

**Senator Karen Mayne** proposes the following substitute bill:

**MUNICIPAL FORMATION AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karen Mayne**

House Sponsor: Eric K. Hutchings

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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



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

**43 Money Appropriated in this Bill:**

44           None

**45 Other Special Clauses:**

46           None

**47 Utah Code Sections Affected:**

48 AMENDS:

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

- 57 [10-3-302](#), as repealed and reenacted by Laws of Utah 1993, Chapter 1
- 58 [10-3-803](#), as enacted by Laws of Utah 1977, Chapter 48
- 59 [10-3-824](#), as enacted by Laws of Utah 1977, Chapter 48
- 60 [10-3-1302](#), as enacted by Laws of Utah 1981, Chapter 57
- 61 [10-3b-501](#), as enacted by Laws of Utah 2008, Chapter 19
- 62 [10-6-103](#), as enacted by Laws of Utah 1979, Chapter 26
- 63 [17-34-1](#), as last amended by Laws of Utah 2003, Chapter 275
- 64 [17-34-3](#), as last amended by Laws of Utah 2013, Chapter 371
- 65 [17-34-5](#), as last amended by Laws of Utah 2011, Chapter 297
- 66 [17-36-2](#), as last amended by Laws of Utah 1983, Chapter 73
- 67 [17-36-3](#), as last amended by Laws of Utah 2012, Chapter 17
- 68 [17-36-3.5](#), as enacted by Laws of Utah 1999, Chapter 300
- 69 [17-36-4](#), as last amended by Laws of Utah 2013, Chapter 413
- 70 [17-36-6](#), as last amended by Laws of Utah 1996, Chapter 212
- 71 [17-36-7](#), as enacted by Laws of Utah 1975, Chapter 22
- 72 [17-36-8](#), as last amended by Laws of Utah 1999, Chapter 300
- 73 [17-36-9](#), as last amended by Laws of Utah 2012, Chapter 17
- 74 [17-36-10](#), as last amended by Laws of Utah 2012, Chapter 17
- 75 [17-36-12](#), as last amended by Laws of Utah 2010, Chapter 90
- 76 [17-36-15](#), as last amended by Laws of Utah 2012, Chapter 17
- 77 [17-36-16](#), as last amended by Laws of Utah 2003, Chapter 167
- 78 [17-36-17](#), as last amended by Laws of Utah 2011, Chapter 297
- 79 [17-36-19](#), as last amended by Laws of Utah 1983, Chapter 73
- 80 [17-36-20](#), as last amended by Laws of Utah 2012, Chapter 17
- 81 [17-36-21](#), as enacted by Laws of Utah 1975, Chapter 22
- 82 [17-36-22](#), as last amended by Laws of Utah 2009, Chapter 186
- 83 [17-36-26](#), as last amended by Laws of Utah 2010, Chapters 90 and 116
- 84 [17-36-27](#), as last amended by Laws of Utah 2007, Chapter 328
- 85 [17-36-29](#), as last amended by Laws of Utah 2007, Chapter 329
- 86 [17-36-30](#), as enacted by Laws of Utah 1975, Chapter 22
- 87 [17-36-31](#), as last amended by Laws of Utah 1993, Chapter 227

- 88 **17-36-35**, as last amended by Laws of Utah 1996, Chapter 212
- 89 **17-36-36**, as last amended by Laws of Utah 1983, Chapter 73
- 90 **17-36-37**, as last amended by Laws of Utah 2009, Chapter 323
- 91 **17-36-38**, as last amended by Laws of Utah 1999, Chapter 300
- 92 **17-36-39**, as last amended by Laws of Utah 2004, Chapter 206
- 93 **17-36-40**, as last amended by Laws of Utah 2009, Chapter 388
- 94 **17-36-41**, as last amended by Laws of Utah 1983, Chapter 73
- 95 **17-36-43**, as last amended by Laws of Utah 2012, Chapter 17
- 96 **17-36-44**, as last amended by Laws of Utah 2012, Chapter 17
- 97 **17-36-45**, as enacted by Laws of Utah 1996, Chapter 212
- 98 **17-36-46**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 99 **17-36-47**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 100 **17-36-48**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 101 **17-36-49**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 102 **17-36-50**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 103 **17-36-51**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 104 **17-36-52**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 105 **17-36-53**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 106 **17-36-54**, as last amended by Laws of Utah 2005, Chapter 105
- 107 **17B-1-502**, as last amended by Laws of Utah 2013, Chapter 141
- 108 **20A-9-202**, as last amended by Laws of Utah 2013, Chapter 317
- 109 **20A-9-404**, as last amended by Laws of Utah 2013, Chapter 402

110 ENACTS:

- 111 **10-2-130**, Utah Code Annotated 1953
- 112 **10-2-131**, Utah Code Annotated 1953
- 113 **10-2-132**, Utah Code Annotated 1953
- 114 **10-2-133**, Utah Code Annotated 1953
- 115 **10-2-134**, Utah Code Annotated 1953
- 116 **10-2-135**, Utah Code Annotated 1953
- 117 **10-2-136**, Utah Code Annotated 1953
- 118 **10-2-137**, Utah Code Annotated 1953

- 119 [10-2-138](#), Utah Code Annotated 1953
  - 120 [10-2-139](#), Utah Code Annotated 1953
  - 121 [10-2-140](#), Utah Code Annotated 1953
  - 122 [10-2-141](#), Utah Code Annotated 1953
  - 123 [10-3b-601](#), Utah Code Annotated 1953
  - 124 [10-3b-602](#), Utah Code Annotated 1953
  - 125 [10-3b-603](#), Utah Code Annotated 1953
  - 126 [10-3b-604](#), Utah Code Annotated 1953
  - 127 [10-3b-605](#), Utah Code Annotated 1953
  - 128 [10-3b-606](#), Utah Code Annotated 1953
  - 129 [10-3b-607](#), Utah Code Annotated 1953
  - 130 [10-3c-101](#), Utah Code Annotated 1953
  - 131 [10-3c-102](#), Utah Code Annotated 1953
  - 132 [10-3c-201](#), Utah Code Annotated 1953
  - 133 [10-3c-202](#), Utah Code Annotated 1953
  - 134 [10-3c-203](#), Utah Code Annotated 1953
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135  
136 *Be it enacted by the Legislature of the state of Utah:*

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

138 **10-1-104. Definitions.**

139 As used in this title:

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

143 (2) "Contiguous" means:

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

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

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

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

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

152 and]

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

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

155 (5) "Municipality" means a city of the first class, city of the second class, city of the  
156 third class, city of the fourth class, city of the fifth class, or a town, as classified in Section  
157 [10-2-301](#).

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

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

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

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

169 (10) "Town" means a municipality classified by population as a town under Section  
170 [10-2-301](#).

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

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

173 **10-1-304. Municipality and military installation development authority may levy**  
174 **tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice**  
175 **requirements -- Exemptions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

232 **10-2-101. Definitions.**

233 (1) As used in this part:

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

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

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

238 (b) "Noncontiguous" means:

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

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



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

244           (2) For purposes of this part:

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

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

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

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

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

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

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

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

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

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

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

267           **10-2-102. Incorporation of a contiguous area -- Governing provisions of city or**  
268 **town incorporation -- Incorporation of a noncontiguous area.**

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

271           ~~[(2)(a)]~~ (b) Incorporation of a contiguous area as a city is governed by Sections  
272 [10-2-103](#) through [10-2-124](#).

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

274 through 10-2-129.

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

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

278 **10-2-120. Powers of officers-elect.**

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

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

283 (i) a compilation of ordinances; and

284 (ii) a proposed budget:

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

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

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

290 (c) negotiate and make service contracts;

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

292 (e) borrow funds from the county in which the future city is located under Subsection  
293 10-2-121(3);

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

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

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

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

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

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

305 **10-2-123. Costs of incorporation.**

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

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

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

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

313 (c) all other incorporation activities occurring after the elections under [Section]  
314 Sections 10-2-116 and 10-2-138.

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

316 **10-2-130. Request or resolution for feasibility study for noncontiguous**  
317 **municipality -- Requirements -- Limitations.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

362 (C) a modified request and a supplemental feasibility study described in Section  
363 10-2-107; or

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

366 (ii) "Township annexation procedure" means one or more of the following actions, the

367 subject of which includes an area located in whole or in part in a township:

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

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

370 (C) a modified annexation petition or supplemental feasibility study described in

371 Section 10-2-414;

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

373 (E) any action described in Section 10-2-418 before the adoption of an ordinance to

374 approve annexation under Subsection 10-2-418(3)(b).

