



# Legislative Policy Committee

February 16, 2021



# Agenda

Minutes

Legislation

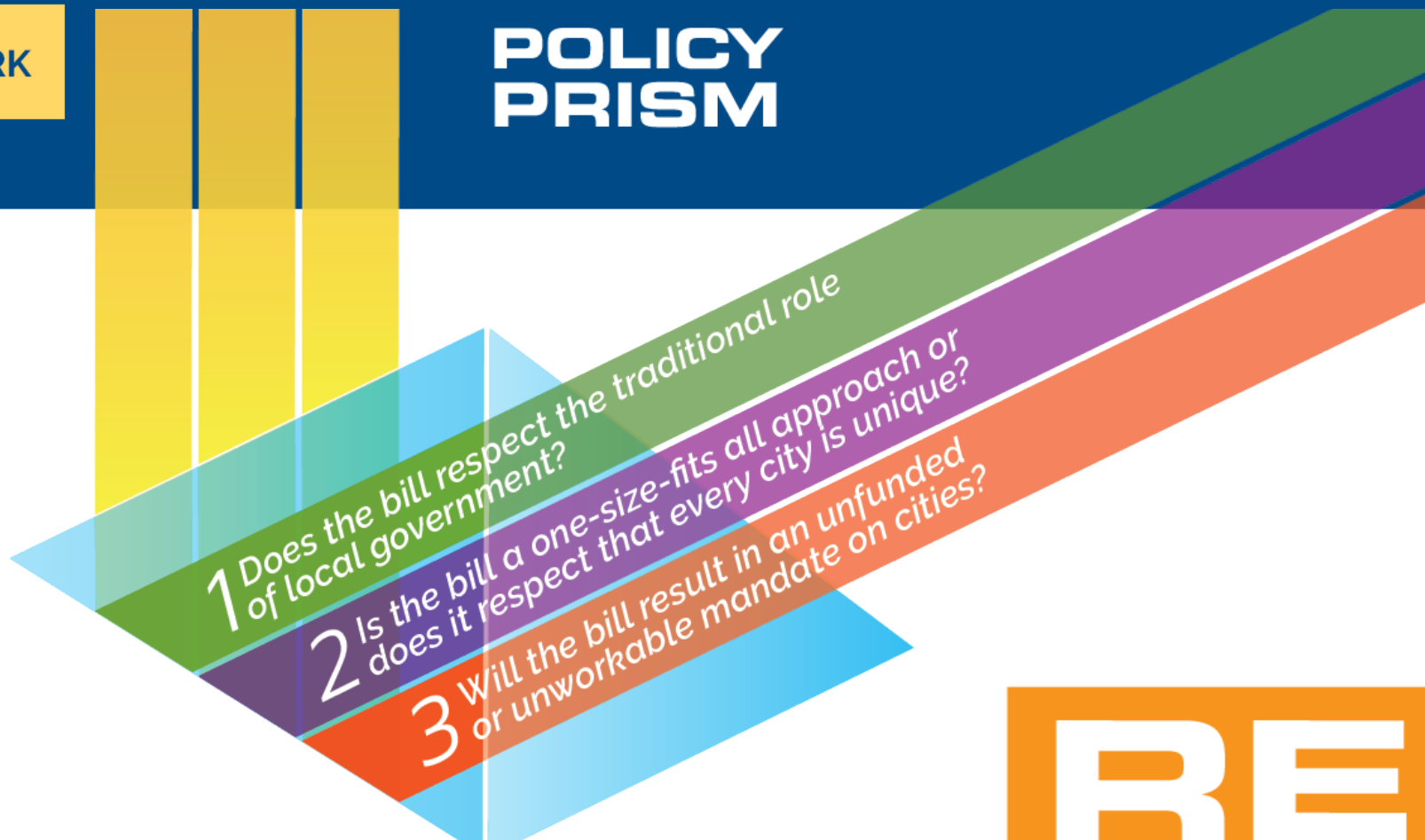
- Land use
- Public safety
- Other legislation

