

SB0216S01 compared with SB0216

~~text~~ shows text that was in SB0216 but was deleted in SB0216S01.

text shows text that was not in SB0216 but was inserted into SB0216S01.

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Senator Karen Mayne proposes the following substitute bill:

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

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-104, as last amended by Laws of Utah 2003, Chapter 292

10-1-304, as last amended by Laws of Utah 2012, Chapter 410

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10-2-101, as last amended by Laws of Utah 2012, Chapter 359
10-2-102, as last amended by Laws of Utah 2012, Chapter 359
10-2-120, as last amended by Laws of Utah 2009, Chapter 350
10-2-123, as enacted by Laws of Utah 1997, Chapter 389
10-3-205.5, as last amended by Laws of Utah 2003, Chapter 292
10-3-301, as last amended by Laws of Utah 2012, Chapter 251
10-3-302, as repealed and reenacted by Laws of Utah 1993, Chapter 1
10-3-803, as enacted by Laws of Utah 1977, Chapter 48
10-3-824, as enacted by Laws of Utah 1977, Chapter 48
10-3-1302, as enacted by Laws of Utah 1981, Chapter 57
10-3b-501, as enacted by Laws of Utah 2008, Chapter 19
10-6-103, as enacted by Laws of Utah 1979, Chapter 26
17-34-1, as last amended by Laws of Utah 2003, Chapter 275
17-34-3, as last amended by Laws of Utah 2013, Chapter 371
17-34-5, as last amended by Laws of Utah 2011, Chapter 297
17-36-2, as last amended by Laws of Utah 1983, Chapter 73
17-36-3, as last amended by Laws of Utah 2012, Chapter 17
17-36-3.5, as enacted by Laws of Utah 1999, Chapter 300
17-36-4, as last amended by Laws of Utah 2013, Chapter 413
17-36-6, as last amended by Laws of Utah 1996, Chapter 212
17-36-7, as enacted by Laws of Utah 1975, Chapter 22
17-36-8, as last amended by Laws of Utah 1999, Chapter 300
17-36-9, as last amended by Laws of Utah 2012, Chapter 17
17-36-10, as last amended by Laws of Utah 2012, Chapter 17
17-36-12, as last amended by Laws of Utah 2010, Chapter 90
17-36-15, as last amended by Laws of Utah 2012, Chapter 17
17-36-16, as last amended by Laws of Utah 2003, Chapter 167
17-36-17, as last amended by Laws of Utah 2011, Chapter 297
17-36-19, as last amended by Laws of Utah 1983, Chapter 73
17-36-20, as last amended by Laws of Utah 2012, Chapter 17
17-36-21, as enacted by Laws of Utah 1975, Chapter 22

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17-36-22, as last amended by Laws of Utah 2009, Chapter 186

17-36-26, as last amended by Laws of Utah 2010, Chapters 90 and 116

17-36-27, as last amended by Laws of Utah 2007, Chapter 328

17-36-29, as last amended by Laws of Utah 2007, Chapter 329

17-36-30, as enacted by Laws of Utah 1975, Chapter 22

17-36-31, as last amended by Laws of Utah 1993, Chapter 227

17-36-35, as last amended by Laws of Utah 1996, Chapter 212

17-36-36, as last amended by Laws of Utah 1983, Chapter 73

17-36-37, as last amended by Laws of Utah 2009, Chapter 323

17-36-38, as last amended by Laws of Utah 1999, Chapter 300

17-36-39, as last amended by Laws of Utah 2004, Chapter 206

17-36-40, as last amended by Laws of Utah 2009, Chapter 388

17-36-41, as last amended by Laws of Utah 1983, Chapter 73

17-36-43, as last amended by Laws of Utah 2012, Chapter 17

17-36-44, as last amended by Laws of Utah 2012, Chapter 17

17-36-45, as enacted by Laws of Utah 1996, Chapter 212

17-36-46, as renumbered and amended by Laws of Utah 2000, Chapter 133

17-36-47, as renumbered and amended by Laws of Utah 2000, Chapter 133

17-36-48, as renumbered and amended by Laws of Utah 2000, Chapter 133

17-36-49, as renumbered and amended by Laws of Utah 2000, Chapter 133

17-36-50, as renumbered and amended by Laws of Utah 2000, Chapter 133

17-36-51, as renumbered and amended by Laws of Utah 2000, Chapter 133

17-36-52, as renumbered and amended by Laws of Utah 2000, Chapter 133

17-36-53, as renumbered and amended by Laws of Utah 2000, Chapter 133

17-36-54, as last amended by Laws of Utah 2005, Chapter 105

17B-1-502, as last amended by Laws of Utah 2013, Chapter 141

20A-9-202, as last amended by Laws of Utah 2013, Chapter 317

20A-9-404, as last amended by Laws of Utah 2013, Chapter 402

ENACTS:

10-2-130, Utah Code Annotated 1953

10-2-131, Utah Code Annotated 1953

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10-2-132, Utah Code Annotated 1953
10-2-133, Utah Code Annotated 1953
10-2-134, Utah Code Annotated 1953
10-2-135, Utah Code Annotated 1953
10-2-136, Utah Code Annotated 1953
10-2-137, Utah Code Annotated 1953
10-2-138, Utah Code Annotated 1953
10-2-139, Utah Code Annotated 1953
10-2-140, Utah Code Annotated 1953
10-2-141, Utah Code Annotated 1953
10-3b-601, Utah Code Annotated 1953
10-3b-602, Utah Code Annotated 1953
10-3b-603, Utah Code Annotated 1953
10-3b-604, Utah Code Annotated 1953
10-3b-605, Utah Code Annotated 1953
10-3b-606, Utah Code Annotated 1953
10-3b-607, Utah Code Annotated 1953
10-3c-101, Utah Code Annotated 1953
10-3c-102, Utah Code Annotated 1953
10-3c-201, Utah Code Annotated 1953
10-3c-202, Utah Code Annotated 1953
10-3c-203, Utah Code Annotated 1953

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

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

10-1-104. Definitions.

As used in this title:

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

(2) "Contiguous" means:

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

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

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

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

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

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

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

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

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

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

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

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

(10) "Town" means a municipality classified by population as a town under Section 10-2-301.

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

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

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

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requirements -- Exemptions.

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

- (i) by ordinance as provided in Section 10-1-305; and
- (ii) of up to 6% of the delivered value of the taxable energy.

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will

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result in a change in the rate of a tax under this part for an annexing area, the change shall take effect:

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

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

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

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

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

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

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

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

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

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

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

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

10-2-101. Definitions.

(1) As used in this part:

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

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

(ii) ~~who~~ that is independent of and not affiliated with a county or sponsor of a

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petition to incorporate.

(b) "Noncontiguous" means:

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

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

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

(2) For purposes of this part:

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

(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the request or petition.

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

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

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

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

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

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

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

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

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

10-2-102. Incorporation of a contiguous area -- Governing provisions of city or

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town incorporation -- Incorporation of a noncontiguous area.

