

MUNICIPAL FORMATION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to the incorporation of a noncontiguous municipality.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts provisions authorizing a county legislative body or residents of the unincorporated county to request an incorporation feasibility study;
- ▶ directs the county clerk to certify or reject a resident request;
- ▶ provides requirements for a feasibility study and a hearing on the feasibility study;
- ▶ enacts provisions authorizing a county legislative body to adopt a resolution to incorporate unincorporated areas of the county as a noncontiguous municipality and residents of the unincorporated county to petition for the incorporation of unincorporated areas of the county as a noncontiguous municipality;
- ▶ directs a county legislative body to appoint an advisory committee to recommend districts for the council members of the proposed noncontiguous municipality;
- ▶ directs the county clerk to certify or reject a resident petition for incorporation;
- ▶ requires, in certain circumstances, the county legislative body to hold an election on the incorporation of a proposed noncontiguous municipality;
- ▶ enacts provisions related to the terms, candidate eligibility, and membership of a noncontiguous municipality council;



- 28 ▶ enacts provisions governing a county mayor-municipal council form of government;
- 29 ▶ enacts provisions governing the administration of a noncontiguous municipality;
- 30 ▶ prohibits a noncontiguous municipality from levying a municipal energy sales and
- 31 use tax;
- 32 ▶ exempts a noncontiguous municipality from the Uniform Fiscal Procedures Act for
- 33 Utah Cities;
- 34 ▶ amends provisions of Title 17, Chapter 34, Municipal-Type Services to
- 35 Unincorporated Areas;
- 36 ▶ amends provisions of Title 17, Chapter 36, Uniform Fiscal Procedures Act for
- 37 Counties;
- 38 ▶ requires a candidate for the initial election of a noncontiguous municipal council to
- 39 comply with certain candidacy requirements in Title 20A, Election Code;
- 40 ▶ prohibits a municipal primary for the initial election of candidates to a
- 41 noncontiguous municipal council; and
- 42 ▶ makes technical and conforming amendments.

43 Money Appropriated in this Bill:

44 None

45 Other Special Clauses:

46 None

47 Utah Code Sections Affected:

48 AMENDS:

- 49 **10-1-104**, as last amended by Laws of Utah 2003, Chapter 292
- 50 **10-1-304**, as last amended by Laws of Utah 2012, Chapter 410
- 51 **10-2-101**, as last amended by Laws of Utah 2012, Chapter 359
- 52 **10-2-102**, as last amended by Laws of Utah 2012, Chapter 359
- 53 **10-2-120**, as last amended by Laws of Utah 2009, Chapter 350
- 54 **10-2-123**, as enacted by Laws of Utah 1997, Chapter 389
- 55 **10-3-205.5**, as last amended by Laws of Utah 2003, Chapter 292
- 56 **10-3-301**, as last amended by Laws of Utah 2012, Chapter 251
- 57 **10-3-302**, as repealed and reenacted by Laws of Utah 1993, Chapter 1
- 58 **10-3-803**, as enacted by Laws of Utah 1977, Chapter 48

- 59 [10-3-824](#), as enacted by Laws of Utah 1977, Chapter 48
- 60 [10-3-1302](#), as enacted by Laws of Utah 1981, Chapter 57
- 61 [10-3b-501](#), as enacted by Laws of Utah 2008, Chapter 19
- 62 [10-6-103](#), as enacted by Laws of Utah 1979, Chapter 26
- 63 [17-34-1](#), as last amended by Laws of Utah 2003, Chapter 275
- 64 [17-34-3](#), as last amended by Laws of Utah 2013, Chapter 371
- 65 [17-34-5](#), as last amended by Laws of Utah 2011, Chapter 297
- 66 [17-36-2](#), as last amended by Laws of Utah 1983, Chapter 73
- 67 [17-36-3](#), as last amended by Laws of Utah 2012, Chapter 17
- 68 [17-36-3.5](#), as enacted by Laws of Utah 1999, Chapter 300
- 69 [17-36-4](#), as last amended by Laws of Utah 2013, Chapter 413
- 70 [17-36-6](#), as last amended by Laws of Utah 1996, Chapter 212
- 71 [17-36-7](#), as enacted by Laws of Utah 1975, Chapter 22
- 72 [17-36-8](#), as last amended by Laws of Utah 1999, Chapter 300
- 73 [17-36-9](#), as last amended by Laws of Utah 2012, Chapter 17
- 74 [17-36-10](#), as last amended by Laws of Utah 2012, Chapter 17
- 75 [17-36-12](#), as last amended by Laws of Utah 2010, Chapter 90
- 76 [17-36-15](#), as last amended by Laws of Utah 2012, Chapter 17
- 77 [17-36-16](#), as last amended by Laws of Utah 2003, Chapter 167
- 78 [17-36-17](#), as last amended by Laws of Utah 2011, Chapter 297
- 79 [17-36-19](#), as last amended by Laws of Utah 1983, Chapter 73
- 80 [17-36-20](#), as last amended by Laws of Utah 2012, Chapter 17
- 81 [17-36-21](#), as enacted by Laws of Utah 1975, Chapter 22
- 82 [17-36-22](#), as last amended by Laws of Utah 2009, Chapter 186
- 83 [17-36-26](#), as last amended by Laws of Utah 2010, Chapters 90 and 116
- 84 [17-36-30](#), as enacted by Laws of Utah 1975, Chapter 22
- 85 [17-36-31](#), as last amended by Laws of Utah 1993, Chapter 227
- 86 [17-36-35](#), as last amended by Laws of Utah 1996, Chapter 212
- 87 [17-36-37](#), as last amended by Laws of Utah 2009, Chapter 323
- 88 [17-36-38](#), as last amended by Laws of Utah 1999, Chapter 300
- 89 [17-36-39](#), as last amended by Laws of Utah 2004, Chapter 206

- 90 **17-36-40**, as last amended by Laws of Utah 2009, Chapter 388
- 91 **17-36-41**, as last amended by Laws of Utah 1983, Chapter 73
- 92 **17-36-43**, as last amended by Laws of Utah 2012, Chapter 17
- 93 **17-36-44**, as last amended by Laws of Utah 2012, Chapter 17
- 94 **17-36-45**, as enacted by Laws of Utah 1996, Chapter 212
- 95 **17-36-46**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 96 **17-36-47**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 97 **17-36-48**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 98 **17-36-49**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 99 **17-36-50**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 100 **17-36-51**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 101 **17-36-52**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 102 **17-36-53**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 103 **17-36-54**, as last amended by Laws of Utah 2005, Chapter 105
- 104 **17B-1-502**, as last amended by Laws of Utah 2013, Chapter 141
- 105 **20A-9-202**, as last amended by Laws of Utah 2013, Chapter 317
- 106 **20A-9-404**, as last amended by Laws of Utah 2013, Chapter 402

107 ENACTS:

- 108 **10-2-130**, Utah Code Annotated 1953
- 109 **10-2-131**, Utah Code Annotated 1953
- 110 **10-2-132**, Utah Code Annotated 1953
- 111 **10-2-133**, Utah Code Annotated 1953
- 112 **10-2-134**, Utah Code Annotated 1953
- 113 **10-2-135**, Utah Code Annotated 1953
- 114 **10-2-136**, Utah Code Annotated 1953
- 115 **10-2-137**, Utah Code Annotated 1953
- 116 **10-2-138**, Utah Code Annotated 1953
- 117 **10-2-139**, Utah Code Annotated 1953
- 118 **10-2-140**, Utah Code Annotated 1953
- 119 **10-2-141**, Utah Code Annotated 1953
- 120 **10-3b-601**, Utah Code Annotated 1953

121 [10-3b-602](#), Utah Code Annotated 1953
122 [10-3b-603](#), Utah Code Annotated 1953
123 [10-3b-604](#), Utah Code Annotated 1953
124 [10-3b-605](#), Utah Code Annotated 1953
125 [10-3b-606](#), Utah Code Annotated 1953
126 [10-3b-607](#), Utah Code Annotated 1953
127 [10-3c-101](#), Utah Code Annotated 1953
128 [10-3c-102](#), Utah Code Annotated 1953
129 [10-3c-201](#), Utah Code Annotated 1953
130 [10-3c-202](#), Utah Code Annotated 1953
131 [10-3c-203](#), Utah Code Annotated 1953

132

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

134 Section 1. Section **10-1-104** is amended to read:

135 **10-1-104. Definitions.**

136 As used in this title:

137 (1) "City" means a municipality that is classified by population as a city of the first
138 class, a city of the second class, a city of the third class, a city of the fourth class, or a city of
139 the fifth class, under Section [10-2-301](#).

140 (2) "Contiguous" means:

141 (a) if used to described an area, continuous, uninterrupted, and without an island of
142 territory not included as part of the area; and

143 (b) if used to describe an area's relationship to another area, sharing a common
144 boundary.

145 (3) "Governing body" means collectively the legislative body and the executive of any
146 municipality. [~~Unless otherwise provided:~~]

147 [~~(a) in a city of the first or second class, the governing body is the city commission;~~]

148 [~~(b) in a city of the third, fourth, or fifth class, the governing body is the city council;~~

149 ~~and]~~

150 [~~(c) in a town, the governing body is the town council.]~~

151 (4) "Municipal" means of or relating to a municipality.

152 (5) "Municipality" means a city of the first class, city of the second class, city of the
153 third class, city of the fourth class, city of the fifth class, or a town, as classified in Section
154 [10-2-301](#).

155 (6) "Peninsula," when used to describe an unincorporated area, means an area
156 surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated
157 territory and situated so that the length of a line drawn across the unincorporated area from an
158 incorporated area to an incorporated area on the opposite side shall be less than 25% of the
159 total aggregate boundaries of the unincorporated area.

160 (7) "Person" means an individual, corporation, partnership, organization, association,
161 trust, governmental agency, or any other legal entity.

162 (8) "Provisions of law" shall include other statutes of the state of Utah and ordinances,
163 rules, and regulations properly adopted by any municipality unless the construction is clearly
164 contrary to the intent of state law.

165 (9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.

166 (10) "Town" means a municipality classified by population as a town under Section
167 [10-2-301](#).

168 (11) "Unincorporated" means not within a municipality.

169 Section 2. Section **10-1-304** is amended to read:

170 **10-1-304. Municipality and military installation development authority may levy**
171 **tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice**
172 **requirements -- Exemptions.**

173 (1) (a) Except as provided in Subsections (4) and (5) and Section [10-3c-203](#), a
174 municipality may levy a municipal energy sales and use tax on the sale or use of taxable energy
175 within the municipality:

176 (i) by ordinance as provided in Section [10-1-305](#); and

177 (ii) of up to 6% of the delivered value of the taxable energy.

178 (b) Subject to Section [63H-1-203](#), the military installation development authority
179 created in Section [63H-1-201](#) may levy a municipal energy sales and use tax under this part
180 within a project area described in a project area plan adopted by the authority under Title 63H,
181 Chapter 1, Military Installation Development Authority Act, as though the authority were a
182 municipality.

183 (2) A municipal energy sales and use tax imposed under this part may be in addition to
184 any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use
185 Tax Act.

186 (3) (a) For purposes of this Subsection (3):

187 (i) "Annexation" means an annexation to a municipality under Chapter 2, Part 4,
188 Annexation.

189 (ii) "Annexing area" means an area that is annexed into a municipality.

190 (b) (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the
191 rate of a tax under this part, the enactment, repeal, or change shall take effect:

192 (A) on the first day of a calendar quarter; and

193 (B) after a 90-day period beginning on the date the commission receives notice meeting
194 the requirements of Subsection (3)(b)(ii) from the municipality.

195 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

196 (A) that the city or town will enact or repeal a tax or change the rate of a tax under this
197 part;

198 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

199 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

200 (D) if the city or town enacts the tax or changes the rate of the tax described in
201 Subsection (3)(b)(ii)(A), the new rate of the tax.

202 (c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will
203 result in a change in the rate of a tax under this part for an annexing area, the change shall take
204 effect:

205 (A) on the first day of a calendar quarter; and

206 (B) after a 90-day period beginning on the date the commission receives notice meeting
207 the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

208 (ii) The notice described in Subsection (3)(c)(i)(B) shall state:

209 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the
210 rate of a tax under this part for the annexing area;

211 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

212 (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

213 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

214 (4) (a) Subject to Subsection (4)(b), a sale or use of electricity within a municipality is
215 exempt from the tax authorized by this section if the sale or use is made under a tariff adopted
216 by the Public Service Commission of Utah only for purchase of electricity produced from a
217 new source of alternative energy, as defined in Section 59-12-102, as designated in the tariff by
218 the Public Service Commission of Utah.

219 (b) The exemption under Subsection (4)(a) applies to the portion of the tariff rate a
220 customer pays under the tariff described in Subsection (4)(a) that exceeds the tariff rate under
221 the tariff described in Subsection (4)(a) that the customer would have paid absent the tariff.

222 (5) (a) A municipality may not levy a municipal energy sales and use tax within any
223 portion of the municipality that is within a project area described in a project area plan adopted
224 by the military installation development authority under Title 63H, Chapter 1, Military
225 Installation Development Authority Act.

226 (b) Subsection (5)(a) does not apply to the military installation development authority's
227 levy of a municipal energy sales and use tax.

228 Section 3. Section 10-2-101 is amended to read:

229 **10-2-101. Definitions.**

230 (1) As used in this part:

231 (a) "Feasibility consultant" means a person or firm:

232 (i) with expertise in the processes and economics of local government; and

233 (ii) ~~who~~ that is independent of and not affiliated with a county or sponsor of a
234 petition to incorporate.

235 (b) "Noncontiguous" means:

236 (i) if used to describe an area, discontinuous, interrupted, and possibly with an island of
237 territory included as part of the area; and

238 (ii) if used to describe an area's relationship to another area, not sharing a common
239 boundary.

240 ~~(b)~~ (c) "Private," with respect to real property, means taxable property.

241 (2) For purposes of this part:

242 (a) the owner of real property shall be the record title owner according to the records of
243 the county recorder on the date of the filing of the request or petition; and

244 (b) the value of private real property shall be determined according to the last

245 assessment roll for county taxes before the filing of the request or petition.

246 (3) For purposes of each provision of this part that requires the owners of private real
247 property covering a percentage or fraction of the total private land area within an area to sign a
248 request or petition:

249 (a) a parcel of real property may not be included in the calculation of the required
250 percentage or fraction unless the request or petition is signed by:

251 (i) except as provided in Subsection (3)(a)(ii), owners representing a majority
252 ownership interest in that parcel; or

253 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number
254 of owners of that parcel;

255 (b) the signature of a person signing a request or petition in a representative capacity on
256 behalf of an owner is invalid unless:

257 (i) the person's representative capacity and the name of the owner the person represents
258 are indicated on the request or petition with the person's signature; and

259 (ii) the person provides documentation accompanying the request or petition that
260 substantiates the person's representative capacity; and

261 (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a
262 request or petition on behalf of a deceased owner.

263 Section 4. Section **10-2-102** is amended to read:

264 **10-2-102. Incorporation of a contiguous area -- Governing provisions of city or**
265 **town incorporation -- Incorporation of a noncontiguous area.**

266 (1) (a) A contiguous area of a county not within a municipality may incorporate as a
267 municipality as provided in this part.

268 [~~2~~-(a)] (b) Incorporation of a contiguous area as a city is governed by Sections
269 [10-2-103](#) through [10-2-124](#).

270 [~~b~~] (c) Incorporation of a contiguous area as a town is governed by Sections [10-2-125](#)
271 through [10-2-129](#).

272 (2) A noncontiguous area of a county of a first class and not within a municipality may
273 incorporate as a municipality in accordance with Sections [10-2-130](#) through [10-2-141](#).

274 Section 5. Section **10-2-120** is amended to read:

275 **10-2-120. Powers of officers-elect.**

276 (1) Upon the canvass of the final election of city officers under Section 10-2-116 and
277 until the future city becomes legally incorporated, the officers of the future city may:

278 (a) prepare and adopt~~[, under Chapter 6, Uniform Fiscal Procedures Act for Utah~~
279 ~~Cities, a proposed budget and]~~:

280 (i) a compilation of ordinances; and

281 (ii) a proposed budget:

282 (A) for a newly incorporated city that is contiguous, in accordance with Chapter 6,
283 Uniform Fiscal Procedures Act for Utah Cities; or

284 (B) for a newly incorporated noncontiguous municipality, in accordance with Title 17,
285 Chapter 36, Uniform Fiscal Procedures Act for Counties;

286 (b) negotiate and make personnel contracts and hirings;

287 (c) negotiate and make service contracts;

288 (d) negotiate and make contracts to purchase equipment, materials, and supplies;

289 (e) borrow funds from the county in which the future city is located under Subsection
290 10-2-121(3);

291 (f) borrow funds for startup expenses of the future city;

292 (g) issue tax anticipation notes in the name of the future city; and

293 (h) make appointments to the city's planning commission.

294 (2) The city's legislative body shall review and ratify each contract made by the
295 officers-elect under Subsection (1) within 30 days after the effective date of incorporation
296 under Section 10-2-119.