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

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

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

387 (ii) does not start over.

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

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

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

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

396 (b) No later than three business days after the day on which a county legislative body  
397 adopts a resolution to engage a feasibility consultant, the county legislative body shall mail or

398 deliver a copy of the request to the chair of the planning commission of each township in which  
399 any part of the area proposed for incorporation is located.

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

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

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

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

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

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

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

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

414 (A) an agricultural protection area;

415 (B) a mining protection area; or

416 (C) an industrial protection area.

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

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

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

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

424 **10-2-131. Notice to owner of property -- Exclusion of property from proposed**  
425 **boundaries.**

426 (1) As used in this section:

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

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

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

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

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

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

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

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

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

449 (b) the property to be excluded:

450 (i) is urban; and

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

452 (A) culinary or irrigation water;

453 (B) sewage collection or treatment;

454 (C) storm drainage or flood control;

455 (D) recreational facilities or parks;

456 (E) electric generation or transportation;

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

458 (G) curb and gutter or sidewalk maintenance;

459 (H) garbage and refuse collection; and

460 (1) street lighting.

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

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

465 **10-2-132. Processing a request for noncontiguous incorporation -- Certification or**  
466 **rejection by county clerk -- Processing priority -- Limitations -- Township planning**  
467 **commission recommendation.**

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

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

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

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

474 and

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

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

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

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

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

489 (b) If a request is amended and refiled under Subsection (3)(a) after having been  
490 rejected by the county clerk under Subsection (1)(b)(ii), it shall be considered as a newly filed



491 request, and its processing priority is determined by the date on which it is refiled.

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

493 **10-2-133. Feasibility study -- Feasibility study consultant.**

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

498 (2) The feasibility consultant shall be chosen:

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

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

501 or

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

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

506 (b) in accordance with applicable county procurement procedures.

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

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

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

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

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

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

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

521 (iii) projected growth in the proposed municipality and in adjacent areas during the

522 next five years;

523 (iv) subject to Subsection (4)(b), the present and five-year projections of the cost,

524 including overhead, of governmental services in the proposed municipality, including:

525 (A) culinary water;

526 (B) secondary water;

527 (C) sewer;

528 (D) law enforcement;

529 (E) fire protection;

530 (F) roads and public works;

531 (G) garbage;

532 (H) weeds; and

533 (I) government offices;

534 (v) assuming the same tax categories and tax rates as currently imposed by the county

535 and all other current service providers, the present and five-year projected revenue for the

536 proposed municipality;

537 (vi) a projection of any new taxes per household that may be levied within the

538 incorporated area within five years of incorporation; and

539 (vii) the fiscal impact on unincorporated areas, other municipalities, local districts,

540 special service districts, and other governmental entities in the county.

541 (b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a

542 level and quality of governmental services to be provided to the proposed municipality in the

543 future that fairly and reasonably approximate the level and quality of governmental services

544 being provided to the proposed municipality at the time of the feasibility study.

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

546 shall consider:

547 (A) the amount it would cost the proposed municipality to provide governmental

548 service for the first five years after incorporation; and

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

550 service.

551 (iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation

552 and anticipated growth.

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

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

558 **10-2-134. Public hearings on feasibility study results -- Notice of hearings.**

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

561 (a) within the following 60 days;

562 (b) at least seven days apart;

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

564 (d) for the purpose of allowing:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

590 **10-2-135. Noncontiguous incorporation petition or resolution -- Requirements and**  
591 **form.**

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

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

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

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

599 (a) be signed by:

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

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

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

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

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

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

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

615 (g) substantially comply with and be circulated in the following form:  
616 "PETITION FOR INCORPORATION OF (insert the proposed name of the proposed  
617 municipality).

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

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

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

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

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

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

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

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

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

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

642 (ii) includes fewer than 50 registered voters.

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

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

647 **10-2-136. Determination of boundaries of council districts -- Appointment of**  
648 **council districts advisory committee -- Adoption of proposed council districts.**

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

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

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

659 (ii) two members who each reside in the area proposed for incorporation; and

660 (iii) four additional members.

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

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

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

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

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

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

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

- 677           (4) The advisory committee may:  
678           (a) establish advisory boards or committees and include on them persons who are not  
679 members of the advisory committee; and  
680           (b) request the assistance and advice of any officers or employees of a state agency or  
681 local government.
- 682           (5) (a) The advisory committee shall:  
683           (i) study the division of the area proposed for incorporation into council districts that  
684 comply with Section [10-3-205.5](#) or any other matter related to the incorporation, as assigned by  
685 the county executive;  
686           (ii) hold public hearings and community forums and other means the committee  
687 considers appropriate to disseminate information and stimulate public discussion of the  
688 committee's purposes, progress, and conclusions;  
689           (iii) include in the report described in Subsection (5)(a)(iv) a determination of the  
690 initial terms of the members of the municipal council so that:  
691           (A) approximately half the members of the municipal council are elected to serve an  
692 initial term, of no less than one year, that allows their successors to serve a full four-year term  
693 that coincides with the schedule established in Subsection [10-3-205\(1\)](#); and  
694           (B) the remaining members of the municipal council are elected to serve an initial  
695 term, of no less than one year, that allows their successors to serve a full four-year term that  
696 coincides with the schedule established in Subsection [10-3-205\(2\)](#); and  
697           (iv) file a written report of its findings and recommendations with the county executive  
698 and the county legislative body within 180 days after the convening of its first meeting.
- 699           (b) Each advisory committee report under Subsection (5)(a) shall include:  
700           (i) the advisory committee's recommendation as to the division of the area proposed for  
701 incorporation into nine council districts; and  
702           (ii) a detailed map, prepared by a licensed surveyor, of the boundaries of each council  
703 district.
- 704           (6) A meeting held by the advisory committee is open to the public.  
705           (7) The county legislative body shall provide for the advisory committee:  
706           (a) suitable meeting facilities;  
707           (b) necessary secretarial services;

- 708 (c) necessary printing and photocopying services; and  
709 (d) necessary clerical and staff assistance.  
710 (8) After receiving the report from the advisory committee, the county legislative body:  
711 (a) shall adopt by resolution:  
712 (i) the nine municipal council districts as recommended by the advisory committee; or  
713 (ii) nine municipal council districts with boundaries other than those proposed by the  
714 advisory committee but that are otherwise in compliance with Section [10-3-205.5](#) and the  
715 schedule described in Section [10-3-205](#); and  
716 (b) may adopt a resolution revising the proposed boundaries of the noncontiguous  
717 municipality.

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

719 **10-2-137. Processing of petition by county clerk -- Certification or rejection --**  
720 **Processing priority -- Resolution after petition to appoint council district advisory**  
721 **committee.**

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

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

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

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

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

735 (b) A modified petition under Subsection (2)(a) may be filed at any time until 30 days  
736 after the county clerk notifies the contact sponsor under Subsection (1)(b)(ii), even though the  
737 modified petition is filed after the expiration of the deadline provided in Subsection  
738 [10-2-135\(1\)](#).



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

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

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

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

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

751 **10-2-138. Noncontiguous incorporation and council member election -- Notice of**  
752 **candidacy deadline -- Notice of election.**

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

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

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

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

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

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

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

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

770 resolution;

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

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

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

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

778 (ii) in accordance with Section [45-1-101](#) for two weeks.

779 (c) (i) In accordance with Subsection (2)(b)(i), if there is no newspaper of general  
780 circulation within the future municipality, the county clerk shall post at least one notice per  
781 1,000 population in conspicuous places within the future municipality that are most likely to  
782 give notice to the residents of the future municipality.

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

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

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

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

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

796 (ii) for three weeks in accordance with Section [45-1-101](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

824 **10-2-139. Ballot used at the noncontiguous incorporation election.**

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

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

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

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

830 and

831 (3) in a nonpartisan format, include the name of each qualified candidate for each

832 municipal council district as described in a resolution adopted under Subsection [10-2-136](#)(8).

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

834 **10-2-140. Status and powers.**

835 A noncontiguous municipality incorporated in an election in accordance with Section

836 [10-2-138](#):

837 (1) is:

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

839 (b) a municipal corporation; and

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

841 (2) may sue and be sued.

