



# UTAH LEAGUE OF CITIES AND TOWNS

2016 ANNUAL CONVENTION  
BUSINESS SESSION

# TODAY'S AGENDA

8:20 am: Framework on motor fuel tax

8:40 am: Resolutions

- Fireworks
- Truth in taxation
- 311

9:10 am: 2017 Preview

9:30 am: Division of Water Quality

9:45 am: Utah State Auditor John Dougall

10:05 am: Introduction of 2016-2017 ULCT President and Board of Directors

10:15 am: Adjourn

# Hold harmless pre HB 362 and due to HB 60

- **Qualification (dates back to 1997 formula change)**
  - Pre HB 362: if current FY apportionment is less than 120% of 96-97 apportionment
  - HB 60: if FY 2013-2014 apportionment is less than 120% of 96-97 apportionment
- **Guarantee (1997: \$5 million re-allocation)**
  - Pre HB 362: 120% of FY 96-97 apportionment, plus % growth
  - HB 362: amount apportioned to county/city in 96-97 multiplied by % increase in B&C fund from 96-97 to present day
    - Equivalent of 103% plus growth, not 120% not growth
  - HB 60: amount apportioned to county/city in 96-97 **PLUS** amount apportioned to county/city in 96-97 multiplied by % increase in B&C fund from 96-97 to present day
    - Equivalent of 203% plus growth
    - "Claw back"

# HB 362 (2015)/HB 60 (2016) Chronology

Jul-Nov 15 (1<sup>st</sup> & 2<sup>nd</sup>) Hold harmless guarantee reduced

- Hold harmless entities got 103% (HB 362 actual language) instead of 120% + growth (ULCT intent)
  - Non hold harmless entities see a slight increase in the 50-50 formula, but no new gas tax yet

Nov-Dec 15 (3<sup>rd</sup>) Hold harmless “claw back” per HB 60

- HB 60 retroactive to the 3<sup>rd</sup> UDOT FY 16 B&C distribution, last distribution prior to HB 362 4.9 cents

Jan-Apr 16 (4<sup>th</sup> & 5<sup>th</sup>) Expanded hold harmless in HB 60 affects HB 362 4.9 cents

- HB 60 expands HH; non-HH cities/counties receive less than anticipated from the 4.9 cent increase
- **ULCT est.: non-HH cities/towns/counties had an expectation gap of approx. \$4 million for all of FY 16**

May-Jun 16 (6<sup>th</sup>) 6<sup>th</sup> B&C distribution delayed w/ULCT support

July 2016-beyond What happens now?

Orange: county FY & acts(calendar); red: legislative acts; green: UDOT; blue: ULCT FY & acts

Jan 15,  
UAC FY  
20 15

2015  
session

Jan 16, UAC FY 16

Jan 17, UAC FY 17

Jul 15, UDOT/ULCT FY 16

Jul 16, UDOT/ULCT FY 17

Jul 15, HB 362 effective  
(changed HH)

Jan, 2016, 4.9 cents  
2016 session: HB 60

2017 session

UDOT FY 16 & 17  
B&C distributions

*6<sup>th</sup> Dist  
delayed*

FY 16 1<sup>st</sup> & 2<sup>nd</sup> dist:  
HH changes but  
no 4.9 cents yet

FY 16 3<sup>rd</sup> dist:  
HB 60 claw back  
FY 16 4<sup>th</sup> & 5<sup>th</sup> dist:  
HB 60 formula  
1<sup>st</sup> – 5<sup>th</sup> dist: cities received  
approx. \$4 million less  
than expected

What happens in UDOT/ULCT FY 17?