297 (3) The officers of a noncontiguous municipality may exercise the powers and fulfill
298 the duties described in this section to the extent that a power or duty, including the employment
299 of personnel or appointment of officers, is not already exercised by the county on behalf of the
300 noncontiguous municipality in accordance with law.

301 Section 6. Section 10-2-123 is amended to read:

302 **10-2-123. Costs of incorporation.**

303 (1) Subject to Subsection (2), all costs of the incorporation proceeding, including
304 request certification, feasibility study, petition certification, publication of notices, public
305 hearings, and elections, shall be paid by the county in which the proposed city is located.

306 (2) If incorporation occurs, the new municipality shall reimburse the county for the

307 following costs [of] as applicable:

308 (a) the notices and hearing under Section 10-2-114[;];

309 (b) the notices and elections under [Section] Sections 10-2-116[;] and 10-2-138; and

310 (c) all other incorporation activities occurring after the elections under [Section]

311 Sections 10-2-116 and 10-2-138.

312 Section 7. Section 10-2-130 is enacted to read:

313 **10-2-130. Request or resolution for feasibility study for noncontiguous**
314 **municipality -- Requirements -- Limitations.**

315 (1) (a) The process to incorporate as a municipality a noncontiguous area of a county of
316 the first class that is governed by a county executive-council form of government, as described
317 in Section 17-52-504, and not located within a municipality, is initiated by:

318 (i) a request for a feasibility study filed with the clerk of the county in which the area is
319 located; or

320 (ii) a resolution adopted by the county legislative body to engage a feasibility
321 consultant.

322 (b) A county other than a county of the first class with a form of government other than
323 the county executive-council form of government may adopt the procedures described in
324 Sections 10-2-130 through 10-2-141 by ordinance.

325 (2) Each request under Subsection (1)(a)(i) shall:

326 (a) be signed by the owners of private real property that:

327 (i) is located within the area proposed to be incorporated;

328 (ii) covers at least 10% of the total private land area within the area; and

329 (iii) is equal in value to at least 7% of the value of all private real property within the
330 area;

331 (b) indicate the typed or printed name and current residence address of each owner
332 signing the request;

333 (c) describe the noncontiguous area proposed to be incorporated as a municipality;

334 (d) designate up to five signers of the request as sponsors, one of whom shall be
335 designated as the contact sponsor, with the mailing address and telephone number of each;

336 (e) be accompanied by and circulated with an accurate map or plat, prepared by a
337 licensed surveyor, showing the boundaries of the proposed municipality; and

338 (f) request the county legislative body to commission a study to determine the
339 feasibility of incorporating the noncontiguous area as a municipality.

340 (3) A resolution under Subsection (1)(a)(ii) shall:

341 (a) describe the noncontiguous area proposed to be incorporated as a municipality;

342 (b) be accompanied by and circulated with an accurate map or plat, prepared by a
343 licensed surveyor, showing the boundaries of the proposed municipality; and

344 (c) direct the county legislative body to commission a study to determine the feasibility
345 of incorporating the area as a municipality.

346 (4) A request or a resolution for a feasibility study under this section may not propose
347 for incorporation an area that includes some or all of an area that is the subject of a petition that
348 is certified in accordance with Section 10-2-110, a resolution adopted under 10-2-135, or a
349 petition certified in accordance with Section 10-2-137 unless:

350 (a) the proposed incorporation that is the subject of the petition or resolution has been
351 defeated by the voters at an election under Section 10-2-111 or 10-2-138; or

352 (b) the time provided under Subsection 10-2-109(1) or Subsection 10-2-135(1) has
353 lapsed without the filing of a petition or adoption of a resolution.

354 (5) (a) As used in this Subsection (5):

355 (i) "Incorporation procedure" means the following actions, the subject of which
356 includes an area located in whole or in part in a township:

357 (A) a request for incorporation described in Section 10-2-130;

358 (B) a feasibility study described in Section 10-2-106;

359 (C) a modified request and a supplemental feasibility study described in Section
360 10-2-107; or

361 (D) an incorporation petition described in Section 10-2-109 that is not certified under
362 Section 10-2-110.

363 (ii) "Annexation procedure" means one or more of the following actions, the subject of
364 which includes an area located in whole or in part in a township:

365 (A) a petition to annex described in Section 10-2-403;

366 (B) a feasibility study described in Section 10-2-413;

367 (C) a modified annexation petition or supplemental feasibility study described in
368 Section 10-2-414;

369 (D) a boundary commission decision described in Section 10-2-416; or

370 (E) any action described in Section 10-2-418 before the adoption of an ordinance to
371 approve annexation under Subsection 10-2-418(3)(b).

372 (b) If an incorporation petition or resolution is filed under this section, and the petition
373 or resolution includes some or all of an area that is the subject of an incorporation procedure or
374 annexation procedure filed on or after January 1, 2014, the incorporation procedure or
375 annexation procedure is suspended on the date that the incorporation petition is filed or
376 resolution is adopted under this section.

377 (c) If an incorporation procedure or annexation procedure is suspended under
378 Subsection (5)(b), any applicable deadline or timeline is suspended until all proceedings on a
379 noncontiguous incorporation are final, at which time the applicable deadline or timeline:

380 (i) may proceed and the period of time during the suspension does not toll against that
381 deadline or timeline; and

382 (ii) does not start over.

383 (6) (a) At the time of filing the request for a feasibility study with the county clerk, the
384 sponsors of the request shall mail or deliver a copy of the request to the chair of the planning
385 commission of each township in which any part of the area proposed for incorporation is
386 located.

387 (b) No later than three business days after the day on which a county legislative body
388 adopts a resolution to engage a feasibility consultant, the county legislative body shall mail or
389 deliver a copy of the request to the chair of the planning commission of each township in which
390 any part of the area proposed for incorporation is located.

391 (7) (a) As used in this Subsection (7), "rural real property" means an area:

392 (i) zoned primarily for manufacturing, commercial, or agricultural purposes; and

393 (ii) that does not include residential units with a density greater than one unit per acre.

394 (b) Except as provided in Subsection (8), unless a property owner consents in writing, a
395 request under Subsection (1)(a)(i) and a resolution under Subsection (1)(a)(ii) may not include
396 real property that:

397 (i) consists of 1,500 or more contiguous acres of rural real property;

398 (ii) is not contiguous to but is used in connection with rural real property that consists
399 of 1,500 acres or more of contiguous acres of real property;

400 (iii) is owned, managed, or controlled by a person, company, or association, including
401 a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural
402 real property; or

403 (iv) is located in whole or part in one of the following as defined in Section [17-41-101](#):

404 (A) an agricultural protection area;

405 (B) a mining protection area; or

406 (C) an industrial protection area.

407 (8) A resolution or petition described in Subsection (1) may not include real property
408 described in Subsection (7) without the owner's written consent unless the county legislative
409 body finds by clear and convincing evidence in the record that:

410 (a) the real property is not rural real property; and

411 (b) the real property does not receive from the county a majority of municipal-type
412 services described in Subsection [10-2-104\(4\)\(b\)\(ii\)](#).

413 Section 8. Section **10-2-131** is enacted to read:

414 **10-2-131. Notice to owner of property -- Exclusion of property from proposed**
415 **boundaries.**

416 (1) As used in this section:

417 (a) "Assessed value" with respect to property means the value at which the property
418 would be assessed without regard to a valuation for agricultural use under Section [59-2-503](#).

419 (b) "Owner" means a person having an interest in real property, including an affiliate,
420 subsidiary, or parent company.

421 (c) "Urban" means an area with a residential density of greater than one unit per acre.

422 (2) Within seven calendar days of the date on which a request under Section [10-2-130](#)
423 is filed or a resolution under Section [10-2-130](#) is adopted, the county clerk shall send written
424 notice of the proposed incorporation to each record owner of real property owning more than:

425 (a) 1% of the assessed value of all property in the proposed incorporation boundaries;

426 or

427 (b) 10% of the total private land area within the proposed incorporation boundaries.

428 (3) If an owner owns, controls, or manages more than 1% of the assessed value of all
429 property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more
430 of the total private land area in the proposed incorporation boundaries, the owner may exclude

431 all or part of the property owned, controlled, or managed by the owner from the proposed
432 boundaries by filing a Notice of Exclusion with the county legislative body within 15 calendar
433 days of receiving the clerk's notice under Subsection (2).

434 (4) The county legislative body shall exclude the property identified by an owner in the
435 Notice of Exclusion from the proposed incorporation boundaries unless the county legislative
436 body finds by clear and convincing evidence in the record that:

437 (a) the exclusion will leave an unincorporated island within the proposed municipality;

438 and

439 (b) the property to be excluded:

440 (i) is urban; and

441 (ii) currently receives from the county a majority of municipal-type services, including:

442 (A) culinary or irrigation water;

443 (B) sewage collection or treatment;

444 (C) storm drainage or flood control;

445 (D) recreational facilities or parks;

446 (E) electric generation or transportation;

447 (F) construction or maintenance of local streets and roads;

448 (G) curb and gutter or sidewalk maintenance;

449 (H) garbage and refuse collection; and

450 (I) street lighting.

451 (5) If the county legislative body excludes property from the proposed boundaries
452 under Subsection (4), the county legislative body shall, within five days of the exclusion, send
453 written notice of the exclusion to the contact sponsor.

454 Section 9. Section **10-2-132** is enacted to read:

455 **10-2-132. Processing a request for noncontiguous incorporation -- Certification or**
456 **rejection by county clerk -- Processing priority -- Limitations -- Township planning**
457 **commission recommendation.**

458 (1) Within 45 days of the filing of a request under Section [10-2-130](#), the county clerk
459 shall:

460 (a) with the assistance of other county officers from whom the clerk requests

461 assistance, determine whether the request complies with Section [10-2-130](#); and

462 (b) (i) if the clerk determines that the request complies with Section 10-2-130:
463 (A) certify the request and deliver the certified request to the county legislative body;

464 and

465 (B) mail or deliver written notification of the certification to the contact sponsor and
466 the chair of the planning commission of each township in which any part of the area proposed
467 for incorporation is located; or

468 (ii) if the clerk determines that the request fails to comply with the requirements of
469 Section 10-2-130, reject the request and notify the contact sponsor in writing of the rejection
470 and the reasons for the rejection.

471 (2) The county clerk shall certify or reject requests under Subsection (1) in the order in
472 which they are filed.

473 (3) (a) (i) If the county clerk rejects a request under Subsection (1)(b)(ii), the request
474 may be amended to correct the deficiencies for which it was rejected and then refiled with the
475 county clerk.

476 (ii) A signature on a request under Section 10-2-130 may be used toward fulfilling the
477 signature requirement of Subsection 10-2-130(2)(a) for the request as modified under
478 Subsection (3)(a)(i).

479 (b) If a request is amended and refiled under Subsection (3)(a) after having been
480 rejected by the county clerk under Subsection (1)(b)(ii), it shall be considered as a newly filed
481 request, and its processing priority is determined by the date on which it is refiled.

482 Section 10. Section 10-2-133 is enacted to read:

483 **10-2-133. Feasibility study -- Feasibility study consultant.**

484 (1) Within 60 days of receipt of a certified request under Subsection 10-2-132(1)(b)(i),
485 or within 60 days of adopting a resolution to engage a feasibility consultant in accordance with
486 Subsection 10-2-130(1)(a)(ii), the county legislative body shall engage the feasibility
487 consultant chosen under Subsection (2) to conduct a feasibility study.

488 (2) The feasibility consultant shall be chosen:

489 (a) (i) if a request for a feasibility study was filed with the county clerk:

490 (A) by the contact sponsor of the incorporation petition with the consent of the county;

491 or

492 (B) by the county if the designated sponsors state, in writing, that the contact sponsor

493 defers selection of the feasibility consultant to the county; or
494 (ii) if the county legislative body adopted a resolution to engage the feasibility
495 consultant, by the county legislative body; and
496 (b) in accordance with applicable county procurement procedures.
497 (3) The county legislative body shall require the feasibility consultant to:
498 (a) complete the feasibility study and submit the written results to the county legislative
499 body and the contact sponsor, if applicable, no later than 90 days after the feasibility consultant
500 is engaged to conduct the study;
501 (b) submit with the full written results of the feasibility study a summary of the results
502 no longer than one page in length; and
503 (c) attend the public hearings under Subsection [10-2-134\(1\)](#) and present the feasibility
504 study results and respond to questions from the public at those hearings.
505 (4) (a) The feasibility study shall consider:
506 (i) population and population density within the area proposed for incorporation and
507 the surrounding area;
508 (ii) current and five-year projections of demographics and economic base in the
509 proposed municipality and surrounding area, including household size and income, commercial
510 and industrial development, and public facilities;
511 (iii) projected growth in the proposed municipality and in adjacent areas during the
512 next five years;
513 (iv) subject to Subsection (4)(b), the present and five-year projections of the cost,
514 including overhead, of governmental services in the proposed municipality, including:
515 (A) culinary water;
516 (B) secondary water;
517 (C) sewer;
518 (D) law enforcement;
519 (E) fire protection;
520 (F) roads and public works;
521 (G) garbage;
522 (H) weeds; and
523 (I) government offices;

524 (v) assuming the same tax categories and tax rates as currently imposed by the county
525 and all other current service providers, the present and five-year projected revenue for the
526 proposed municipality;

527 (vi) a projection of any new taxes per household that may be levied within the
528 incorporated area within five years of incorporation; and

529 (vii) the fiscal impact on unincorporated areas, other municipalities, local districts,
530 special service districts, and other governmental entities in the county.

531 (b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a
532 level and quality of governmental services to be provided to the proposed municipality in the
533 future that fairly and reasonably approximate the level and quality of governmental services
534 being provided to the proposed municipality at the time of the feasibility study.

535 (ii) In determining the present cost of a governmental service, the feasibility consultant
536 shall consider:

537 (A) the amount it would cost the proposed municipality to provide governmental
538 service for the first five years after incorporation; and

539 (B) the county's present and five-year projected cost of providing governmental
540 service.

541 (iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation
542 and anticipated growth.

543 (5) If the five-year projected revenues under Subsection (4)(a)(v) exceed the five-year
544 projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall
545 project and report the expected annual revenue surplus to the contact sponsor, if applicable, the
546 county legislative body, and the lieutenant governor.

547 Section 11. Section **10-2-134** is enacted to read:

548 **10-2-134. Public hearings on feasibility study results -- Notice of hearings.**

549 (1) The county legislative body shall, at its next regular meeting after receipt of the
550 results of the feasibility study, schedule at least two public hearings to be held:

551 (a) within the following 60 days;

552 (b) at least seven days apart;

553 (c) in geographically diverse locations within the proposed municipality; and

554 (d) for the purpose of allowing:

555 (i) the feasibility consultant to present the results of the study; and
556 (ii) the public to become informed about the feasibility study results and to ask the
557 feasibility consultant questions about those results.
558 (2) At a public hearing described in Subsection (1), the county legislative body shall:
559 (a) provide a map or plat of the boundaries of the proposed municipality;
560 (b) provide a copy of the feasibility study for public review; and
561 (c) allow the public to express its views about the proposed incorporation, including its
562 views about the proposed boundaries.
563 (3) (a) (i) The county clerk shall publish notice of the public hearings required under
564 Subsection (1):
565 (A) at least once a week for three successive weeks in a newspaper of general
566 circulation within the proposed municipality; and
567 (B) on the Utah Public Notice Website, created in Section 63F-1-701, for three weeks.
568 (ii) The last publication of notice required under Subsection (3)(a)(i)(A) shall be at
569 least three days before the first public hearing required under Subsection (1).
570 (b) (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation
571 within the proposed municipality, the county clerk shall post at least one notice of the hearings
572 per 1,000 population in conspicuous places within the proposed municipality that are most
573 likely to give notice of the hearings to the residents of the proposed municipality.
574 (ii) The clerk shall post the notices under Subsection (3)(b)(i) at least seven days before
575 the first hearing under Subsection (1).
576 (c) The notice under Subsections (3)(a) and (b) shall include the feasibility study
577 summary under Subsection 10-2-133(3)(b) and shall indicate that a full copy of the study is
578 available for inspection and copying at the office of the county clerk.

579 Section 12. Section **10-2-135** is enacted to read:

580 **10-2-135. Noncontiguous incorporation petition or resolution -- Requirements and**
581 **form.**

582 (1) At any time within one year of the completion of the public hearings required under
583 Subsection 10-2-134(1):
584 (a) a petition for incorporation of the area proposed to be incorporated as a
585 municipality may be filed in the office of the clerk of the county in which the area is located; or

586 (b) the county legislative body may adopt a resolution to incorporate the area proposed
587 to be incorporated as a municipality.

