) of the Internal Revenue Code, which is a 2% increase (from 12%). In addition, during the 2019 legislative interim, the Retirement and Independent Entities Interim Committee is charged with studying possible modifications to the New Public Safety and Firefighter Tier II Contributory Retirement System; the appropriate allocation of funding for the 2% multiplier increase; the appropriate proportional share of funding the increase between the state, employers and members of the Tier II System; and related issues in order to make recommendations for the 2020 General Legislative Session. The Bill appropriates \$2,200,000 from the State General Fund in the fiscal year beginning July 1, 2019 to cover the

State's portion of the costs for the enhanced public safety and firefighters retirement benefits that are offered in the Bill. The Bill may also increase local governments' public safety and firefighters retirement costs by \$2,300,000 ongoing, beginning in the fiscal year that starts on July 1, 2020.

S.B. 187 – County Planning and Services Amendments

Sponsor: Senator Curtis S. Bramble

UASD Position: Support

S.B. 187 extends the sunset date for the Mountainous Planning Commission by one year. This extension will allow the Unified Fire Authority and Unified Police Department to continue their fire, paramedic, and police services to designated recreation areas within Salt Lake County and the Wasatch Mountain Canyons. The Town of Brighton was incorporated recently and the Town will not hold elections until November of 2019. Subsequently, Salt Lake County and the Town of Brighton would not be allowed to fund fire, paramedic, and police services for the canyon, Town of Brighton, and the million visitors that recreate in that area annually. Without this extension, the fire station in the Town of Brighton would have closed and response times to any emergency in the canyon would have increased drastically. The passage of S.B. 187 allows Salt Lake County to continue to pay for fire, paramedic, and police services in the Wasatch Mountain Canyons for one year out of the County's general funds.

All members of the Mountainous Planning Commission must reside within the Mountainous Planning District or reside in a municipality located within the Mountainous Planning District boundaries. A property owner who does not reside in the boundaries of the Municipal Planning District no longer qualifies to be a member of the Mountainous Planning Commission.

MEETINGS/RECORDS/GENERAL GOVERNMENT

H.B. 74 – Open Meetings Amendments

Sponsor: Representative Stephen G. Handy

UASD Position: Support (UASD Bill) Did not pass—will continue to work with the press association through the interim to find common ground.

The initial intent of H.B. 74 was to allow a local government governing body to go into a closed meeting to receive legal advice from the public body's attorney. Under the Rules of Professional Conduct of the Utah State Bar, a public body's attorney is required to keep certain discussions confidential. The Bill would have allowed the public body to go into a closed meeting for that very narrowly defined discussion with the public body's attorney. The Press Association was not comfortable with this change to the Open Meetings Act, and UASD agreed to work through this item over the interim, with the goal of having a consensus Bill ready for 2020.

The State Board of Education asked UASD and Representative Handy to substitute the Bill and replace the original language with language that would allow a government entity to go into closed session to discuss a confidential draft of an audit report, which is a protected record under the Government Records Access and Management Act (GRAMA), and the audit requires that a response be signed by the public body. The language is narrow and specific, and provides “sideboards” that protect the interests of the public and the press, while addressing the importance of the confidentiality of the protected records, and allows a government body to prepare the required audit response that must come from the board collectively. Currently, discussions can and do occur between board members (fewer than a quorum), and with staff and attorneys. In so doing, the efficiency of having these important discussions with a quorum of the public body in a closed meeting is lost. Additional protections include the fact that no action can be taken in a closed meeting. In addition, the response is a public record, and final action of any board can only be taken in a public meeting as a listed agenda item.

Second Substitute H.B. 74 would actually have increased transparency because going into a closed meeting for this discussion must be listed on a properly-noticed agenda. Side discussions are now occurring between individual board members without any public knowledge because they are not listed on an agenda. This Bill would have increased transparency, because the public and the press would at least know the topic is being discussed by a government body in a closed meeting.

Second Substitute H.B. 74 was understood well by the Government Operations and Political Subdivisions Committee, which passed the Bill out unanimously. However, a Senator wanted to make an unfriendly amendment on the Floor of the Senate that would have required the closed meeting recording of the discussion to be made public three business days after the audit results were publicly released. Currently, a judge must review and rule on a closed meeting recording before it is made public. Making a change that affects the protected recording of a closed meeting by taking away the checks and balances caused the sponsor to hold the Bill.