Bills from LPC members

Ratify staff recommendations

#CITIESWORK

# POLICY PRISM



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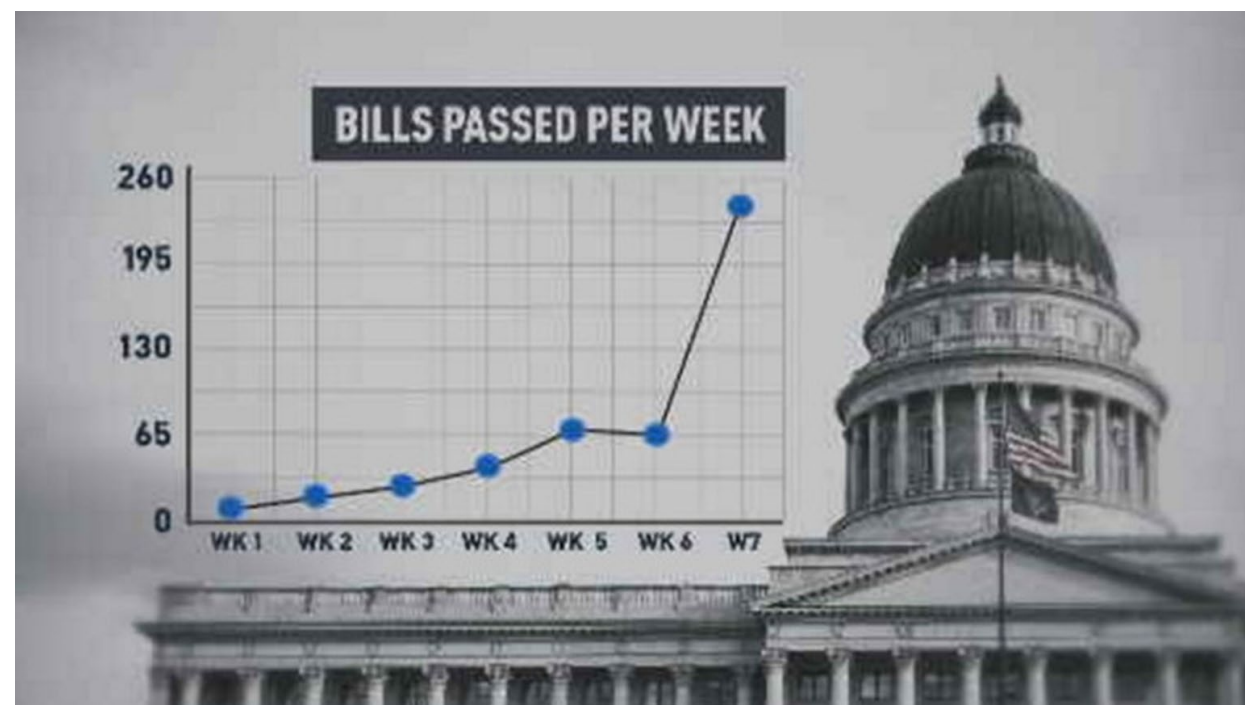
# States Pre-empt Cities Almost to the Point of Irrelevance

Over the past decade, states have preempted cities across a broad range of policy areas, including policing and health. If anything, the pandemic has only accelerated the trend.