588 (2) Each petition under Subsection (1)(a) shall:

589 (a) be signed by:

590 (i) 10% of all registered voters within the area proposed to be incorporated as a
591 municipality, according to the official voter registration list maintained by the county on the
592 date the petition is filed; and

593 (ii) 10% of all registered voters within, subject to Subsection (5), 90% of the voting
594 precincts within the area proposed to be incorporated as a municipality, according to the
595 official voter registration list maintained by the county on the date the petition is filed;

596 (b) indicate the typed or printed name and current residence address of each owner
597 signing the petition;

598 (c) describe the area proposed to be incorporated as a municipality, as described in the
599 feasibility study request;

600 (d) state the proposed name for the proposed municipality;

601 (e) designate five signers of the petition as petition sponsors, one of whom shall be
602 designated as the contact sponsor, with the mailing address and telephone number of each;

603 (f) be accompanied by and circulated with an accurate plat or map, prepared by a
604 licensed surveyor, showing the boundaries of the proposed municipality; and

605 (g) substantially comply with and be circulated in the following form:

606 "PETITION FOR INCORPORATION OF (insert the proposed name of the proposed
607 municipality).

608 To the Honorable County Legislative Body of (insert the name of the county in which
609 the proposed municipality is located) County, Utah:

610 We, the undersigned registered voters within the area described in this petition,
611 respectfully petition the county legislative body to submit to the registered voters residing
612 within the area described in this petition, at the next regular or municipal general election,
613 whichever occurs first, the question of whether the area should incorporate as a municipality.
614 Each of the undersigned affirms that each has personally signed this petition and is a registered
615 voter within the described area, and that the current residence address of each is correctly
616 written after the signer's name. The area proposed to be incorporated as a municipality is

617 described as follows: (insert an accurate description of the area proposed to be incorporated)."

618 (3) A resolution adopted by the county legislative body for incorporation shall:

619 (a) include the information described in Subsections (2)(d) and (f); and

620 (b) appoint members to the council district advisory committee in accordance with

621 Section 10-2-136.

622 (4) A signature on a request under Section 10-2-130 may be used toward fulfilling the
623 signature requirement of Subsection (2)(a):

624 (a) if the request under Section 10-2-130 notified the signer in conspicuous language
625 that the signature, unless withdrawn, would also be used for purposes of a petition for
626 incorporation under this section; and

627 (b) unless the signer files with the county clerk a written withdrawal of the signature
628 before the petition under this section is filed with the clerk.

629 (5) (a) A signature does not qualify as a signature to meet the requirement described in
630 Subsection (2)(a)(ii) if the signature is gathered from a voting precinct that:

631 (i) is not located entirely within the boundaries of the proposed municipality; or

632 (ii) includes fewer than 50 registered voters.

633 (b) A voting precinct that is not located entirely within the boundaries of the proposed
634 municipality does not qualify as a voting precinct to meet the precinct requirements of
635 Subsection (2)(a)(ii).

636 Section 13. Section 10-2-136 is enacted to read:

637 **10-2-136. Determination of boundaries of council districts -- Appointment of**
638 **council districts advisory committee -- Adoption of proposed council districts.**

639 (1) The boundaries of the nine council districts for election of municipal council
640 members shall be designated in accordance with this section.

641 (2) (a) In a resolution to incorporate under Section 10-2-135, or in accordance with
642 Subsection 10-2-137(4), a resolution adopted after the certification of a petition, the county
643 legislative body shall appoint the following 12 members to a council district advisory
644 committee to advise the county legislative body on the designation of council districts for the
645 noncontiguous area proposed for incorporation:

646 (i) six members representing the townships that are located within the county and that
647 are also located, in part or in whole, in the area proposed for incorporation;

- 648 (ii) two members who each reside in the area proposed for incorporation; and
649 (iii) four additional members.
- 650 (b) (i) The county legislative body may not appoint a person under Subsection (2)(a)
651 unless the person:
- 652 (A) is a registered voter of the county; and
653 (B) does not hold a public office or public employment other than membership on the
654 advisory committee.
- 655 (ii) Notwithstanding Subsection (2)(b)(i)(A), the county legislative body may appoint a
656 public official of a local district, as defined in Section 17B-1-102, or a special service district,
657 as defined in Section 17D-1-102, if the public official does not also hold a public office with a
658 political subdivision other than the local district or special service district.
- 659 (c) The county shall reimburse each member of the advisory committee for necessary
660 expenses incurred in performing the member's duties on the committee.
- 661 (d) If a vacancy occurs in the advisory committee, the county legislative body shall fill
662 the vacancy within 10 days of receiving notice of the vacancy.
- 663 (3) The county executive shall convene a meeting of the members of the advisory
664 committee described in Subsection (2) within 10 days after the day on which the county
665 legislative body adopts the resolution appointing the members.
- 666 (4) The advisory committee may:
- 667 (a) establish advisory boards or committees and include on them persons who are not
668 members of the advisory committee; and
- 669 (b) request the assistance and advice of any officers or employees of a state agency or
670 local government.
- 671 (5) (a) The advisory committee shall:
- 672 (i) study the division of the area proposed for incorporation into council districts that
673 comply with Section 10-3-205.5;
- 674 (ii) hold public hearings and community forums and other means the committee
675 considers appropriate to disseminate information and stimulate public discussion of the
676 committee's purposes, progress, and conclusions;
- 677 (iii) include in the report described in Subsection (5)(a)(iv) a determination of the
678 initial terms of the members of the municipal council so that:

679 (A) approximately half the members of the municipal council are elected to serve an
680 initial term, of no less than one year, that allows their successors to serve a full four-year term
681 that coincides with the schedule established in Subsection 10-3-205(1); and

682 (B) the remaining members of the municipal council are elected to serve an initial
683 term, of no less than one year, that allows their successors to serve a full four-year term that
684 coincides with the schedule established in Subsection 10-3-205(2); and

685 (iv) file a written report of its findings and recommendations with the county executive
686 and the county legislative body within 60 days after the convening of its first meeting.

687 (b) Each advisory committee report under Subsection (5)(a) shall include:

688 (i) the advisory committee's recommendation as to the division of the area proposed for
689 incorporation into nine council districts; and

690 (ii) a detailed map, prepared by a licensed surveyor, of the boundaries of each council
691 district.

692 (6) A meeting held by the advisory committee is open to the public.

693 (7) The county legislative body shall provide for the advisory committee:

694 (a) suitable meeting facilities;

695 (b) necessary secretarial services;

696 (c) necessary printing and photocopying services; and

697 (d) necessary clerical and staff assistance.

698 (8) After receiving the report from the advisory committee, the county legislative body
699 shall adopt by resolution:

700 (a) the nine municipal council districts as recommended by the advisory committee; or

701 (b) nine municipal council districts with boundaries other than those proposed by the
702 advisory committee but that are otherwise in compliance with Section 10-3-205.5 and the
703 schedule described in Section 10-3-205.

704 Section 14. Section 10-2-137 is enacted to read:

705 **10-2-137. Processing of petition by county clerk -- Certification or rejection --**

706 **Processing priority -- Resolution after petition to appoint council district advisory**
707 **committee.**

708 (1) Within 45 days of the filing of a petition under Section 10-2-135, the county clerk
709 shall:

710 (a) with the assistance of other county officers from whom the clerk requests
711 assistance, determine whether the petition meets the requirements of Section [10-2-135](#); and

712 (b) (i) if the clerk determines that the petition meets those requirements, certify the
713 petition, deliver it to the county legislative body, and notify in writing the contact sponsor of
714 the certification; or

715 (ii) if the clerk determines that the petition fails to meet any of those requirements,
716 reject the petition and notify the contact sponsor in writing of the rejection and the reasons for
717 the rejection.

718 (2) (a) If the county clerk rejects a petition under Subsection (1)(b)(ii), the petition may
719 be modified to correct the deficiencies for which it was rejected and then refiled with the
720 county clerk.

721 (b) A modified petition under Subsection (2)(a) may be filed at any time until 30 days
722 after the county clerk notifies the contact sponsor under Subsection (1)(b)(ii), even though the
723 modified petition is filed after the expiration of the deadline provided in Subsection
724 [10-2-135](#)(1).

725 (c) A signature on an incorporation petition under Section [10-2-135](#) may be used
726 toward fulfilling the signature requirement of Subsection [10-2-135](#)(2)(a) for the petition as
727 modified under Subsection (2)(a).

728 (3) (a) Within 20 days of the county clerk's receipt of a modified petition under
729 Subsection (2)(a), the county clerk shall follow the same procedure for the modified petition as
730 provided under Subsection (1) for an original petition.

731 (b) If a county clerk rejects a modified petition under Subsection (1)(b)(ii), no further
732 modification of that petition may be filed.

733 (4) Within 10 days of certification of a petition by the county clerk in accordance with
734 Subsection (1)(b), the county legislative body shall adopt a resolution to appoint members to a
735 council district advisory committee in accordance with Section [10-2-136](#).

736 Section 15. Section **10-2-138** is enacted to read:

737 **10-2-138. Noncontiguous incorporation and council member election -- Notice of**
738 **candidacy deadline -- Notice of election.**

739 (1) (a) At the next regular general election date under Section [20A-1-201](#) or municipal
740 general election date under Section [20A-1-202](#), whichever occurs first, more than 80 days after

741 the county legislative body adopts a resolution designating the municipal council districts under
742 Subsection 10-2-136(8), the county legislative body shall hold an election:

743 (i) on the proposed incorporation of the noncontiguous area; and

744 (ii) to select a council member for each of the municipal council seats representing the
745 nine municipal council districts.

746 (b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102,
747 within the boundaries of:

748 (i) the proposed municipality, the person may not vote on the proposed incorporation;

749 and

750 (ii) the council district of a candidate for municipal council, the person may not vote
751 for the candidate.

752 (2) (a) Within 20 days of the county legislative body's adoption of a resolution
753 designating the municipal council districts under Subsection 10-2-136(8), the county clerk shall
754 publish, in accordance with Subsection (2)(b), notice containing:

755 (i) a description of the boundaries of the council districts as designated in the
756 resolution;

757 (ii) information about the deadline for filing a declaration of candidacy for those
758 seeking to become candidates for municipal council; and

759 (iii) information about the length of the initial term of each of the municipal officers, as
760 described in a resolution under Section 10-2-135.

761 (b) The notice under Subsection (2)(a) shall be published:

762 (i) in a newspaper of general circulation within the future municipality at least once a
763 week for two successive weeks; and

764 (ii) in accordance with Section 45-1-101 for two weeks.

765 (c) (i) In accordance with Subsection (2)(b)(i), if there is no newspaper of general
766 circulation within the future municipality, the county clerk shall post at least one notice per
767 1,000 population in conspicuous places within the future municipality that are most likely to
768 give notice to the residents of the future municipality.

769 (ii) The notice under Subsection (2)(c)(i) shall contain the information required under
770 Subsection (2)(a).

771 (iii) The county clerk shall post the notices under Subsection (2)(c)(i) at least seven

772 days before the deadline for filing a declaration of candidacy under Subsection (2)(d).

773 (d) Notwithstanding Subsection 20A-9-202(1)(b)(i), if the election is a regular general
774 election, or Subsection 20A-9-203(2)(a), if the election is a regular municipal general election,
775 each person seeking to become a candidate for municipal council of a noncontiguous
776 municipality shall, no later than 60 days before the day of the incorporation election under
777 Subsection (1), file a declaration of candidacy with the clerk of the county in which the future
778 municipality is located.

779 (3) (a) The county clerk shall publish notice of the election:

780 (i) at least once a week for three successive weeks in a newspaper of general
781 circulation within the area proposed to be incorporated; and

782 (ii) for three weeks in accordance with Section 45-1-101.

783 (b) The notice required by Subsection (3)(a) shall contain:

784 (i) a statement of the contents of the incorporation petition or resolution;

785 (ii) a description of the noncontiguous area proposed to be incorporated as a
786 municipality;

787 (iii) a statement of the date and time of the election and the location of polling places;

788 and

789 (iv) the feasibility study summary under Subsection 10-2-133(3)(b) and a statement
790 that a full copy of the study is available for inspection and copying at the office of the county
791 clerk.

792 (c) The last publication of notice required under Subsection (3)(a) shall occur at least
793 one day but no more than seven days before the election.

794 (d) (i) In accordance with Subsection (3)(a)(i), if there is no newspaper of general
795 circulation within the proposed municipality, the county clerk shall post at least one notice of
796 the election per 1,000 population in conspicuous places within the proposed municipality that
797 are most likely to give notice of the election to the voters of the proposed municipality.

798 (ii) The clerk shall post the notices under Subsection (3)(d)(i) at least seven days before
799 the election under Subsection (1).

800 (4) (a) If a majority of those casting votes within the area boundaries of the proposed
801 municipality vote to incorporate as a municipality, the area shall:

802 (i) incorporate as a noncontiguous municipality as defined in Section 10-3c-102; and

803 (ii) be governed by the county mayor-municipal council form of government as
804 described in Title 10, Chapter 3b, Part 6, County Mayor-Municipal Council Form of
805 Government.

806 (b) The candidate for each council district that receives a majority of the vote is elected
807 as the municipal council person for that council district and for a term as designated in
808 accordance with Section 10-2-136.

809 Section 16. Section **10-2-139** is enacted to read:

810 **10-2-139. Ballot used at the noncontiguous incorporation election.**

811 The ballot at the incorporation election under Section 10-2-138 shall:

812 (1) pose the incorporation question substantially as follows:

813 "Shall the area described as (insert a description of the proposed municipality) be
814 incorporated as the municipality of (insert the proposed name of the proposed municipality)?";

815 (2) provide a space for the voter to answer yes or no to the question in Subsection (1);
816 and

817 (3) in a nonpartisan format, include the name of each qualified candidate for each
818 municipal council district as described in a resolution adopted under Subsection 10-2-136(8).

819 Section 17. Section **10-2-140** is enacted to read:

820 **10-2-140. Status and powers.**

821 A noncontiguous municipality incorporated in an election in accordance with Section
822 10-2-138:

823 (1) is:

824 (a) a body corporate and politic with perpetual succession;

825 (b) a municipal corporation; and

826 (c) a political subdivision of the state; and

827 (2) may sue and be sued.

828 Section 18. Section **10-2-141** is enacted to read:

829 **10-2-141. Incorporation of noncontiguous municipality subject to other**
830 **provisions.**

831 An incorporation of a noncontiguous municipality in accordance with Sections
832 10-2-130 through 10-2-140 is subject to the following provisions to the same extent as the
833 incorporation of a contiguous municipality in accordance with Sections 10-2-130 through

834 [10-2-124](#):

835 (1) [Section 10-2-113](#);

836 (2) [Section 10-2-120](#);

837 (3) [Section 10-2-121](#); and

838 (4) [Section 10-2-123](#).

839 Section 19. Section **10-3-205.5** is amended to read:

840 **10-3-205.5. At-large election of officers -- Election of commissioners or council**
841 **members.**

842 (1) Except as provided in [~~Subsection (2)~~] Subsections (2) and (3), the officers of each
843 city shall be elected in an at-large election held at the time and in the manner provided for
844 electing municipal officers.

845 (2) (a) [~~Notwithstanding Subsection (1), the~~] The governing body of a city may by
846 ordinance provide for the election of some or all commissioners or council members, as the
847 case may be, by district equal in number to the number of commissioners or council members
848 elected by district.

849 (b) (i) Each district shall be of substantially equal population as the other districts.

850 (ii) Within six months after the Legislature completes its redistricting process, the
851 governing body of each city that has adopted an ordinance under Subsection (2)(a) shall make
852 any adjustments in the boundaries of the districts as may be required to maintain districts of
853 substantially equal population.

854 (3) (a) The municipal council members of a noncontiguous municipality, as defined in
855 Section [10-3c-102](#), are elected by district.

856 (b) There are nine council districts in a noncontiguous municipality and those districts
857 shall comply with Subsections (2)(b)(i) and (ii).

858 Section 20. Section **10-3-301** is amended to read:

859 **10-3-301. Notice -- Eligibility and residency requirements for elected municipal**
860 **office -- Mayor and recorder limitations.**

861 (1) (a) On or before February 1 in a year in which there is a municipal general election,
862 the municipal clerk shall publish a notice that identifies:

863 (i) the municipal offices to be voted on in the municipal general election; and

864 (ii) the dates for filing a declaration of candidacy for the offices identified under

865 Subsection (1)(a)(i).

866 (b) The municipal clerk shall publish the notice described in Subsection (1)(a):

867 (i) on the Utah Public Notice Website established by Section 63F-1-701; and

868 (ii) in at least one of the following ways:

869 (A) at the principal office of the municipality;

870 (B) in a newspaper of general circulation within the municipality at least once a week

871 for two successive weeks in accordance with Section 45-1-101;

872 (C) in a newsletter produced by the municipality;

873 (D) on a website operated by the municipality; or

874 (E) with a utility enterprise fund customer's bill.

875 (2) A person filing a declaration of candidacy for a municipal office shall meet the

876 requirements of Section 20A-9-203.

877 (3) Any person elected to municipal office shall be a registered voter in the

878 municipality in which the person was elected.

879 (4) (a) Each elected officer of a municipality shall maintain residency within the

880 boundaries of the municipality during the officer's term of office.

881 (b) If an elected officer of a municipality establishes a principal place of residence as
882 provided in Section 20A-2-105 outside the municipality during the officer's term of office, the
883 office is automatically vacant.