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

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

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

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

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

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

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

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

(i) a compilation of ordinances; and

(ii) a proposed budget;

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

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

(b) negotiate and make personnel contracts and hirings;

(c) negotiate and make service contracts;

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

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

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

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

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

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

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under Section 10-2-119.

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

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

10-2-123. Costs of incorporation.

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

(2) If incorporation occurs, the new municipality shall reimburse the county for the following costs [of] as applicable:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

area;

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) "~~{Incorporation}~~ Township incorporation procedure" means the following actions, the subject of which includes an area located in whole or in part in a township:

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

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

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

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

(ii) "~~{Annexation}~~Township annexation procedure" means one or more of the following actions, the subject of which includes an area located in whole or in part in a township:

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

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

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

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

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

(b) ~~{ff}~~Except as provided in Subsection (5)(d), if an incorporation petition or resolution is filed under this section, and the petition or resolution includes some or all of an area that is the subject of ~~{an}~~a township incorporation procedure or township annexation procedure filed on or after January 1, 2014, the township incorporation procedure or township annexation procedure is suspended on the date that the incorporation petition is filed or resolution is adopted under this section.

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

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

(ii) does not start over.

(d) Subsection (5)(b) does not apply to a township annexation procedure that includes a parcel located in whole or in part in a township that is:

(i) less than or equal to 100 acres; and

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(ii) owned by a government entity or a non-profit entity.

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

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

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

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

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

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

(i) consists of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels;

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

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

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

(A) an agricultural protection area;

(B) a mining protection area; or

(C) an industrial protection area.

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

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

(b) the real property does not receive from the county a majority of municipal-type

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services described in Subsection 10-2-104(4)(b)(ii).

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

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

(1) As used in this section:

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

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

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

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

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

or

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

(3) If an owner owns, controls, or manages more than 1% of the assessed value of all property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation boundaries, the owner may exclude all or part of the property owned, controlled, or managed by the owner from the proposed boundaries by filing a Notice of Exclusion with the county legislative body within 15 calendar days of receiving the clerk's notice under Subsection (2).

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

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

and

(b) the property to be excluded:

(i) is urban; and

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

(A) culinary or irrigation water;

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- (B) sewage collection or treatment;
- (C) storm drainage or flood control;
- (D) recreational facilities or parks;
- (E) electric generation or transportation;
- (F) construction or maintenance of local streets and roads;
- (G) curb and gutter or sidewalk maintenance;
- (H) garbage and refuse collection; and
- (I) street lighting.

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

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

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

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

(a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the request complies with Section 10-2-130; and

(b) (i) if the clerk determines that the request complies with Section 10-2-130:

(A) certify the request and deliver the certified request to the county legislative body;
and

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

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

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

(3) (a) (i) If the county clerk rejects a request under Subsection (1)(b)(ii), the request

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may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

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

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

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

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

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

(2) The feasibility consultant shall be chosen:

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

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

or

(B) by the county if the designated sponsors state, in writing, that the contact sponsor defers selection of the feasibility consultant to the county; or

(ii) if the county legislative body adopted a resolution to engage the feasibility consultant, by the county legislative body; and

(b) in accordance with applicable county procurement procedures.

(3) The county legislative body shall require the feasibility consultant to:

(a) complete the feasibility study and submit the written results to the county legislative body and the contact sponsor, if applicable, no later than 90 days after the feasibility consultant is engaged to conduct the study;

(b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and

(c) attend the public hearings under Subsection 10-2-134(1) and present the feasibility study results and respond to questions from the public at those hearings.

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(4) (a) The feasibility study shall consider:

(i) population and population density within the area proposed for incorporation and the surrounding area;

(ii) current and five-year projections of demographics and economic base in the proposed municipality and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the proposed municipality and in adjacent areas during the next five years;

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of governmental services in the proposed municipality, including:

(A) culinary water;

(B) secondary water;

(C) sewer;

(D) law enforcement;

(E) fire protection;

(F) roads and public works;

(G) garbage;

(H) weeds; and

(I) government offices;

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

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

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

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

(ii) In determining the present cost of a governmental service, the feasibility consultant

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shall consider:

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

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

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

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

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

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

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

(a) within the following 60 days;

(b) at least seven days apart;

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

(d) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study; and

(ii) the public to become informed about the feasibility study results and to ask the feasibility consultant questions about those results.

(2) At a public hearing described in Subsection (1), the county legislative body shall:

(a) provide a map or plat of the boundaries of the proposed municipality;

(b) provide a copy of the feasibility study for public review; and

(c) allow the public to express its views about the proposed incorporation, including its views about the proposed boundaries.

(3) (a) (i) The county clerk shall publish notice of the public hearings required under Subsection (1):

(A) at least once a week for three successive weeks in a newspaper of general circulation within the proposed municipality; and

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(B) on the Utah Public Notice Website, created in Section 63F-1-701, for three weeks.

(i) The last publication of notice required under Subsection (3)(a)(i)(A) shall be at least three days before the first public hearing required under Subsection (1).

(b) (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation within the proposed municipality, the county clerk shall post at least one notice of the hearings per 1,000 population in conspicuous places within the proposed municipality that are most likely to give notice of the hearings to the residents of the proposed municipality.

(ii) The clerk shall post the notices under Subsection (3)(b)(i) at least seven days before the first hearing under Subsection (1).

(c) The notice under Subsections (3)(a) and (b) shall include the feasibility study summary under Subsection 10-2-133(3)(b) and shall indicate that a full copy of the study is available for inspection and copying at the office of the county clerk.

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

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

(1) At any time within one year of the completion of the public hearings required under Subsection 10-2-134(1):

(a) a petition for incorporation of the area proposed to be incorporated as a municipality may be filed in the office of the clerk of the county in which the area is located; or

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

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

(a) be signed by:

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

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

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

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

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

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

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

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

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

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

We, the undersigned registered voters within the area described in this petition, respectfully petition the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular or municipal general election, whichever occurs first, the question of whether the area should incorporate as a municipality. Each of the undersigned affirms that each has personally signed this petition and is a registered voter within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a municipality is described as follows: (insert an accurate description of the area proposed to be incorporated)."

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

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

(b) appoint members to the council district advisory committee in accordance with Section 10-2-136.

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

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

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

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

- (i) is not located entirely within the boundaries of the proposed municipality; or
- (ii) includes fewer than 50 registered voters.

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

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

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

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

(2) (a) In a resolution to incorporate under Section 10-2-135, or in accordance with Subsection 10-2-137(4), a resolution adopted after the certification of a petition, the county legislative body shall appoint the following 12 members to a council district advisory committee to advise the county legislative body on the designation of council districts for the noncontiguous area proposed for incorporation or any other matter related to the incorporation, as assigned by the county executive:

- (i) six members representing the townships that are located within the county and that are also located, in part or in whole, in the area proposed for incorporation;
- (ii) two members who each reside in the area proposed for incorporation; and
- (iii) four additional members.