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

843 **10-2-141. Incorporation of noncontiguous municipality subject to other**

844 **provisions.**

845 An incorporation of a noncontiguous municipality in accordance with Sections

846 [10-2-130](#) through [10-2-140](#) is subject to the following provisions to the same extent as the

847 incorporation of a contiguous municipality in accordance with Sections [10-2-130](#) through

848 [10-2-124](#):

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

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

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

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

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

854 **10-3-205.5. At-large election of officers -- Election of commissioners or council**

855 **members.**

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

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

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

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

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

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

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

873 **10-3-301. Notice -- Eligibility and residency requirements for elected municipal**  
874 **office -- Mayor and recorder limitations.**

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

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

878 (ii) the dates for filing a declaration of candidacy for the offices identified under  
879 Subsection (1)(a)(i).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

906 [~~(5)~~] (6) If an elected municipal officer is absent from the municipality any time during  
907 the officer's term of office for a continuous period of more than 60 days without the consent of  
908 the municipal legislative body, the municipal office is automatically vacant.

909 [~~(6)~~] (7) (a) A mayor of a municipality may not also serve as the municipal recorder or  
910 treasurer.

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

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

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

917 **10-3-302. Mayoral or council vacancy of a municipality.**

918 (1) Mayoral or council vacancies [~~shall be~~] are filled as provided in Section  
919 [20A-1-510](#).

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

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

924 **10-3-803. Officers limited to one office -- Exceptions.**

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

928 (2) This section may not be construed to prohibit the filling of an office under Section  
929 10-3b-606.

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

931 **10-3-824. Bonds of first officers after incorporation.**

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

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

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

944 (2) In a newly incorporated noncontiguous municipality, as defined in Section  
945 10-3c-102, this section does not apply to an officer of a county who is also the first officer of  
946 the municipality as described in Section 10-3c-606.

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

948 **10-3-1302. Purpose -- Application.**

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

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

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

957 **10-3b-501. Authority to change to another form of municipal government.**

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

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

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

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

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

964 (2) A municipality other than a noncontiguous municipality, as defined in Section  
965 10-3c-102, may not operate under the county mayor-municipal council form of government.

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

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

968 **10-3b-601. Application.**

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

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

973 **10-3b-602. Separate branches of government under county mayor-municipal**  
974 **council form of government.**

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

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

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

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

983 **10-3b-603. Mayor in county mayor-municipal council form of government.**

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

986 (a) (i) is the person who is the mayor of the county in which the municipality is



987 located; and

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

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

990 (c) exercises the executive and administrative powers and performs or supervises the

991 performance of the executive and administrative duties and functions of the municipality;

992 (d) shall:

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

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

995 (iii) appoint, with the council's advice and consent, a qualified person as, subject to

996 Subsection (3), chief administrative officer, if required under the resolution or petition under

997 Section [10-2-135](#), that proposed the change to a county mayor-municipal council form of

998 government;

999 (iv) provide to the council, at intervals provided by ordinance and as provided in Title

1000 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, a written report to the council

1001 setting forth:

1002 (A) the amount of budget appropriations;

1003 (B) total disbursements from the appropriations;

1004 (C) the amount of indebtedness incurred or contracted against each appropriation,

1005 including disbursements and indebtedness incurred and not paid; and

1006 (D) the percentage of the appropriations encumbered;

1007 (v) report to the council the condition and needs of the municipality;

1008 (vi) report to the council any release granted under Subsection (1)(e)(xii);

1009 (vii) if the mayor remits a fine or forfeiture under Subsection (1)(e)(xi), report the

1010 remittance to the council at the council's next meeting after the remittance; and

1011 (viii) perform each other duty:

1012 (A) prescribed by statute; or

1013 (B) required by a municipal ordinance that is not inconsistent with statute;

1014 (e) may:

1015 (i) subject to budget constraints:

1016 (A) appoint a chief administrative officer subject to Subsections (3)(b) and (4), and one

1017 or more deputies or administrative assistants to the mayor; or

1018 (B) create any other administrative office that the mayor considers necessary for good  
1019 government of the municipality and appoint a person to that office;

1020 (ii) with the council's advice and consent and except as otherwise specifically limited  
1021 by statute, appoint each member of a statutory commission, board, or committee of the  
1022 municipality;

1023 (iii) dismiss any person appointed by the mayor;

1024 (iv) as provided in Section 10-3b-605, veto an ordinance, tax levy, or appropriation  
1025 passed by the council;

1026 (v) exercise control of and supervise each executive or administrative department,  
1027 division, or office of the municipality;

1028 (vi) within the general provisions of statute and ordinance, regulate and prescribe the  
1029 powers and duties of each other executive or administrative officer or employee of the  
1030 municipality;

1031 (vii) attend each council meeting, take part in council meeting discussions, and freely  
1032 give advice to the council;

1033 (viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill  
1034 in all other respects the requirements of Title 17, Chapter 36, Uniform Fiscal Procedures Act  
1035 for Counties;

1036 (ix) execute an agreement on behalf of the municipality, or delegate, by written  
1037 executive order, the authority to execute an agreement on behalf of the municipality if the  
1038 obligation under the agreement is within certified budget appropriations;

1039 (x) at any reasonable time, examine and inspect the official books, papers, records, or  
1040 documents of:

1041 (A) the municipality; or

1042 (B) any officer, employee, or agent of the municipality;

1043 (xi) remit fines and forfeitures; and

1044 (xii) release a person imprisoned for a violation of a municipal ordinance; and

1045 (f) may not vote on any matter before the council.

1046 (2) (a) The first mayor under a newly established county mayor-municipal council form  
1047 of government shall, within six months after taking office, draft and submit to the council a  
1048 proposed ordinance:

- 1049 (i) providing for the division of the municipality's administrative service into  
1050 departments, divisions, and bureaus; and  
1051 (ii) defining the functions and duties of each department, division, and bureau.  
1052 (b) Before the council adopts an ordinance on the municipality's administrative service,  
1053 the mayor may establish temporary rules and regulations to ensure efficiency and effectiveness  
1054 in the divisions of the municipal government.  
1055 (3) (a) As used in this Subsection (3), "interim vacancy period" means the period of  
1056 time that:  
1057 (i) begins on the day on which a regular general election described in Section [17-16-6](#)  
1058 is held to elect a mayor; and  
1059 (ii) ends on the day on which the mayor-elect begins the mayor's term.  
1060 (b) Each person appointed as chief administrative officer under Subsection (1)(d)(iii)  
1061 shall be appointed on the basis of:  
1062 (i) the person's ability and prior experience in the field of public administration; and  
1063 (ii) any other qualification prescribed by ordinance.  
1064 (c) (i) The mayor may not appoint a chief administrative officer during an interim  
1065 vacancy period.  
1066 (ii) Notwithstanding Subsection (3)(c)(i):  
1067 (A) the mayor may appoint an interim chief administrative officer during an interim  
1068 vacancy period; and  
1069 (B) the interim chief administrative officer's term shall expire once a new chief  
1070 administrative officer is appointed by the new mayor after the interim vacancy period has  
1071 ended.  
1072 (d) Subsection (3)(c) does not apply if the mayor who holds office on the day of the  
1073 regular general election is re-elected to the county mayor's office for the following term.  
1074 (4) A mayor who appoints a chief administrative officer in accordance with this section  
1075 may not, on or after May 13, 2014, enter into an employment contract that contains an  
1076 automatic renewal provision with the chief administrative officer.  
1077 Section 29. Section **10-3b-604** is enacted to read:  
1078 **10-3b-604. Council in county mayor-municipal council form of government.**  
1079 (1) The council in a municipality operating under a county mayor-municipal council

1080 form of government:

1081       (a) shall:

1082           (i) by ordinance, provide for the manner in which:

1083           (A) municipal property is bought, sold, traded, encumbered, or otherwise transferred;

1084 and

1085           (B) a subdivision or annexation is approved, disapproved, or otherwise regulated;

1086           (ii) pass ordinances, appropriate funds, and review municipal administration;

1087           (iii) perform all duties that the law imposes on the council; and

1088           (iv) elect one of its members to be the chair of the council;

1089       (b) may:

1090           (i) adopt an ordinance, to be known as the municipal administrative code:

1091           (A) dividing administrative services not otherwise provided by the county into

1092 departments, divisions, and bureaus; and

1093           (B) defining the functions and duties of each department, division, and bureau that is

1094 not under the control of the county;

1095           (ii) adopt an ordinance for departments, divisions, or bureaus not under the control of

1096 the county as described in Sections [10-3b-606](#) and [10-3c-202](#):

1097           (A) creating, consolidating, or abolishing a department, division, or bureau; and

1098           (B) defining or altering the functions and duties of each department, division, and

1099 bureau;

1100           (iii) notwithstanding Subsection (1)(c)(iii), make suggestions or recommendations to a

1101 subordinate of the mayor;

1102           (iv) (A) notwithstanding Subsection (1)(c), appoint a committee of council members or

1103 citizens to conduct an investigation into an officer, department, or agency of the municipality,