884 (5) Notwithstanding Subsection (3) or (4), the mayor of a noncontiguous municipality
885 as defined in Section 10-3c-102:

886 (a) (i) shall be a registered voter in the county in which the noncontiguous municipality
887 is located; and

888 (ii) is not required to be a registered voter of the noncontiguous municipality; and

889 (b) shall maintain residence within the boundaries of the county of which the mayor is
890 the chief executive administrative officer in which the noncontiguous municipality is located
891 but is not required to reside within the noncontiguous municipality.

892 [~~5~~] (6) If an elected municipal officer is absent from the municipality any time during
893 the officer's term of office for a continuous period of more than 60 days without the consent of
894 the municipal legislative body, the municipal office is automatically vacant.

895 [~~6~~] (7) (a) A mayor of a municipality may not also serve as the municipal recorder or

896 treasurer.

897 (b) The recorder of a municipality may not also serve as the municipal treasurer.

898 (8) The mayor of a noncontiguous municipality, as defined in Section 10-3c-102, is the
899 candidate successfully elected in a regular general election as the county mayor of the county in
900 which the noncontiguous municipality is located, the election and notice of which is not subject
901 to the election and notice requirements of this title.

902 Section 21. Section **10-3-302** is amended to read:

903 **10-3-302. Mayoral or council vacancy of a municipality.**

904 (1) Mayoral or council vacancies [~~shall be~~] are filled as provided in Section
905 20A-1-510.

906 (2) Notwithstanding Subsection (1), a vacancy in the office of mayor of a
907 noncontiguous municipality, as defined in Section 10-3c-102, is filled in accordance with
908 Section 20A-1-508.

909 Section 22. Section **10-3-803** is amended to read:

910 **10-3-803. Officers limited to one office -- Exceptions.**

911 (1) In cities of the first class, the mayor, commissioners, recorder and treasurer shall
912 administer only one office under the city government, except that the offices of city recorder
913 and auditor may be held by one person.

914 (2) This section may not be construed to prohibit the filling of an office under Section
915 10-3b-606.

916 Section 23. Section **10-3-824** is amended to read:

917 **10-3-824. Bonds of first officers after incorporation.**

918 [~~Whenever~~] (1) (a) If the inhabitants of any municipality incorporate under [this act]
919 Chapter 2, Incorporation, Classification, Boundaries, Consolidation, and Dissolution of
920 Municipalities, the officers first elected or appointed, except the treasurer, shall give bonds in
921 the penal sum of not less than \$500.

922 (b) The bonds required in this section shall remain in force until the passage of
923 ordinances or resolutions by the governing body of such municipality providing for the bonds
924 required of its officers under this act.

925 (c) The bond of the municipal treasurer shall be in a penal sum of not less than \$500
926 and may be established by an ordinance or resolution by the governing body, except that the

927 bond of the treasurer shall be set in an amount provided by the rules and regulations of the state
 928 money management council if [it] the bond has been established by the state money
 929 management council.

930 (2) In a newly incorporated noncontiguous municipality, as defined in Section
 931 10-3c-102, this section does not apply to an officer of a county who is also the first officer of
 932 the municipality as described in Section 10-3c-606.

933 Section 24. Section **10-3-1302** is amended to read:

934 **10-3-1302. Purpose -- Application.**

935 (1) The purposes of this part are to establish standards of conduct for municipal
 936 officers and employees and to require these persons to disclose actual or potential conflicts of
 937 interest between their public duties and their personal interests.

938 (2) In a noncontiguous municipality as defined in Section 10-3c-102, the provisions of
 939 this part may not be applied to an employee who is paid a salary or otherwise reimbursed by the
 940 county for services required to be provided to the noncontiguous municipality in accordance
 941 with Chapter 3c, Administration of Noncontiguous Municipalities.

942 Section 25. Section **10-3b-501** is amended to read:

943 **10-3b-501. Authority to change to another form of municipal government.**

944 (1) As provided in this part, a municipality may change from the form of government
 945 under which it operates to:

946 [~~1~~] (a) the council-mayor form of government with a five-member council;

947 [~~2~~] (b) the council-mayor form of government with a seven-member council;

948 [~~3~~] (c) the six-member council form of government; or

949 [~~4~~] (d) the five-member council form of government.

950 (2) A municipality other than a noncontiguous municipality, as defined in Section
 951 10-3c-102, may not operate under the county mayor-municipal council form of government.

952 Section 26. Section **10-3b-601** is enacted to read:

953 **Part 6. County Mayor-Municipal Council Form of Government**

954 **10-3b-601. Application.**

955 The provisions of this part apply to a municipality located in a county of the first class
 956 in which noncontiguous areas are successfully incorporated as a municipality through an
 957 election in accordance with Sections 10-2-130 through 10-2-141.

958 Section 27. Section **10-3b-602** is enacted to read:

959 **10-3b-602. Separate branches of government under county mayor-municipal**
960 **council form of government.**

961 The powers of municipal government in a municipality operating under the county
962 mayor-municipal council form of government are vested in two separate, independent, and
963 equal branches of municipal government consisting of:

- 964 (1) a council composed of nine members; and
- 965 (2) a mayor and, under the mayor's supervision, any executive or administrative
966 departments, divisions, and offices and any executive or administrative officers provided for by
967 statute or municipal ordinance.

968 Section 28. Section **10-3b-603** is enacted to read:

969 **10-3b-603. Mayor in county mayor-municipal council form of government.**

970 (1) The mayor in a municipality operating under the county mayor-municipal council
971 form of government:

972 (a) (i) is the person who is the mayor of the county in which the municipality is
973 located; and

974 (ii) retains any powers and duties authorized under Title 17, Counties;

975 (b) is the chief executive and administrative officer of the municipality;

976 (c) exercises the executive and administrative powers and performs or supervises the
977 performance of the executive and administrative duties and functions of the municipality;

978 (d) shall:

979 (i) keep the peace and enforce the laws of the municipality;

980 (ii) execute the policies adopted by the council;

981 (iii) appoint, with the council's advice and consent, a qualified person as, subject to
982 Subsection (3), chief administrative officer, if required under the resolution or petition under
983 Section [10-2-135](#), that proposed the change to a county mayor-municipal council form of
984 government;

985 (iv) provide to the council, at intervals provided by ordinance and as provided in Title
986 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, a written report to the council
987 setting forth:

988 (A) the amount of budget appropriations;

- 989 (B) total disbursements from the appropriations;
- 990 (C) the amount of indebtedness incurred or contracted against each appropriation,
991 including disbursements and indebtedness incurred and not paid; and
- 992 (D) the percentage of the appropriations encumbered;
- 993 (v) report to the council the condition and needs of the municipality;
- 994 (vi) report to the council any release granted under Subsection (1)(e)(xii);
- 995 (vii) if the mayor remits a fine or forfeiture under Subsection (1)(e)(xi), report the
996 remittance to the council at the council's next meeting after the remittance; and
- 997 (viii) perform each other duty:
- 998 (A) prescribed by statute; or
- 999 (B) required by a municipal ordinance that is not inconsistent with statute;
- 1000 (e) may:
- 1001 (i) subject to budget constraints:
- 1002 (A) appoint a chief administrative officer subject to Subsections (3)(b) and (4), and one
1003 or more deputies or administrative assistants to the mayor; or
- 1004 (B) create any other administrative office that the mayor considers necessary for good
1005 government of the municipality and appoint a person to that office;
- 1006 (ii) with the council's advice and consent and except as otherwise specifically limited
1007 by statute, appoint each member of a statutory commission, board, or committee of the
1008 municipality;
- 1009 (iii) dismiss any person appointed by the mayor;
- 1010 (iv) as provided in Section [10-3b-605](#), veto an ordinance, tax levy, or appropriation
1011 passed by the council;
- 1012 (v) exercise control of and supervise each executive or administrative department,
1013 division, or office of the municipality;
- 1014 (vi) within the general provisions of statute and ordinance, regulate and prescribe the
1015 powers and duties of each other executive or administrative officer or employee of the
1016 municipality;
- 1017 (vii) attend each council meeting, take part in council meeting discussions, and freely
1018 give advice to the council;
- 1019 (viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill

1020 in all other respects the requirements of Title 17, Chapter 36, Uniform Fiscal Procedures Act
1021 for Counties;

1022 (ix) execute an agreement on behalf of the municipality, or delegate, by written
1023 executive order, the authority to execute an agreement on behalf of the municipality if the
1024 obligation under the agreement is within certified budget appropriations;

1025 (x) at any reasonable time, examine and inspect the official books, papers, records, or
1026 documents of:

1027 (A) the municipality; or

1028 (B) any officer, employee, or agent of the municipality;

1029 (xi) remit fines and forfeitures; and

1030 (xii) release a person imprisoned for a violation of a municipal ordinance; and

1031 (f) may not vote on any matter before the council.

1032 (2) (a) The first mayor under a newly established county mayor-municipal council form
1033 of government shall, within six months after taking office, draft and submit to the council a
1034 proposed ordinance:

1035 (i) providing for the division of the municipality's administrative service into
1036 departments, divisions, and bureaus; and

1037 (ii) defining the functions and duties of each department, division, and bureau.

1038 (b) Before the council adopts an ordinance on the municipality's administrative service,
1039 the mayor may establish temporary rules and regulations to ensure efficiency and effectiveness
1040 in the divisions of the municipal government.

1041 (3) (a) As used in this Subsection (3), "interim vacancy period" means the period of
1042 time that:

1043 (i) begins on the day on which a regular general election described in Section [17-16-6](#)
1044 is held to elect a mayor; and

1045 (ii) ends on the day on which the mayor-elect begins the mayor's term.

1046 (b) Each person appointed as chief administrative officer under Subsection (1)(d)(iii)
1047 shall be appointed on the basis of:

1048 (i) the person's ability and prior experience in the field of public administration; and

1049 (ii) any other qualification prescribed by ordinance.

1050 (c) (i) The mayor may not appoint a chief administrative officer during an interim

1051 vacancy period.

1052 (ii) Notwithstanding Subsection (3)(c)(i):

1053 (A) the mayor may appoint an interim chief administrative officer during an interim
1054 vacancy period; and

1055 (B) the interim chief administrative officer's term shall expire once a new chief
1056 administrative officer is appointed by the new mayor after the interim vacancy period has
1057 ended.

1058 (d) Subsection (3)(c) does not apply if the mayor who holds office on the day of the
1059 regular general election is re-elected to the county mayor's office for the following term.

1060 (4) A mayor who appoints a chief administrative officer in accordance with this section
1061 may not, on or after May 13, 2014, enter into an employment contract that contains an
1062 automatic renewal provision with the chief administrative officer.

1063 Section 29. Section **10-3b-604** is enacted to read:

1064 **10-3b-604. Council in county mayor-municipal council form of government.**

1065 (1) The council in a municipality operating under a county mayor-municipal council
1066 form of government:

1067 (a) shall:

1068 (i) by ordinance, provide for the manner in which:

1069 (A) municipal property is bought, sold, traded, encumbered, or otherwise transferred;
1070 and

1071 (B) a subdivision or annexation is approved, disapproved, or otherwise regulated;

1072 (ii) pass ordinances, appropriate funds, and review municipal administration;

1073 (iii) perform all duties that the law imposes on the council; and

1074 (iv) elect one of its members to be the chair of the council;

1075 (b) may:

1076 (i) adopt an ordinance, to be known as the municipal administrative code:

1077 (A) dividing administrative services not otherwise provided by the county into
1078 departments, divisions, and bureaus; and

1079 (B) defining the functions and duties of each department, division, and bureau that is
1080 not under the control of the county;

1081 (ii) adopt an ordinance for departments, divisions, or bureaus not under the control of

1082 the county as described in Sections [10-3b-606](#) and [10-3c-202](#):
1083 (A) creating, consolidating, or abolishing a department, division, or bureau; and
1084 (B) defining or altering the functions and duties of each department, division, and
1085 bureau;
1086 (iii) notwithstanding Subsection (1)(c)(iii), make suggestions or recommendations to a
1087 subordinate of the mayor;
1088 (iv) (A) notwithstanding Subsection (1)(c), appoint a committee of council members or
1089 citizens to conduct an investigation into an officer, department, or agency of the municipality,
1090 or any other matter relating to the welfare of the municipality; and
1091 (B) delegate to an appointed committee powers of inquiry that the council considers
1092 necessary;
1093 (v) make and enforce any additional rule or regulation for the government of the
1094 council, the preservation of order, and the transaction of the council's business that the council
1095 considers necessary; and
1096 (vi) unless otherwise provided, take any action allowed under Section [10-8-84](#); and
1097 (c) may not:
1098 (i) direct or request, other than in writing, the appointment of a person to or the
1099 removal of a person from an executive municipal office;
1100 (ii) interfere in any way with an executive officer's performance of the officer's duties;
1101 or
1102 (iii) publicly or privately give orders to a subordinate of the mayor.
1103 (2) A member of a council in a municipality operating under the county
1104 mayor-municipal council form of government may not have any other compensated
1105 employment with the municipality.
1106 (3) A council member is:
1107 (a) elected as a nonpartisan candidate; and
1108 (b) elected and serves a term in accordance with Chapter 3, Part 2, Election of
1109 Governing Body.
1110 (4) This section may not be construed to grant a power to or otherwise authorize a
1111 municipal council with a power that is granted to or an authority assigned to a county
1112 governing body or county legislative body to govern, administer, or control a service provided

1113 to, or personnel who provide a service to, the municipality in accordance with Section
1114 10-3c-202.

1115 Section 30. Section **10-3b-605** is enacted to read:

1116 **10-3b-605. Presenting council action to mayor -- Veto -- Reconsideration -- When**
1117 **ordinance, tax levy, or appropriation takes effect.**

1118 (1) The council in each municipality operating under a county mayor-municipal
1119 council form of municipal government shall present to the mayor each ordinance, tax levy, and
1120 appropriation passed by the council.

1121 (2) (a) The mayor in a municipality operating under a county mayor-municipal council
1122 form of municipal government may veto an ordinance or tax levy or all or any part of an
1123 appropriation passed by the council.

1124 (b) If a mayor vetoes an ordinance or tax levy or all or any part of an appropriation, the
1125 mayor shall return the ordinance, tax levy, or appropriation to the council within 15 days after
1126 the council presents the ordinance, tax levy, or appropriation to the mayor, with a statement
1127 explaining the mayor's objections.

1128 (3) At its next meeting following a mayor's veto under Subsection (2), the council shall
1129 reconsider the vetoed ordinance, tax levy, or appropriation.

1130 (4) An ordinance, tax levy, or appropriation passed by the council takes effect upon
1131 recording as provided in Chapter 3, Part 7, Municipal Ordinances, Resolutions, and Procedure,
1132 if:

1133 (a) the mayor signs the ordinance, tax levy, or appropriation;

1134 (b) the mayor fails to sign the ordinance, tax levy, or appropriation within 15 days after
1135 the council presents the ordinance, tax levy, or appropriation to the mayor; or

1136 (c) following a veto, the council reconsiders the ordinance, tax levy, or appropriation
1137 and passes it by a vote of at least two-thirds of all council members.

1138 Section 31. Section **10-3b-606** is enacted to read:

1139 **10-3b-606. Municipal offices filled by county officers.**

1140 (1) (a) The following officials elected or appointed, or persons employed by, the county
1141 in which a municipality operating under the county mayor-municipal council form of
1142 government is located shall, for the purposes of interpreting and complying with applicable
1143 law, fulfill the responsibilities and hold the following municipal offices or positions:

1144 (i) the county treasurer shall fulfill the duties and hold the powers of treasurer for the
1145 municipality;

1146 (ii) the county clerk shall fulfill the duties and hold the powers of recorder and clerk for
1147 the municipality;

1148 (iii) the county engineer shall fulfill the duties and hold the powers of engineer for the
1149 municipality;

1150 (iv) subject to Subsection (1)(b), the county auditor shall fulfill the duties and hold the
1151 powers of auditor for the municipality; and

1152 (v) except as otherwise provided, the county executive, director, or other head of a
1153 county agency, program, or department that provides a service, described in Subsection
1154 10-3c-202(1), to the municipality shall fulfill the duties and hold the powers of executive,
1155 director, or head of the applicable municipal agency, program, or department.

1156 (b) (i) The county auditor shall fulfill the duties and hold the powers of auditor for the
1157 municipality to the extent that the county auditor's powers and duties are described in and
1158 delegated to the county auditor in accordance with Title 17, Chapter 19a, County Auditor, and
1159 a municipal auditor's powers and duties described in this title are the same.

1160 (ii) Notwithstanding Subsection (1)(b), in a municipality with the county
1161 mayor-municipal council form of government, services described in Sections 17-19a-203,
1162 17-19a-204, and 17-19a-205, and services other than those described in Subsection (1)(b)(i)
1163 that are provided by a municipal auditor in accordance with this title that are required by law
1164 shall be performed by county staff other than the county auditor.

1165 (2) (a) Nothing in Subsection (1) may be construed to relieve an official described in
1166 Subsections (1)(a)(i) through (v) of a duty to either the county or municipality or a duty to
1167 fulfill that official's position as required by law.