(b) (i) The county legislative body may not appoint a person under Subsection (2)(a) unless the person:

(A) is a registered voter of the county; and

(B) does not hold a public office or public employment other than membership on the advisory committee.

(ii) Notwithstanding Subsection (2)(b)(i)(~~A~~B), the county legislative body may appoint a public official of a local district, as defined in Section 17B-1-102, or a special service district, as defined in Section 17D-1-102, if the public official does not also hold a public office with a political subdivision other than the local district or special service district.

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(c) The county shall reimburse each member of the advisory committee for necessary expenses incurred in performing the member's duties on the committee.

(d) If a vacancy occurs in the advisory committee, the county legislative body shall fill the vacancy within 10 days of receiving notice of the vacancy.

(3) The county executive shall convene a meeting of the members of the advisory committee described in Subsection (2) within 10 days after the day on which the county legislative body adopts the resolution appointing the members.

(4) The advisory committee may:

(a) establish advisory boards or committees and include on them persons who are not members of the advisory committee; and

(b) request the assistance and advice of any officers or employees of a state agency or local government.

(5) (a) The advisory committee shall:

(i) study the division of the area proposed for incorporation into council districts that comply with Section 10-3-205.5 or any other matter related to the incorporation, as assigned by the county executive;

(ii) hold public hearings and community forums and other means the committee considers appropriate to disseminate information and stimulate public discussion of the committee's purposes, progress, and conclusions;

(iii) include in the report described in Subsection (5)(a)(iv) a determination of the initial terms of the members of the municipal council so that:

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

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

(iv) file a written report of its findings and recommendations with the county executive and the county legislative body within ~~60~~180 days after the convening of its first meeting.

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

(i) the advisory committee's recommendation as to the division of the area proposed for

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incorporation into nine council districts; and

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

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

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

(a) suitable meeting facilities;

(b) necessary secretarial services;

(c) necessary printing and photocopying services; and

(d) necessary clerical and staff assistance.

(8) After receiving the report from the advisory committee, the county legislative body:

(a) shall adopt by resolution:

(~~f~~~~a~~~~i~~) the nine municipal council districts as recommended by the advisory committee;

or

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

(b) may adopt a resolution revising the proposed boundaries of the noncontiguous municipality.

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

10-2-137. Processing of petition by county clerk -- Certification or rejection -- Processing priority -- Resolution after petition to appoint council district advisory committee.

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

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

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

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

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the rejection.

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

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

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

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

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

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

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

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

(1) (a) At the next regular general election date under Section 20A-1-201 or municipal general election date under Section 20A-1-202, whichever occurs first, more than 80 days after the county legislative body adopts a resolution designating the municipal council districts under Subsection 10-2-136(8), the county legislative body shall hold an election:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) The county clerk shall post the notices under Subsection (2)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2)(d).

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

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

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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

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

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

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

(1) pose the incorporation question substantially as follows:

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

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

and

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

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

10-2-140. Status and powers.

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

(1) is:

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

(b) a municipal corporation; and

(c) a political subdivision of the state; and

(2) may sue and be sued.

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

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

An incorporation of a noncontiguous municipality in accordance with Sections 10-2-130 through 10-2-140 is subject to the following provisions to the same extent as the incorporation of a contiguous municipality in accordance with Sections 10-2-130 through 10-2-124:

(1) Section 10-2-113;

(2) Section 10-2-120;

(3) Section 10-2-121; and

(4) Section 10-2-123.

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

10-3-205.5. At-large election of officers -- Election of commissioners or council

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members.

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

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

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

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

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

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

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

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

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

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

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

Subsection (1)(a)(i).

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

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

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

(A) at the principal office of the municipality;

(B) in a newspaper of general circulation within the municipality at least once a week for two successive weeks in accordance with Section 45-1-101;

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- (C) in a newsletter produced by the municipality;
- (D) on a website operated by the municipality; or
- (E) with a utility enterprise fund customer's bill.

(2) A person filing a declaration of candidacy for a municipal office shall meet the requirements of Section 20A-9-203.

(3) Any person elected to municipal office shall be a registered voter in the municipality in which the person was elected.

(4) (a) Each elected officer of a municipality shall maintain residency within the boundaries of the municipality during the officer's term of office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The bond of the municipal treasurer shall be in a penal sum of not less than \$500 and may be established by an ordinance or resolution by the governing body, except that the bond of the treasurer shall be set in an amount provided by the rules and regulations of the state money management council if [it] the bond has been established by the state money management council.

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

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

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10-3-1302. Purpose -- Application.

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

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

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

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

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

- ~~[(1)]~~ (a) the council-mayor form of government with a five-member council;
- ~~[(2)]~~ (b) the council-mayor form of government with a seven-member council;
- ~~[(3)]~~ (c) the six-member council form of government; or
- ~~[(4)]~~ (d) the five-member council form of government.

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

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

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10-3b-601. Application.

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

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

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

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

- (1) a council composed of nine members; and

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(2) a mayor and, under the mayor's supervision, any executive or administrative departments, divisions, and offices and any executive or administrative officers provided for by statute or municipal ordinance.

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

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

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

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

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

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

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

(d) shall:

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

(ii) execute the policies adopted by the council;

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

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

(A) the amount of budget appropriations;

(B) total disbursements from the appropriations;

(C) the amount of indebtedness incurred or contracted against each appropriation, including disbursements and indebtedness incurred and not paid; and

(D) the percentage of the appropriations encumbered;

(v) report to the council the condition and needs of the municipality;

(vi) report to the council any release granted under Subsection (1)(e)(xii);

(vii) if the mayor remits a fine or forfeiture under Subsection (1)(e)(xi), report the

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remittance to the council at the council's next meeting after the remittance; and

(viii) perform each other duty;

(A) prescribed by statute; or

(B) required by a municipal ordinance that is not inconsistent with statute;

(e) may:

(i) subject to budget constraints:

(A) appoint a chief administrative officer subject to Subsections (3)(b) and (4), and one or more deputies or administrative assistants to the mayor; or

(B) create any other administrative office that the mayor considers necessary for good government of the municipality and appoint a person to that office;

(ii) with the council's advice and consent and except as otherwise specifically limited by statute, appoint each member of a statutory commission, board, or committee of the municipality;

(iii) dismiss any person appointed by the mayor;

(iv) as provided in Section 10-3b-605, veto an ordinance, tax levy, or appropriation passed by the council;

(v) exercise control of and supervise each executive or administrative department, division, or office of the municipality;

(vi) within the general provisions of statute and ordinance, regulate and prescribe the powers and duties of each other executive or administrative officer or employee of the municipality;

(vii) attend each council meeting, take part in council meeting discussions, and freely give advice to the council;

(viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill in all other respects the requirements of Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties;

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

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

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(A) the municipality; or

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

(xi) remit fines and forfeitures; and

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

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

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

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

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

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

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

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

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

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

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

(ii) any other qualification prescribed by ordinance.