1104 or any other matter relating to the welfare of the municipality; and

1105           (B) delegate to an appointed committee powers of inquiry that the council considers

1106 necessary;

1107           (v) make and enforce any additional rule or regulation for the government of the

1108 council, the preservation of order, and the transaction of the council's business that the council

1109 considers necessary; and

1110           (vi) unless otherwise provided, take any action allowed under Section [10-8-84](#); and

1111 (c) may not:  
1112 (i) direct or request, other than in writing, the appointment of a person to or the  
1113 removal of a person from an executive municipal office;  
1114 (ii) interfere in any way with an executive officer's performance of the officer's duties;  
1115 or  
1116 (iii) publicly or privately give orders to a subordinate of the mayor.  
1117 (2) A member of a council in a municipality operating under the county  
1118 mayor-municipal council form of government may not have any other compensated  
1119 employment with the municipality.  
1120 (3) A council member is:  
1121 (a) elected as a nonpartisan candidate; and  
1122 (b) elected and serves a term in accordance with Chapter 3, Part 2, Election of  
1123 Governing Body.  
1124 (4) This section may not be construed to grant a power to or otherwise authorize a  
1125 municipal council with a power that is granted to or an authority assigned to a county  
1126 governing body or county legislative body to govern, administer, or control a service provided  
1127 to, or personnel who provide a service to, the municipality in accordance with Section  
1128 [10-3c-202](#).  
1129 Section 30. Section **10-3b-605** is enacted to read:  
1130 **10-3b-605. Presenting council action to mayor -- Veto -- Reconsideration -- When**  
1131 **ordinance, tax levy, or appropriation takes effect.**  
1132 (1) The council in each municipality operating under a county mayor-municipal  
1133 council form of municipal government shall present to the mayor each ordinance, tax levy, and  
1134 appropriation passed by the council.  
1135 (2) (a) The mayor in a municipality operating under a county mayor-municipal council  
1136 form of municipal government may veto an ordinance or tax levy or all or any part of an  
1137 appropriation passed by the council.  
1138 (b) If a mayor vetoes an ordinance or tax levy or all or any part of an appropriation, the  
1139 mayor shall return the ordinance, tax levy, or appropriation to the council within 15 days after  
1140 the council presents the ordinance, tax levy, or appropriation to the mayor, with a statement  
1141 explaining the mayor's objections.

1142 (3) At its next meeting following a mayor's veto under Subsection (2), the council shall  
1143 reconsider the vetoed ordinance, tax levy, or appropriation.

1144 (4) An ordinance, tax levy, or appropriation passed by the council takes effect upon  
1145 recording as provided in Chapter 3, Part 7, Municipal Ordinances, Resolutions, and Procedure,  
1146 if:

1147 (a) the mayor signs the ordinance, tax levy, or appropriation;

1148 (b) the mayor fails to sign the ordinance, tax levy, or appropriation within 15 days after  
1149 the council presents the ordinance, tax levy, or appropriation to the mayor; or

1150 (c) following a veto, the council reconsiders the ordinance, tax levy, or appropriation  
1151 and passes it by a vote of at least two-thirds of all council members.

1152 Section 31. Section **10-3b-606** is enacted to read:

1153 **10-3b-606. Municipal offices filled by county officers.**

1154 (1) (a) The following officials elected or appointed, or persons employed by, the county  
1155 in which a municipality operating under the county mayor-municipal council form of  
1156 government is located shall, for the purposes of interpreting and complying with applicable  
1157 law, fulfill the responsibilities and hold the following municipal offices or positions:

1158 (i) the county treasurer shall fulfill the duties and hold the powers of treasurer for the  
1159 municipality;

1160 (ii) the county clerk shall fulfill the duties and hold the powers of recorder and clerk for  
1161 the municipality;

1162 (iii) the county engineer shall fulfill the duties and hold the powers of engineer for the  
1163 municipality;

1164 (iv) the county attorney shall fulfill the duties and hold the powers of the attorney for  
1165 the municipality;

1166 (v) subject to Subsection (1)(b), the county auditor shall fulfill the duties and hold the  
1167 powers of auditor for the municipality; and

1168 (vi) except as otherwise provided, the county executive, director, or other head of a  
1169 county agency, program, or department that provides a service, described in Subsection  
1170 10-3c-202(1), to the municipality shall fulfill the duties and hold the powers of executive,  
1171 director, or head of the applicable municipal agency, program, or department.

1172 (b) (i) The county auditor shall fulfill the duties and hold the powers of auditor for the

1173 municipality to the extent that the county auditor's powers and duties are described in and  
1174 delegated to the county auditor in accordance with Title 17, Chapter 19a, County Auditor, and  
1175 a municipal auditor's powers and duties described in this title are the same.

1176 (ii) Notwithstanding Subsection (1)(b), in a municipality with the county  
1177 mayor-municipal council form of government, services described in Sections 17-19a-203,  
1178 17-19a-204, and 17-19a-205, and services other than those described in Subsection (1)(b)(i)  
1179 that are provided by a municipal auditor in accordance with this title that are required by law  
1180 shall be performed by county staff other than the county auditor.

1181 (2) (a) Nothing in Subsection (1) may be construed to relieve an official described in  
1182 Subsections (1)(a)(i) through (vi) of a duty to either the county or municipality or a duty to  
1183 fulfill that official's position as required by law.

1184 (b) Notwithstanding Subsection (2)(a), an official or the official's deputy or other  
1185 person described in Subsections (1)(a)(i) through (vi):

1186 (i) is elected, appointed, or otherwise employed, in accordance with the provisions of  
1187 Title 17, Counties, as applicable to that official's or person's county office;

1188 (ii) is paid a salary and benefits and subject to employment discipline in accordance  
1189 with the provisions of Title 17, Counties, as applicable to that official's or person's county  
1190 office;

1191 (iii) is not subject to:

1192 (A) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; or

1193 (B) Chapter 3, Part 11, Personnel Rules and Benefits; and

1194 (iv) is not required to provide a bond for the applicable municipal office if a bond for  
1195 the office is required by this title.

1196 Section 32. Section **10-3b-607** is enacted to read:

1197 **10-3b-607. Rules and regulations by municipal officers.**

1198 A municipal officer in a municipality operating under a county mayor-municipal  
1199 council form of government may prescribe rules and regulations, not inconsistent with statute,  
1200 municipal ordinance, or the county personnel management act and policies.

1201 Section 33. Section **10-3c-101** is enacted to read:

1202 **CHAPTER 3c. ADMINISTRATION OF NONCONTIGUOUS MUNICIPALITIES**

1203 **Part 1. General Provisions**

1204 **10-3c-101. Title.**

1205 This chapter is known as "Administration of Noncontiguous Municipalities."

1206 Section 34. Section **10-3c-102** is enacted to read:

1207 **10-3c-102. Definitions.**

1208 As used in this chapter:

1209 (1) "Municipal service" is a service identified in Section [17-34-1](#) or [17-36-3](#).

1210 (2) "Noncontiguous municipality" means a municipality incorporated in accordance  
1211 with Sections [10-2-130 through 10-2-141](#).

1212 Section 35. Section **10-3c-201** is enacted to read:

1213 **Part 2. Administration of Noncontiguous Municipality**

1214 **10-3c-201. Budget.**

1215 (1) A noncontiguous municipality shall adopt the same fiscal period as the fiscal period  
1216 of the county in which it is located, in accordance with Section [17-36-3.5](#).

1217 (2) Notwithstanding any other provision of law, a noncontiguous municipality is  
1218 subject to the provisions of Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties.

1219 Section 36. Section **10-3c-202** is enacted to read:

1220 **10-3c-202. Administrative and operational services provided by the county.**

1221 (1) The county in which a noncontiguous municipality is located shall provide for the  
1222 noncontiguous municipality:

1223 (a) all administrative services, including:

1224 (i) human resources; and

1225 (ii) accounting and budgeting services other than the adoption of a budget by the  
1226 municipal council;

1227 (b) all municipal services; and

1228 (c) all operational and other local government services, including:

1229 (i) maintenance of municipal infrastructure;

1230 (ii) public safety;

1231 (iii) road construction and maintenance;

1232 (iv) animal control services;

1233 (v) curb, gutter, and sidewalk services;

1234 (vi) snow removal;



1235 (vii) streetlights; and

1236 (viii) staff to assist with planning and zoning.

1237 (2) A county may provide the services described in Subsection (1)(b) or (c) by  
1238 contracting with another entity or through a local or special service district.

1239 (3) In accordance with this section or other provision of law, the noncontiguous  
1240 municipality shall reimburse the county for a service provided to the noncontiguous  
1241 municipality that is not otherwise provided on a county-wide basis.