UASD intends to attempt a similar Bill in 2020.

H.B. 311 – Governmental Immunity Revisions

Sponsor: Representative Michael K. McKell

UASD Position: Track

H.B. 311 changes notice of claim requirements under the Governmental Immunity Act of Utah (the “Act”) to allow a claimant to deliver by hand or mail a notice of claim to an elected official or executive officer of the correct governmental entity but not to the correct governmental entity office as otherwise required by statute, provided that the claimant contemporaneously sends a hard or electronic copy of the notice of claim to the attorney who represents the correct governmental entity or the governmental entity fails, within 60 days after its elected official or executive officer received the notice of claim, to notify the claimant

in writing of the delivery defect and of the identity of the correct office to which the claimant is to deliver the notice of claim. See Utah Code Section 63G-7-401(8)(b), which is new. If a governmental entity receives a notice of claim and that governmental entity believes the notice of claim should have been filed with a different governmental entity, that governmental entity now has a duty to so inform the claimant within 60 days after receipt of the notice of claim.

The governmental entity is required to respond within 60 days after receipt of a notice of claim. The governmental entity or its insurance carrier must inform the claimant in writing that the notice of claim has been received and, if applicable, that the governmental entity believes it is not the correct governmental entity with which the notice of claim should have been filed. A claim is no longer considered to be denied if, at the end of the 60-day period, the governmental entity or its insurance carrier has failed to approve or deny the claim. Your district must respond to a notice of claim in some way within 60 days.

If a plaintiff does not file an undertaking within 20 days after commencement of the action, a court may, on its own motion or pursuant to a filed motion, order the plaintiff to file an undertaking in an amount and by a deadline that the court establishes. A defendant waives a defense based on the plaintiff's failure to file an undertaking under the Act if the defendant does not raise the plaintiff's failure to file an undertaking as an affirmative defense in the defendant's initial responsive pleading.

With the passage of this law, a claimant has two years to commence an action. Previously, the claimant had only one year. The Bill also increases the aggregate damages cap from \$2,000,000 to \$3,000,000. An entire new process is laid out for the Board of Examiners if a court verdict exceeds the aggregate cap amount as specified in new Utah Code Section 3G-9-302.5. The excess cap allows a special master, who is to be a qualified retired judge, to determine a higher payment. Payments that exceed the aggregate level will still be subject to legislative approval.

All employees, board members, and legal counsel should be made aware of these changes.

The sponsor, Representative McKell, and other interested parties have agreed to work with the Association during the interim in an effort to find a better way of delivering a notice of claim. It will be our goal to provide an easy way for a claimant to deliver a notice of claim to the correct governmental individual or department.

If you would like to be part of this discussion, please contact LeGrand Bitter or Heather Anderson.

H.B. 425 – Local Government Officer Bonding Amendments

Sponsor: Representative Val K. Potter

UASD Position: Track

H.B. 425 does not impact local districts or special service districts. However, it is a good Bill that allows a municipal legislative body to acquire either a general fidelity bond or theft or crime insurance for municipal officers. The bond or insurance may be acquired for all municipal officers as a group. UASD will work to have a Bill submitted during the 2020 Legislative Session that will apply these provisions to local districts and special service districts.

S.B. 60 – Automatic Local District Withdrawal Amendments

Sponsor: Senator Lincoln Filmore

UASD Position: Track (UASD amended)

There are a number of unincorporated islands within the corporate boundaries of Sandy City that are gradually being annexed by the City. The City would like these areas to “automatically” be withdrawn from the Greater Salt Lake Municipal Services District (“MSD”), which provides municipal – type services to these areas, as they are annexed the City. As a result of a series of meetings by UASD with representatives of the City, a Substitute Bill was approved by the Legislature that gives Sandy City a relatively easy means of withdrawing those areas from the MSD as they are annexed into the City, but the withdrawal is not automatic. It requires a withdrawal petition to be filed with and processed by the MSD Board of Trustees.