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

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

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

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

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

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

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

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

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

(a) shall:

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

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

and

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

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

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

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

(b) may:

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

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

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

(ii) adopt an ordinance for departments, divisions, or bureaus not under the control of the county as described in Sections 10-3b-606 and 10-3c-202:

(A) creating, consolidating, or abolishing a department, division, or bureau; and

(B) defining or altering the functions and duties of each department, division, and

bureau;

(iii) notwithstanding Subsection (1)(c)(iii), make suggestions or recommendations to a subordinate of the mayor;

(iv) (A) notwithstanding Subsection (1)(c), appoint a committee of council members or

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citizens to conduct an investigation into an officer, department, or agency of the municipality, or any other matter relating to the welfare of the municipality; and

(B) delegate to an appointed committee powers of inquiry that the council considers necessary;

(v) make and enforce any additional rule or regulation for the government of the council, the preservation of order, and the transaction of the council's business that the council considers necessary; and

(vi) unless otherwise provided, take any action allowed under Section 10-8-84; and

(c) may not:

(i) direct or request, other than in writing, the appointment of a person to or the removal of a person from an executive municipal office;

(ii) interfere in any way with an executive officer's performance of the officer's duties;

or

(iii) publicly or privately give orders to a subordinate of the mayor.

(2) A member of a council in a municipality operating under the county mayor-municipal council form of government may not have any other compensated employment with the municipality.

(3) A council member is:

(a) elected as a nonpartisan candidate; and

(b) elected and serves a term in accordance with Chapter 3, Part 2, Election of Governing Body.

(4) This section may not be construed to grant a power to or otherwise authorize a municipal council with a power that is granted to or an authority assigned to a county governing body or county legislative body to govern, administer, or control a service provided to, or personnel who provide a service to, the municipality in accordance with Section 10-3c-202.

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

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

(1) The council in each municipality operating under a county mayor-municipal council form of municipal government shall present to the mayor each ordinance, tax levy, and

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appropriation passed by the council.

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) the county attorney shall fulfill the duties and hold the powers of the attorney for

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the municipality;

(~~fv~~v) subject to Subsection (1)(b), the county auditor shall fulfill the duties and hold the powers of auditor for the municipality; and

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

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

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

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

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

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

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

(iii) is not subject to:

(A) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; or

(B) Chapter 3, Part 11, Personnel Rules and Benefits; and

(iv) is not required to provide a bond for the applicable municipal office if a bond for the office is required by this title.

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

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

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

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

CHAPTER 3c. ADMINISTRATION OF NONCONTIGUOUS MUNICIPALITIES

Part 1. General Provisions

10-3c-101. Title.

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

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

10-3c-102. Definitions.

As used in this chapter:

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

(2) "Noncontiguous municipality" means a municipality incorporated in accordance with Sections 10-2-130 through 10-2-141.

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

Part 2. Administration of Noncontiguous Municipality

10-3c-201. Budget.

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

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

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

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

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

(a) all administrative services, including:

(i) human resources; and

(ii) accounting and budgeting services other than the adoption of a budget by the municipal council;

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- (b) all municipal services; and
- (c) all operational and other local government services, including:
 - (i) maintenance of municipal infrastructure;
 - (ii) public safety;
 - (iii) road construction and maintenance;
 - (iv) animal control services;
 - (v) curb, gutter, and sidewalk services;
 - (vi) snow removal;
 - (vii) streetlights; and
 - (viii) staff to assist with planning and zoning.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) "Municipal-type services" means:

(i) fire protection service;

(ii) waste and garbage collection and disposal;

(iii) planning and zoning;

(iv) street lighting;

(v) in a county of the first class:

(A) advanced life support and paramedic services; and

(B) detective investigative services; and

(vi) all other services and functions that are required by law to be budgeted, appropriated, and accounted for from a municipal services fund or a municipal capital projects fund as defined under Chapter 36, Uniform Fiscal Procedures Act for Counties.

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

~~(d)~~ (e) "Placement" has the same meaning as in Section 19-3-303.

~~(e)~~ (f) "Storage facility" has the same meaning as in Section 19-3-303.

~~(f)~~ (g) "Transfer facility" has the same meaning as in Section 19-3-303.

(2) A county ~~may~~:

(a) may:

~~(a)~~ (i) provide municipal-type services to areas of the county outside the limits of cities and towns without providing the same services to cities or towns; and

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

~~(i)~~ (A) levying a tax on taxable property in the county outside the limits of cities and towns; or

~~(ii)~~ (B) charging a service charge or fee to persons benefitting from the municipal-type services[-]; and

(b) shall:

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

(ii) fund those services by collecting payment for those services provided from the noncontiguous municipality.

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(3) A county may not:

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

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

(i) levying a tax; or

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

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

(a) advanced life support and paramedic services; and

(b) detective investigative services.

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

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

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

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

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

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

17-34-3. Taxes or service charges.

(1) (a) If a county furnishes the municipal-type services and functions described in Section 17-34-1 to areas of the county outside the limits of incorporated cities or towns, the

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county shall defray the entire cost of the services or functions [~~so~~] furnished [~~shall be defrayed~~] from funds that the county has derived from:

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

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

(iii) a combination of these sources.

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

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

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

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

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

(iii) within a noncontiguous municipality.

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

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

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

(4) Notwithstanding any other provision of this chapter, a county providing fire, paramedic, and police protection services in a designated recreational area, as provided in Subsection 17-34-1(5), may fund those services from the county general fund with revenues

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derived from both inside and outside the limits of cities and towns, and the funding of those services is not limited to unincorporated area revenues.

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

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

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

- (i) the salaries of each county commissioner and the salaries and wages of all other elected and appointed county officials and employees;
- (ii) the operation and maintenance costs of each municipal-type service or function provided, set forth separately as line items in the Municipal Services Fund budget;
- (iii) the cost of renting or otherwise using capital facilities for the purposes of providing municipal-type services or functions; and
- (iv) all other costs including administrative costs associated, directly or indirectly, with the costs of providing municipal-type services or functions.

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

(2) To implement Subsection (1):

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

(b) funds for the purposes of furnishing municipal-type services and functions under this chapter shall be collected, held, and administered in the same manner as other funds of the county are collected, held, and administered, but shall be segregated and separately maintained, except that where, in the judgment of the county legislative body, advantages inure to the fund from coinvestment of these funds and other funds also subject to control by the county

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legislative body, the county legislative body may direct this coinvestment, but in no event may the funds to furnish municipal-type services and functions or the income from their investment be used for purposes other than those described in Section 17-34-1;

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

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

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

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

17-36-2. Purpose of chapter.

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

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

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

17-36-3. Definitions.

As used in this chapter:

(1) "Accrual basis of accounting" means a method where revenues are recorded when earned and expenditures recorded when they become liabilities notwithstanding that the receipt of the revenue or payment of the expenditure may take place in another accounting period.

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

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

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expenditures.