1242 Section 37. Section **10-3c-203** is enacted to read:

1243 **10-3c-203. Energy sales and use tax prohibited.**

1244 A noncontiguous municipality may not levy a municipal energy sales and use tax as  
1245 described in Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

1246 Section 38. Section **10-6-103** is amended to read:

1247 **10-6-103. Applicability to all cities -- Exception.**

1248 (1) This chapter shall apply to all cities, including charter cities.

1249 (2) Notwithstanding Subsection (1), this chapter does not apply to a municipality with  
1250 the county mayor-municipal council form of government as described in Chapter 3b, Part 6,  
1251 County Mayor-Municipal Council Form of Government.

1252 Section 39. Section **17-34-1** is amended to read:

1253 **17-34-1. Counties may provide municipal services -- County shall provide**  
1254 **municipal services to noncontiguous municipality -- Limitation -- First class counties to**  
1255 **provide certain services -- Counties allowed to provide certain services in recreational**  
1256 **areas.**

1257 (1) For purposes of this chapter, except as otherwise provided in Subsection (3):

1258 (a) "Greater than class C radioactive waste" has the same meaning as in Section  
1259 19-3-303.

1260 (b) "High-level nuclear waste" has the same meaning as in Section 19-3-303.

1261 (c) "Municipal-type services" means:

1262 (i) fire protection service;

1263 (ii) waste and garbage collection and disposal;

1264 (iii) planning and zoning;

1265 (iv) street lighting;

1266 (v) in a county of the first class:  
1267 (A) advanced life support and paramedic services; and  
1268 (B) detective investigative services; and  
1269 (vi) all other services and functions that are required by law to be budgeted,  
1270 appropriated, and accounted for from a municipal services fund or a municipal capital projects  
1271 fund as defined under Chapter 36, Uniform Fiscal Procedures Act for Counties.  
1272 (d) "Noncontiguous municipality" is as defined in Section 10-3c-102.  
1273 ~~[(d)]~~ (e) "Placement" has the same meaning as in Section 19-3-303.  
1274 ~~[(e)]~~ (f) "Storage facility" has the same meaning as in Section 19-3-303.  
1275 ~~[(f)]~~ (g) "Transfer facility" has the same meaning as in Section 19-3-303.  
1276 (2) A county ~~[may]~~:  
1277 (a) may:  
1278 ~~[(a)]~~ (i) provide municipal-type services to areas of the county outside the limits of  
1279 cities and towns without providing the same services to cities or towns; and  
1280 ~~[(b)]~~ (ii) fund those services by:  
1281 ~~[(i)]~~ (A) levying a tax on taxable property in the county outside the limits of cities and  
1282 towns; or  
1283 ~~[(ii)]~~ (B) charging a service charge or fee to persons benefitting from the  
1284 municipal-type services[-]; and  
1285 (b) shall:  
1286 (i) provide municipal-type services to a noncontiguous municipality; and  
1287 (ii) fund those services by collecting payment for those services provided from the  
1288 noncontiguous municipality.  
1289 (3) A county may not:  
1290 (a) provide, contract to provide, or agree in any manner to provide municipal-type  
1291 services, as these services are defined in Section 19-3-303, to any area under consideration for  
1292 a storage facility or transfer facility for the placement of high-level nuclear waste, or greater  
1293 than class C radioactive waste; or  
1294 (b) seek to fund services for these facilities by:  
1295 (i) levying a tax; or  
1296 (ii) charging a service charge or fee to persons benefitting from the municipal-type

1297 services.

1298 (4) Each county of the first class shall provide to the area of the county outside the  
1299 limits of cities and towns and to a noncontiguous municipality:

1300 (a) advanced life support and paramedic services; and

1301 (b) detective investigative services.

1302 (5) (a) A county may provide fire, paramedic, and police protection services in any area  
1303 of the county outside the limits of cities and towns that is designated as a recreational area in  
1304 accordance with the provisions of this Subsection (5).

1305 (b) A county legislative body may designate any area of the county outside the limits of  
1306 cities and towns as a recreational area if:

1307 (i) the area has fewer than 1,500 residents and is primarily used for recreational  
1308 purposes, including canyons, ski resorts, wilderness areas, lakes and reservoirs, campgrounds,  
1309 or picnic areas; and

1310 (ii) the county legislative body makes a finding that the recreational area is used by  
1311 residents of the county who live both inside and outside the limits of cities and towns.

1312 (c) Fire, paramedic, and police protection services needed to primarily serve those  
1313 involved in the recreation activities in areas designated as recreational areas by the county  
1314 legislative body in accordance with Subsection (5)(b) may be funded from the county general  
1315 fund.

1316 Section 40. Section **17-34-3** is amended to read:

1317 **17-34-3. Taxes or service charges.**

1318 (1) (a) If a county furnishes the municipal-type services and functions described in  
1319 Section **17-34-1** to areas of the county outside the limits of incorporated cities or towns, the  
1320 county shall defray the entire cost of the services or functions ~~[so] furnished [shall be defrayed]~~  
1321 from funds that the county has derived from:

1322 (i) taxes that the county may lawfully levy or impose outside the limits of incorporated  
1323 towns or cities;

1324 (ii) service charges or fees the county may impose upon the persons benefited in any  
1325 way by the services or functions; or

1326 (iii) a combination of these sources.

1327 (b) (i) If a county is required to provide municipal-type services to a noncontiguous

1328 municipality in accordance with this chapter and Title 10, Chapter 3c, Administration of  
1329 Noncontiguous Municipalities, the county shall pay the entire cost of the services or functions  
1330 furnished from funds payed by the noncontiguous municipality to the county.

1331 (ii) A noncontiguous municipality that receives municipal-type services from a county  
1332 shall repay the county in full for services rendered.

1333 ~~[(b)]~~ (c) As the taxes ~~[or]~~ service charges, or fees are levied and collected, or as  
1334 repayment from a noncontiguous municipality is received, they shall be placed in a special  
1335 revenue fund of the county and shall be disbursed only for the rendering of the services or  
1336 functions established in Section 17-34-1;

1337 (i) within the unincorporated areas of the county ~~[or]~~;

1338 (ii) as provided in Subsection 10-2-121(2)~~[-]~~; or

1339 (iii) within a noncontiguous municipality.

1340 (2) (a) For the purpose of levying taxes, service charges, or fees provided in this  
1341 section, the county legislative body may establish a district or districts in the unincorporated  
1342 areas of the county.

1343 (b) A district established by a county as provided in Subsection (2)(a) may be  
1344 reorganized as a local district in accordance with the procedures set forth in Sections  
1345 17D-1-601, 17D-1-603, and 17D-1-604.

1346 (3) Nothing contained in this chapter may be construed to authorize counties to impose  
1347 or levy taxes not otherwise allowed by law.

1348 (4) Notwithstanding any other provision of this chapter, a county providing fire,  
1349 paramedic, and police protection services in a designated recreational area, as provided in  
1350 Subsection 17-34-1(5), may fund those services from the county general fund with revenues  
1351 derived from both inside and outside the limits of cities and towns, and the funding of those  
1352 services is not limited to unincorporated area revenues.

1353 Section 41. Section 17-34-5 is amended to read:

1354 **17-34-5. Budgeting, accounting for, and disbursing of funds -- Annual audit.**

1355 (1) (a) With respect to the budgeting, accounting for, and disbursing of funds to furnish  
1356 the municipal-type services and functions described in Section 17-34-1 to areas of the county  
1357 outside the limits of incorporated towns and cities, including levying of taxes and imposition of  
1358 fees and charges under Section 17-34-3, or providing municipal-type services to a

1359 noncontiguous municipality, each county legislative body shall separately budget and strictly  
1360 account for and apportion to the costs of providing municipal-type services and functions the  
1361 following:

1362 (i) the salaries of each county commissioner and the salaries and wages of all other  
1363 elected and appointed county officials and employees;

1364 (ii) the operation and maintenance costs of each municipal-type service or function  
1365 provided, set forth separately as line items in the Municipal Services Fund budget;

1366 (iii) the cost of renting or otherwise using capital facilities for the purposes of  
1367 providing municipal-type services or functions; and

1368 (iv) all other costs including administrative costs associated, directly or indirectly, with  
1369 the costs of providing municipal-type services or functions.

1370 (b) At all times these funds and any expenditures from these funds shall be separately  
1371 accounted for and utilized only for the purposes of providing municipal-type services and  
1372 functions to areas of the county outside the limits of incorporated towns or cities.