S.B. 108 – Modifications to Government Records Provisions

Sponsor: Senator Wayne A. Harper

UASD Position: Track with Concern

S.B. 108 deals with GRAMA. Now, a person will not have the right to inspect or make a copy of a public record free of charge if (a) the governmental entity has already provided a copy of the record to the person, (b) the public record is publicly accessible online, (c) the record is included in a public publication or product produced by the governmental entity, or (d) the public record is only accessible by an electric device owned or controlled by the governmental entity and that record is part of an electronic file that also contains a record that is private, controlled or protected and cannot easily be separated by from the protected portion of the electronic file. The governmental entity must specify where the record can be found online. The Bill allows a person making a public records request to provide an email address if the person is willing to receive the record via email. A single records request may be submitted to multiple governmental entities. If a records request is denied due to the record being a shared record from another governmental entity, the denier must identify the governmental entity from which the shared record was received. A public library may share a private record with a law enforcement agency if the record is video surveillance of the library premises and the law enforcement agency certifies in writing that the agency believes the surveillance video will provide important information for

a pending criminal investigation and will assist the agency in preventing imminent harm to an individual or substantial property damage.

S.B. 124 – Local Government Administration Amendments

Sponsor: Senator Karen Mayne

UASD Position: Support

Under prior law, the Salt Lake County Mayor serves as the Executive of the Greater Salt Lake Municipal Services District (the “MSD”), and elected Salt Lake County officials, such as the Clerk, Treasurer, Recorder, and Surveyor, serve in those capacities for each of the five Metro Townships organized in Salt Lake County. The MSD provides municipal services to all five Metro Townships, the remaining unincorporated areas in Salt Lake County and, shortly, to the newly incorporated Town of Brighton. Primarily a Metro Township “cleanup” Bill, S.B. 124 changes the word “shall” to “may” in several places, so the elected County officials no longer automatically serve in those capacities for the Metro Townships. Henceforth, the elected County officials may provide services to the Metro Townships, but only if the elected County official and the respective Metro Township enter into an agreement under which the County official will continue to serve the Metro Township. S.B. 124 also repeals the provision that makes the County Mayor the Executive of the MSD. The Board of Trustees of the MSD consists of the Mayor of each municipality served by the MSD (Metro Townships are municipalities) and a member of the Salt Lake County Council (to represent remaining unincorporated areas of Salt Lake County). S.B. 124 provides that the Mayor Pro Tempore selected by a municipal legislative body may serve as a member of the MSD Board of Trustees during any period when the Mayor is absent, unable, or refuses to act in that capacity. This Bill effectively severs Salt Lake County’s legal tie to the Metro Townships and the MSD, firmly establishing the MSD and the Metro Townships as independent political subdivisions.

S.B. 145 – Legal Notice Revisions

Sponsor: Senator Daniel McCay

UASD Position: Support (UASD Amended)

S.B. 145 changes the definition for the average advertisement rate based on the class of the county in which the newspaper primarily distributes its publication. The Bill gives a governmental entity the option to use certified mail or direct service of a legal notice instead of publishing the legal notice in a newspaper of general circulation if the direct service of legal notice (a) does not replace publication in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class, (b) the notice clearly identifies the parties, (c) the entity can prove that it has identified all parties for whom notice is required, and (d) the entity keeps a record of the service for at least two years. The legal notice must still be posted on the public legal notice website.

REAL PROPERTY/EASMENTS/RIGHTS-OF-WAY

H.B. 122 – Property Rights Ombudsman Advisory Opinion Amendments

Sponsor: Representative Calvin Musselman

UASD Position: Support

This Bill rewrites Utah Code Ann. § 13-43-206(12) to clarify that after an advisory opinion is issued by the Office of the Property Rights Ombudsman, and litigation of the same issue by the same parties results in a judgment that is consistent with the advisory opinion, the substantially prevailing party in the litigation may collect reasonable attorney fees and court costs incurred after the issuance of the advisory opinion and, if the dispute concerns the amount of an impact fee, any required impact fee refund will be based on the difference between the impact fee that was paid and the amount the impact fee should have been if it had been correctly calculated. This Bill tightens the statutory language, making it more clear and precise.