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

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

(5) "Budget officer" means:

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

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

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

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

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

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

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

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

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

(12) "Estimated revenue" means any revenue estimated to be received during the budget period in any fund for which a budget is prepared.

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

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

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

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

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

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

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

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

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

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

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

(24) "Noncontiguous municipality general fund" means the fund used by a noncontiguous municipality to account for all receipts, disbursements, assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be accounted for in other funds.

~~(23)~~ ~~(24)~~ (25) "Retained earnings" means that part of the net earnings retained by an enterprise or internal service fund which is not segregated or reserved for any specific purpose.

~~(24)~~ ~~(25)~~ (26) "Special fund" means any fund other than the General Fund, such as

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those described in Section 17-36-6.

[(25)] ~~(26)~~ (27) "Unappropriated surplus" means that part of a fund which is not appropriated for an ensuing budget period.

[(26)] ~~(27)~~ (28) "Warrant" means an order in a specific amount drawn upon the treasurer by the auditor.

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

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

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

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

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

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

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

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

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

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

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

(1) The state auditor shall:

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

(b) conduct a constant review and modification of such procedures to improve them;

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(c) prepare and supply each county budget officer with suitable budget forms; and
(d) prepare instructional materials, conduct training programs, and render other services deemed necessary to assist counties in implementing the uniform system.

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

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

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

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

17-36-6. Required funds and accounts.

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

- (a) a general fund or noncontiguous municipality general fund;
- (b) special revenue funds;
- (c) debt service funds to account for the retirement of general obligation bonds or other long-term indebtedness including the payment of interest;
- (d) capital project funds, as required to account for the application of proceeds from the sale of general obligation bonds or other general long-term debt, or funds derived from other sources, to the specific purposes for which they are authorized;
- (e) a separate fund for each utility or enterprise such as an airport fund, a sewer fund, a water fund, or other similar funds;
- (f) intragovernmental service funds;
- (g) trust and agency funds such as a cemetery perpetual-care fund or a retirement fund;
- (h) a separate fund for each special improvement district, which shall be known as a special assessment fund;
- (i) a ledger or group of accounts to record the details relating to the general fixed assets of the county;
- (j) a ledger or group of accounts to record the details relating to the general obligation

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bonds or other long-term indebtedness of the county;

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

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

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

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

17-36-7. Basis of accounting.

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

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

17-36-8. Preparation of budgets.

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

(1) general fund or noncontiguous municipality general fund;

(2) special revenue funds;

(3) debt service funds;

(4) capital project funds; and

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

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

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

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

(i) estimates of all anticipated revenues;

(ii) all appropriations for expenditures; and

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(iii) any additional data required by Section 17-36-10 or 17-36-10.1, as applicable, or by the uniform system of budgeting, accounting, and reporting.

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

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

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

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

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

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

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

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

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

17-36-10. Preparation of tentative budget.

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

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

(2) On or before the first day of the next to last month of every fiscal period, the budget

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officer shall prepare for the next budget period and file with the governing body a tentative budget for each fund for which a budget is required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) if required by the governing body, actual performance experience to the extent

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available in work units, unit costs, man hours, and man years for each budgeted fund that includes an appropriation for salaries or wages for the last completed fiscal period and the first eight months of the current fiscal period if the county or noncontiguous municipality is on an annual fiscal period, or the first 20 months of the current fiscal period if the county is on a biennial fiscal period, together with the total estimated performance data of like character for the current fiscal period and for the ensuing budget period.

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

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

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

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

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

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

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

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

(ii) A governing body may not:

(A) reduce below the required minimum an appropriation required for debt retirement

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and interest; or

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

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

17-36-12. Notice of budget hearing.

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

(2) Notice of such hearing shall be published:

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

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

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

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

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

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

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

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

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

(c) The budget officer shall:

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

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

(d) The budget officer shall file a certified copy of the budget in the office of the budget officer for inspection by the public during business hours.

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

- (i) the adoption of a county budget;
- (ii) a county appropriation;
- (iii) a county personnel allocation; or
- (iv) a fund related to the county budget, a county appropriation, or a county personnel allocation.

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

- (i) the adoption of a noncontiguous municipality budget;
- (ii) a noncontiguous municipality appropriation;
- (iii) a noncontiguous municipality personnel allocation; or
- (iv) a fund related to the noncontiguous municipality budget, a noncontiguous municipality appropriation, or a noncontiguous municipality personnel allocation.

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

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

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

(1) A county or noncontiguous municipality may accumulate retained earnings in any enterprise or internal service fund or a fund balance in any other fund~~;~~ but with respect to the General Fund, its ~~use~~];

(b) Notwithstanding Subsection (1)(a), use of the general fund or noncontiguous municipality general fund shall be restricted to the following purposes:

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

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

~~(c)~~ (iii) to cover unanticipated deficits for future years.

(2) (a) The maximum accumulated unappropriated surplus in the General Fund or

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noncontiguous municipality general fund, as determined prior to adoption of the tentative budget, may not exceed an amount equal to the greater of:

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

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

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

(b) Any surplus balance in excess of the above computed maximum shall be included in the estimated revenues of the General Fund or noncontiguous municipality general fund budget for the next fiscal period.

(3) Any fund balance exceeding 5% of the total General Fund or noncontiguous municipality general fund revenues may be used for budgetary purposes.

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

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

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

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

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

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

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

(2) There shall be included as an item of appropriation in the budget of each fund for any fiscal period any existing deficit as of the close of the last completed fiscal period to the extent of at least 5% of the total revenue of the fund in the last completed fiscal period or if the

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deficit is less than 5% of the total revenue, an amount equal to the deficit.

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

17-36-19. Encumbrance system.

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

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

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

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

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

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

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

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

17-36-21. Expenditure limitation.

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

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

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

(1) After review by the budget officer and in accordance with budgetary and fiscal policies or ordinances adopted by the county legislative body or noncontiguous municipal

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council, any department may:

(a) transfer any unencumbered or unexpended appropriation balance or any part from one expenditure account to another within the department during the budget year; or

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

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

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

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

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

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

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

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

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

Section 60. Section 17-36-27 is amended to read:

17-36-27. Emergency expenditures -- Deficit.

(1) If the governing body determines that an emergency exists, such as widespread damage from fire, flood, or earthquake, and that the expenditure of money in excess of the general fund or noncontiguous municipality general fund budget is necessary, [it] the governing body may make [such] expenditures and incur [such] deficits [as] that are reasonably necessary to meet the emergency.

(2) Except to the extent provided for in Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act, the governing body of the county may not expend money in the county's local

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fund for an emergency, if the county creates a local fund under Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act.

Section 61. Section 17-36-29 is amended to read:

17-36-29. Special fund ceases -- Transfer.

~~[If the necessity to maintain any special fund ceases and there is a balance in such fund,]~~

(1) If the purpose for which a special fund was created no longer exists and a balance remains in the fund, the governing body shall authorize the transfer of the balance to the fund balance account in the General Fund or noncontiguous municipality general fund.