ALAN GREENBLATT, SENIOR STAFF WRITER | FEBRUARY 8, 2021 | ANALYSIS

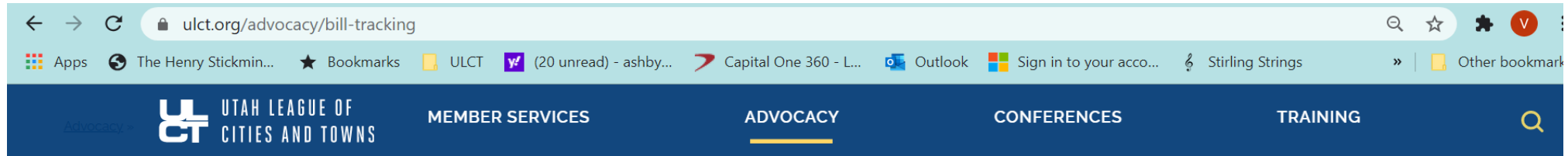
# Session final stretch

- Legislature will finalize budget requests this week thru early next week
- Committee hearings will wrap up by the end of next week
- Once the budget is finished, bills will move even faster
- As bills are amended and move quickly, ULCT:
  - Checks in twice a week with officers
  - Keeps you updated through nightly email
  - Will have the most recent information at LPC
- Reach out to ULCT leg team if you have any questions



(KUTV, Craig Hart)

# ULCT Tracker



## Bill Tracking




Click the tracking filter to follow bills by priority as designated by ULCT.



[Click HERE to see all ULCT legislative positions](#)

Welcome to the Utah League of Cities and Towns bill tracker! You can use the tracker below to see details on each bill we track. In order to use the search function, you must use the bill's 4 digit number. The 4 digit number is the bill type (HB, SB, etc.) and zeroes before the first number. For example, HB 1 has a 4 digit number of HB0001. HB 10 would be HB0010. HB 100 would be HB0100. Please contact [Karson Eilers](#) if you have any questions.

Tracking Filter  Bill Type  Subject

SESSION	BILL	ACTION	STATUS
	<a href="#">SB0189</a> Tobacco Retailer Amendments		 In Progress
	<a href="#">SB0183</a> Raffle Amendments		 In Progress
	SB0176 Mineral Lease Funds Amendments		 In Progress

# Land Use

Photo by Vitor Rossetto on Unsplash

# Some background on SB 61

## Reagan and Lamar Win Appeal vs City of Austin

*Billboardinsider.com, Aug 2020*

“... [T]he Fifth Circuit now joins a growing list of federal and state appellate courts across the Country applying the precedents from the Supreme Court’s 2015 decision in *Reed vs Town of Gilbert* to address municipal sign codes and state highway beautification acts that distinguish regulations based upon whether the sign advertising or identifying goods, services, or businesses is located on or off of the same premises where those goods, services, or businesses are offered or situated. These definitions of so-called “on-premise” and “off-premise” signs are considered content based, and as such, have led in the last five years to holdings that the Highway Beautification Acts in Texas (*Auspro vs TxDOT*), Tennessee (*Thomas vs Bright*), and Kentucky (*L.D. Management Co. vs Tennessee Transportation Cabinet*) violate the Constitution’s protection of Free Speech.”



# SB 61 2<sup>nd</sup> Sub Outdoor Advertising Amendments (Sen. Sandall)

## What SB 61 Sub 2 does

- Municipality may prohibit digital BB in **exclusively residential** zone or on Scenic Byway
- Municipality must allow existing BB digital upgrade in **primarily residential** zone (not defined) **if zone allows on-premise digital signs**, but may set curfew or require sign dimming
- Municipality must allow existing BB digital upgrade in **any other zone if on-premise digital signs** are allowed
- Municipal zoning ordinance locked as of Jan 1, 2021
- Curfew: sign located w/in 300 ft of edge of legally occupied structure and facing sign; midnight-6am
- Municipality may not require forfeiture BB for right to convert to digital

## What Sub 2 does not do

- Authorize new BB
- Mandate digital BB in zones that do not allow digital on-premise signs
- Attorney fee language in original bill is gone

# SB 61 2<sup>nd</sup> Sub: Size equity and preemption



# LPC survey results from the weekend

- 55 responses
  - 62% ranked SB 61 as a top priority
  - Many concerns about preemption of local zoning and sign ordinances
  - Many concerns about a small digital sign triggering a digital upgrade of a billboard
- “Digital equity” v. “size equity”
    - Billboards generally range from 220 square feet to 672 square feet
  - Address zoning preemption
    - January 1 zoning and sign ordinances
    - Underlying zoning around billboard relocation