H.B. 162 – Damage to Underground Facilities

Sponsor: Representative Stephen G. Handy

UASD Position: Track

This Bill defines duties and liabilities between an operator and excavator in the event of damage to an underground utility facility, establishes required deadlines and procedures related to arbitration in the event of damage of an underground utility facility, and makes changes to the membership of the Underground Facilities Damage Dispute Board.

Representative Handy and Weber County Commissioner Gage Froerer met with stakeholders during the summer and fall of 2018 to come up with this compromise Bill. Some governmental stakeholders who were not part of the 2018 discussion had some concerns with the language. As a result, H.B. 162 was held by the sponsor to allow affected parties to work through a solution during the 2019 interim. A Bill will be brought back for the 2020 Legislative Session.

If you are interested in being part of the working group that will have input on this legislation, you should contact LeGrand Bitter or Heather Anderson ASAP.

H.B. 315 – Land Use and Development Amendments

Sponsor: by Representative Logan Wilde

UASD position: Track

This Bill, which amends provisions of the Municipal and County Land Use, Development, and Management Acts (“LUDMA”), went through a series of Substitute Bills before it was adopted. LUDMA is important to a particular district “if a land use authority consults with or allows the local district to participate in any way in a land use authority’s land use development review or approval process,” such as a water or sewer district that signs off on a plat before it is recorded, and to any district when installing, constructing, operating, or otherwise using any

area, land, or building situated within “a municipality or an unincorporated county area.” Utah Code Ann. §§ 17B-1-119, 10-9a-305(1) and 17-27a-305(1). UASD was able to secure a change in the statutory definition of “municipal utility easement,” to exclude “public utility easements.” That change was sought primarily to protect the holders of public utility easements when a county or municipality vacates a public road or street within which a public utility easement is located.

S.B. 180 – Limitation on Landowner Liability Amendments

Sponsor: Senator Daniel Hemmert

UASD Position: Track

S.B. 180 limits the type of liability claim that can be brought against a property owner and sets a limit for the amount that can be awarded for noneconomic losses. The law now states that a person may not make a claim against a landowner, including urban or semi-rural areas opened to the general public without charge, such as a lake, park, trail, waterway, or other recreation site, for personal injury or property damage caused by either directly or indirectly participating in an activity with a recreational purpose on the land. The Bill also limits the amount a plaintiff may be awarded for noneconomic losses for an injury or property damage to no more than \$450,000. This limitation does not apply to an award of punitive damages for wrongful death; willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity; deliberate, willful, or malicious injury to person or property; or an injury suffered where the owner of the land charges a person to enter or go on the land or use the land for any recreational purpose.

S.B. 259 – Railroad Right-Of-Way Amendments

Sponsor: Senator Daniel Hemmert

UASD Position: Track

S.B. 259 allows a fiber optic carrier to place a facility across or upon a railroad right-of-way if the carrier submits a request for permission from the railroad or transit district prior to placing a facility. The request must be in the railroad form of a completed crossing application, include an engineering design that shows the location of the proposed crossing and the railroad's property, tracks, and wires that the telecommunications facility will cross, conforms with guidelines published in the most recent edition of the National Electric Safety Code and American Railway Engineering and Maintenance-of-Way Association standards, and includes the standard crossing fee.

Unless otherwise agreed by the parties, the one-time standard crossing fee is \$1,250 for each crossing. No additional fee may be required by the railroad or transit district for direct expenses incurred due to the crossing. The fiber optic carrier does have to reimburse for any reasonable and necessary flagging expense associated with the crossing. The railroad must approve any proposed crossing within 35 calendar days of receiving the application unless the proposed crossing is a serious threat to the safe operations of the railroad or to the current or

future use of the railroad right-of-way, would violate any federal law or regulation applicable to a public transit district, or would violate an agreement between a public transit district and the federal government. If the application is approved, the railroad or transit district must schedule flagging to occur within 45 calendar days of the approved application. If a petition is rejected in writing, stating the reason for the objection, either party may petition the Public Service Commission for assistance within 60 days of the rejection using mediation or arbitration to resolve the dispute.