1373 (2) To implement Subsection (1):

1374 (a) a budget shall be adopted and administered in the same manner as the budget for  
1375 general purposes of the county which furnishes the municipal-type services and functions is  
1376 adopted and administered, either as a part of the general budget or separate from it;

1377 (b) funds for the purposes of furnishing municipal-type services and functions under  
1378 this chapter shall be collected, held, and administered in the same manner as other funds of the  
1379 county are collected, held, and administered, but shall be segregated and separately maintained,  
1380 except that where, in the judgment of the county legislative body, advantages inure to the fund  
1381 from coinvestment of these funds and other funds also subject to control by the county  
1382 legislative body, the county legislative body may direct this coinvestment, but in no event may  
1383 the funds to furnish municipal-type services and functions or the income from their investment  
1384 be used for purposes other than those described in Section [17-34-1](#);

1385 (c) expenditures shall be made in the same manner as other expenditures of the county  
1386 are made; and

1387 (d) any taxes levied under this chapter shall be levied at the same time and in the same  
1388 manner as other taxes of the county are levied.

1389 (3) An annual audit of the budgeting, accounting for, and disbursing of funds used to

1390 furnish municipal-type services and functions, shall be conducted by an independent certified  
1391 public accountant.

1392 Section 42. Section 17-36-2 is amended to read:

1393 **17-36-2. Purpose of chapter.**

1394 The purpose of this act is to codify and revise the law relating to county and  
1395 noncontiguous municipality fiscal procedures in order to establish uniform accounting,  
1396 budgeting, and financial reporting procedures for all counties and noncontiguous  
1397 municipalities. The act provides for the establishment of uniform procedures for the adoption  
1398 and administration of fiscal and optional performance budgets.

1399 The act is intended to enable counties and noncontiguous municipalities to make  
1400 financial plans for both current and capital expenditures, to ensure that executive staffs  
1401 administer their respective functions in accordance with adopted budgets, and to provide  
1402 taxpayers and investors with information about the financial policies and administration of the  
1403 county or noncontiguous municipalities in which they are interested.

1404 Section 43. Section 17-36-3 is amended to read:

1405 **17-36-3. Definitions.**

1406 As used in this chapter:

1407 (1) "Accrual basis of accounting" means a method where revenues are recorded when  
1408 earned and expenditures recorded when they become liabilities notwithstanding that the receipt  
1409 of the revenue or payment of the expenditure may take place in another accounting period.

1410 (2) "Appropriation" means an allocation of money for a specific purpose.

1411 (3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying  
1412 estimates for proposed expenditures for given purposes and the means of financing the  
1413 expenditures.

1414 (b) "Budget" may refer to the budget of a fund for which a budget is required by law, or  
1415 collectively to the budgets for all those funds.

1416 (4) "Budgetary fund" means a fund for which a budget is required, such as those  
1417 described in Section 17-36-8.

1418 (5) "Budget officer" means:

1419 (a) for a county of the second, third, fourth, fifth, or sixth class, the county auditor,  
1420 county clerk, or county executive as provided in Subsection 17-19-19(1); [or]

1421 (b) for a county of the first class, a person described in Section 17-19a-203[-]; or  
1422 (c) for a noncontiguous municipality, the mayor or, with the advice and consent of the  
1423 municipal council, the mayor's designee.

1424 (6) "Budget period" means the fiscal period for which a budget is prepared.

1425 (7) "Check" means an order in a specific amount drawn upon the depository by any  
1426 authorized officer in accordance with Section 17-19-3, 17-19a-301, 17-24-1, or 17-24-1.1, as  
1427 applicable.

1428 (8) "Countywide service" means a service provided in both incorporated and  
1429 unincorporated areas of a county.

1430 (9) "Current period" means the fiscal period in which a budget is prepared and adopted.

1431 (10) "Department" means any functional unit within a fund which carries on a specific  
1432 activity.

1433 (11) "Encumbrance system" means a method of budgetary control where part of an  
1434 appropriation is reserved to cover a specific expenditure by charging obligations, such as  
1435 purchase orders, contracts, or salary commitments to an appropriation account. An expenditure  
1436 ceases to be an encumbrance when paid or when the actual liability is entered in the books of  
1437 account.

1438 (12) "Estimated revenue" means any revenue estimated to be received during the  
1439 budget period in any fund for which a budget is prepared.

1440 (13) "Fiscal period" means the annual or biennial period for recording county fiscal  
1441 operations.

1442 (14) "Fund" means an independent fiscal and accounting entity comprised of a sum of  
1443 money or other resources segregated for a specific purpose or objective.

1444 (15) "Fund balance" means the excess of the assets over liabilities, reserves, and  
1445 contributions, as reflected by its books of account.

1446 (16) "Fund deficit" means the excess of liabilities, reserves, and contributions over its  
1447 assets, as reflected by its books of account.

1448 (17) "General Fund" means the fund used to account for all receipts, disbursements,  
1449 assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be  
1450 accounted for in other funds.

1451 (18) "Interfund loan" means a loan of cash from one fund to another, subject to future

1452 repayment; but it does not constitute an expenditure or a use of retained earnings, fund balance,  
1453 or unappropriated surplus of the lending fund.

1454 (19) "Last completed fiscal period" means the fiscal period next preceding the current  
1455 period.

1456 (20) "Modified accrual basis of accounting" means a method under which expenditures  
1457 other than accrued interest on general long-term debt are recorded at the time liabilities are  
1458 incurred and revenues are recorded when they become measurable and available to finance  
1459 expenditures of the current period.

1460 (21) "Municipal capital project" means the acquisition, construction, or improvement  
1461 of capital assets that facilitate providing municipal service.

1462 (22) "Municipal service" means a service not provided on a countywide basis and not  
1463 accounted for in an enterprise fund, and includes police patrol, fire protection, culinary or  
1464 irrigation water retail service, water conservation, local parks, sewers, sewage treatment and  
1465 disposal, cemeteries, garbage and refuse collection, street lighting, airports, planning and  
1466 zoning, local streets and roads, curb, gutter, and sidewalk maintenance, and ambulance service.

1467 (23) "Noncontiguous municipality" is as defined in Section [10-3c-102](#).

1468 (24) "Noncontiguous municipality general fund" means the fund used by a  
1469 noncontiguous municipality to account for all receipts, disbursements, assets, liabilities,  
1470 reserves, fund balances, revenues, and expenditures not required to be accounted for in other  
1471 funds.

1472 [~~(23)~~] (25) "Retained earnings" means that part of the net earnings retained by an  
1473 enterprise or internal service fund which is not segregated or reserved for any specific purpose.

1474 [~~(24)~~] (26) "Special fund" means any fund other than the General Fund, such as those  
1475 described in Section [17-36-6](#).

1476 [~~(25)~~] (27) "Unappropriated surplus" means that part of a fund which is not  
1477 appropriated for an ensuing budget period.

1478 [~~(26)~~] (28) "Warrant" means an order in a specific amount drawn upon the treasurer by  
1479 the auditor.

1480 Section 44. Section **17-36-3.5** is amended to read:

1481 **17-36-3.5. Fiscal period -- Annual or biennial.**

1482 (1) [~~Except as provided in Subsection (2), the~~] The fiscal period for each county and



1483 each noncontiguous municipality shall be an annual period beginning on January 1 of each year  
1484 and ending December 31 of the same calendar year.

1485 (2) (a) Notwithstanding Subsection (1), the legislative body of a county may, by  
1486 ordinance, adopt for the county a fiscal period that is a biennial period beginning January 1 and  
1487 ending December 31 of the following calendar year.

1488 (b) Each county adopting an ordinance under Subsection (2)(a) shall separately specify  
1489 in its budget the amount of ad valorem property tax it intends to levy and collect during both  
1490 the first half and the second half of the budget period.

1491 (c) Each county that adopts a fiscal period that is a biennial period under Subsection  
1492 (2)(a) shall:

1493 (i) comply with Sections 59-2-912 through 59-2-926 as if it had adopted a fiscal period  
1494 that is an annual period; and

1495 (ii) allocate budgeted revenues and expenditures to each of the two annual periods in  
1496 the biennial budget.

1497 (d) The legislative body of each county that adopts a fiscal period that is a biennial  
1498 period under Subsection (2)(a) shall, within 10 days after the adoption of the ordinance  
1499 adopting the biennial period, deliver a copy of the ordinance to the state auditor.

1500 Section 45. Section 17-36-4 is amended to read:

1501 **17-36-4. State auditor -- Duties.**

1502 (1) The state auditor shall:

1503 (a) prescribe a uniform system of fiscal procedures for the several counties and  
1504 noncontiguous municipalities;

1505 (b) conduct a constant review and modification of such procedures to improve them;

1506 (c) prepare and supply each county budget officer with suitable budget forms; and

1507 (d) prepare instructional materials, conduct training programs, and render other  
1508 services deemed necessary to assist counties in implementing the uniform system.

