3rd Sub. (Ivory) S.B. 216

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25	 remittance of sales tax by certain municipalities; and
26	 providing and sharing of funds;
27	provides repeal dates; and
28	 makes technical and conforming amendments.
29	Money Appropriated in this Bill:
30	None
31	Other Special Clauses:
32	None
33	Utah Code Sections Affected:
34	AMENDS:
35	17-34-1, as last amended by Laws of Utah 2003, Chapter 275
36	17B-1-213, as last amended by Laws of Utah 2013, Chapter 265
37	17B-1-214, as last amended by Laws of Utah 2013, Chapters 70 and 265
38	17B-1-215, as last amended by Laws of Utah 2013, Chapter 265
39	17B-1-502, as last amended by Laws of Utah 2013, Chapter 141
40	\$→ [— 17B-1-512, as last amended by Laws of Utah 2011, Chapter 297] ←\$
41	63I-2-210, as last amended by Laws of Utah 2009, Chapter 205
42	63I-2-217, as last amended by Laws of Utah 2012, Chapter 17
43	ENACTS:
44	10-2-130 , Utah Code Annotated 1953
45	17-15-30, Utah Code Annotated 1953
46	17B-2a-1101, Utah Code Annotated 1953
47	17B-2a-1102, Utah Code Annotated 1953
48	17B-2a-1103 , Utah Code Annotated 1953
49	17B-2a-1104, Utah Code Annotated 1953
50	17B-2a-1105 , Utah Code Annotated 1953
51	17B-2a-1106, Utah Code Annotated 1953
52	17B-2a-1107, Utah Code Annotated 1953
53	17B-2a-1108, Utah Code Annotated 1953
54	17B-2a-1109, Utah Code Annotated 1953
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56	Be it enacted by the Legislature of the state of Utah:
57	Section 1. Section 10-2-130 is enacted to read:
58	10-2-130. Suspension of township incorporation and annexation procedures on or
59	after January 1, 2014 Ŝ→ Exceptions ←Ŝ .
60	(1) As used in this section:
61	(a) "Township incorporation procedure" means the following actions, the subject of
62	which includes an area located in whole or in part in a township:
63	(i) a request for incorporation described in Section 10-2-103;
64	(ii) a feasibility study described in Section 10-2-106;
65	(iii) a modified request and a supplemental feasibility study described in Section
66	<u>10-2-107; or</u>
67	(iv) an incorporation petition described in Section 10-2-109 that is not certified under
68	<u>Section 10-2-110.</u>
69	(b) "Township annexation procedure" means one or more of the following actions, the
70	subject of which includes an area located in whole or in part in a township:
71	(i) a petition to annex described in Section 10-2-403;
72	(ii) a feasibility study described in Section 10-2-413;
73	(iii) a modified annexation petition or supplemental feasibility study described in
74	<u>Section 10-2-414;</u>
75	(iv) a boundary commission decision described in Section 10-2-416; or
76	(v) any action described in Section 10-2-418 before the adoption of an ordinance to
77	approve annexation under Subsection 10-2-418(3)(b).
78	(2) (a) Except as provided in $\hat{S} \rightarrow [\underline{Subsection}] \underline{Subsections} \leftarrow \hat{S}$ (3) $\hat{S} \rightarrow \underline{and}$ (4) $\leftarrow \hat{S}$:
79	(i) if a request for incorporation described in Section \$→ [10-2-130] 10-2-103 ←\$ is filed
79a	with the clerk of
80	the county on or after January 1, 2014, a township incorporation procedure that is the subject of
81	or otherwise relates to that request is suspended until November 15, 2015; and
82	(ii) if a petition to annex described in Section 10-2-403 is filed with the city recorder or
83	town clerk on or after January 1, 2014, a township annexation procedure that is the subject of
84	or otherwise relates to that petition is suspended until November 15, 2015.
85	(b) (i) If a township incorporation procedure or township annexation procedure is
86	suspended under Subsection (2)(a), any applicable deadline or timeline is suspended before and