1168 (b) Notwithstanding Subsection (2)(a), an official or the official's deputy or other
1169 person described in Subsections (1)(a)(i) through (v):

1170 (i) is elected, appointed, or otherwise employed, in accordance with the provisions of
1171 Title 17, Counties, as applicable to that official's or person's county office;

1172 (ii) is paid a salary and benefits and subject to employment discipline in accordance
1173 with the provisions of Title 17, Counties, as applicable to that official's or person's county
1174 office;

1175 (iii) is not subject to:
 1176 (A) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; or
 1177 (B) Chapter 3, Part 11, Personnel Rules and Benefits; and
 1178 (iv) is not required to provide a bond for the applicable municipal office if a bond for
 1179 the office is required by this title.

1180 Section 32. Section **10-3b-607** is enacted to read:

1181 **10-3b-607. Rules and regulations by municipal officers.**

1182 A municipal officer in a municipality operating under a county mayor-municipal
 1183 council form of government may prescribe rules and regulations, not inconsistent with statute,
 1184 municipal ordinance, or the county personnel management act and policies.

1185 Section 33. Section **10-3c-101** is enacted to read:

1186 **CHAPTER 3c. ADMINISTRATION OF NONCONTIGUOUS MUNICIPALITIES**

1187 **Part 1. General Provisions**

1188 **10-3c-101. Title.**

1189 This chapter is known as "Administration of Noncontiguous Municipalities."

1190 Section 34. Section **10-3c-102** is enacted to read:

1191 **10-3c-102. Definitions.**

1192 As used in this chapter:

1193 (1) "Municipal service" is a service identified in Section [17-34-1](#) or [17-36-3](#).

1194 (2) "Noncontiguous municipality" means a municipality incorporated in accordance
 1195 with Sections [10-2-130 through 10-2-141](#).

1196 Section 35. Section **10-3c-201** is enacted to read:

1197 **Part 2. Administration of Noncontiguous Municipality**

1198 **10-3c-201. Budget.**

1199 (1) A noncontiguous municipality shall adopt the same fiscal period as the fiscal period
 1200 of the county in which it is located, in accordance with Section [17-36-3.5](#).

1201 (2) Notwithstanding any other provision of law, a noncontiguous municipality is
 1202 subject to the provisions of Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties.

1203 Section 36. Section **10-3c-202** is enacted to read:

1204 **10-3c-202. Administrative and operational services provided by the county.**

1205 (1) The county in which a noncontiguous municipality is located shall provide for the

- 1206 noncontiguous municipality:
1207 (a) all administrative services, including:
1208 (i) human resources; and
1209 (ii) accounting and budgeting services other than the adoption of a budget by the
1210 municipal council;
1211 (b) all municipal services; and
1212 (c) all operational and other local government services, including:
1213 (i) maintenance of municipal infrastructure;
1214 (ii) public safety;
1215 (iii) road construction and maintenance;
1216 (iv) animal control services;
1217 (v) curb, gutter, and sidewalk services;
1218 (vi) snow removal;
1219 (vii) streetlights; and
1220 (viii) staff to assist with planning and zoning.

1221 (2) A county may provide the services described in Subsection (1)(b) or (c) by
1222 contracting with another entity or through a local or special service district.

1223 (3) In accordance with this section or other provision of law, the noncontiguous
1224 municipality shall reimburse the county for a service provided to the noncontiguous
1225 municipality that is not otherwise provided on a county-wide basis.

1226 Section 37. Section **10-3c-203** is enacted to read:

1227 **10-3c-203. Energy sales and use tax prohibited.**

1228 A noncontiguous municipality may not levy a municipal energy sales and use tax as
1229 described in Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

1230 Section 38. Section **10-6-103** is amended to read:

1231 **10-6-103. Applicability to all cities -- Exception.**

1232 (1) This chapter shall apply to all cities, including charter cities.

1233 (2) Notwithstanding Subsection (1), this chapter does not apply to a municipality with
1234 the county mayor-municipal council form of government as described in Chapter 3b, Part 6,
1235 County Mayor-Municipal Council Form of Government.

1236 Section 39. Section **17-34-1** is amended to read:

1237 **17-34-1. Counties may provide municipal services -- County shall provide**
 1238 **municipal services to noncontiguous municipality -- Limitation -- First class counties to**
 1239 **provide certain services -- Counties allowed to provide certain services in recreational**
 1240 **areas.**

1241 (1) For purposes of this chapter, except as otherwise provided in Subsection (3):

1242 (a) "Greater than class C radioactive waste" has the same meaning as in Section
 1243 [19-3-303](#).

1244 (b) "High-level nuclear waste" has the same meaning as in Section [19-3-303](#).

1245 (c) "Municipal-type services" means:

1246 (i) fire protection service;

1247 (ii) waste and garbage collection and disposal;

1248 (iii) planning and zoning;

1249 (iv) street lighting;

1250 (v) in a county of the first class:

1251 (A) advanced life support and paramedic services; and

1252 (B) detective investigative services; and

1253 (vi) all other services and functions that are required by law to be budgeted,

1254 appropriated, and accounted for from a municipal services fund or a municipal capital projects

1255 fund as defined under Chapter 36, Uniform Fiscal Procedures Act for Counties.

1256 (d) "Noncontiguous municipality" is as defined in Section [10-3c-102](#).

1257 ~~(e)~~ (e) "Placement" has the same meaning as in Section [19-3-303](#).

1258 ~~(f)~~ (f) "Storage facility" has the same meaning as in Section [19-3-303](#).

1259 ~~(g)~~ (g) "Transfer facility" has the same meaning as in Section [19-3-303](#).

1260 (2) A county ~~may~~:

1261 (a) may:

1262 ~~(i)~~ (i) provide municipal-type services to areas of the county outside the limits of

1263 cities and towns without providing the same services to cities or towns; and

1264 ~~(ii)~~ (ii) fund those services by:

1265 ~~(A)~~ (A) levying a tax on taxable property in the county outside the limits of cities and

1266 towns; or

1267 ~~(B)~~ (B) charging a service charge or fee to persons benefitting from the

1268 municipal-type services[-]; and

1269 (b) shall:

1270 (i) provide municipal-type services to a noncontiguous municipality; and

1271 (ii) fund those services by collecting payment for those services provided from the

1272 noncontiguous municipality.

1273 (3) A county may not:

1274 (a) provide, contract to provide, or agree in any manner to provide municipal-type
1275 services, as these services are defined in Section 19-3-303, to any area under consideration for
1276 a storage facility or transfer facility for the placement of high-level nuclear waste, or greater
1277 than class C radioactive waste; or

1278 (b) seek to fund services for these facilities by:

1279 (i) levying a tax; or

1280 (ii) charging a service charge or fee to persons benefitting from the municipal-type
1281 services.

1282 (4) Each county of the first class shall provide to the area of the county outside the
1283 limits of cities and towns and to a noncontiguous municipality:

1284 (a) advanced life support and paramedic services; and

1285 (b) detective investigative services.

1286 (5) (a) A county may provide fire, paramedic, and police protection services in any area
1287 of the county outside the limits of cities and towns that is designated as a recreational area in
1288 accordance with the provisions of this Subsection (5).

1289 (b) A county legislative body may designate any area of the county outside the limits of
1290 cities and towns as a recreational area if:

1291 (i) the area has fewer than 1,500 residents and is primarily used for recreational
1292 purposes, including canyons, ski resorts, wilderness areas, lakes and reservoirs, campgrounds,
1293 or picnic areas; and

1294 (ii) the county legislative body makes a finding that the recreational area is used by
1295 residents of the county who live both inside and outside the limits of cities and towns.

1296 (c) Fire, paramedic, and police protection services needed to primarily serve those
1297 involved in the recreation activities in areas designated as recreational areas by the county
1298 legislative body in accordance with Subsection (5)(b) may be funded from the county general

1299 fund.

1300 Section 40. Section 17-34-3 is amended to read:

1301 **17-34-3. Taxes or service charges.**

1302 (1) (a) If a county furnishes the municipal-type services and functions described in
1303 Section 17-34-1 to areas of the county outside the limits of incorporated cities or towns, the
1304 county shall defray the entire cost of the services or functions [~~so~~] furnished [~~shall be defrayed~~]
1305 from funds that the county has derived from:

1306 (i) taxes that the county may lawfully levy or impose outside the limits of incorporated
1307 towns or cities;

1308 (ii) service charges or fees the county may impose upon the persons benefited in any
1309 way by the services or functions; or

1310 (iii) a combination of these sources.

1311 (b) (i) If a county is required to provide municipal-type services to a noncontiguous
1312 municipality in accordance with this chapter and Title 10, Chapter 3c, Administration of
1313 Noncontiguous Municipalities, the county shall pay the entire cost of the services or functions
1314 furnished from funds paid by the noncontiguous municipality to the county.

1315 (ii) A noncontiguous municipality that receives municipal-type services from a county
1316 shall repay the county in full for services rendered.

1317 [~~(b)~~] (c) As the taxes [~~or~~], service charges, or fees are levied and collected, or as
1318 repayment from a noncontiguous municipality is received, they shall be placed in a special
1319 revenue fund of the county and shall be disbursed only for the rendering of the services or
1320 functions established in Section 17-34-1;

1321 (i) within the unincorporated areas of the county [~~or~~];

1322 (ii) as provided in Subsection 10-2-121(2)[~~;~~]; or

1323 (iii) within a noncontiguous municipality.

1324 (2) (a) For the purpose of levying taxes, service charges, or fees provided in this
1325 section, the county legislative body may establish a district or districts in the unincorporated
1326 areas of the county.

1327 (b) A district established by a county as provided in Subsection (2)(a) may be
1328 reorganized as a local district in accordance with the procedures set forth in Sections
1329 17D-1-601, 17D-1-603, and 17D-1-604.

1330 (3) Nothing contained in this chapter may be construed to authorize counties to impose
1331 or levy taxes not otherwise allowed by law.

1332 (4) Notwithstanding any other provision of this chapter, a county providing fire,
1333 paramedic, and police protection services in a designated recreational area, as provided in
1334 Subsection 17-34-1(5), may fund those services from the county general fund with revenues
1335 derived from both inside and outside the limits of cities and towns, and the funding of those
1336 services is not limited to unincorporated area revenues.

1337 Section 41. Section 17-34-5 is amended to read:

1338 **17-34-5. Budgeting, accounting for, and disbursing of funds -- Annual audit.**

1339 (1) (a) With respect to the budgeting, accounting for, and disbursing of funds to furnish
1340 the municipal-type services and functions described in Section 17-34-1 to areas of the county
1341 outside the limits of incorporated towns and cities, including levying of taxes and imposition of
1342 fees and charges under Section 17-34-3, or providing municipal-type services to a
1343 noncontiguous municipality, each county legislative body shall separately budget and strictly
1344 account for and apportion to the costs of providing municipal-type services and functions the
1345 following:

1346 (i) the salaries of each county commissioner and the salaries and wages of all other
1347 elected and appointed county officials and employees;

1348 (ii) the operation and maintenance costs of each municipal-type service or function
1349 provided, set forth separately as line items in the Municipal Services Fund budget;

1350 (iii) the cost of renting or otherwise using capital facilities for the purposes of
1351 providing municipal-type services or functions; and

1352 (iv) all other costs including administrative costs associated, directly or indirectly, with
1353 the costs of providing municipal-type services or functions.

1354 (b) At all times these funds and any expenditures from these funds shall be separately
1355 accounted for and utilized only for the purposes of providing municipal-type services and
1356 functions to areas of the county outside the limits of incorporated towns or cities.

1357 (2) To implement Subsection (1):

1358 (a) a budget shall be adopted and administered in the same manner as the budget for
1359 general purposes of the county which furnishes the municipal-type services and functions is
1360 adopted and administered, either as a part of the general budget or separate from it;

1361 (b) funds for the purposes of furnishing municipal-type services and functions under
1362 this chapter shall be collected, held, and administered in the same manner as other funds of the
1363 county are collected, held, and administered, but shall be segregated and separately maintained,
1364 except that where, in the judgment of the county legislative body, advantages inure to the fund
1365 from coinvestment of these funds and other funds also subject to control by the county
1366 legislative body, the county legislative body may direct this coinvestment, but in no event may
1367 the funds to furnish municipal-type services and functions or the income from their investment
1368 be used for purposes other than those described in Section 17-34-1;

1369 (c) expenditures shall be made in the same manner as other expenditures of the county
1370 are made; and

1371 (d) any taxes levied under this chapter shall be levied at the same time and in the same
1372 manner as other taxes of the county are levied.

1373 (3) An annual audit of the budgeting, accounting for, and disbursing of funds used to
1374 furnish municipal-type services and functions, shall be conducted by an independent certified
1375 public accountant.

1376 Section 42. Section 17-36-2 is amended to read:

1377 **17-36-2. Purpose of chapter.**

1378 The purpose of this act is to codify and revise the law relating to county and
1379 noncontiguous municipality fiscal procedures in order to establish uniform accounting,
1380 budgeting, and financial reporting procedures for all counties and noncontiguous
1381 municipalities. The act provides for the establishment of uniform procedures for the adoption
1382 and administration of fiscal and optional performance budgets.

1383 The act is intended to enable counties and noncontiguous municipalities to make
1384 financial plans for both current and capital expenditures, to ensure that executive staffs
1385 administer their respective functions in accordance with adopted budgets, and to provide
1386 taxpayers and investors with information about the financial policies and administration of the
1387 county or noncontiguous municipalities in which they are interested.

1388 Section 43. Section 17-36-3 is amended to read:

1389 **17-36-3. Definitions.**

1390 As used in this chapter:

1391 (1) "Accrual basis of accounting" means a method where revenues are recorded when

1392 earned and expenditures recorded when they become liabilities notwithstanding that the receipt
1393 of the revenue or payment of the expenditure may take place in another accounting period.

1394 (2) "Appropriation" means an allocation of money for a specific purpose.

1395 (3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying
1396 estimates for proposed expenditures for given purposes and the means of financing the
1397 expenditures.

1398 (b) "Budget" may refer to the budget of a fund for which a budget is required by law, or
1399 collectively to the budgets for all those funds.

1400 (4) "Budgetary fund" means a fund for which a budget is required, such as those
1401 described in Section [17-36-8](#).

1402 (5) "Budget officer" means:

1403 (a) for a county of the second, third, fourth, fifth, or sixth class, the county auditor,
1404 county clerk, or county executive as provided in Subsection [17-19-19\(1\)](#); ~~[or]~~

1405 (b) for a county of the first class, a person described in Section [17-19a-203](#)~~[-]~~; or

1406 (c) for a noncontiguous municipality, the mayor or, with the advice and consent of the
1407 municipal council, the mayor's designee.

1408 (6) "Budget period" means the fiscal period for which a budget is prepared.

1409 (7) "Check" means an order in a specific amount drawn upon the depositary by any
1410 authorized officer in accordance with Section [17-19-3](#), [17-19a-301](#), [17-24-1](#), or [17-24-1.1](#), as
1411 applicable.

1412 (8) "Countywide service" means a service provided in both incorporated and
1413 unincorporated areas of a county.

1414 (9) "Current period" means the fiscal period in which a budget is prepared and adopted.

1415 (10) "Department" means any functional unit within a fund which carries on a specific
1416 activity.

1417 (11) "Encumbrance system" means a method of budgetary control where part of an
1418 appropriation is reserved to cover a specific expenditure by charging obligations, such as
1419 purchase orders, contracts, or salary commitments to an appropriation account. An expenditure
1420 ceases to be an encumbrance when paid or when the actual liability is entered in the books of
1421 account.

1422 (12) "Estimated revenue" means any revenue estimated to be received during the

1423 budget period in any fund for which a budget is prepared.

1424 (13) "Fiscal period" means the annual or biennial period for recording county fiscal
1425 operations.

1426 (14) "Fund" means an independent fiscal and accounting entity comprised of a sum of
1427 money or other resources segregated for a specific purpose or objective.

1428 (15) "Fund balance" means the excess of the assets over liabilities, reserves, and
1429 contributions, as reflected by its books of account.

1430 (16) "Fund deficit" means the excess of liabilities, reserves, and contributions over its
1431 assets, as reflected by its books of account.

1432 (17) "General Fund" means the fund used to account for all receipts, disbursements,
1433 assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be
1434 accounted for in other funds.

1435 (18) "Interfund loan" means a loan of cash from one fund to another, subject to future
1436 repayment; but it does not constitute an expenditure or a use of retained earnings, fund balance,
1437 or unappropriated surplus of the lending fund.

1438 (19) "Last completed fiscal period" means the fiscal period next preceding the current
1439 period.

1440 (20) "Modified accrual basis of accounting" means a method under which expenditures
1441 other than accrued interest on general long-term debt are recorded at the time liabilities are
1442 incurred and revenues are recorded when they become measurable and available to finance
1443 expenditures of the current period.

1444 (21) "Municipal capital project" means the acquisition, construction, or improvement
1445 of capital assets that facilitate providing municipal service.