# SB 144 Billboard Restrictions Amendments

Sen. Hinkins

- Municipality may not directly or indirectly prevent a person from building/maintaining a BB by incentivizing, compensating, encouraging a developer to discontinue, terminate, limit or not renew a BB owner's right to erect and maintain a BB or refuse to enter into a future relationship with a BB owner.
- Municipality may not, as a condition of a permit to build or maintain a BB, require landowner or developer to take an action unrelated to the BB.
- Municipality, in a land conveyance, may not restrict the purchaser's ability to place a BB on real property.
- Municipality that violates the above is liable for the greater of actual damages or \$350,000 and attorney fees.
- Municipality may not require a BB owner to get a permit for maintenance (unless structural engineering) or replace a digital or static face.
- Municipality may not prevent a BB from rebuilding, repairing if BB is damaged by casualty, act of God, or vandalism.
- Municipality may not require an applicant for BB permit to attest to the applicant's right to place and maintain a BB on the property.
- A municipal BB building permit or BB bank credit that expires during March 15, 2020-June 30, 2021 is extended to December 31, 2022.
- A government entity that changes a rule, code, ordinance or policy that affects a BB shall provide the permit holder written notice and input opportunity before the government entity considers the change at a public meeting and notice of public meetings.
- Under Utah Outdoor Advertising Act, a governmental entity may not prevent interference with maintenance of existing sign unless the entity condemns the sign.

**Staff recommendation: Oppose**

# HB 82 ULCT negotiators

- Ogden Mayor and ULCT President Mike Caldwell
  - College town, historic districts, redevelopment, large city caucus
- Bountiful Council Member Kate Bradshaw
  - Established midsize city caucus
- Draper Mayor Troy Walker
  - Rapid growth caucus
- Provo Council Member Shannon Ellsworth
  - College town, historic districts, redevelopment, large city caucus; rural planner
- Moab Mayor Emily Niehaus
  - Rural hub/gateway caucus; housing developer
- ULCT Officers
- ULCT senior staff and senior staff from Taylorsville & St. George
- **Staff recommendation: authorize negotiating team to try to meet objectives**

# Last week's LPC: neutral on ULCT 3 w/flexibility for negotiation

## ULCT 3

### 1) Zoning (only applies to SB 34 cities)

- At least 50% of areas zoned residential
- At least 25% of areas zoned residential for college towns & low-income cities
- If you don't act by Oct. 1, then 100% of zones

### 2) Standards

- City may require ADU in detached house only, inspection, license, permit, 30+ day lease, 1 off-site parking, appearance of house to be unaltered, limit to 1 ADU per site, no separate meter, preclude mobile homes, egress of windows, building & fire code compliance
- City may deny ADU for lots under 6,000 sq ft or if infrastructure is at 75% capacity
- City may not regulate % of house, # of rooms

### 3) Enforcement

- Property tax lien
- Short-term rentals

## Initial response from Rep.

### Ward/House leaders (1+ wk ago)

- Zoning preemption in all cities
- Some standards
- Some enforcement tools



# Where we are

- Rep. Schultz during the House Business & Labor Comm.:
  - *“League must come to the table ... you need to take this seriously.”*
- Rep. Ward:
  - Met with Bountiful City Council
- Many negotiations between Team ULCT and Rep. Ward and House leadership

OPINION UTAH UTAH LEGISLATURE

## The solution to Utah’s housing problem is simple — but surprisingly controversial

By Jay Evensen, Columnist | Feb 2, 2021, 9:54am MST

Unless lawmakers, homebuilders and cities find ways to quickly increase the housing stock — and removing barriers to in-home rentals is a great start — it can only get worse.