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87	on November 15, 2015.
88	(ii) On November 16, 2015, the applicable deadline or timeline described in Subsection
89	(2)(b)(i):
90	(A) may proceed and the period of time during the suspension does not toll against that
91	deadline or timeline; and
92	(B) does not start over.
93	(3) Subsection (2) does not apply to a township annexation procedure that:
94	(a) includes any land area located in whole or in part in a township that is:
95	(i) 50 acres or more; and
96	(ii) primarily owned or controlled by a government entity; or
97	(b) is the subject of or otherwise relates to a petition to annex that is filed in accordance
98	with Subsection 10-2-403(3) before January 1, 2014.
98a	$\$ \rightarrow (4)(a)$ For an incorporation petition suspended in accordance with Subsection (2),
98b	the petition sponsors may continue to gather petition signatures and file them with the county
98c	clerk as provided in Section 10-2-103.
98d	(b) The county clerk shall process the petition in accordance with Section 10-2-105 and
98e	may issue a certification or rejection of the petition as provided in Section 10-2-105.
98f	(c) Notwithstanding any other provision of Chapter 2, Incorporation, Classification,
98g	Boundaries, Consolidation, and Dissolution of Municipalities, any further processing,
98h	including a feasibility study, public hearing, or an incorporation election, is suspended until
98i	<u>November 15, 2015.</u> ←Ŝ
99	Section 2. Section 17-15-30 is enacted to read:
100	17-15-30. Unincorporated county and services study.
101	No later than December 1, 2014, a county of the first class shall study the governance
102	of, delivery of services to $\$ \rightarrow , \leftarrow \$$ and other issues related to the unincorporated county.
103	Section 3. Section 17-34-1 is amended to read:
104	17-34-1. Counties may provide municipal services Limitation First \$→ - ←\$ class
105	counties to provide certain services Counties allowed to provide certain services in
106	recreational areas.
107	(1) For purposes of this chapter, except as otherwise provided in Subsection (3):
108	(a) "Greater than class C radioactive waste" has the same meaning as in Section
109	19-3-303.
110	(b) "High-level nuclear waste" has the same meaning as in Section 19-3-303.
111	(c) "Municipal-type services" means:

applicable area; or

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- (ii) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution.
 - (2) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1)(a).
 - (3) If adequate protests are filed, the governing body that adopted a resolution under Subsection 17B-1-203(1)(d) or (e):
 - (a) may not:
- (i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the applicable area;
 - (ii) take any further action under the protested resolution to create a local district or include the applicable area in a local district; or
 - (iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)(d) or (e) proposing the creation of a local district including substantially the same area as the applicable area and providing the same service as the proposed local district in the protested resolution; and
 - (b) shall, within five days after receiving adequate protests, mail or deliver written notification of the adequate protests to the responsible body.
 - (4) Subsection (3)(a) may not be construed to prevent an election from being held for a proposed local district whose boundaries do not include an applicable area that is the subject of adequate protests.
 - (5) (a) If adequate protests are not filed with respect to a resolution proposing the creation of a local district for which an election is not required under Subsection 17B-1-214(3)(d), (e), [or] (f), or (g) \$→, ←\$ a resolution approving the creation of the local district may
- be adopted by:
- 206 (i) (A) the legislative body of a county whose unincorporated area is included within 207 the proposed local district; and
- 208 (B) the legislative body of a municipality whose area is included within the proposed local district; or

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210 (ii) the board of trustees of the initiating local district.

304 (ii) if applicable, a certified copy of each resolution adopted under Subsection 305 17B-1-213(5); or 306 (b) if the local district is located within the boundaries of more than a single county: 307 (i) submit to the recorder of one of those counties: 308 (A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C); and 309 (B) if applicable, a certified copy of each resolution adopted under Subsection 310 17B-1-213(5); and 311 (ii) submit to the recorder of each other county: 312 (A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C); 313 and 314 (B) if applicable, a certified copy of each resolution adopted under Subsection 315 17B-1-213(5). 316 (3) The area of each local district consists of: 317 (a) if an election was held under Section 17B-1-214, the area of the new local district 318 as approved at the election; 319 (b) if an election was not required because of Subsection 17B-1-214(3)(a), (b), or (c), 320 the area of the proposed local district as described in the petition; or 321 (c) if an election was not required because of Subsection 17B-1-214(3)(d), (e), [or] (f), 322 or (g) $\$ \rightarrow , \leftarrow \$$ the area of the new local district as described in the resolution adopted under 322a Subsection 323 17B-1-213(5). 324 (4) (a) Upon the lieutenant governor's issuance of the certificate of incorporation under 325 Section 67-1a-6.5, the local district is created and incorporated as: 326 (i) the type of specialized local district that was specified in the petition under 327 Subsection 17B-1-203(1)(a), (b), or (c) or resolution under Subsection 17B-1-203(1)(d) or (e), 328 if the petition or resolution proposed the creation of a specialized local district; or 329 (ii) a basic local district, if the petition or resolution did not propose the creation of a 330 specialized local district. 331 (b) (i) The effective date of a local district's incorporation for purposes of assessing 332 property within the local district is governed by Section 59-2-305.5. 333 (ii) Until the documents listed in Subsection (2) are recorded in the office of the 334 recorder of each county in which the property is located, a newly incorporated local district