The placement of a single conduit is limited to a single applicant and the conduit's content are a single facility. The standard fee will be adjusted each year on January 1 using the consumer price index. Nothing in this chapter prevents a railroad and a fiber optic carrier from continuing under an existing agreement, or from otherwise negotiating the terms and conditions applicable to a crossing or the resolution of any disputes relating to the crossing.

SEWER

H.B. 321 – Public Improvements to Provide Sewer Services

Sponsor: Representative Logan Wilde

UASD Position: Support

H.B. 321 is very narrow in scope. It gives local governments another tool when an assessment area is needed for sewer services. The Bill allows an assessment area to be created to fund public improvements to provide sewer services when the local board of health finds substantial evidence of septic system failure in an area due to high water tables, inadequate soils, or proven failed septic systems. The assessment may not be placed on property located within the assessment area on which an approved conventional method or advanced wastewater system has been installed in the past five years and the local health department has certified that the system is functioning properly. This exemption is meant to safeguard property owners who have recently paid to install an effective sewer system. The ability for a governmental entity to create an assessment area to fund a public sewer system is only given for failing septic systems that cannot be moved to another portion of the property or easily connected to the current sewer system. The Bill's intent is to lower the overall cost to everyone impacted by creating an assessment area to help collectively pay the cost of the sewer services. If at least 70% of impacted property owners object to the assessment area, they may present a protest to the governmental entity.

TRANSIT

H.B. 41 – Transportation Sales Tax Amendments

Sponsor: Representative Kay J. Christofferson

UASD Position: Track

H.B. 41 was recommended by the Transportation Interim Committee. It modifies sales and use tax dedications for transportation funding by repealing outdated language and replacing it with consolidated, simplified language. This simplification should not change the amount of funds that go into the Transportation Investment Fund.

This Bill takes effect on July 1, 2019.

S.B. 72 – Transportation Governance and Funding Revisions

Sponsor: Senator Wayne A. Harper

UASD Position: Track

S.B. 72 is a “cleanup” Bill of 164 pages. The long title of the Bill declares that it “amends provisions related to transportation including transportation reinvestment zones, public transit districts, local option sales and use taxes, transportation governance, and a road usage charge program.” Among other things, the Bill increases tax rates for compressed natural gas, liquid natural gas and hydrogen, and either increases registration fees or provides for participation in a road usage charge program for owners of alternative fuel vehicles. Of particular interest to UASD is the fact that S.B. 72 massages laws passed last year that are applicable to a “large public transit district” that provides public transit to an area encompassing two or more counties and more than 65% of the population of the State, of which there is only one—the Utah Transit Authority (UTA). Due to legislative action in 2018, UTA is now governed by a three-member, full-time Board of Trustees appointed by the Governor with the advice and consent of the State Senate. With the increase in State control, there also appear to be opportunities for increased revenue and, hopefully, a bright future for UTA.

WATER AND WATER RIGHTS

H.B. 31 – Water Supply and Surplus Water Amendments

Sponsor: Representative Kim F. Coleman

UASD Position: Support

H.B. 31 is a Bill that was worked on extensively by the Executive Water Task Force during the interim. It clearly defines the process a municipality with more than 500 connections must follow if the municipality provides water to customers outside of its political boundaries. The Bill makes it clear that the municipality must adopt, by ordinance, reasonable water rates for retail water customers in the municipality’s designated water service area. The Bill also provides equal protection for retail water customers who live outside of the municipality’s political boundaries during times of anticipated or actual water shortage. A municipality may

still enact a service restriction for a number of reasons, including operation and maintenance needs, emergency situations, or to address health, safety, or general welfare.

When establishing rates, by ordinance, the municipality must use the same method of providing notice to all retail customers of proposed rate changes and allow all retail customers the same opportunity to participate in a public meeting addressing water rates. A municipality may establish different rates for different classifications of retail customers within its water service area as long as the rates and classifications have a reasonable basis. An adjustment or classification based solely on whether the retail customer is located inside or outside of the municipality's corporate boundary is not reasonable.