### HB 82 potential 4<sup>th</sup> sub Framework

- 1) Partial preemption
  - 1) IADUs allowed in most of the area zoned residential in most cities and in a lower % in college towns
  - 2) City decides via zoning
- 2) Standards
  - 1) City may require ADU in detached house only, inspection, license, permit, 30+ day lease, 1 off-site parking, appearance of house to be unaltered, limit to 1 ADU per site, no separate meter, preclude mobile homes, egress of windows, building, septic tanks, health, & fire code compliance
  - 2) City may deny ADU for lots under a certain size
  - 3) City may not regulate % of house, # of rooms
- 3) Enforcement options
  - 1) Property tax lien
  - 2) Short-term rentals

# SB 164 UT Housing Affordability: sub coming

## Positive components:

- Pilot Program for workforce employees
- Rental assistance and mediation for landlord/tenants
- Predevelopment grants for rural communities
- Limited gap funding for eviction proceedings

## TBD components:

- *Ability for cities to grant real property for affordable housing*
  - *Deed restriction %, waiver of prop., needs clarifying*
- *Economic dev req't to plan for housing*
- *SB 34 menu items from 3 to 4 and 4 to 5 (transit)*
- RDA expansion of set-aside to “support” housing
- Public asset inventory (not yet in bill)

## Concerning components:

### 1) *Inclusionary zoning/housing fund*

- *City has to cover all of the developer's costs*
- *Property Rights Ombudsman decision*

### 2) Fees

- New standard from “reasonable” to “estimated actual” for
  - Culinary/secondary water hookup, land use applications, inspection/review
- Collection process
  - Require cities to collect fee revenue into separate ledgers for each type of building and development fee and report the year, project, & schedule for expenditure to the state auditor
- Key takeaway: huge expense to city with NO link to housing affordability



# HB 98 Local Government Building Regulation Amendments (Rep. Ray)

## Negotiated Proposed Substitute

### Plan Review and Inspections

- Only applies to single family homes and single family or duplex townhomes (not multifamily townhomes)
  - Plan Review 14 days – building permit must be issued
  - Inspection within 3 days or builder can hire their own
- 
- Still working on resubmittal language

# HB 98 Local Government Building Regulation Amendments (Rep. Ray)

## Negotiated Proposed Substitute, cont.

### Residential single family permit submission requirements

- **City application**- contact information, general contractor, owner, lot location,
- **Site plan – Drawn to scale**
- Lot dimensions and lot size
- Setbacks and proposed overhangs into setbacks
- North arrow
- Easements
- Property lines and setbacks
- Foundation footprint
- Topographical information for lots with greater than a 10% slope
- Retaining walls
- Hard surface areas
- Curb and gutter elevations (per subdivision documents)

- Utilities, including water meter location and sewer lateral location
- Street names
- Driveway locations
- If required by the Utah Wildland Urban Interface Code, defensible space identified
- Identify the location of the closest hydrant

### **Construction drawings**

- Elevation of 4 sides on new construction, (not needed for existing structures)
- Building plans including
  - Footing, foundation
  - Structural framing, electrical, plumbing, mechanical
  - Floor plans for each level with window and door sizes and locations

# HB 98 Local Government Building Regulation Amendments (Rep. Ray)

## Negotiated Proposed Substitute, cont.

### Design Standards

Single family, duplex or townhouse preemption:

- Exterior color
- Type or style of exterior cladding material
- Style, dimensions, or materials of roof structure, pitch, or porch
- Exterior nonstructural architectural ornamentation
- Location, design, placement, or architectural styling of window or door, including garage door (except rear loading garage)
- Number or type of rooms
- Interior layout of a room
- Minimum square footage (not including garage)
- Rear yard landscaping requirements
- Front yard fencing
- Minimum dimensions

### Design Standards

Expands exemptions for:

- FEMA
  - National Flood Insurance
  - Historic Buildings (local, state and federal)
  - Wildland Urban Interface
  - Development Agreement
  - PRUDS and other types of overlay zones
  - Pre 1940 neighborhoods
- \*May also exempt wood shakes in forested areas not in Wildland Urban Fire area

**LPC position: Oppose. Revisit when substitute is made public.**

# Bill language coming (likely added to SB 113)

- Housing and Transit Reinvestment Zone
  - Certain radius from the station
  - Mixed use plan
  - High-density housing with affordable component
  - State & property taxing entities cooperation
  - Prioritize state infrastructure investment related to the HTRZ
- Objective: maximize land use planning around Frontrunner



A large American flag is displayed on a building facade at night. The flag is composed of many small, illuminated panels, giving it a pixelated or mosaic-like appearance. The stars and stripes are clearly visible. In the foreground, two police officers in riot gear are standing, facing right. The scene is dimly lit, with the primary light source being the flag itself. A yellow traffic light is visible on the left side of the frame.

# Public Safety

# Love, Listen, Lead Update (met last week)

- HB 62 (Stoddard): POST Certification (support as amended)
  - Officer misconduct
- HB 133 (Wheatley): Law Enf. Recording Release (oppose)
  - Body-worn cameras, transparency
- HB 229 (Hall): Internal Investigations (oppose as drafted)
  - Officer misconduct
- HB 237 (Dailey-Provost): Lethal Use of Force (oppose as drafted)
  - Use of force
- HB 264 (Romero): Law Enf. Weapons Use (support)
  - Data collection

- HB 283 (Wheatley): Community and Police Relations (support as amended)
  - DPS big tent continuation; ULCT elected official
- SB 106 (Thatcher): Use of Force (support)
  - Use of force
- SB 157 (Thatcher): Citizen Review Boards (support after/amendment)
  - Resources for cities
- SB 159 (Anderegg): Law Enf. Data Mgmt (support)
  - Data collection
- SB 155 (Thatcher) 988 Mental Health Crisis Assistance (support)
- SB 196 (Iwamoto) Law Enforcement Disclosure (support)





# Other Legislation



# HB 342 Government Enterprise Amendments

(bill has arisen in multiple sessions)

Rep. Strong

- Municipality must inventory city services every two years city & decide whether service is a “competitive activity”
- Identify efforts to privatize competitive activity service
- Competitive activities authorized after May 5, 2021, municipality must:
  - Conduct market impact study
  - Hold public hearing to present study results and explain why the municipality wants to provide the competitive activity
- “Competitive activity”
  - Recreational or entertainment
  - That a municipality funds in an amount that is 5% or more of total municipal general fund revenue or commits to fund, over a period of more than one year, in an amount that is 3% or more of total revenue of general fund



**Staff recommendation: Oppose**



# HB 347 Homeless Services Amendments (sub coming)

- Rep. Eliason
- Intent: implement the Gardner Institute recommendations
  - 2020 interim work group: SLC Mayor Erin Mendenhall, Ogden Mayor Mike Caldwell, former St. George Mayor Jon Pike, Cameron Diehl
- New Office of Homeless Services and Deputy Director
- Creation of Homelessness Council
  - Mayors of SLC, South Salt Lake, Midvale, Ogden, St. George
  - Consistent with previous system
  - No change for now to the Public Safety Mitigation Fund
- Coordination between the local homelessness coordinating committees, philanthropists, & State of Utah