ULCT: new formula will apply to:

- *FY 16, 6<sup>th</sup> Dist*
- *UDOT/cities: FY 17, beginning in fall 2016*
- *Counties: FY 2016 (May-Dec)*

# Gas tax framework

**1) All cities, towns, & counties (in aggregate) receive *17.5% increase* from FY 15 to FY 17 consistent with HB 362 projections from spring 2015**

4.9 cent increase = “rising tide lifts all boats;” let 50/50 formula run the way it was intended to run

**2) Hold harmless *qualification*: return to pre-HB 362**

12 HB 60 HH entities become 2 HH entities

**3) Hold harmless *guarantee*: 120% of FY 2015 plus annual compounded growth**

\$1.2 million for 2 HH entities in FY 2017 & beyond, plus growth

**HB 60: \$11.8 million shift to HH entities in FY 2017**

**4) *Soft landing*: brief re-allocation to 10 HH entities who naturally grow out of HH**

2 more years; \$1 million(ish) off the top of B&C fund before the 50-50 formula runs

ULCT would NOT seek reimbursement for the expectation gap of \$4 million from FY 2016

ULCT and other stakeholders acknowledge unique rural needs & seek options

# Timing of the framework fix

- Sep 13-16: ULCT Annual Convention
- Sep 22-23: UAC conference
- Mid to late September: ULCT and UAC will have 6<sup>th</sup> distribution data that we will provide to cities to close out their FY 2016 budget & finish audits
- Oct 5: meeting with legislative leadership
- Oct 19: October Interim
- Nov 16: November Interim (likely special session) which will distribute the 6<sup>th</sup> payment and fix formula for FY 2017

# ULCT 2016 LPC RESOLUTIONS

- Fireworks
  - Vernal Mayor Sonja Norton and Herriman Mayor Carmen Freeman on behalf of Salt Lake County Conference of Mayors
- Truth in Taxation
  - ULCT Board of Directors, Holladay Council Member Lynn Pace
- 311
  - Provo Mayor John Curtis

# Resolution 2016-1A: Fireworks 53-7-225 & 10-8-1(47)

- 1983: three days before and after the four holidays
- 2011: All month, expanded types of fireworks, and restricted any city-wide bans
  - Class C dangerous explosives, display fireworks, special effects fireworks, flame effects
  - Newly allowed: aerial devices (multiple tube, repeater, cakes)
  - Still not allowed: bottle rockets, roman candles, M-80s, comets, 500+ grams
- 2013: Return to the three day before and after language
- 2013: Cities can take reasonable steps to limit firework discharge in certain places (“hazardous environmental conditions”)
  - Fire code official determines the conditions
  - Legislative body then prohibits firework use in mountainous, brush-covered, or forest-covered areas or in the wildland urban interface

2017: What's next?



# Resolution 2016-3: Truth in Taxation

## Resolution 2016-5: 311 phone number

- 2016-3: Likely a multi-year effort to research, educate, and persuade
- 2016-5: 311 as a non-emergency municipal phone number

# 2017 Preview: LUTF Agenda

1. Short Term Rental Issues
2. Substantive Overhaul of Impact Fees Act
3. LUDMA Revisions: (likely 2017 legislation)
  - Standards of Review (legislative/administrative)
  - Rules of Interpretation (Brown v. Sandy City)
  - “Stricter Requirements”
  - Exactions
  - Subdivisions
    - Development Standards
    - Objective process (like CUPs)

# LUDMA: Who was where in winter 2005?

- Jazz starting PGs: Carlos Arroyo and Keith McLeod
- January 1, 2005: Utah won the Fiesta Bowl
- Utah elected officials included Governor Jon Huntsman, Jr., Senator Bob Bennett, Congressmen Jim Matheson & Chris Cannon
- Of 104 legislators who voted on LUDMA in 2005, 22 still serve in the legislature
- How many of you were in your current position?