1446 (22) "Municipal service" means a service not provided on a countywide basis and not
1447 accounted for in an enterprise fund, and includes police patrol, fire protection, culinary or
1448 irrigation water retail service, water conservation, local parks, sewers, sewage treatment and
1449 disposal, cemeteries, garbage and refuse collection, street lighting, airports, planning and
1450 zoning, local streets and roads, curb, gutter, and sidewalk maintenance, and ambulance service.

1451 (23) "Noncontiguous municipality" is as defined in Section [10-3c-102](#).

1452 [~~(23)~~] (24) "Retained earnings" means that part of the net earnings retained by an
1453 enterprise or internal service fund which is not segregated or reserved for any specific purpose.

1454 [~~(24)~~] (25) "Special fund" means any fund other than the General Fund, such as those
1455 described in Section 17-36-6.

1456 [~~(25)~~] (26) "Unappropriated surplus" means that part of a fund which is not
1457 appropriated for an ensuing budget period.

1458 [~~(26)~~] (27) "Warrant" means an order in a specific amount drawn upon the treasurer by
1459 the auditor.

1460 Section 44. Section 17-36-3.5 is amended to read:

1461 **17-36-3.5. Fiscal period -- Annual or biennial.**

1462 (1) [~~Except as provided in Subsection (2), the~~] The fiscal period for each county and
1463 each noncontiguous municipality shall be an annual period beginning on January 1 of each year
1464 and ending December 31 of the same calendar year.

1465 (2) (a) Notwithstanding Subsection (1), the legislative body of a county may, by
1466 ordinance, adopt for the county a fiscal period that is a biennial period beginning January 1 and
1467 ending December 31 of the following calendar year.

1468 (b) Each county adopting an ordinance under Subsection (2)(a) shall separately specify
1469 in its budget the amount of ad valorem property tax it intends to levy and collect during both
1470 the first half and the second half of the budget period.

1471 (c) Each county that adopts a fiscal period that is a biennial period under Subsection
1472 (2)(a) shall:

1473 (i) comply with Sections 59-2-912 through 59-2-926 as if it had adopted a fiscal period
1474 that is an annual period; and

1475 (ii) allocate budgeted revenues and expenditures to each of the two annual periods in
1476 the biennial budget.

1477 (d) The legislative body of each county that adopts a fiscal period that is a biennial
1478 period under Subsection (2)(a) shall, within 10 days after the adoption of the ordinance
1479 adopting the biennial period, deliver a copy of the ordinance to the state auditor.

1480 Section 45. Section 17-36-4 is amended to read:

1481 **17-36-4. State auditor -- Duties.**

1482 (1) The state auditor shall:

1483 (a) prescribe a uniform system of fiscal procedures for the several counties and
1484 noncontiguous municipalities;

1485 (b) conduct a constant review and modification of such procedures to improve them;
 1486 (c) prepare and supply each county budget officer with suitable budget forms; and
 1487 (d) prepare instructional materials, conduct training programs, and render other
 1488 services deemed necessary to assist counties in implementing the uniform system.

1489 (2) (a) The uniform system of procedure may include reasonable exceptions and
 1490 modifications applicable to ~~[counties]~~ a county or noncontiguous municipality with a
 1491 population of 25,000 or less, such population to be determined by the Utah Population Work
 1492 Committee. ~~[Counties]~~

1493 (b) A county or noncontiguous municipality may expand the uniform system to serve
 1494 better ~~[their]~~ its needs. ~~[Deviations from or alterations to]~~

1495 (c) A county or noncontiguous municipality may not deviate or alter the basic
 1496 prescribed classification system for the identity of funds and accounts ~~[should not be made]~~.

1497 Section 46. Section **17-36-6** is amended to read:

1498 **17-36-6. Required funds and accounts.**

1499 (1) In its system of accounts, each county and noncontiguous municipality shall
 1500 maintain the following funds or account groups that are appropriate to its needs:

1501 (a) a general fund;

1502 (b) special revenue funds;

1503 (c) debt service funds to account for the retirement of general obligation bonds or other
 1504 long-term indebtedness including the payment of interest;

1505 (d) capital project funds, as required to account for the application of proceeds from the
 1506 sale of general obligation bonds or other general long-term debt, or funds derived from other
 1507 sources, to the specific purposes for which they are authorized;

1508 (e) a separate fund for each utility or enterprise such as an airport fund, a sewer fund, a
 1509 water fund, or other similar funds;

1510 (f) intragovernmental service funds;

1511 (g) trust and agency funds such as a cemetery perpetual-care fund or a retirement fund;

1512 (h) a separate fund for each special improvement district, which shall be known as a
 1513 special assessment fund;

1514 (i) a ledger or group of accounts to record the details relating to the general fixed assets
 1515 of the county;

1516 (j) a ledger or group of accounts to record the details relating to the general obligation
1517 bonds or other long-term indebtedness of the county;

1518 (k) municipal services fund as required in Section 17-36-9; and

1519 (l) any other funds for special purposes required or established under the uniform
1520 system of budgeting, accounting, and reporting.

1521 (2) The county or noncontiguous municipality shall classify the funds and account
1522 groups established under the authority of this section according to the uniform procedures
1523 established by this chapter.

1524 Section 47. Section 17-36-7 is amended to read:

1525 **17-36-7. Basis of accounting.**

1526 The basis of accounting to record transactions by [~~counties~~] a county or noncontiguous
1527 municipality shall be either accrual or modified accrual as prescribed in the uniform system of
1528 budgeting, accounting, and reporting.

1529 Section 48. Section 17-36-8 is amended to read:

1530 **17-36-8. Preparation of budgets.**

1531 The budget officer of each county or noncontiguous municipality shall prepare each
1532 budget period, on forms provided pursuant to Section 17-36-4, a budget for each of the
1533 following funds which are included in its system of accounts:

1534 (1) general fund;

1535 (2) special revenue funds;

1536 (3) debt service funds;

1537 (4) capital project funds; and

1538 (5) any other fund or funds for which a budget is required by the uniform system of
1539 budgeting, accounting, and reporting.

1540 Section 49. Section 17-36-9 is amended to read:

1541 **17-36-9. Budget -- Financial plan -- Contents -- Municipal services and capital**
1542 **projects funds.**

1543 (1) (a) The budget for each fund shall provide a complete financial plan for the budget
1544 period and shall contain in tabular form classified by the account titles as required by the
1545 uniform system of budgeting, accounting, and reporting:

1546 (i) estimates of all anticipated revenues;

1547 (ii) all appropriations for expenditures; and
1548 (iii) any additional data required by Section 17-36-10 or 17-36-10.1, as applicable, or
1549 by the uniform system of budgeting, accounting, and reporting.

1550 (b) The total of appropriated expenditures shall be equal to the total of anticipated
1551 revenues.

1552 (2) (a) Each first-, second-, and third-class county and a noncontiguous municipality
1553 that provides municipal-type services under Section 17-34-1 shall:

1554 (i) establish a special revenue fund, "Municipal Services Fund," and a capital projects
1555 fund, "Municipal Capital Projects Fund," or establish a local district or special service district
1556 to provide municipal services; and

1557 (ii) budget appropriations for municipal services and municipal capital projects from
1558 these funds.

1559 (b) The Municipal Services Fund is subject to the same budgetary requirements as the
1560 county's general fund.

1561 (c) (i) Except as provided in Subsection (2)(c)(ii), the county or noncontiguous
1562 municipality may deposit revenue derived from any taxes otherwise authorized by law, income
1563 derived from the investment of money contained within the municipal services fund and the
1564 municipal capital projects fund, the appropriate portion of federal money, and fees collected
1565 into a municipal services fund, a special fund, and a municipal capital projects fund.

1566 (ii) The county may not deposit revenue derived from a fee, tax, or other source based
1567 upon a countywide assessment or from a countywide service or function into a municipal
1568 services fund or a municipal capital projects fund.

1569 (d) The maximum accumulated unappropriated surplus in the municipal services fund,
1570 as determined prior to adoption of the tentative budget, may not exceed an amount equal to the
1571 total estimated revenues of the current fiscal period.

1572 Section 50. Section 17-36-10 is amended to read:

1573 **17-36-10. Preparation of tentative budget.**

1574 (1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
1575 sixth class is not subject to the provisions of this section; and

1576 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
1577 is subject to the provisions of this section.

1578 (2) On or before the first day of the next to last month of every fiscal period, the budget
1579 officer shall prepare for the next budget period and file with the governing body a tentative
1580 budget for each fund for which a budget is required.

1581 (3) (a) A department for which county funds are appropriated shall file with the budget
1582 officer not less than three months before the commencement of each fiscal year on forms
1583 furnished by the budget officer a detailed estimate and statement of the revenue and necessary
1584 expenditures of the department for the next budget year.

1585 (b) The estimate and statement described in Subsection (3)(a) shall set forth:

1586 (i) the number of persons to be regularly employed;

1587 (ii) the kinds of service the department will perform;

1588 (iii) the salaries and wages the department expects to pay;

1589 (iv) the kind of work the department will perform and the improvements the
1590 department expects to make; and

1591 (v) the estimated cost of the service, work, and improvements.

1592 (c) The statement shall also record performance data expressed in work units, unit
1593 costs, man hours, and man years sufficient in detail, content, and scope to permit the budget
1594 officer to prepare and process the county or noncontiguous municipality budget.

1595 (4) In the preparation of the budget, the budget officer and all other county or
1596 noncontiguous municipality officers are subject to Sections 17-36-1 through 17-36-44 and to
1597 the uniform system of budgeting, accounting, and reporting established therein.

1598 (5) In the tentative budget, the budget officer shall set forth in tabular form:

1599 (a) actual revenues and expenditures in the last completed fiscal period;

1600 (b) estimated total revenues and expenditures for the current fiscal period;

1601 (c) the estimated available revenues and expenditures for the ensuing budget period
1602 computed by determining:

1603 (i) the estimated expenditure for each fund after review of each departmental budget
1604 request;

1605 (ii) (A) the total revenue requirements of the fund;

1606 (B) the part of the total revenue that will be derived from revenue sources other than
1607 property tax; and

1608 (C) the part of the total revenue that shall be derived from property taxes; and

1609 (d) if required by the governing body, actual performance experience to the extent
1610 available in work units, unit costs, man hours, and man years for each budgeted fund that
1611 includes an appropriation for salaries or wages for the last completed fiscal period and the first
1612 eight months of the current fiscal period if the county or noncontiguous municipality is on an
1613 annual fiscal period, or the first 20 months of the current fiscal period if the county is on a
1614 biennial fiscal period, together with the total estimated performance data of like character for
1615 the current fiscal period and for the ensuing budget period.

1616 (6) The budget officer may recommend modification of any departmental budget
1617 request under Subsection (5)(c)(i) before it is filed with the governing body, if each department
1618 head has been given an opportunity to be heard concerning the modification.

1619 (7) (a) A tentative budget shall contain the estimates of expenditures submitted by any
1620 department together with specific work programs and other supportive data as the governing
1621 body requests.

1622 (b) The budget officer shall include with the tentative budget by a supplementary
1623 estimate of all capital projects or planned capital projects within the budget period and within
1624 the next three succeeding years.

1625 (8) (a) A budget officer that submits a tentative budget in a county or noncontiguous
1626 municipality with a population in excess of 25,000 determined in accordance with Section
1627 17-36-4 shall include with the tentative budget a budget message in explanation of the budget.

1628 (b) The budget message shall contain an outline of the proposed financial policies of
1629 the county or noncontiguous municipality for the budget period and describe the important
1630 features of the budgetary plan. It shall also state the reasons for changes from the previous
1631 fiscal period in appropriation and revenue items and explain any major changes in financial
1632 policy.

1633 (c) A budget message for [~~counties~~] a county or noncontiguous municipality with a
1634 population of less than 25,000 is recommended but not incumbent upon the budget officer.

1635 (9) (a) The governing body shall review, consider, and adopt a tentative budget in a
1636 regular or special meeting called for that purpose.

1637 (b) (i) Subject to Subsection (9)(b)(ii), the governing body may thereafter amend or
1638 revise the tentative budget prior to public hearings on the tentative budget.

1639 (ii) A governing body may not:

1640 (A) reduce below the required minimum an appropriation required for debt retirement
1641 and interest; or

1642 (B) reduce, in accordance with Section 17-36-17, an existing deficit.

1643 Section 51. Section 17-36-12 is amended to read:

1644 **17-36-12. Notice of budget hearing.**

1645 (1) The governing body shall determine the time and place for the public hearing on the
1646 adoption of the budget.

1647 (2) Notice of such hearing shall be published:

1648 (a) (i) at least seven days before the hearing in at least one newspaper of general
1649 circulation within the county or noncontiguous municipality, as applicable, if there is such a
1650 paper; or

1651 (ii) if there is no newspaper as described in Subsection (2)(a)(i), by posting notice in
1652 three conspicuous places within the county or noncontiguous municipality, as applicable, seven
1653 days before the hearing; and

1654 (b) on the Utah Public Notice Website created in Section 63F-1-701, for seven days
1655 before the hearing.

1656 Section 52. Section 17-36-15 is amended to read:

1657 **17-36-15. Adoption of budget -- Immunity.**

1658 (1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
1659 sixth class is not subject to the provisions of this section; and

1660 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
1661 is subject to the provisions of this section.

1662 (2) (a) On or before the last day of each fiscal period, the governing body by resolution
1663 shall adopt the budget.

1664 (b) A budget adopted in accordance with Subsection (2)(a) is, unless amended, in
1665 effect for the next fiscal period.

1666 (c) The budget officer shall:

1667 (i) certify a copy of the final budget, and of any subsequent budget amendment; and

1668 (ii) file a copy with the state auditor not later than 30 days after the day on which the
1669 governing body adopts the budget.

1670 (d) The budget officer shall file a certified copy of the budget in the office of the

1671 budget officer for inspection by the public during business hours.

1672 (3) (a) Except as provided in Subsection (3)~~(b)~~(c), a county officer or county
1673 employee may not file a legal action in state or federal court against the county, a department,
1674 or a county officer for any matter related to the following:

1675 (i) the adoption of a county budget;

1676 (ii) a county appropriation;

1677 (iii) a county personnel allocation; or

1678 (iv) a fund related to the county budget, a county appropriation, or a county personnel
1679 allocation.

1680 (b) Except as provided in Subsection (3)(c), a noncontiguous municipality officer or
1681 noncontiguous municipality employee may not file a legal action in state or federal court
1682 against the noncontiguous municipality, a department, or a noncontiguous municipality officer
1683 for any matter related to the following:

1684 (i) the adoption of a noncontiguous municipality budget;

1685 (ii) a noncontiguous municipality appropriation;

1686 (iii) a noncontiguous municipality personnel allocation; or

1687 (iv) a fund related to the noncontiguous municipality budget, a noncontiguous
1688 municipality appropriation, or a noncontiguous municipality personnel allocation.

1689 ~~(b)~~ (c) A county or district attorney may enforce a procedural requirement that
1690 governs the adoption or approval of a budget in accordance with this chapter.

1691 Section 53. Section **17-36-16** is amended to read:

1692 **17-36-16. Retained earnings -- Accumulation -- Restrictions -- Disbursements.**

1693 (1) A county or noncontiguous municipality may accumulate retained earnings in any
1694 enterprise or internal service fund or a fund balance in any other fund; but with respect to the
1695 General Fund, its use shall be restricted to the following purposes:

1696 (a) to provide cash to finance expenditures from the beginning of the budget period
1697 until general property taxes, sales taxes, or other revenues are collected;

1698 (b) to provide a fund or reserve to meet emergency expenditures; and

1699 (c) to cover unanticipated deficits for future years.

1700 (2) (a) The maximum accumulated unappropriated surplus in the General Fund, as
1701 determined prior to adoption of the tentative budget, may not exceed an amount equal to the

1702 greater of:

1703 (i) (A) for a county or noncontiguous municipality with a taxable value of
1704 \$750,000,000 or more and a population of 100,000 or more, 20% of the total revenues of the
1705 General Fund for the current fiscal period; or

1706 (B) for any other county or noncontiguous municipality, 50% of the total revenues of
1707 the General Fund for the current fiscal period; and

1708 (ii) the estimated total revenues from property taxes for the current fiscal period.

1709 (b) Any surplus balance in excess of the above computed maximum shall be included
1710 in the estimated revenues of the General Fund budget for the next fiscal period.

1711 (3) Any fund balance exceeding 5% of the total General Fund revenues may be used
1712 for budgetary purposes.

1713 (4) (a) A county or noncontiguous municipality may appropriate funds from estimated
1714 revenue in any budget period to a reserve for capital improvements within any capital
1715 improvements fund which has been duly established by ordinance or resolution.

1716 (b) Money in the reserves shall be allowed to accumulate from fiscal period to fiscal
1717 period until the accumulated total is sufficient to permit economical expenditure for the
1718 specified purposes.

1719 (c) Disbursements from the reserves shall be made only by transfer to a revenue
1720 account within a capital improvements fund pursuant to an appropriation for the fund.