**Staff recommendation: Support in general, amend**

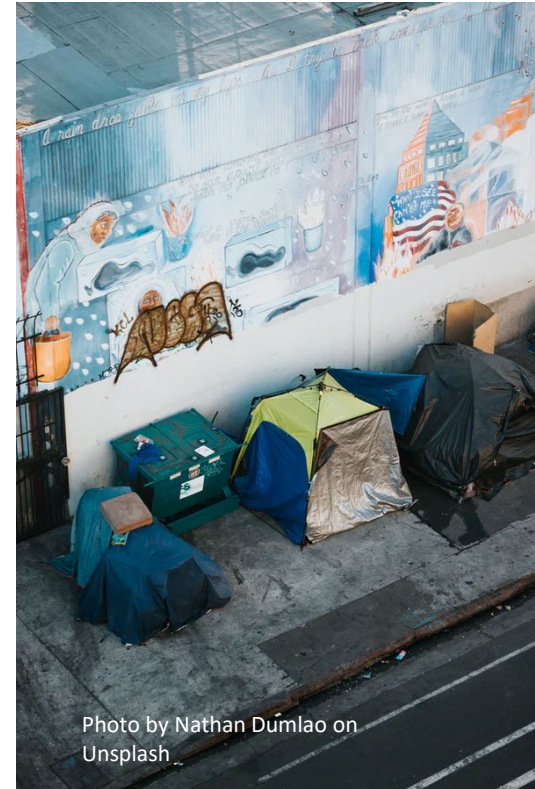


Photo by Nathan Dumlao on  
Unsplash

# HB 348 Economic Development Amendments

Rep. Hawkes

GOED: New Name and New Focus

- New Name: Governor's Office of Economic Opportunity (GO Utah Office)
- New Focus: Creates Unified Economic Opportunity Commission
  - 14 Member Commission Chaired by the Governor
  - ULCT appoints one Commissioner to represent urban areas
  - Coordinate and focus the many state economic development efforts
  - Create an economic strategy for the State
  - Create indicators for accountability

**Staff recommendation: Support**

# HB 354 Rural Municipal Econ. Dev. Loan Program/SB 194 Utah Main Street Program

## Rep. Stenquist (HB 354)

- Provide low interest loans
  - Telecom and high-speed internet
  - Power and energy infrastructure
  - Water and sewer infrastructure
  - Healthcare infrastructure
- Cities, towns and counties
  - 4<sup>th</sup>-6<sup>th</sup> Class

**Staff recommendation: Support**

## Sen. Owens (SB 194)

- Utah Main Street Program (Dec LPC)
  - Advisory Committee
- Revitalization of downtown/commercial areas
- Provide training/technical assistance to local governments, businesses, property owners
- Funds to revitalize, beautify, place make, improve buildings, market downtowns, promote events

**Staff recommendation: Support**

# Bills from LPC Members

- Open forum for members to highlight other bills to the LPC



Photo by Jason Rosewell on Unsplash

# Ratification: ULCT Recommended Positions (>60% = consensus) on public bills

- SB 61 2<sup>nd</sup> Sub Outdoor Advertising Amendments: **Oppose**
- SB 144 Billboard Restrictions Amendments: **Oppose**
- HB 82 Single-Family Housing Modifications 1<sup>st</sup> Sub: **Oppose** 2<sup>nd</sup> Sub: **Negotiating Team ULCT** 3+: **Neutral, staff flexibility to negotiate**
- SB 164 Utah Housing Affordability Amendments: **Support parts, oppose parts**
- HB 98 Local Government Building Regulation Amendments: **Oppose. Revisit when substitute is made public.**
- Love, Listen, Lead bills: **as recommended**
- HB 342 Government Enterprise Amendments: **Oppose**
- HB 347 Homeless Services Amendments: **Support concept; amend**
- HB 348 Economic Development Amendments: **Support**
- HB 354 Rural Municipal Economic Development Loan Program: **Support**
- SB 194 Utah Main Street Program: **Support**
- **Other positions as indicated on ULCT Bill Tracker/website**

# Contact ULCT

- Cameron Diehl [cdiehl@ulct.org](mailto:cdiehl@ulct.org)
- Victoria Ashby [vashby@ulct.org](mailto:vashby@ulct.org)
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- Spencer Cawley [intern@ulct.org](mailto:intern@ulct.org)

**Mark your (virtual)  
LPC Calendar**

**Session LPC: Zoom @ noon**

- **February 22**
- **March 1**