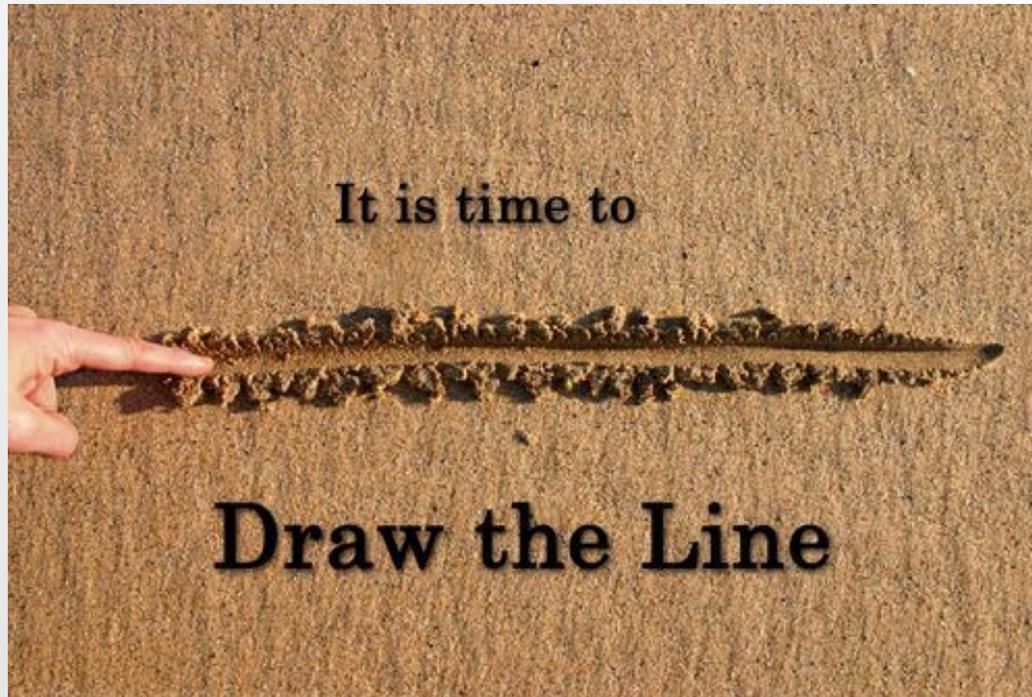


# LUDMA: Land Use Development and Management Act

- 3 year effort with ULCT, developers, legislators, and other stakeholders
- 192 pages
- 157 new or amended sections of state code
- 28 repealed sections of code

# Then there was Armageddon: the Bill (SB 170, 2006)

## Bill sponsor: former Senate President



- **Complete attack on local land use authority**
- "municipalities may enact "appropriate" ordinances ...  
"that support proper community development and protect property owners' rights to own, hold, developer, and manage their property"
- "A parcel of property may not be given a zoning designation that would materially diminish the reasonable investment-backed expectations of the property's owner"
- **ULCT position: no negotiation**
- **ULCT: give us time to implement LUDMA**

# Since LUDMA in 2005, is there a storm coming?

1. Tech-savvy & growth/development-focused legislature and executive branch
  - “INFRASTRUCTURE, INFRASTRUCTURE, INFRASTRUCTURE”
  - Planning
2. 10 year campaign for Transparency/Accountability
3. 2015 Leadership warnings—akin to 2004
4. Frustration with status quo:
  - 60 Land use bills since 2005
  - 14 bills assaulting local land use authority in 2016 (most were amended or did not pass)

Do any of your land use ordinances pre-date LUDMA?

# Have we completely followed through with our LUDMA commitment?

## Conditional Use Example

Pre-2005 LUDMA  
revisions–

**“May** approve, deny or  
approve with conditions”



Since 2005

**Must** approve if conditions can  
**substantially mitigate** detrimental effects  
to comply with **applicable standards.**