1721 (d) Expenditures from the capital improvement budget accounts shall conform to all
1722 requirements of this act as it relates to the execution and control of budgets.

1723 Section 54. Section **17-36-17** is amended to read:

1724 **17-36-17. Appropriations in final budget -- Limitations.**

1725 (1) The governing body of a county or noncontiguous municipality may not make any
1726 appropriation in the final budget of any fund in excess of the estimated expendable revenue of
1727 the fund for the budget period.

1728 (2) There shall be included as an item of appropriation in the budget of each fund for
1729 any fiscal period any existing deficit as of the close of the last completed fiscal period to the
1730 extent of at least 5% of the total revenue of the fund in the last completed fiscal period or if the
1731 deficit is less than 5% of the total revenue, an amount equal to the deficit.

1732 Section 55. Section **17-36-19** is amended to read:

1733 **17-36-19. Encumbrance system.**

1734 Each county and noncontiguous municipality shall use an encumbrance system or other
1735 budgetary controls to ensure that no expenditure is made for any item of an appropriation
1736 unless there is a sufficient unencumbered balance in the appropriation and available funds,
1737 except in cases of an emergency as hereinafter provided in Section [17-36-27](#).

1738 Section 56. Section **17-36-20** is amended to read:

1739 **17-36-20. Purchases or encumbrances by purchasing agent.**

1740 (1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
1741 sixth class is not subject to the provisions of this section; and

1742 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
1743 is subject to the provisions of this section.

1744 (2) A person may not make a purchase or incur an encumbrance on behalf of a county
1745 or noncontiguous municipality unless that person acts in accordance with an order by, or
1746 approval of, the person duly authorized to act as purchasing agent for the county or
1747 noncontiguous municipality, except encumbrances or expenditures directly investigated and
1748 specifically approved by the executive or legislative body.

1749 (3) Unless otherwise provided by the governing body, the budget officer or the budget
1750 officer's agents shall serve as a purchasing agent.

1751 Section 57. Section **17-36-21** is amended to read:

1752 **17-36-21. Expenditure limitation.**

1753 No officer or employee of a county or noncontiguous municipality shall make any
1754 expenditure or encumbrance in excess of the total appropriation for any department. Any
1755 obligation that is contracted by any such officer or employee in excess of the total departmental
1756 appropriation is the personal obligation of the officer or employee and is unenforceable against
1757 the county or noncontiguous municipality.

1758 Section 58. Section **17-36-22** is amended to read:

1759 **17-36-22. Transfer of unexpended appropriation balance by department.**

1760 (1) After review by the budget officer and in accordance with budgetary and fiscal
1761 policies or ordinances adopted by the county legislative body or noncontiguous municipal
1762 council, any department may:

1763 (a) transfer any unencumbered or unexpended appropriation balance or any part from

1764 one expenditure account to another within the department during the budget year; or

1765 (b) incur an excess expenditure of one or more line items.

1766 (2) A transfer or expenditure under Subsection (1) may not occur if the transfer or
1767 expenditure would cause the total of all excess expenditures or encumbrances to exceed the
1768 total unused appropriation within the department at the close of the budget period.

1769 Section 59. Section **17-36-26** is amended to read:

1770 **17-36-26. Increase in budgetary fund or general fund -- Public hearing.**

1771 (1) Before the governing body may, by resolution, increase a budget appropriation of
1772 any budgetary fund, increase the budget of the general fund, or make an amendment to a
1773 budgetary fund or the general fund, the governing body shall hold a public hearing giving all
1774 interested parties an opportunity to be heard.

1775 (2) Notice of the public hearing described in Subsection (1) shall be published at least
1776 five days before the day of the hearing:

1777 (a) (i) in at least one issue of a newspaper generally circulated in the county or
1778 noncontiguous municipality, respectively; or

1779 (ii) if there is not a newspaper generally circulated in the county or noncontiguous
1780 municipality, the hearing may be published by posting notice in three conspicuous places
1781 within the county or noncontiguous municipality; and

1782 (b) on the Utah Public Notice Website created under Section [63F-1-701](#).

1783 Section 60. Section **17-36-30** is amended to read:

1784 **17-36-30. Interfund loans -- Acquisition of issued unmatured bonds.**

1785 The governing body may:

1786 (1) authorize interfund loans from one fund to another at such interest rates and subject
1787 to such terms for repayment as it may prescribe; and [~~may~~]

1788 (2) with available cash in any fund, purchase or otherwise acquire for investment,
1789 issued unmatured bonds of the county or of any county fund or of the noncontiguous
1790 municipality or any noncontiguous municipality fund, respectively.

1791 Section 61. Section **17-36-31** is amended to read:

1792 **17-36-31. Tax levy -- Amount.**

1793 (1) (a) Before June 22 of each year[;]:

1794 (i) the county legislative body shall levy a tax on the taxable real and personal property

1795 within the county[-]; and

1796 (ii) the noncontiguous municipality shall levy a tax on the taxable real and personal
1797 property within the noncontiguous municipality.

1798 (b) In its computation of the total levy subject to Sections 59-2-908 and 59-2-911, [it]
1799 the county or noncontiguous municipality shall determine the requirements for each fund and
1800 specify the amount of the levy apportioned to each fund.

1801 (2) The proceeds of the tax apportioned for purposes of the General Fund shall be
1802 credited in the General Fund.

1803 (3) The proceeds of the tax apportioned for utility and other special fund purposes shall
1804 be credited to the appropriate accounts in the utility or other special funds.

1805 Section 62. Section 17-36-35 is amended to read:

1806 **17-36-35. County officials -- Profit from public funds.**

1807 If the governing body receives evidence that a county or noncontiguous municipality
1808 official is profiting from public money or uses it for any unauthorized purpose, the matter shall
1809 be promptly referred to the county attorney or district attorney for appropriate action. If
1810 convicted for any such offense, the county or noncontiguous municipality official shall
1811 immediately forfeit his office.

1812 Section 63. Section 17-36-37 is amended to read:

1813 **17-36-37. Budget officer -- Annual financial statement -- Contents.**

1814 (1) The budget officer of each county and noncontiguous municipality, within 180 days
1815 after the close of each fiscal period or, for a county that has adopted a fiscal period that is a
1816 biennial period, within 180 days after both the midpoint and the close of the fiscal period,
1817 except as provided by Section 17-36-38, shall prepare and make available to the governing
1818 body an annual financial report which shall contain:

1819 (a) a statement of revenues and expenditures and a comparison with the budget of the
1820 general fund, similar statements of all other funds for which budgets are required, and
1821 statements of revenues and expenditures or of income and expense, as the case may be, of all
1822 other operating funds of the county or noncontiguous municipality;

1823 (b) a balance sheet of each fund and a combined balance sheet of all funds as of:

1824 (i) for a county that has adopted a fiscal period that is a biennial period, the midpoint
1825 and the close of the fiscal period; and

1826 (ii) for each other county and noncontiguous municipality, the close of the fiscal
1827 period; or

1828 (c) any other reports the governing body may require, including work performance
1829 data, tax levies, taxable values, details of bonded indebtedness, and historical facts of interest
1830 to the governing body and the public.

1831 (2) Copies of the annual report shall be furnished to the state auditor and made a matter
1832 of public record in the office of the budget officer.

1833 Section 64. Section ~~17-36-38~~ is amended to read:

1834 **17-36-38. Presentation of annual report by independent auditor.**

1835 The annual report required by Section ~~17-36-37~~ may be satisfied by a county or
1836 noncontiguous municipality by the presentation of the report of the independent auditor on the
1837 results of operations for the year and financial condition at the midpoint of the fiscal period or
1838 at the close of the fiscal period if it is prepared in conformity with the uniform system of
1839 budgeting, accounting, and reporting.

1840 Section 65. Section ~~17-36-39~~ is amended to read:

1841 **17-36-39. Independent audits.**

1842 Independent audits are required for all counties and noncontiguous municipalities as
1843 provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
1844 Organizations, and Other Local Entities Act.

1845 Section 66. Section ~~17-36-40~~ is amended to read:

1846 **17-36-40. Notice that audit is complete.**

1847 (1) Within 10 days after the receipt of the audit report furnished by the independent
1848 auditor, the county auditor shall prepare and publish a notice to the public that the county audit
1849 or noncontiguous municipality audit is complete:

1850 (a) at least twice in a newspaper of general circulation within the county or
1851 noncontiguous municipality, respectively; and

1852 (b) as required in Section ~~45-1-101~~.

1853 (2) A copy of the county audit may be inspected at the office of the county auditor.

1854 Section 67. Section ~~17-36-41~~ is amended to read:

1855 **17-36-41. Analysis and evaluation of accounting practices and systems by state**
1856 **auditor -- Regional accounting services.**

1857 (1) The state auditor shall analyze and evaluate the accounting practices and systems
1858 used by the counties and noncontiguous municipalities and provide advice and consultation to
1859 them in improving and updating their practices and systems.

1860 (2) Any county or group or association of counties may by agreement pursuant to the
1861 Interlocal Co-operation Act provide accounting services upon a regional basis for other
1862 counties or other local governmental units. The state auditor shall evaluate the county or other
1863 organization's ability to provide such service and shall periodically review the internal controls
1864 maintained by such a county or organization.

1865 Section 68. Section **17-36-43** is amended to read:

1866 **17-36-43. Financial administration ordinance -- Purposes.**

1867 (1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
1868 sixth class is not subject to the provisions of this section; and

1869 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
1870 is subject to the provisions of this section.

1871 (2) (a) The county legislative body, after consultation with the county auditor, may
1872 adopt a financial administration ordinance authorizing the county auditor, county executive,
1873 county manager, or, in the case of county operated hospitals or mental health districts, an
1874 appointed administrator, to act as the financial officer for the purpose of approving:

1875 ~~[(a)]~~ (i) payroll checks, if the checks are prepared in accordance with a salary schedule
1876 established in a personnel ordinance or resolution; or

1877 ~~[(b)]~~ (ii) routine expenditures, such as utility bills, payroll-related expenses, supplies,
1878 materials, and payments on county-approved contracts and capital expenditures which are
1879 referenced in the budget document and approved by an appropriation resolution adopted for the
1880 current fiscal year.

1881 (b) A noncontiguous municipality may adopt a financial administration ordinance
1882 authorizing the noncontiguous municipality manager or county executive to act as the financial
1883 officer for the purpose of approving an expenditure described in Subsection (2)(a)(i) or (ii).

1884 Section 69. Section **17-36-44** is amended to read:

1885 **17-36-44. Financial administration ordinance -- Required provisions.**

1886 The financial administration ordinance, adopted pursuant to Section **17-36-43** or
1887 **17-36-43.1**, as applicable, shall provide:

1888 (1) a maximum amount over which purchases may not be made without the approval
1889 of the county executive;

1890 (2) that the financial officer be bonded for a reasonable amount; and

1891 (3) any other provisions the county legislative body or noncontiguous municipality
1892 council, respectively, considers advisable.

1893 Section 70. Section **17-36-45** is amended to read:

1894 **17-36-45. Internal control structure.**

1895 (1) Each county legislative body and noncontiguous municipality council shall~~[, with~~
1896 ~~the advice and assistance of the county auditor and county treasurer;]~~ implement an internal
1897 control structure to ensure, on a reasonable basis, that all valid financial transactions of the
1898 county are identified and recorded accurately and timely. The objectives of the internal control
1899 structure shall be to ensure:

1900 (a) the proper authorization of transactions and activities;

1901 (b) the appropriate segregation of:

1902 (i) the duty to authorize transactions;

1903 (ii) the duty to record transactions; and

1904 (iii) the duty to maintain custody of assets;

1905 (c) the design and use of adequate documents and records to ensure the proper
1906 recording of events;

1907 (d) adequate safeguards over access to and use of assets and records; and

1908 (e) independent checks on performance and proper valuation of recorded amounts.

1909 (2) The state auditor shall evaluate procedures implemented to effectuate this section
1910 and shall provide advice and consultation in approving and updating these procedures.

1911 Section 71. Section **17-36-46** is amended to read:

1912 **17-36-46. Reserve fund for capital improvements -- Creation -- Purpose --**
1913 **Limitation.**

1914 (1) The legislative body of any count, or a noncontiguous municipality council, may
1915 establish and maintain, by ordinance, a cumulative reserve fund to be accumulated by levy for
1916 the purpose of financing the purchase of real property and the cost of planning, constructing or
1917 rehabilitating public buildings or other public works and capital improvements.

1918 (2) (a) Before a reserve fund under Subsection (1) may be established, the county

1919 legislative body or noncontiguous municipality council shall designate by ordinance the
1920 specific purpose for which the fund is established.

1921 (b) Except as provided in Section 17-36-50, all funds in a reserve fund under
1922 Subsection (1) shall be expended for the designated purposes.

1923 Section 72. Section 17-36-47 is amended to read:

1924 **17-36-47. Reserve fund for capital improvements -- Estimate of amount required**
1925 **-- Tax levy -- Accumulation from year to year -- Restriction on use.**

1926 (1) Subject to Subsection (4) the legislative body of a county, or noncontiguous
1927 municipality council, that has established a reserve fund under Section 17-36-46 may:

1928 (a) include in the annual budget or estimate of amounts required to meet the public
1929 expenses of the county for the ensuing year such sum as it considers necessary for the uses and
1930 purposes of the fund; and

1931 (b) include those amounts in the annual tax levy of the county or noncontiguous
1932 municipality.

1933 (2) Subject to Subsection (4), the money in the fund shall be allowed to accumulate
1934 from year to year until the county legislative body or noncontiguous municipality council
1935 determines to spend any money in the fund for the purpose specified.

1936 (3) Subject to Subsection (4), money in the fund at the end of a fiscal year shall remain
1937 in the fund as surplus available for future use, and may not be transferred to any other fund or
1938 used for any other purpose.

1939 (4) The amount of money in a reserve fund established under Section 17-36-46 may
1940 not exceed .6% of the taxable value of the county.

1941 Section 73. Section 17-36-48 is amended to read:

1942 **17-36-48. Reserve fund for capital improvements -- Transfer to fund of**
1943 **unencumbered surplus county funds.**

1944 At any time after the creation of a reserve fund under Section 17-36-46, the county
1945 legislative body or noncontiguous municipality council may transfer to the fund any
1946 unencumbered surplus county funds remaining at the end of a fiscal year.

1947 Section 74. Section 17-36-49 is amended to read:

1948 **17-36-49. Reserve fund for capital improvements -- Investment -- Interest and**
1949 **income.**

1950 (1) All money belonging to a reserve fund created under Section 17-36-46 shall be
1951 invested in such securities as are legal for other funds of the county or noncontiguous
1952 municipality, respectively.

1953 (2) The interest and income from the investments shall be a part of the fund.

1954 Section 75. Section 17-36-50 is amended to read:

1955 **17-36-50. Reserve fund for capital improvements -- Use for projects other than**
1956 **originally specified -- Special election.**

1957 (1) The legislative body of any county, or a noncontiguous municipality council, may
1958 submit the proposition of using funds in a reserve fund established under Section 17-36-46 for
1959 projects other than originally specified to the electors of the county or noncontiguous
1960 municipality, respectively, at a special election if the projects are for the purposes set forth in
1961 Section 17-36-46.

1962 (2) If a proposition under Subsection (1) is proposed, the county legislative body or
1963 noncontiguous municipality council shall fix a time and place for a special election on the
1964 proposition, to be held as provided by law.

1965 Section 76. Section 17-36-51 is amended to read:

1966 **17-36-51. Establishment of tax stability and trust fund -- Increase in tax levy.**

1967 (1) (a) Notwithstanding anything to the contrary contained in statute, the legislative
1968 body of any county, or noncontiguous municipality council, may by ordinance establish and
1969 maintain a tax stability and trust fund, for the purpose of preserving funds during years with
1970 favorable tax revenues for use during years with less favorable tax revenues.

1971 (b) Each fund under Subsection (1)(a) shall be subject to all of the limitations and
1972 restrictions imposed by this section and Sections 17-36-52 and 17-36-53.

1973 (c) The principal of the fund shall consist of all sums transferred to it in accordance
1974 with Subsection (2) and interest or other income retained in the fund under Subsection
1975 17-36-52(2).

1976 (2) After establishing a tax stability and trust fund as provided in Subsection (1), the
1977 legislative body or noncontiguous municipality council, in establishing the levy for the property
1978 tax levied by the county under Section 59-2-908, may establish the levy at a level not to exceed
1979 .0001 per dollar of taxable value of taxable property increase per year that will permit the
1980 county to receive during that fiscal year sums in excess of what may be required to provide for

1981 the purposes of the county. Any excess sums so received are to be transferred from the General
1982 Fund of the county into the tax stability and trust fund.

1983 Section 77. Section 17-36-52 is amended to read:

1984 **17-36-52. Tax stability and trust fund -- Deposit or investment of funds -- Use of**
1985 **interest or other income.**

1986 (1) All amounts in the tax stability and trust fund established by a county or
1987 noncontiguous municipality under Section 17-36-51 may be deposited or invested as provided
1988 in Section 51-7-11. These amounts may also be transferred by the county treasurer to the state
1989 treasurer under Section 51-7-5 for the treasurer's management and control under Title 51,
1990 Chapter 7, State Money Management Act.