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366	(B) law enforcement service; or
367	(C) municipal services, as defined in Section 17B-2a-1102;
368	(ii) an election for the creation of the local district was not required because of
369	Subsection 17B-1-214(3)(d); and
370	(iii) the legislative body of the newly incorporated municipality:
371	(A) adopts a resolution no later than 180 days after the effective date of incorporation
372	approving the withdrawal that includes the legal description of the area to be withdrawn; and
373	(B) delivers a copy of the resolution to the board of trustees of the local district.
374	(b) The effective date of a withdrawal under this Subsection (3) is governed by
375	Subsection 17B-1-512(2)(a).
376	(c) Section 17B-1-505 shall govern the withdrawal of an incorporated area within a
377	county of the first class if:
378	(i) the local district from which the area is withdrawn provides:
379	(A) fire protection, paramedic, and emergency services; or
380	(B) law enforcement \$→ [services] service ←\$; and
381	(ii) an election for the creation of the local district was not required under Subsection
382	<u>17B-1-214(3)(d).</u>
383	Ŝ→ [Section 8. Section 17B-1-512 is amended to read:
384	17B-1-512. Filing of notice and plat Recording requirements Contest period
385	Judicial review.
386	(1) (a) Within the time specified in Subsection (1)(b), the board of trustees shall file
387	with the lieutenant governor:
388	(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5,
389	that meets the requirements of Subsection 67-1a-6.5(3); and
390 391	(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5. (b) The board of trustees shall file the documents listed in Subsection (1)(a):
392	(i) within 10 days after adopting a resolution approving a withdrawal under Section
393	17B-1-510; and
394	(ii) as soon as practicable after receiving a notice under Subsection 10-2-425(2) of an
395	automatic withdrawal under Subsection 17B-1-502(2), after receiving a copy of the municipal
396	legislative body's resolution approving an automatic withdrawal under Subsection←Ŝ

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397	S=1/B-1-502(3)(a), or after receiving notice of a withdrawal of a municipality from a local
398	district under Section 17B-2-505.
399	(c) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section
400	67-1a-6.5, the board shall:
401	(i) if the withdrawn area is located within the boundary of a single county, submit to
402	the recorder of that county:
403	——————————————————————————————————————
404	(I) notice of an impending boundary action;
405	(II) certificate of withdrawal; and
406	(III) approved final local entity plat; and
407	(B) if applicable, a certified copy of the resolution or notice referred to in Subsection
408	(1)(b); or
409	(ii) if the withdrawn area is located within the boundaries of more than a single county,
410	submit:
411	(A) the original of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III)
412	and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to
413	one of those counties; and
414	(B) a certified copy of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III)
415	and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other
416	county.
417	(2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under
418	Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal
419	under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a local district
420	under Section 17B-1-505, the withdrawal shall be effective, subject to the conditions of the
421	withdrawal resolution, if applicable.
422	(b) An automatic withdrawal under Subsection 17B-1-502(3) or Section 17B-2a-1108
423	shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under
424	Section 67-1a-6.5.
425	(3) (a) The local district may provide for the publication of any resolution approving or
426	denying the withdrawal of an area:
427	(i) in a newspaper of general circulation in the area proposed for withdrawal; and←Ŝ