# Short term rentals

## **Impression in Jan 2016:**

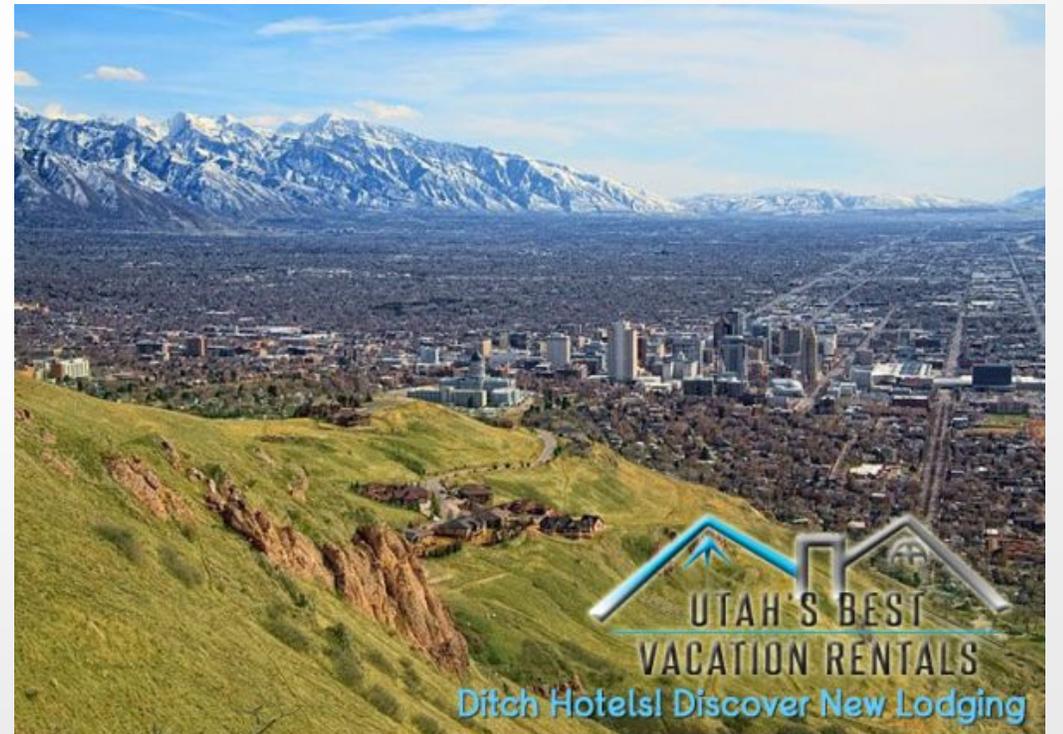
Virtual state-wide ban on STRs

Lengthy process to allow STRs

Lack of tax parity with hotel industry--need state legislation to achieve parity

Vast majority of STRs private room rentals come without impacts

Property rights need state protection from overzealous local government