1991 (2) The interest or other income realized from amounts in the tax stability and trust
1992 fund shall be returned to the general fund of the county or noncontiguous municipality during
1993 the fiscal year in which the income or interest is paid to the extent the interest or income is
1994 required by the county or noncontiguous municipality to provide for its purposes during that
1995 fiscal year. Any amounts so returned may be used for all purposes as other amounts in such
1996 general fund. Any interest or income not so returned to the county's or noncontiguous
1997 municipality's general fund shall be added to the principal of that county's tax stability and trust
1998 fund.

1999 Section 78. Section 17-36-53 is amended to read:

2000 **17-36-53. Tax stability and trust fund -- Amount in fund limited -- Disposition of**
2001 **excess.**

2002 (1) The total amount in a county's or noncontiguous municipality's tax stability and
2003 trust fund established under Section 17-36-51 shall be limited to the percentage of the total
2004 taxable value of property in that county or noncontiguous municipality, respectively, not to
2005 exceed the limits provided in the following schedule:

2006	Total Taxable Value	Fund Limits	but not to
		Percentage of	exceed:
		Taxable Value	
2007	Less than \$500,000,000	1.6%	\$5,000,000
2008	From 500,000,000 to 1,500,000,000	1.0%	7,500,000

2009 Over 1,500,000,000 .5% 15,000,000

2010 (2) If any excess occurs in the tax stability and trust fund over the percentage or
2011 maximum dollar amounts specified in Subsection (1), this excess shall be transferred to the
2012 general fund of the county or noncontiguous municipality and may be used for all purposes as
2013 other amounts in the general fund are used.

2014 (3) If any excess in the fund exists because of a decrease in total taxable value, that
2015 excess may remain in the fund, but if the excess amount in the fund is decreased below the
2016 limitations of the fund for any reason, the fund limitations established under Subsection (1)
2017 apply.

2018 Section 79. Section **17-36-54** is amended to read:

2019 **17-36-54. Tax stability and trust fund -- Use of principal -- Determination of**
2020 **necessity -- Election.**

2021 If the legislative body of a county, or noncontiguous municipal council, that has
2022 established a tax stability and trust fund under Section **17-36-51** determines that it is necessary
2023 for purposes of that county or noncontiguous municipality to use any portion of the principal of
2024 the fund, the county legislative body or noncontiguous municipality shall submit this
2025 proposition to the electorate of that county or noncontiguous municipality in a special election
2026 called and held in the manner provided for in Title 11, Chapter 14, Local Government Bonding
2027 Act, for the holding of bond elections. If the proposition is approved at this special election by
2028 a majority of the qualified electors of the county or noncontiguous municipality voting at the
2029 election, then that portion of the principal of the fund covered by the proposition may be
2030 transferred to the county's or noncontiguous municipality's general fund for use for purposes of
2031 that county or noncontiguous municipality.

2032 Section 80. Section **17B-1-502** is amended to read:

2033 **17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in**
2034 **certain circumstances.**

2035 (1) (a) An area within the boundaries of a local district may be withdrawn from the
2036 local district only as provided in this part.

2037 (b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local
2038 district within a municipality because of a municipal incorporation under Title 10, Chapter 2,
2039 Part 1, Incorporation, or a municipal annexation or boundary adjustment under Title 10,

2040 Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process
2041 of withdrawing that area from the local district.

2042 (2) (a) An area within the boundaries of a local district is automatically withdrawn
2043 from the local district by the annexation of the area to a municipality or the adding of the area
2044 to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

2045 (i) the local district provides:

2046 (A) fire protection, paramedic, and emergency services; or

2047 (B) law enforcement service;

2048 (ii) an election for the creation of the local district was not required because of
2049 Subsection [17B-1-214\(3\)\(d\)](#); and

2050 (iii) before annexation or boundary adjustment, the boundaries of the local district do
2051 not include any of the annexing municipality.

2052 (b) The effective date of a withdrawal under this Subsection (2) is governed by
2053 Subsection [17B-1-512\(2\)\(b\)](#).

2054 (3) (a) An area within the boundaries of a local district located in a county of the first
2055 class is automatically withdrawn from the local district by the incorporation of a municipality,
2056 other than the incorporation of a noncontiguous municipality as defined in Section [10-3c-102](#),
2057 whose boundaries include the area if:

2058 (i) the local district provides:

2059 (A) fire protection, paramedic, and emergency services; or

2060 (B) law enforcement service;

2061 (ii) an election for the creation of the local district was not required because of
2062 Subsection [17B-1-214\(3\)\(d\)](#); and

2063 (iii) the legislative body of the newly incorporated municipality:

2064 (A) adopts a resolution no later than 180 days after the effective date of incorporation
2065 approving the withdrawal that includes the legal description of the area to be withdrawn; and

2066 (B) delivers a copy of the resolution to the board of trustees of the local district.

2067 (b) The effective date of a withdrawal under this Subsection (3) is governed by
2068 Subsection [17B-1-512\(2\)\(a\)](#).

2069 (c) Section [17B-1-505](#) shall govern the withdrawal of an area within a noncontiguous
2070 municipality, as defined in Section [10-3c-102](#), in a county of the first class if:

- 2071 (i) the local district from which the area is withdrawn provides:
- 2072 (A) fire protection, paramedic, and emergency services; or
- 2073 (B) law enforcement services; or
- 2074 (ii) an election for the creation of the local district was not required under Subsection
- 2075 [17B-1-214\(3\)\(d\)](#).

2076 Section 81. Section **20A-9-202** is amended to read:

2077 **20A-9-202. Declarations of candidacy for regular general elections --**
2078 **Requirements for candidates.**

2079 (1) (a) Each person seeking to become a candidate for elective office for any county
2080 office that is to be filled at the next regular general election shall:

2081 (i) file a declaration of candidacy in person with the county clerk on or after the second
2082 Friday in March and before 5 p.m. on the third Thursday in March before the next regular
2083 general election; and

2084 (ii) pay the filing fee.

2085 (b) Each person intending to become a candidate for any legislative office or
2086 multicounty office that is to be filled at the next regular general election shall:

2087 (i) file a declaration of candidacy in person with either the lieutenant governor or the
2088 county clerk in the candidate's county of residence on or after the second Friday in March and
2089 before 5 p.m. on the third Thursday in March before the next regular general election; and

2090 (ii) pay the filing fee.

2091 (c) (i) Each county clerk who receives a declaration of candidacy from a candidate for
2092 multicounty office shall transmit the filing fee and a copy of the candidate's declaration of
2093 candidacy to the lieutenant governor within one working day after it is filed.

2094 (ii) Each day during the filing period, each county clerk shall notify the lieutenant
2095 governor electronically or by telephone of legislative candidates who have filed in their office.

2096 (d) Each person seeking to become a candidate for elective office for any federal office
2097 or constitutional office that is to be filled at the next regular general election shall:

2098 (i) file a declaration of candidacy in person with the lieutenant governor on or after the
2099 second Friday in March and before 5 p.m. on the third Thursday in March before the next
2100 regular general election; and

2101 (ii) pay the filing fee.

2102 (e) Each person seeking the office of lieutenant governor, the office of district attorney,
2103 or the office of president or vice president of the United States shall comply with the specific
2104 declaration of candidacy requirements established by this section.

2105 (2) (a) Each person intending to become a candidate for the office of district attorney
2106 within a multicounty prosecution district that is to be filled at the next regular general election
2107 shall:

2108 (i) file a declaration of candidacy with the clerk designated in the interlocal agreement
2109 creating the prosecution district on or after the second Friday in March and before 5 p.m. on the
2110 third Thursday in March before the next regular general election; and

2111 (ii) pay the filing fee.

2112 (b) The designated clerk shall provide to the county clerk of each county in the
2113 prosecution district a certified copy of each declaration of candidacy filed for the office of
2114 district attorney.

2115 (3) (a) Within five working days of nomination, each lieutenant governor candidate
2116 shall:

2117 (i) file a declaration of candidacy with the lieutenant governor; and

2118 (ii) pay the filing fee.

2119 (b) (i) Any candidate for lieutenant governor who fails to file within five working days
2120 is disqualified.

2121 (ii) If a lieutenant governor is disqualified, another candidate shall be nominated to
2122 replace the disqualified candidate.

2123 (4) Each registered political party shall:

2124 (a) certify the names of its candidates for president and vice president of the United
2125 States to the lieutenant governor no later than August 31; or

2126 (b) provide written authorization for the lieutenant governor to accept the certification
2127 of candidates for president and vice president of the United States from the national office of
2128 the registered political party.

2129 (5) (a) A declaration of candidacy filed under this section is valid unless a written
2130 objection is filed with the clerk or lieutenant governor within five days after the last day for
2131 filing.

2132 (b) If an objection is made, the clerk or lieutenant governor shall:

- 2133 (i) mail or personally deliver notice of the objection to the affected candidate
2134 immediately; and
- 2135 (ii) decide any objection within 48 hours after it is filed.
- 2136 (c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the
2137 problem by amending the declaration or petition within three days after the objection is
2138 sustained or by filing a new declaration within three days after the objection is sustained.
- 2139 (d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.
- 2140 (ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable
2141 by a district court if prompt application is made to the court.
- 2142 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
2143 of its discretion, agrees to review the lower court decision.
- 2144 (6) Any person who filed a declaration of candidacy may withdraw as a candidate by
2145 filing a written affidavit with the clerk.
- 2146 (7) Except as provided in Subsection 20A-9-201(4)(b), notwithstanding a requirement
2147 in this section to file a declaration of candidacy in person, a person may designate an agent to
2148 file the form described in Subsection 20A-9-201(4) in person with the filing officer if:
- 2149 (a) the person is located outside the state during the filing period because:
- 2150 (i) of employment with the state or the United States; or
- 2151 (ii) the person is a member of:
- 2152 (A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or
2153 Coast Guard of the United States who is on active duty;
- 2154 (B) the Merchant Marine, the commissioned corps of the Public Health Service, or the
2155 commissioned corps of the National Oceanic and Atmospheric Administration of the United
2156 States; or
- 2157 (C) the National Guard on activated status;
- 2158 (b) the person communicates with the filing officer using an electronic device that
2159 allows the person and filing officer to see and hear each other; and
- 2160 (c) the person provides the filing officer with an email address to which the filing
2161 officer may send the copies described in Subsection 20A-9-201(3).
- 2162 (8) (a) A candidate for the initial municipal council of a noncontiguous municipality at
2163 the time of election to incorporate the noncontiguous municipality as described in Section

2164 10-2-138, if the election is held at a regular general election, shall:

2165 (i) meet the candidacy requirements of Section 20A-9-203 and any other candidacy
2166 requirement established by law; and

2167 (ii) comply with the provisions of this section except as otherwise provided in Section
2168 10-2-138.

2169 (b) A candidate for a noncontiguous municipal council who is a candidate after the
2170 election of the initial municipal council and incorporation of the noncontiguous municipality
2171 shall comply with the provisions of Section 20A-9-203.

2172 Section 82. Section **20A-9-404** is amended to read:

2173 **20A-9-404. Municipal primary elections.**

2174 (1) (a) Except as otherwise provided in this section, candidates for municipal office in
2175 all municipalities shall be nominated at a municipal primary election.

2176 (b) Municipal primary elections shall be held:

2177 (i) consistent with Section **20A-1-201.5**, on the second Tuesday following the first
2178 Monday in the August before the regular municipal election; and

2179 (ii) whenever possible, at the same polling places as the regular municipal election.

2180 (2) If the number of candidates for a particular municipal office does not exceed twice
2181 the number of persons needed to fill that office, a primary election for that office may not be
2182 held and the candidates are considered nominated.

2183 (3) (a) For purposes of this Subsection (3), "convention" means an organized assembly
2184 of voters or delegates.

2185 (b) (i) By ordinance adopted before the May 1 that falls before a regular municipal
2186 election, any third, fourth, or fifth class city or town may exempt itself from a primary election
2187 by providing that the nomination of candidates for municipal office to be voted upon at a
2188 municipal election be nominated by a political party convention or committee.

2189 (ii) Any primary election exemption ordinance adopted under the authority of this
2190 subsection remains in effect until repealed by ordinance.

2191 (c) (i) A convention or committee may not nominate more than one group of
2192 candidates or have placed on the ballot more than one group of candidates for the municipal
2193 offices to be voted upon at the municipal election.

2194 (ii) A convention or committee may nominate a person who has been nominated by a

2195 different convention or committee.

2196 (iii) A political party may not have more than one group of candidates placed upon the
2197 ballot and may not group the same candidates on different tickets by the same party under a
2198 different name or emblem.

2199 (d) (i) The convention or committee shall prepare a certificate of nomination for each
2200 person nominated.

2201 (ii) The certificate of nomination shall:

2202 (A) contain the name of the office for which each person is nominated, the name, post
2203 office address, and, if in a city, the street number of residence and place of business, if any, of
2204 each person nominated;

2205 (B) designate in not more than five words the political party that the convention or
2206 committee represents;

2207 (C) contain a copy of the resolution passed at the convention that authorized the
2208 committee to make the nomination;

2209 (D) contain a statement certifying that the name of the candidate nominated by the
2210 political party will not appear on the ballot as a candidate for any other political party;

2211 (E) be signed by the presiding officer and secretary of the convention or committee;
2212 and

2213 (F) contain a statement identifying the residence and post office address of the
2214 presiding officer and secretary and certifying that the presiding officer and secretary were
2215 officers of the convention or committee and that the certificates are true to the best of their
2216 knowledge and belief.

2217 (iii) Certificates of nomination shall be filed with the clerk not later than 80 days
2218 before the municipal general election.

2219 (e) A committee appointed at a convention, if authorized by an enabling resolution,
2220 may also make nominations or fill vacancies in nominations made at a convention.

2221 (f) The election ballot shall substantially comply with the form prescribed in Title 20A,
2222 Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall
2223 be included with the candidate's name.

2224 (4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the May 1
2225 that falls before the regular municipal election that:

- 2226 (i) exempts the city from the other methods of nominating candidates to municipal
2227 office provided in this section; and
- 2228 (ii) provides for a partisan primary election method of nominating candidates as
2229 provided in this Subsection (4).
- 2230 (b) (i) Any party that was a registered political party at the last regular general election
2231 or regular municipal election is a municipal political party under this section.
- 2232 (ii) Any political party may qualify as a municipal political party by presenting a
2233 petition to the city recorder that:
- 2234 (A) is signed, with a holographic signature, by registered voters within the municipality
2235 equal to at least 20% of the number of votes cast for all candidates for mayor in the last
2236 municipal election at which a mayor was elected;
- 2237 (B) is filed with the city recorder by May 31 of any odd-numbered year;
- 2238 (C) is substantially similar to the form of the signature sheets described in Section
2239 [20A-7-303](#); and
- 2240 (D) contains the name of the municipal political party using not more than five words.
- 2241 (c) (i) If the number of candidates for a particular office does not exceed twice the
2242 number of offices to be filled at the regular municipal election, no partisan primary election for
2243 that office shall be held and the candidates are considered to be nominated.
- 2244 (ii) If the number of candidates for a particular office exceeds twice the number of
2245 offices to be filled at the regular municipal election, those candidates for municipal office shall
2246 be nominated at a partisan primary election.
- 2247 (d) The clerk shall ensure that:
- 2248 (i) the partisan municipal primary ballot is similar to the ballot forms required by
2249 Sections [20A-6-401](#) and [20A-6-401.1](#);
- 2250 (ii) the candidates for each municipal political party are listed in one or more columns
2251 under their party name and emblem;
- 2252 (iii) the names of candidates of all parties are printed on the same ballot, but under
2253 their party designation;
- 2254 (iv) every ballot is folded and perforated so as to separate the candidates of one party
2255 from those of the other parties and so as to enable the elector to separate the part of the ballot
2256 containing the names of the party of his choice from the remainder of the ballot; and

2257 (v) the side edges of all ballots are perforated so that the outside sections of the ballots,
2258 when detached, are similar in appearance to inside sections when detached.

2259 (e) After marking a municipal primary ballot, the voter shall:

2260 (i) detach the part of the ballot containing the names of the candidates of the party he
2261 has voted from the rest of the ballot;

2262 (ii) fold the detached part so that its face is concealed and deposit it in the ballot box;
2263 and

2264 (iii) fold the remainder of the ballot containing the names of the candidates of the
2265 parties for whom the elector did not vote and deposit it in the blank ballot box.

2266 (f) Immediately after the canvass, the election judges shall, without examination,
2267 destroy the tickets deposited in the blank ballot box.

2268 (5) (a) In an election described in Section 10-2-138 to incorporate a noncontiguous
2269 municipality and elect the initial members of the municipal council, a municipal primary may
2270 not be held and a candidate is not required to be nominated at a municipal primary.

2271 (b) After incorporation, a primary for the municipal council candidates in a
2272 noncontiguous municipality, as defined in Section 10-3c-102, shall be held in accordance with
2273 this section.

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Office of Legislative Research and General Counsel