1509 (2) (a) The uniform system of procedure may include reasonable exceptions and  
1510 modifications applicable to [~~counties~~] a county or noncontiguous municipality with a  
1511 population of 25,000 or less, such population to be determined by the Utah Population Work  
1512 Committee. [~~Counties~~]

1513 (b) A county or noncontiguous municipality may expand the uniform system to serve

1514 better ~~[their]~~ its needs. ~~[Deviations from or alterations to]~~

1515 (c) A county or noncontiguous municipality may not deviate or alter the basic  
1516 prescribed classification system for the identity of funds and accounts ~~[should not be made].~~

1517 Section 46. Section **17-36-6** is amended to read:

1518 **17-36-6. Required funds and accounts.**

1519 (1) In its system of accounts, each county and noncontiguous municipality shall  
1520 maintain the following funds or account groups that are appropriate to its needs:

1521 (a) a general fund or noncontiguous municipality general fund;

1522 (b) special revenue funds;

1523 (c) debt service funds to account for the retirement of general obligation bonds or other  
1524 long-term indebtedness including the payment of interest;

1525 (d) capital project funds, as required to account for the application of proceeds from the  
1526 sale of general obligation bonds or other general long-term debt, or funds derived from other  
1527 sources, to the specific purposes for which they are authorized;

1528 (e) a separate fund for each utility or enterprise such as an airport fund, a sewer fund, a  
1529 water fund, or other similar funds;

1530 (f) intragovernmental service funds;

1531 (g) trust and agency funds such as a cemetery perpetual-care fund or a retirement fund;

1532 (h) a separate fund for each special improvement district, which shall be known as a  
1533 special assessment fund;

1534 (i) a ledger or group of accounts to record the details relating to the general fixed assets  
1535 of the county;

1536 (j) a ledger or group of accounts to record the details relating to the general obligation  
1537 bonds or other long-term indebtedness of the county;

1538 (k) municipal services fund as required in Section [17-36-9](#); and

1539 (l) any other funds for special purposes required or established under the uniform  
1540 system of budgeting, accounting, and reporting.

1541 (2) The county or noncontiguous municipality shall classify the funds and account  
1542 groups established under the authority of this section according to the uniform procedures  
1543 established by this chapter.

1544 Section 47. Section **17-36-7** is amended to read:

1545 **17-36-7. Basis of accounting.**

1546 The basis of accounting to record transactions by [~~counties~~] a county or noncontiguous  
1547 municipality shall be either accrual or modified accrual as prescribed in the uniform system of  
1548 budgeting, accounting, and reporting.

1549 Section 48. Section **17-36-8** is amended to read:

1550 **17-36-8. Preparation of budgets.**

1551 The budget officer of each county or noncontiguous municipality shall prepare each  
1552 budget period, on forms provided pursuant to Section **17-36-4**, a budget for each of the  
1553 following funds which are included in its system of accounts:

- 1554 (1) general fund or noncontiguous municipality general fund;
- 1555 (2) special revenue funds;
- 1556 (3) debt service funds;
- 1557 (4) capital project funds; and
- 1558 (5) any other fund or funds for which a budget is required by the uniform system of  
1559 budgeting, accounting, and reporting.

1560 Section 49. Section **17-36-9** is amended to read:

1561 **17-36-9. Budget -- Financial plan -- Contents -- Municipal services and capital**  
1562 **projects funds.**

1563 (1) (a) The budget for each fund shall provide a complete financial plan for the budget  
1564 period and shall contain in tabular form classified by the account titles as required by the  
1565 uniform system of budgeting, accounting, and reporting:

- 1566 (i) estimates of all anticipated revenues;
- 1567 (ii) all appropriations for expenditures; and
- 1568 (iii) any additional data required by Section **17-36-10** or **17-36-10.1**, as applicable, or  
1569 by the uniform system of budgeting, accounting, and reporting.

1570 (b) The total of appropriated expenditures shall be equal to the total of anticipated  
1571 revenues.

1572 (2) (a) Each first-, second-, and third-class county and a noncontiguous municipality  
1573 that provides municipal-type services under Section **17-34-1** shall:

- 1574 (i) establish a special revenue fund, "Municipal Services Fund," and a capital projects  
1575 fund, "Municipal Capital Projects Fund," or establish a local district or special service district

1576 to provide municipal services; and

1577 (ii) budget appropriations for municipal services and municipal capital projects from  
1578 these funds.

1579 (b) The Municipal Services Fund is subject to the same budgetary requirements as the  
1580 county's general fund or noncontiguous municipality general fund.

1581 (c) (i) Except as provided in Subsection (2)(c)(ii), the county or noncontiguous  
1582 municipality may deposit revenue derived from any taxes otherwise authorized by law, income  
1583 derived from the investment of money contained within the municipal services fund and the  
1584 municipal capital projects fund, the appropriate portion of federal money, and fees collected  
1585 into a municipal services fund, a special fund, and a municipal capital projects fund.

1586 (ii) The county may not deposit revenue derived from a fee, tax, or other source based  
1587 upon a countywide assessment or from a countywide service or function into a municipal  
1588 services fund or a municipal capital projects fund.

1589 (d) The maximum accumulated unappropriated surplus in the municipal services fund,  
1590 as determined prior to adoption of the tentative budget, may not exceed an amount equal to the  
1591 total estimated revenues of the current fiscal period.

1592 Section 50. Section **17-36-10** is amended to read:

1593 **17-36-10. Preparation of tentative budget.**

1594 (1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or  
1595 sixth class is not subject to the provisions of this section; and

1596 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class  
1597 is subject to the provisions of this section.

1598 (2) On or before the first day of the next to last month of every fiscal period, the budget  
1599 officer shall prepare for the next budget period and file with the governing body a tentative  
1600 budget for each fund for which a budget is required.

1601 (3) (a) A department for which county funds are appropriated shall file with the budget  
1602 officer not less than three months before the commencement of each fiscal year on forms  
1603 furnished by the budget officer a detailed estimate and statement of the revenue and necessary  
1604 expenditures of the department for the next budget year.

1605 (b) The estimate and statement described in Subsection (3)(a) shall set forth:

1606 (i) the number of persons to be regularly employed;

- 1607 (ii) the kinds of service the department will perform;
- 1608 (iii) the salaries and wages the department expects to pay;
- 1609 (iv) the kind of work the department will perform and the improvements the
- 1610 department expects to make; and
- 1611 (v) the estimated cost of the service, work, and improvements.
- 1612 (c) The statement shall also record performance data expressed in work units, unit
- 1613 costs, man hours, and man years sufficient in detail, content, and scope to permit the budget
- 1614 officer to prepare and process the county or noncontiguous municipality budget.
- 1615 (4) In the preparation of the budget, the budget officer and all other county or
- 1616 noncontiguous municipality officers are subject to Sections 17-36-1 through 17-36-44 and to
- 1617 the uniform system of budgeting, accounting, and reporting established therein.
- 1618 (5) In the tentative budget, the budget officer shall set forth in tabular form:
- 1619 (a) actual revenues and expenditures in the last completed fiscal period;
- 1620 (b) estimated total revenues and expenditures for the current fiscal period;
- 1621 (c) the estimated available revenues and expenditures for the ensuing budget period
- 1622 computed by determining:
- 1623 (i) the estimated expenditure for each fund after review of each departmental budget
- 1624 request;
- 1625 (ii) (A) the total revenue requirements of the fund;
- 1626 (B) the part of the total revenue that will be derived from revenue sources other than
- 1627 property tax; and
- 1628 (C) the part of the total revenue that shall be derived from property taxes; and
- 1629 (d) if required by the governing body, actual performance experience to the extent
- 1630 available in work units, unit costs, man hours, and man years for each budgeted fund that
- 1631 includes an appropriation for salaries or wages for the last completed fiscal period and the first
- 1632 eight months of the current fiscal period if the county or noncontiguous municipality is on an
- 1633 annual fiscal period, or the first 20 months of the current fiscal period if the county is on a
- 1634 biennial fiscal period, together with the total estimated performance data of like character for
- 1635 the current fiscal period and for the ensuing budget period.
- 1636 (6) The budget officer may recommend modification of any departmental budget
- 1637 request under Subsection (5)(c)(i) before it is filed with the governing body, if each department

1638 head has been given an opportunity to be heard concerning the modification.