# Short term rentals

## ULCT summer research:

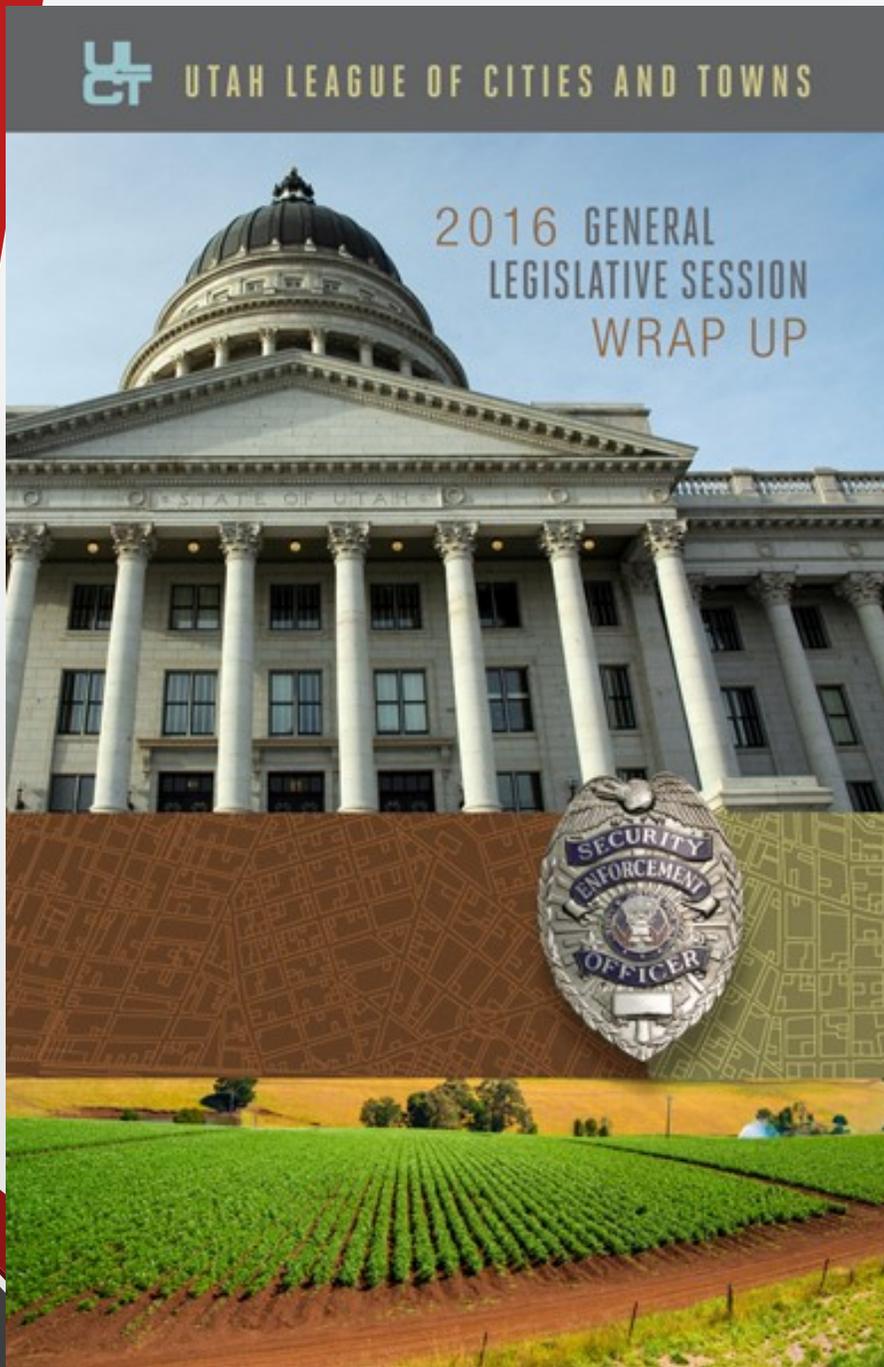
- Only 1 of 70 jurisdictions actually ban short-term rentals: (324 pop)
- 25 separate zoning terms that describe or inform short-term occupancy
- 325 variations of those terms (ambiguity)
- Very small # of Utah listings are low impact, owner-occupied, private room rentals
- Working with Tax Commission, hotel industry, & other stakeholders to ensure compliance and tax parity