If more than 10% of retail customers within a large municipal drinking water system service area (population greater than 10,000) are located outside of the municipality's corporate boundary, the municipality must post the rates assessed to retail customers on its website and establish an advisory board to make recommendations to the municipal legislative body regarding water rates, capital projects, and other water service standards. The percentage of advisory board members representing the interests of retail customers receiving services outside of the municipality's municipal boundary is based on the percentage of retail customers located outside of the municipal boundaries. Recommendations from each municipality and county outside of the municipality's municipal boundary whose residents are retail customers within the municipality's designated service area must also be sought by the municipal legislative body.

The Director of the Division of Drinking Water must be notified of the contract, and any supplemental or new information regarding a contract, any time a municipality enters into a contract to supply water outside of the municipality's designated water service area. This type of service may only be entered into by contract, and the contract must include the terms and conditions under which the contract may be terminated.

Note: This Bill takes effect on January 1, 2021, only if the amendment to the Utah Constitution proposed by H.J.R. 1, Proposal to Amend Utah Constitution - Municipal Water Resources, is approved by a majority of those voting on it at the next regular general election.

H.B. 32 – Rulemaking Fiscal Accountability Amendments

Sponsor: Representative Keven J. Stratton

UASD Position: Support

H.B. 32 is another Bill worked on during the interim by the Executive Water Task Force. This Bill enacts new standards and rules for the Water Quality Board to follow. Before the Water Quality Board adopts a nitrogen or phosphorus rule or standard, the Board must submit the rule or standard to the Natural Resources, Agriculture and Environment Interim Committee if compliance is expected to require an expenditure of more than \$250,000 but less than \$10,000,000. If compliance to the rule or standard will cost more than \$10,000,000, the Board

must submit the rule or standard to the Legislature for approval. A facility must use an independent, licensed engineer and industry-accepted project cost estimate methods when submitting the anticipated cost of compliance with a Board-proposed rule or standard. The Office of Legislative Fiscal Analysis will determine the cost to comply with the rule or standard if there is a discrepancy in the estimated cost to comply with the rule or standard. In reviewing a report, strategy, rule, standard, or recommendation, the Natural Resources, Agriculture, and Environment Interim Committee may consider the impact of the report, strategy, rule, standard, or recommendation on economic costs and benefits, public health, and the environment. The Bill also includes the rulemaking procedure of the Administrative Rules Review Committee if the proposed rule has a fiscal impact of more than \$250,000 to a single person or \$7,500,000 to a group of people.

H.B. 125 – Quantity Impairment Modifications

Sponsor: Representative Carl R. Albrecht

UASD Position: Support

H.B. 125 requires that, if a water right has not been diverted from the approved point of diversion or is not beneficially used at the approved place of use for at least seven consecutive years, the State Engineer may deem there to be a rebuttable presumption of quantity impairment. Prior to the passage of H.B. 125, both conditions had to be met for at least seven years before a rebuttable presumption of quantity impairment was deemed to exist.

H.B. 355 – Water General Adjudication Amendments

Sponsor: Representative Joel Ferry

UASD Position: Support

H.B. 355 amends provisions related to an application to appropriate or permanently change small amounts of water. For instance, an applicant whose application lapses and is located within an area where a general determination proceeding is taking place, the applicant may not file a request for reinstatement with the State Engineer if the lapse occurs before the State Engineer issued notice of the time to file a statement of water users claim application and the applicant failed to timely submit a notice of claim. If the application lapsed before the State Engineer issued notice of the time to file a statement of water users claim, the applicant files the request for reinstatement no more than 90 days after the day on which the State Engineer issues the notice of the time to file statements of claim, and the applicant files an affidavit with a timely statement of claim, the State Engineer must allow a reinstatement request and, instead of issuing a certificate, evaluate a reinstatement request and statement of claim as part of the general adjudication for the area.

The Bill also enacts provisions related to the right to appeal to the Supreme Court from a district court decision during a general adjudication of water rights. It also clarifies the State Engineer's duty to search records to serve a summons upon all claimants to the use of water in the general adjudication area.