(2) Any balance which remains in a special assessment fund and any unrequired balance in a special improvement guaranty fund shall be treated as provided in Subsection 11-42-701(5).

(3) Any balance which remains in a capital projects fund shall be transferred to the appropriate debt service fund or such other fund as the bond ordinance requires or to the general fund or noncontiguous municipality general fund balance account.

Section ~~{60}~~62. Section 17-36-30 is amended to read:

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

The governing body may:

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

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

Section ~~{61}~~63. Section 17-36-31 is amended to read:

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

(1) (a) Before June 22 of each year~~[-]~~;

(i) the county legislative body shall levy a tax on the taxable real and personal property within the county~~[-]~~; and

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

(b) In its computation of the total levy subject to Sections 59-2-908 and 59-2-911, ~~[it]~~

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the county or noncontiguous municipality shall determine the requirements for each fund and specify the amount of the levy apportioned to each fund.

(2) The proceeds of the tax apportioned for purposes of the General Fund or noncontiguous municipality general fund shall be credited in the General Fund or noncontiguous municipality general fund.

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

Section ~~62~~64. Section 17-36-35 is amended to read:

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

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

Section 65. Section 17-36-36 is amended to read:

17-36-36. Financial statements.

The budget officer shall present to the governing body the following financial statements prepared in the manner prescribed by the uniform system of budgeting, accounting, and reporting:

(1) A summary of cash receipts and disbursements for each fund or group of funds and for each department within each fund reportable at the end of each month showing the cash and invested balance at the beginning of the period, the total receipts collected during the period, the total disbursements made during the period and the cash and invested balance at the end of the period.

(2) Not less than once each quarter or more often if requested by the governing body, a condensed statement of revenues and expenditures and comparison with the budget of the general fund or noncontiguous municipality general fund and the allotments thereof, as reflected by the books of account.

(3) A comparative quarterly income and expense statement for each enterprise fund showing a comparative analysis between the operations of such fund for the current fiscal reporting period and the same period in the previous year.

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(4) A condensed statement of the operating and capital budget of each enterprise fund showing revenues and expenses and balances compared with the budget for any period requested by the governing body or required by the uniform system of budgeting, accounting and reporting.

(5) Any other statements of operations or reports on financial condition as the governing body or the uniform system of budgeting, accounting, and reporting may require.

All financial statements made pursuant to this section shall be open for public inspection during regular business hours.

Section ~~63~~66. Section 17-36-37 is amended to read:

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

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

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

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

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

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

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

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

Section ~~64~~67. Section 17-36-38 is amended to read:

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

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

Section ~~65~~68. Section **17-36-39** is amended to read:

17-36-39. Independent audits.

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

Section ~~66~~69. Section **17-36-40** is amended to read:

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

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

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

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

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

Section ~~67~~70. Section **17-36-41** is amended to read:

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

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

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

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Section ~~{68}~~71. Section 17-36-43 is amended to read:

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

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

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

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

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

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

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

Section ~~{69}~~72. Section 17-36-44 is amended to read:

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

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

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

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

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

Section ~~{70}~~73. Section 17-36-45 is amended to read:

17-36-45. Internal control structure.

(1) Each county legislative body and noncontiguous municipality council shall~~[-with~~

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~~the advice and assistance of the county auditor and county treasurer,]~~ implement an internal control structure to ensure, on a reasonable basis, that all valid financial transactions of the county are identified and recorded accurately and timely. The objectives of the internal control structure shall be to ensure:

- (a) the proper authorization of transactions and activities;
 - (b) the appropriate segregation of:
 - (i) the duty to authorize transactions;
 - (ii) the duty to record transactions; and
 - (iii) the duty to maintain custody of assets;
 - (c) the design and use of adequate documents and records to ensure the proper recording of events;
 - (d) adequate safeguards over access to and use of assets and records; and
 - (e) independent checks on performance and proper valuation of recorded amounts.
- (2) The state auditor shall evaluate procedures implemented to effectuate this section and shall provide advice and consultation in approving and updating these procedures.

Section ~~{71}~~74. Section 17-36-46 is amended to read:

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

(1) The legislative body of any ~~{count}~~county, or a noncontiguous municipality council, may establish and maintain, by ordinance, a cumulative reserve fund to be accumulated by levy for the purpose of financing the purchase of real property and the cost of planning, constructing or rehabilitating public buildings or other public works and capital improvements.

(2) (a) Before a reserve fund under Subsection (1) may be established, the county legislative body or noncontiguous municipality council shall designate by ordinance the specific purpose for which the fund is established.

(b) Except as provided in Section 17-36-50, all funds in a reserve fund under Subsection (1) shall be expended for the designated purposes.

Section ~~{72}~~75. Section 17-36-47 is amended to read:

17-36-47. Reserve fund for capital improvements -- Estimate of amount required -- Tax levy -- Accumulation from year to year -- Restriction on use.

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(1) Subject to Subsection (4) the legislative body of a county, or noncontiguous municipality council, that has established a reserve fund under Section 17-36-46 may:

(a) include in the annual budget or estimate of amounts required to meet the public expenses of the county for the ensuing year such sum as it considers necessary for the uses and purposes of the fund; and

(b) include those amounts in the annual tax levy of the county or noncontiguous municipality.

(2) Subject to Subsection (4), the money in the fund shall be allowed to accumulate from year to year until the county legislative body or noncontiguous municipality council determines to spend any money in the fund for the purpose specified.

(3) Subject to Subsection (4), money in the fund at the end of a fiscal year shall remain in the fund as surplus available for future use, and may not be transferred to any other fund or used for any other purpose.

(4) The amount of money in a reserve fund established under Section 17-36-46 may not exceed .6% of the taxable value of the county.

Section ~~73~~76. Section **17-36-48** is amended to read:

17-36-48. Reserve fund for capital improvements -- Transfer to fund of unencumbered surplus county funds.

At any time after the creation of a reserve fund under Section 17-36-46, the county legislative body or noncontiguous municipality council may transfer to the fund any unencumbered surplus county funds remaining at the end of a fiscal year.

Section ~~74~~77. Section **17-36-49** is amended to read:

17-36-49. Reserve fund for capital improvements -- Investment -- Interest and income.

(1) All money belonging to a reserve fund created under Section 17-36-46 shall be invested in such securities as are legal for other funds of the county or noncontiguous municipality, respectively.

(2) The interest and income from the investments shall be a part of the fund.

Section ~~75~~78. Section **17-36-50** is amended to read:

17-36-50. Reserve fund for capital improvements -- Use for projects other than originally specified -- Special election.

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(1) The legislative body of any county, or a noncontiguous municipality council, may submit the proposition of using funds in a reserve fund established under Section 17-36-46 for projects other than originally specified to the electors of the county or noncontiguous municipality, respectively, at a special election if the projects are for the purposes set forth in Section 17-36-46.

(2) If a proposition under Subsection (1) is proposed, the county legislative body or noncontiguous municipality council shall fix a time and place for a special election on the proposition, to be held as provided by law.