## Want more?

- Short term rental workshop at 10:30 am in Deer Valley
- ULCT best practices
  - Plain language
  - Definitions
  - Vested rights
- STR Helper
- Industry representatives

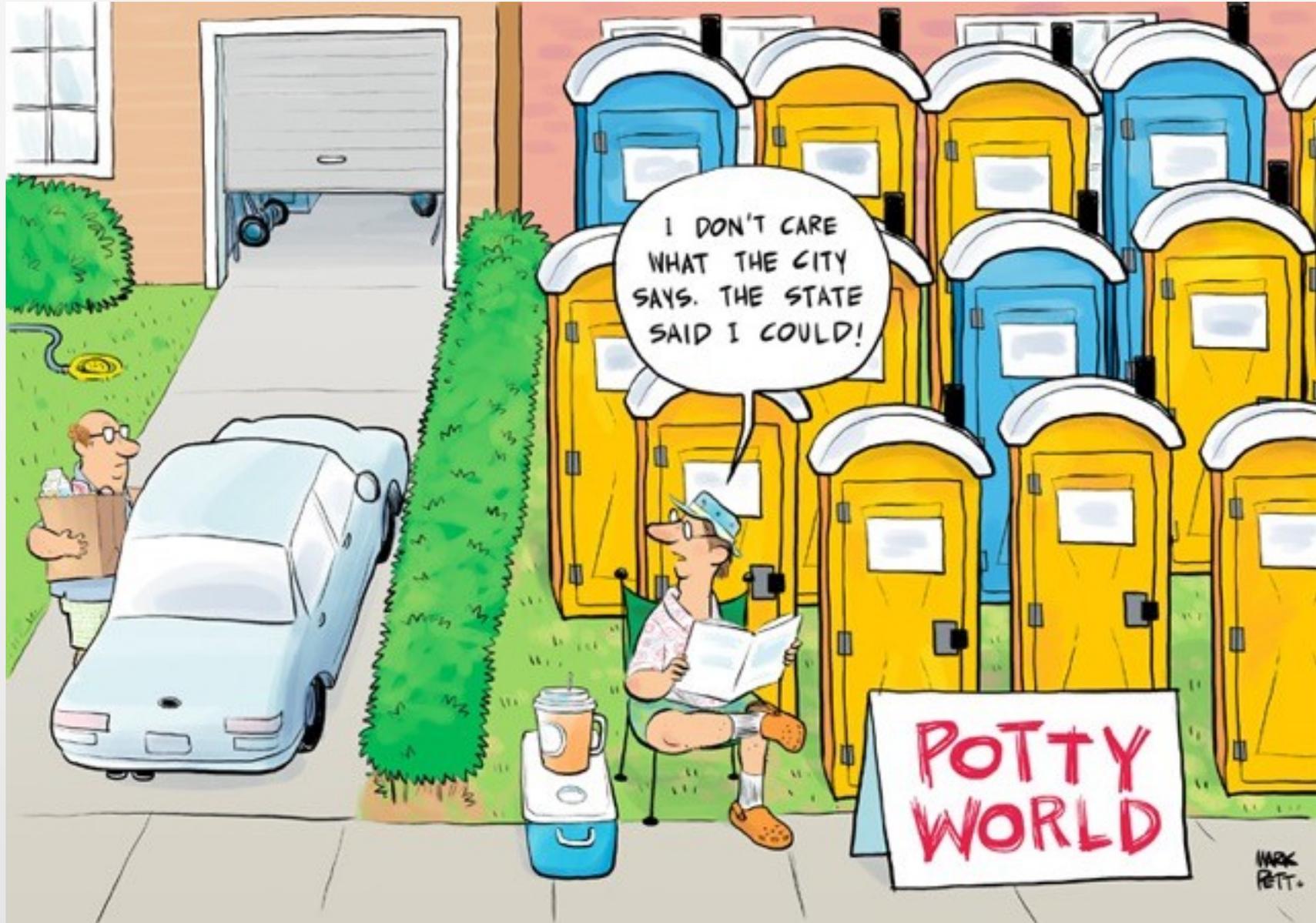
# ULCT staff questions

- Have cities annually updated land use codes to comply with new state law?
- Is recodification a priority for local government?
- Are there local misperceptions, such as:
  - Status quo is acceptable?
  - Ambiguity provides more control?
  - *Legislature* will provide a better solution than we can?
- Are we ready for future population growth and development?
- **Local land use authority faces political challenges**



This is a screenshot of the LUAU website on an iPad. The top navigation bar includes the Utah.gov logo, "Utah.gov Services", "Agencies", and a search bar. The main header reads "WELCOME TO LUAU". Below this is the title "Land Use Academy of Utah" and a subtitle "Professional Education for State Leaders and General Public". A paragraph explains that LUAU was funded by the Utah State Legislature and created by a consortium of public and private sectors. There are two links: "Training Opportunities" and "Training Request Form". A green button says "LEARN MORE ABOUT US". A circular portrait of Senator Niederhauser is shown with his name and title "Utah State Senate President". Below that is the heading "Start Learning with LUAU" and a paragraph welcoming users to the site. A link says "Watch the Introduction video here!". The section "Recently Added Courses" features a course titled "STANDARD STATE ZONING ENABLING ACT" instructed by Will Sommerkorn, with category tags for "Civics", "Land Use", and "Real Estate".

# What we want to avoid





# JRI so far since implementation (Oct 15)

**What is the JRI impact on local police, justice courts, local government, and communities?**



Pre-JRI Felonies (Potential Prison time): 1,783 felony/qtr

Post-JRI Felonies (Potential Prison): 680 felony/qtr

- 62% reduction in felonies that would likely result in Prison

Pre-JRI Prison drug admissions: 50 admissions/qtr

Post-JRI Prison drug admissions: 30 admissions/qtr

- 40% reduction in the number of prison admissions

Pre-JRI Drug possession Misdemeanors As: 610

Misdemeanors/qtr

Post-JRI Drug possession Misdemeanors As: 1,890

Misdemeanors/qtr

- 209% increase in misdemeanor As, largely handled by county jails or county based diversion/supervision programs