H.B. 360 – School Water Testing Requirements

Sponsor: Representative Stephen G. Handy

UASD Position: Support

H.B. 360 requires the Drinking Water Board to make administrative rules that create a program to establish acceptable lead concentration levels in drinking water that is used by schools and child care centers. The Bill requires schools and child care centers to monitor the lead levels in the drinking water and report the levels to the Department of Environmental Quality. The school's employees, the local health department, or other contracted entities must monitor and report the lead concentration in the school's drinking water. Water district officials should be aware that schools may contract with their respective districts to perform the monitoring and reporting functions. If levels of lead are at or above the acceptable lead concentration standards, the Executive Director of the Department of Environmental Quality must disperse state funds to mitigate the levels of lead in the school's drinking water. The state appropriated \$5,000,000 to this lead mitigating fund.

H.J.R. 1 – Proposal to Amend Utah Constitution—Municipal Water Resources

Sponsor: Representative Keven J. Stratton

UASD Position: Support

This Joint Resolution addresses the application and constitutional alignment. Article 11, Section 6 of the Utah Constitution was part of the State's original 1890 Constitution and has not been changed since its creation. With changes in water law, the Legislative Water Task Force felt that the Constitution needs to be updated. Currently, the Constitution only allows municipally owned water to be sold to retail consumers outside of municipal boundaries if it is surplus water, even if the consumers are within the municipal retail water provider's service area. The proposed Constitutional amendment will allow all those who receive water from a municipal retail service provider to be treated equally, even in times of shortage due to drought. The rates and designated services for retail consumers outside of the municipal boundary, but within its designated water service area, must be established by ordinance in an open public meeting. This Constitutional change will not require municipal retail water service infrastructure to be extended, *i.e.* to the canyons. This Bill is to work in conjunction with Representative Coleman's Water Supply and Surplus Amendments Bill—H.B. 31.

If the amendment proposed by this Joint Resolution is approved by a majority of those voting on it at the next regular general election, the amendment will take effect on January 1, 2021.

H.J.R. 5 – Joint Resolution Approving Notes to Water Rights Addenda

Sponsor: Representative Derrin R. Owens

UASD Position: Support

In 2011, the Legislature passed a Bill stating that water rights deed addendums should be attached to deeds in order to clarify any conveyance of water. This allowed greater clarity to buyers and sellers. The deeds and addendums were then sent to the appropriate county recorder. In 2013, an amendment to the 2011 provisions passed, stating that the county could send the deeds with water rights addendums to the State Engineer. The State Engineer could then use the deeds' water rights addendums to record updated water rights conveyances. The report of water rights conveyance allows the state records to be more clear to a purchaser of water rights. The instructions given in the 2011 Bill don't fit the requirements of the State Engineer stated in the 2013 Bill. H.J.R. 5 modifies the instruction given to the State Engineer in the 2011 Bill to fit the 2013 Bill. This Resolution requires the State Engineer to use and distribute the water rights addendum to land deeds and water deeds to the applicable county recorder's office. The Chief Clerk of the House of Representatives must send the notes to the water rights addendum to land deeds, as well as the notes to the water rights addendum to water deeds, to the State Engineer for distribution.

S.B. 17 – Extraterritorial Jurisdiction Amendments

Sponsor: Senator Ralph Okerlund

UASD Position: Support

S.B. 17 clarifies that a city of the first class has authority over the entire watershed within the city's county of origin, but a city of the first class may only exercise extraterritorial jurisdiction outside of the city's county of origin if there is a written agreement with all municipalities and counties that have jurisdiction over the area where the watershed is located. After July 1, 2019, a municipal legislative body that seeks to adopt an ordinance or regulation under the authority of Utah Code Section 10-8-15 must hold a public hearing on the proposed ordinance or regulation. Notice of the public hearing must be mailed to each affected entity, the Director of the Division of Water Quality, and be published in a newspaper of general circulation in the county in which the land subject to the proposed ordinance or regulation is located at least 10 days prior to the public hearing. As with all public hearings, notice of the hearing must be posted on the Utah Public Notice Website. A municipality that enacts an ordinance or regulation over the watershed must provide a copy to each affected entity and include a copy in the municipality's drinking water source protection plan. Any ordinance or rule adopted under Section 10-8-15 may not conflict with existing federal or state statutes or rules. The Bill also adds goats to the livestock that may not be closed to grazing within the city's watershed.