Section ~~{76}~~79. Section **17-36-51** is amended to read:

17-36-51. Establishment of tax stability and trust fund -- Increase in tax levy.

(1) (a) Notwithstanding anything to the contrary contained in statute, the legislative body of any county, or noncontiguous municipality council, may by ordinance establish and maintain a tax stability and trust fund, for the purpose of preserving funds during years with favorable tax revenues for use during years with less favorable tax revenues.

(b) Each fund under Subsection (1)(a) shall be subject to all of the limitations and restrictions imposed by this section and Sections 17-36-52 and 17-36-53.

(c) The principal of the fund shall consist of all sums transferred to it in accordance with Subsection (2) and interest or other income retained in the fund under Subsection 17-36-52(2).

(2) After establishing a tax stability and trust fund as provided in Subsection (1), the legislative body or noncontiguous municipality council, in establishing the levy for the property tax levied by the county under Section 59-2-908, may establish the levy at a level not to exceed .0001 per dollar of taxable value of taxable property increase per year that will permit the county to receive during that fiscal year sums in excess of what may be required to provide for the purposes of the county. Any excess sums so received are to be transferred from the General Fund of the county or noncontiguous municipality general fund into the tax stability and trust fund.

Section ~~{77}~~80. Section **17-36-52** is amended to read:

17-36-52. Tax stability and trust fund -- Deposit or investment of funds -- Use of interest or other income.

(1) All amounts in the tax stability and trust fund established by a county or

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noncontiguous municipality under Section 17-36-51 may be deposited or invested as provided in Section 51-7-11. These amounts may also be transferred by the county treasurer to the state treasurer under Section 51-7-5 for the treasurer's management and control under Title 51, Chapter 7, State Money Management Act.

(2) The interest or other income realized from amounts in the tax stability and trust fund shall be returned to the general fund of the county or noncontiguous municipality ~~general fund~~ during the fiscal year in which the income or interest is paid to the extent the interest or income is required by the county or noncontiguous municipality to provide for its purposes during that fiscal year. Any amounts so returned may be used for all purposes as other amounts in such general fund or noncontiguous municipality general fund. Any interest or income not so returned to the county's or noncontiguous ~~municipality's~~ municipality general fund shall be added to the principal of that county's tax stability and trust fund.

Section ~~{78}~~81. Section **17-36-53** is amended to read:

17-36-53. Tax stability and trust fund -- Amount in fund limited -- Disposition of excess.

(1) The total amount in a county's or noncontiguous municipality's tax stability and trust fund established under Section 17-36-51 shall be limited to the percentage of the total taxable value of property in that county or noncontiguous municipality, respectively, not to exceed the limits provided in the following schedule:

| Total Taxable Value | Fund Limits Percentage of Taxable Value | but not to exceed: |
|--------------------------------------|---|-----------------------|
| Less than \$500,000,000 | 1.6% | \$5,000,000 |
| From 500,000,000 to 1,500,000,000 | 1.0% | 7,500,000 |
| Over 1,500,000,000 | .5% | 15,000,000 |

(2) If any excess occurs in the tax stability and trust fund over the percentage or maximum dollar amounts specified in Subsection (1), this excess shall be transferred to the general fund of the county or noncontiguous municipality ~~general fund~~ and may be used for all purposes as other amounts in the general fund or noncontiguous municipality general fund are

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used.

(3) If any excess in the fund exists because of a decrease in total taxable value, that excess may remain in the fund, but if the excess amount in the fund is decreased below the limitations of the fund for any reason, the fund limitations established under Subsection (1) apply.

Section ~~{79}~~82. Section **17-36-54** is amended to read:

17-36-54. Tax stability and trust fund -- Use of principal -- Determination of necessity -- Election.

If the legislative body of a county, or noncontiguous municipal council, that has established a tax stability and trust fund under Section 17-36-51 determines that it is necessary for purposes of that county or noncontiguous municipality to use any portion of the principal of the fund, the county legislative body or noncontiguous municipality shall submit this proposition to the electorate of that county or noncontiguous municipality in a special election called and held in the manner provided for in Title 11, Chapter 14, Local Government Bonding Act, for the holding of bond elections. If the proposition is approved at this special election by a majority of the qualified electors of the county or noncontiguous municipality voting at the election, then that portion of the principal of the fund covered by the proposition may be transferred to the [county's] county or noncontiguous {municipality's} municipality general fund for use for purposes of that county or noncontiguous municipality.

Section ~~{80}~~83. Section **17B-1-502** is amended to read:

17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in certain circumstances.

(1) (a) An area within the boundaries of a local district may be withdrawn from the local district only as provided in this part.

(b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local district within a municipality because of a municipal incorporation under Title 10, Chapter 2, Part 1, Incorporation, or a municipal annexation or boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process of withdrawing that area from the local district.

(2) (a) An area within the boundaries of a local district is automatically withdrawn from the local district by the annexation of the area to a municipality or the adding of the area

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to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

(i) the local district provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and

(iii) before annexation or boundary adjustment, the boundaries of the local district do not include any of the annexing municipality.

(b) The effective date of a withdrawal under this Subsection (2) is governed by Subsection 17B-1-512(2)(b).

(3) (a) An area within the boundaries of a local district located in a county of the first class is automatically withdrawn from the local district by the incorporation of a municipality, other than the incorporation of a noncontiguous municipality as defined in Section 10-3c-102, whose boundaries include the area if:

(i) the local district provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and

(iii) the legislative body of the newly incorporated municipality:

(A) adopts a resolution no later than 180 days after the effective date of incorporation approving the withdrawal that includes the legal description of the area to be withdrawn; and

(B) delivers a copy of the resolution to the board of trustees of the local district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-1-512(2)(a).

(c) Section 17B-1-505 shall govern the withdrawal of an area within a noncontiguous municipality, as defined in Section 10-3c-102, in a county of the first class if:

(i) the local district from which the area is withdrawn provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement services; or

(ii) an election for the creation of the local district was not required under Subsection

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17B-1-214(3)(d).

Section ~~{81}~~84. Section **20A-9-202** is amended to read:

20A-9-202. Declarations of candidacy for regular general elections --

Requirements for candidates.

(1) (a) Each person seeking to become a candidate for elective office for any county office that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy in person with the county clerk on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(ii) pay the filing fee.

(b) Each person intending to become a candidate for any legislative office or multicounty office that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy in person with either the lieutenant governor or the county clerk in the candidate's county of residence on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(ii) pay the filing fee.

(c) (i) Each county clerk who receives a declaration of candidacy from a candidate for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one working day after it is filed.

(ii) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of legislative candidates who have filed in their office.

(d) Each person seeking to become a candidate for elective office for any federal office or constitutional office that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy in person with the lieutenant governor on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(ii) pay the filing fee.

(e) Each person seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.

(2) (a) Each person intending to become a candidate for the office of district attorney

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within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3) (a) Within five working days of nomination, each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor; and

(ii) pay the filing fee.