# What else to expect in 2017: Drones

- Public safety
  - Size, shape, scope, crowd control, enforcement
  - Wildland fire
- Privacy
  - Trespassing, voyeurism
- Legitimate government uses
  - Law enforcement: pursuit, surveillance
    - Records? GRAMA? Cost? Privacy?
  - Transportation

# What else to expect in 2017: Government immunity task force

- Caps on damages
  - Utah cap for individual injury: \$703,000
  - Utah cap for all injuries from a single occurrence: \$2,407,700
  - Utah caps among the highest in the country
- Governmental liability and immunity
  - Court decisions weakening gov't immunity, increasing city's cost even if the city was not negligent
  - Potential consequence: higher liabilities = higher insurance cost for contractors, recreation, users of public facilities
- Board of Examiners process

# What else to expect in 2017: Special districts

- Under current law, Special Districts have three options to raise taxes:
  - Put the tax increase on the ballot for voter approval
  - A directly elected board imposes a tax, and then stands accountable to voters at the next general election
  - A board made up of appointed individuals, a majority of whom are elected to some other office in some jurisdiction, imposes a tax, and then never stands accountable to voters
- Sen. Fillmore: Replace the third option
  - Directly elected bodies that created the Special District (city councils, county councils and commissions) must vote before tax increases take effect
- Sen. Fillmore: Better accountability to voters; better balance between city and county governments and the special districts

# What else to expect in 2017: licensing, online sales tax

## Home occupation business license

- ULCT negotiated compromise bill in 2016
- Would codify a fee waiver for home occupation business with no impact
- Would prohibit home occupation business license for temporary business (ie. lemonade stand)

## Manufacturing parts & equipment sales tax exemption

- 7 years and counting

## Online sales: Congress tries thrice

- Online Sales Simplification Act of 2016 (OSSA)
- Marketplace Fairness Act (MFA)
- Remote Transactions Parity Act (RTPA, Cong. Jason Chaffetz)
- Legislature TBD

# What else to expect ... today

## Justice courts

- Judges from the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, & 5<sup>th</sup> districts
- Solitude/Sundance
- 2:00-3:00; 3:15-4:15

## Wildland fire

- Last year's policy deliberations
- Participation match information available at their exhibition booth near the restrooms in the main Sheraton lobby

# What's next?

## Pre-session:

- Legislative Policy Committees
  - October 17
  - November 21
  - December 12
  - January 9
- Legislative interim meetings
  - September 21
  - October 19
  - November 16

## 2017 session:

- Opening Day, January 23
- Local Officials Day, January 25
- Legislative Policy Committees
  - Feb 6
  - Feb 13
  - Feb 27
  - Mar 6
- Closing Day, March 9
- Midyear Conference, St. George, April 5-7



# Thank you to departing members of the 2015- 2016 ULCT Board of Directors

- Cedar Hills Mayor Gary Gygi
- Ephraim Council Member Margie Anderson
- Hyde Park Mayor Bryan Cox
- Provo Mayor John Curtis (2014-2015 ULCT President)

# Congratulations to the 2016-2017 ULCT BOARD OF DIRECTORS

- President: Kaysville Mayor Steve Hiatt
- 1<sup>st</sup> Vice Pres: Bountiful Council Member Beth Holbrook
- **2<sup>nd</sup> Vice Pres: St. George Mayor Jon Pike**
- Immediate Past Pres: Holladay Council Member Lynn Pace
- Treasurer: Midvale Mayor JoAnn Seghini

# 2016-2017 ULCT Board of Directors

- Heber Council Member Kelleen Potter
- Herriman Mayor Carmen Freeman
- Layton Mayor Bob Stevenson
- Moab Mayor Dave Sakrison
- Murray Mayor Ted Eyre
- Naples Mayor Dean Baker
- North Ogden Mayor Brent Taylor
- Ogden Mayor Mike Caldwell
- Park City Council Member Andy Beerman
- Peery Mayor Karen Cronin
- Spanish Fork Council Member Mike Mendenhall
- Sterling Council Member Curtis Ludvigson