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428	\$→(ii) as required in Section 45-1-101.
429	(b) In lieu of publishing the entire resolution, the local district may publish a notice of
430	withdrawal or denial of withdrawal, containing:
431	(i) the name of the local district;
432	(ii) a description of the area proposed for withdrawal;
433	(iii) a brief explanation of the grounds on which the board of trustees determined to
434	approve or deny the withdrawal; and
435	(iv) the times and place where a copy of the resolution may be examined, which shall
436	be at the place of business of the local district, identified in the notice, during regular business
437	hours of the local district as described in the notice and for a period of at least 30 days after the
438	publication of the notice.
439	(4) Any sponsor of the petition or receiving entity may contest the board's decision to
440	deny a withdrawal of an area from the local district by submitting a request, within 60 days
441	after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting
442	terms or conditions to mitigate or eliminate the conditions upon which the board of trustees
443	based its decision to deny the withdrawal.
444	(5) Within 60 days after the request under Subsection (4) is submitted to the board of
445	trustees, the board may consider the suggestions for mitigation and adopt a resolution
446	approving or denying the request in the same manner as provided in Section 17B-1-510 with
447	respect to the original resolution denying the withdrawal and file a notice of the action as
448	provided in Subsection (1).
449	(6) (a) Any person in interest may seek judicial review of:
450	(i) the board of trustees' decision to withdraw an area from the local district;
451	(ii) the terms and conditions of a withdrawal; or
452	(iii) the board's decision to deny a withdrawal.
453	(b) Judicial review under this Subsection (6) shall be initiated by filing an action in the
454	district court in the county in which a majority of the area proposed to be withdrawn is located:
455	(i) if the resolution approving or denying the withdrawal is published under Subsection
456	(3), within 60 days after the publication or after the board of trustees' denial of the request
457	under Subsection (5);
458	(ii) if the resolution is not published pursuant to Subsection (3), within 60 days after←\$

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5-the resolution approving or denying the withdrawar is adopted, or
(iii) if a request is submitted to the board of trustees of a local district under Subsection
(4), and the board adopts a resolution under Subsection (5), within 60 days after the board
adopts a resolution under Subsection (5) unless the resolution is published under Subsection
(3), in which event the action shall be filed within 60 days after the publication.
(c) A court in which an action is filed under this Subsection (6) may not overturn, in
whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:
(i) the court finds the board of trustees' decision to be arbitrary or capricious; or
(ii) the court finds that the board materially failed to follow the procedures set forth in
this part.
(d) A court may award costs and expenses of an action under this section, including
reasonable attorney fees, to the prevailing party.
(7) After the applicable contest period under Subsection (4) or (6), no person may
contest the board of trustees' approval or denial of withdrawal for any cause.]
Section $\hat{S} \rightarrow [9] \underline{8} \leftarrow \hat{S}$. Section 17B-2a-1101 is enacted to read:
Part 11. Municipal Services District Act
<u>17B-2a-1101.</u> Title.
This part is known as the "Municipal Services District Act."
Section $\$ \rightarrow [10] 9 \leftarrow \$$. Section 17B-2a-1102 is enacted to read:
<u>17B-2a-1102.</u> Definitions.
As used in this part, "municipal services" means:
(1) one or more of the services identified in Section 17-34-1 or 17-36-3; and
(2) any other municipal-type service provided in the district that is in the interest of the
district.
Section $\hat{S} \rightarrow [H] \underline{10} \leftarrow \hat{S}$. Section 17B-2a-1103 is enacted to read:
17B-2a-1103. Limited to counties of the first class Provisions applicable to
municipal services districts.
(1) (a) A municipal services district may be created only in unincorporated areas in a
county of the first class.
(b) Notwithstanding Subsection (1)(a) and subject to Subsection (1)(c), after the initial
creation of a municipal services district, an area may be annexed into the municipal services

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490	district in accordance with Chapter 1, Part 4, Annexation, whether that area is unincorporated
491	or incorporated.
492	(c) An area annexed under Subsection (1)(b) may not be located outside of the
493	originating county of the first class.
494	(2) Each municipal services district is governed by the powers stated in:
495	(a) this part; and
496	(b) Chapter 1, Provisions Applicable to All Local Districts.
497	(3) This part applies only to a municipal services district.
498	(4) A municipal services district is not subject to the provisions of any other part of this
499	chapter.
500	(5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All
501	Local Districts, and a provision in this part, the provisions in this part $\hat{S} \rightarrow [governs]$ govern $\leftarrow \hat{S}$.
502	Section 12. Section 17B-2a-1104 is enacted to read:
503	17B-2a-1104. Additional municipal services district powers.
504	In addition to the powers conferred on a municipal services district under Section
505	17B-1-103, a municipal services district may:
506	(1) notwithstanding Subsection 17B-1-202(3), provide one or multiple municipal
507	services; and
508	(2) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds,
509	to carry out the purposes of the district.
510	Section 13. Section 17B-2a-1105 is enacted to read:
511	17B-2a-1105. Creation of municipal services district.
512	(1) Notwithstanding any other provision of law, the process to create a municipal
513	services district is initiated by a resolution proposing the creation of the municipal services
514	district, adopted by the legislative body of the county whose unincorporated area includes any
515	of the proposed municipal services district.
516	(2) The resolution described in Subsection (1) shall comply, as applicable, with the
517	provisions of Subsection 17B-1-203(2)(a).
518	(3) The legislative body shall comply with the requirements of Sections 17B-1-210 \$-> [=
519	211, and 212 through 17B-1-212 ←Ŝ .
520	Section 14 Section 17B-2a-1106 is enacted to read:

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552	municipal services district in accordance with Section 17B-2a-1103:
553	(a) the district's board of trustees shall include a member of that municipality's
554	governing body; and
555	(b) the member described in Subsection (3)(a) shall be:
556	(i) designated by the municipality; and
557	(ii) a member with powers and duties of other board of \$→ [trustee] trustees ←\$ members
557a	as described in
558	Subsection (2)(b).
559	(4) The board may adopt a resolution providing for future board members to be
560	appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.
561	(5) (a) Notwithstanding Subsections 17B-1-309(1) or \$→ [Subsection] ←\$ 17B-1-310(1),
561a	<u>the</u>
562	board of trustees may adopt a resolution to determine the internal governance of the board.
563	(b) A resolution adopted under Subsection (5)(a) may not alter or impair the board of
564	trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's
565	duties, powers, or responsibilities described in Subsection (2)(c).
566	Section 15. Section 17B-2a-1107 is enacted to read:
567	17B-2a-1107. Exclusion of rural real property.
568	(1) As used in this section, "rural real property" means an area:
569	(a) zoned primarily for manufacturing, commercial, or agricultural purposes; and
570	(b) that does not include residential units with a density greater than one unit per acre.
571	(2) Unless an owner gives written consent, rural real property may not be included in a
572	municipal services district if the rural real property:
573	(a) consists of 1,500 or more contiguous acres of rural real property consisting of one
574	or more tax parcels;
575	(b) is not contiguous to but is used in connection with rural real property that consists
576	of 1,500 acres or more contiguous acres of real property consisting of one or more tax parcels;
577	(c) is owned, managed, or controlled by a person, company, or association, including a
578	parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural
579	real property consisting of one or more tax parcels; or
580	(d) is located in whole or \$→ in ←\$ part in one of the following as defined in Section
580a	<u>17-41-101:</u>
581	(i) an agricultural protection area;
582	(ii) a mining protection area; or

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583	(111) an industrial protection area.
584	Section 16. Section 17B-2a-1108 is enacted to read:
585	17B-2a-1108. Municipality required to remit local option sales and use tax.
586	(1) If, after incorporation, a municipal legislative body of a municipality located in
587	whole or in part within a municipal services district does not adopt and deliver a resolution to
588	withdraw in accordance with Subsection 17B-1-502(3)(a)(iii), the municipality shall remit to
589	the municipal services district an amount equal to the amount the municipality receives under
590	Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act.
591	(2) For purposes of Subsection (1), the amount a municipality is required to remit to a
592	municipal services district is an amount:
593	(a) determined after subtracting amounts required under Title 59, Chapter 12, Part 2,
594	Local Sales and Use Tax Act, to be deducted from the amount a municipality would otherwise
595	receive under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and
596	(b) representative of only \$→ [the] ←\$ those taxes collected in the area of the municipality
596a	that is
597	also located within the municipal services district.
598	Section 17. Section 17B-2a-1109 is enacted to read:
599	17B-2a-1109. Counties and municipalities authorized to provide funds to a
600	municipal services district.
601	A county, or, subject to Section 17B-2a-1108, a municipality involved in the
602	establishment and operation of a municipal services district may fund the operation and
603	maintenance of the district through the sharing of sales tax revenue for district purposes.
604	Section 18. Section 63I-2-210 is amended to read:
605	63I-2-210. Repeal dates Title 10.
606	(1) Section 10-2-130 is repealed July 1, 2016.
607	(2) Subsection 10-9a-305(2) is repealed July 1, 2013.
608	Section 19. Section 63I-2-217 is amended to read:
609	63I-2-217. Repeal dates Title 17.
610	(1) Subsection 17-8-7(2), the language that states "Sections 17-19-1 to 17-19-28 and"
611	and ", as applicable," is repealed January 1, 2015.
612	(2) Section 17-15-30 is repealed July 1, 2015.
613	[(2)] (3) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.

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