(b) (i) Any candidate for lieutenant governor who fails to file within five working days is disqualified.

(ii) If a lieutenant governor is disqualified, another candidate shall be nominated to replace the disqualified candidate.

(4) Each registered political party shall:

(a) certify the names of its candidates for president and vice president of the United States to the lieutenant governor no later than August 31; or

(b) provide written authorization for the lieutenant governor to accept the certification of candidates for president and vice president of the United States from the national office of the registered political party.

(5) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor within five days after the last day for filing.

(b) If an objection is made, the clerk or lieutenant governor shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the

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problem by amending the declaration or petition within three days after the objection is sustained or by filing a new declaration within three days after the objection is sustained.

(d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

(ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable by a district court if prompt application is made to the court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(6) Any person who filed a declaration of candidacy may withdraw as a candidate by filing a written affidavit with the clerk.

(7) Except as provided in Subsection 20A-9-201(4)(b), notwithstanding a requirement in this section to file a declaration of candidacy in person, a person may designate an agent to file the form described in Subsection 20A-9-201(4) in person with the filing officer if:

(a) the person is located outside the state during the filing period because:

(i) of employment with the state or the United States; or

(ii) the person is a member of:

(A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(C) the National Guard on activated status;

(b) the person communicates with the filing officer using an electronic device that allows the person and filing officer to see and hear each other; and

(c) the person provides the filing officer with an email address to which the filing officer may send the copies described in Subsection 20A-9-201(3).

(8) (a) A candidate for the initial municipal council of a noncontiguous municipality at the time of election to incorporate the noncontiguous municipality as described in Section 10-2-138, if the election is held at a regular general election, shall:

(i) meet the candidacy requirements of Section 20A-9-203 and any other candidacy requirement established by law; and

(ii) comply with the provisions of this section except as otherwise provided in Section

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10-2-138.

(b) A candidate for a noncontiguous municipal council who is a candidate after the election of the initial municipal council and incorporation of the noncontiguous municipality shall comply with the provisions of Section 20A-9-203.

Section ~~{82}~~85. Section **20A-9-404** is amended to read:

20A-9-404. Municipal primary elections.

(1) (a) Except as otherwise provided in this section, candidates for municipal office in all municipalities shall be nominated at a municipal primary election.

(b) Municipal primary elections shall be held:

(i) consistent with Section 20A-1-201.5, on the second Tuesday following the first Monday in the August before the regular municipal election; and

(ii) whenever possible, at the same polling places as the regular municipal election.

(2) If the number of candidates for a particular municipal office does not exceed twice the number of persons needed to fill that office, a primary election for that office may not be held and the candidates are considered nominated.

(3) (a) For purposes of this Subsection (3), "convention" means an organized assembly of voters or delegates.

(b) (i) By ordinance adopted before the May 1 that falls before a regular municipal election, any third, fourth, or fifth class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a political party convention or committee.

(ii) Any primary election exemption ordinance adopted under the authority of this subsection remains in effect until repealed by ordinance.

(c) (i) A convention or committee may not nominate more than one group of candidates or have placed on the ballot more than one group of candidates for the municipal offices to be voted upon at the municipal election.

(ii) A convention or committee may nominate a person who has been nominated by a different convention or committee.

(iii) A political party may not have more than one group of candidates placed upon the ballot and may not group the same candidates on different tickets by the same party under a different name or emblem.

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(d) (i) The convention or committee shall prepare a certificate of nomination for each person nominated.

(ii) The certificate of nomination shall:

(A) contain the name of the office for which each person is nominated, the name, post office address, and, if in a city, the street number of residence and place of business, if any, of each person nominated;

(B) designate in not more than five words the political party that the convention or committee represents;

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

(D) contain a statement certifying that the name of the candidate nominated by the political party will not appear on the ballot as a candidate for any other political party;

(E) be signed by the presiding officer and secretary of the convention or committee; and

(F) contain a statement identifying the residence and post office address of the presiding officer and secretary and certifying that the presiding officer and secretary were officers of the convention or committee and that the certificates are true to the best of their knowledge and belief.

(iii) Certificates of nomination shall be filed with the clerk not later than 80 days before the municipal general election.

(e) A committee appointed at a convention, if authorized by an enabling resolution, may also make nominations or fill vacancies in nominations made at a convention.

(f) The election ballot shall substantially comply with the form prescribed in Title 20A, Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall be included with the candidate's name.

(4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the May 1 that falls before the regular municipal election that:

(i) exempts the city from the other methods of nominating candidates to municipal office provided in this section; and

(ii) provides for a partisan primary election method of nominating candidates as provided in this Subsection (4).

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(b) (i) Any party that was a registered political party at the last regular general election or regular municipal election is a municipal political party under this section.

(ii) Any political party may qualify as a municipal political party by presenting a petition to the city recorder that:

(A) is signed, with a holographic signature, by registered voters within the municipality equal to at least 20% of the number of votes cast for all candidates for mayor in the last municipal election at which a mayor was elected;

(B) is filed with the city recorder by May 31 of any odd-numbered year;

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

(D) contains the name of the municipal political party using not more than five words.

(c) (i) If the number of candidates for a particular office does not exceed twice the number of offices to be filled at the regular municipal election, no partisan primary election for that office shall be held and the candidates are considered to be nominated.

(ii) If the number of candidates for a particular office exceeds twice the number of offices to be filled at the regular municipal election, those candidates for municipal office shall be nominated at a partisan primary election.

(d) The clerk shall ensure that:

(i) the partisan municipal primary ballot is similar to the ballot forms required by Sections 20A-6-401 and 20A-6-401.1;

(ii) the candidates for each municipal political party are listed in one or more columns under their party name and emblem;

(iii) the names of candidates of all parties are printed on the same ballot, but under their party designation;

(iv) every ballot is folded and perforated so as to separate the candidates of one party from those of the other parties and so as to enable the elector to separate the part of the ballot containing the names of the party of his choice from the remainder of the ballot; and

(v) the side edges of all ballots are perforated so that the outside sections of the ballots, when detached, are similar in appearance to inside sections when detached.

(e) After marking a municipal primary ballot, the voter shall:

(i) detach the part of the ballot containing the names of the candidates of the party he

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has voted from the rest of the ballot;

(ii) fold the detached part so that its face is concealed and deposit it in the ballot box;

and

(iii) fold the remainder of the ballot containing the names of the candidates of the parties for whom the elector did not vote and deposit it in the blank ballot box.

(f) Immediately after the canvass, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

(5) (a) In an election described in Section 10-2-138 to incorporate a noncontiguous municipality and elect the initial members of the municipal council, a municipal primary may not be held and a candidate is not required to be nominated at a municipal primary.

(b) After incorporation, a primary for the municipal council candidates in a noncontiguous municipality, as defined in Section 10-3c-102, shall be held in accordance with this section.

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Legislative Review Note

~~as of 2-18-14 1:44 PM~~

~~Office of Legislative Research and General Counsel~~