S.B. 52 – Secondary Water Requirements

Sponsor: Senator Jacob L. Anderegg

UASD Position: Track (UASD Amended)

S.B. 52 went through five iterations before coming to this compromise. The sponsor's original intent was for all secondary water connections to be metered by 2029 in an effort to conserve water. This proved challenging due to the different needs and capacity of large secondary water systems versus small or rural secondary systems. The appropriation needed for the original Bill was too substantial to pass in 2019. Therefore, we are left with the current watered-down version of S.B. 52, which requires all new pressurized secondary water systems that begin design work after April 1, 2020 to be metered. Pressurized secondary systems that are already in existence must create a plan related to metering that will be submitted to the Division of Water Resources by no later than December 31, 2019.

According to the Bill sponsor, the plan can be an approximation on an excel spreadsheet, but it must contain the cost of full metering to all connections on the system, the amount of time it would take to fully meter, and how the secondary water supplier would finance metering. The Bill also requires all pressurized secondary water systems to provide the total number of acre feet used in the past 12 months, with a description of its service area boundary, the number and type of connections, the total volume of water the system receives from its sources, and the dates of service during the twelve-month period. S.B. 52 allows the Board of Water Resources to make up to \$10,000,000 in low-interest loans available each year for the purpose of installing secondary water meters.

This issue has been sent to the Utah Water Task Force to be studied during the interim.

S.B. 66 – Dam Safety Amendments

Sponsor: Senator Scott D. Sandall

UASD Position: Support

S.B. 66 gives the State Engineer the authority to regulate the safety of dams for the purpose of protecting the public.

S.B. 214 – Property Tax Relief Modifications

Sponsor: Senator Lincoln Fillmore

UASD Position: Track

S.B. 214 began as an exact copy of a Bill sponsored by Senator Jim Dabakis, which failed to pass in a prior Legislative Session. After much work by the water community, the substitute Bill of S.B. 214 that passed during the 2019 Legislative Session simply requires metropolitan water districts and water conservancy districts to submit a written report to the Revenue and Taxation Interim Committee before September 30, 2019. This report must include a description of the district's fiscal year that ended in 2018, as well as the percentage and amount of revenue from property taxes, water rates, and all other sources.

S.C.R. 9 – Concurrent Resolution Regarding Navajo Water Rights Settlement Agreement
Sponsor: Senator David P. Hinkins
UASD Position: Support

S.C.R. 9 states that the Utah Legislature and the Governor declare support for the State of Utah/Navajo Nation Reserved Water Rights Settlement Agreement proposed by a negotiating committee composed of representatives of the Navajo Nation, the State of Utah, and the United States. The proposed settlement agreement creates a water development fund that will finance future projects that will supply drinking water to those portions of the Navajo Nation located within Utah. U.S. Congressman Rob Bishop has introduced H.R. 644 "Navajo Utah Water Rights Settlement Act of 2019" in the U.S. Congress to ratify the settlement agreement on behalf of the United States Congress. When the settlement agreement is ratified by the State Legislature, the Navajo Nation, and the U.S. Congress, it will have the effect of law to resolve all controversies with regard to federal reserved water right claims by the Navajo Nation and its members in Utah. The proposed settlement agreement involves an amount of water and other provisions to minimize the impact of the settlement agreement on Utah water rights, particularly municipal rights, and to assure that the water needed for the settlement agreement fits within Utah's allocation from the Colorado River.

S.J.R. 1 – Joint Resolution Supporting the Study of Water Banking in Utah
Sponsor: Senator Jani Iwamoto
UASD Position: Support

S.J.R. 1 discusses proposals made by the Governor's Water Strategy Advisory Team in its Recommended Water Strategy—specifically, the proposal that “water banking” be further researched and utilized to allow water users to “deposit” unused water into “banks” in years they do not use it so that other users in the region can use the water. Through this Joint Resolution, the State Legislature encourages the continued study of these recommendations and expresses support of the goals of 2017's S.B. 214, which encouraged the Legislative Water Development Commission and the Executive Water Task Force to study possible option for expanding the groups who may file an application for instream flows. The Legislature encourages the presentation of findings, conclusions, and recommendations, including suggested legislation, before the 2020 General Legislative Session.