1639 (7) (a) A tentative budget shall contain the estimates of expenditures submitted by any  
1640 department together with specific work programs and other supportive data as the governing  
1641 body requests.

1642 (b) The budget officer shall include with the tentative budget by a supplementary  
1643 estimate of all capital projects or planned capital projects within the budget period and within  
1644 the next three succeeding years.

1645 (8) (a) A budget officer that submits a tentative budget in a county or noncontiguous  
1646 municipality with a population in excess of 25,000 determined in accordance with Section  
1647 17-36-4 shall include with the tentative budget a budget message in explanation of the budget.

1648 (b) The budget message shall contain an outline of the proposed financial policies of  
1649 the county or noncontiguous municipality for the budget period and describe the important  
1650 features of the budgetary plan. It shall also state the reasons for changes from the previous  
1651 fiscal period in appropriation and revenue items and explain any major changes in financial  
1652 policy.

1653 (c) A budget message for [~~counties~~] a county or noncontiguous municipality with a  
1654 population of less than 25,000 is recommended but not incumbent upon the budget officer.

1655 (9) (a) The governing body shall review, consider, and adopt a tentative budget in a  
1656 regular or special meeting called for that purpose.

1657 (b) (i) Subject to Subsection (9)(b)(ii), the governing body may thereafter amend or  
1658 revise the tentative budget prior to public hearings on the tentative budget.

1659 (ii) A governing body may not:

1660 (A) reduce below the required minimum an appropriation required for debt retirement  
1661 and interest; or

1662 (B) reduce, in accordance with Section 17-36-17, an existing deficit.

1663 Section 51. Section **17-36-12** is amended to read:

1664 **17-36-12. Notice of budget hearing.**

1665 (1) The governing body shall determine the time and place for the public hearing on the  
1666 adoption of the budget.

1667 (2) Notice of such hearing shall be published:

1668 (a) (i) at least seven days before the hearing in at least one newspaper of general

1669 circulation within the county or noncontiguous municipality, as applicable, if there is such a  
1670 paper; or

1671 (ii) if there is no newspaper as described in Subsection (2)(a)(i), by posting notice in  
1672 three conspicuous places within the county or noncontiguous municipality, as applicable, seven  
1673 days before the hearing; and

1674 (b) on the Utah Public Notice Website created in Section 63F-1-701, for seven days  
1675 before the hearing.

1676 Section 52. Section 17-36-15 is amended to read:

1677 **17-36-15. Adoption of budget -- Immunity.**

1678 (1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or  
1679 sixth class is not subject to the provisions of this section; and

1680 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class  
1681 is subject to the provisions of this section.

1682 (2) (a) On or before the last day of each fiscal period, the governing body by resolution  
1683 shall adopt the budget.

1684 (b) A budget adopted in accordance with Subsection (2)(a) is, unless amended, in  
1685 effect for the next fiscal period.

1686 (c) The budget officer shall:

1687 (i) certify a copy of the final budget, and of any subsequent budget amendment; and

1688 (ii) file a copy with the state auditor not later than 30 days after the day on which the  
1689 governing body adopts the budget.

1690 (d) The budget officer shall file a certified copy of the budget in the office of the  
1691 budget officer for inspection by the public during business hours.

1692 (3) (a) Except as provided in Subsection (3)~~(b)~~(c), a county officer or county  
1693 employee may not file a legal action in state or federal court against the county, a department,  
1694 or a county officer for any matter related to the following:

1695 (i) the adoption of a county budget;

1696 (ii) a county appropriation;

1697 (iii) a county personnel allocation; or

1698 (iv) a fund related to the county budget, a county appropriation, or a county personnel  
1699 allocation.

1700 (b) Except as provided in Subsection (3)(c), a noncontiguous municipality officer or  
1701 noncontiguous municipality employee may not file a legal action in state or federal court  
1702 against the noncontiguous municipality, a department, or a noncontiguous municipality officer  
1703 for any matter related to the following:

1704 (i) the adoption of a noncontiguous municipality budget;

1705 (ii) a noncontiguous municipality appropriation;

1706 (iii) a noncontiguous municipality personnel allocation; or

1707 (iv) a fund related to the noncontiguous municipality budget, a noncontiguous  
1708 municipality appropriation, or a noncontiguous municipality personnel allocation.

1709 ~~[(b)]~~ (c) A county or district attorney may enforce a procedural requirement that  
1710 governs the adoption or approval of a budget in accordance with this chapter.

1711 Section 53. Section **17-36-16** is amended to read:

1712 **17-36-16. Retained earnings -- Accumulation -- Restrictions -- Disbursements.**

1713 (1) A county or noncontiguous municipality may accumulate retained earnings in any  
1714 enterprise or internal service fund or a fund balance in any other fund~~[-; but with respect to the~~  
1715 ~~General Fund, its].~~

1716 (b) Notwithstanding Subsection (1)(a), use of the general fund or noncontiguous  
1717 municipality general fund shall be restricted to the following purposes:

1718 ~~[(a)]~~ (i) to provide cash to finance expenditures from the beginning of the budget  
1719 period until general property taxes, sales taxes, or other revenues are collected;

1720 ~~[(b)]~~ (ii) to provide a fund or reserve to meet emergency expenditures; and

1721 ~~[(c)]~~ (iii) to cover unanticipated deficits for future years.

1722 (2) (a) The maximum accumulated unappropriated surplus in the General Fund or  
1723 noncontiguous municipality general fund, as determined prior to adoption of the tentative  
1724 budget, may not exceed an amount equal to the greater of:

1725 (i) (A) for a county or noncontiguous municipality with a taxable value of  
1726 \$750,000,000 or more and a population of 100,000 or more, 20% of the total revenues of the  
1727 General Fund or noncontiguous municipality general fund for the current fiscal period; or

1728 (B) for any other county or noncontiguous municipality, 50% of the total revenues of  
1729 the General Fund or noncontiguous municipality general fund for the current fiscal period; and

1730 (ii) the estimated total revenues from property taxes for the current fiscal period.



1731 (b) Any surplus balance in excess of the above computed maximum shall be included  
1732 in the estimated revenues of the General Fund or noncontiguous municipality general fund  
1733 budget for the next fiscal period.

1734 (3) Any fund balance exceeding 5% of the total General Fund or noncontiguous  
1735 municipality general fund revenues may be used for budgetary purposes.

1736 (4) (a) A county or noncontiguous municipality may appropriate funds from estimated  
1737 revenue in any budget period to a reserve for capital improvements within any capital  
1738 improvements fund which has been duly established by ordinance or resolution.

1739 (b) Money in the reserves shall be allowed to accumulate from fiscal period to fiscal  
1740 period until the accumulated total is sufficient to permit economical expenditure for the  
1741 specified purposes.

1742 (c) Disbursements from the reserves shall be made only by transfer to a revenue  
1743 account within a capital improvements fund pursuant to an appropriation for the fund.

1744 (d) Expenditures from the capital improvement budget accounts shall conform to all  
1745 requirements of this act as it relates to the execution and control of budgets.

1746 Section 54. Section **17-36-17** is amended to read:

1747 **17-36-17. Appropriations in final budget -- Limitations.**

1748 (1) The governing body of a county or noncontiguous municipality may not make any  
1749 appropriation in the final budget of any fund in excess of the estimated expendable revenue of  
1750 the fund for the budget period.

1751 (2) There shall be included as an item of appropriation in the budget of each fund for  
1752 any fiscal period any existing deficit as of the close of the last completed fiscal period to the  
1753 extent of at least 5% of the total revenue of the fund in the last completed fiscal period or if the  
1754 deficit is less than 5% of the total revenue, an amount equal to the deficit.

1755 Section 55. Section **17-36-19** is amended to read:

1756 **17-36-19. Encumbrance system.**

1757 Each county and noncontiguous municipality shall use an encumbrance system or other  
1758 budgetary controls to ensure that no expenditure is made for any item of an appropriation  
1759 unless there is a sufficient unencumbered balance in the appropriation and available funds,  
1760 except in cases of an emergency as hereinafter provided in Section **17-36-27**.

1761 Section 56. Section **17-36-20** is amended to read:

1762           **17-36-20. Purchases or encumbrances by purchasing agent.**

1763           (1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or  
1764 sixth class is not subject to the provisions of this section; and

1765           (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class  
1766 is subject to the provisions of this section.

1767           (2) A person may not make a purchase or incur an encumbrance on behalf of a county  
1768 or noncontiguous municipality unless that person acts in accordance with an order by, or  
1769 approval of, the person duly authorized to act as purchasing agent for the county or  
1770 noncontiguous municipality, except encumbrances or expenditures directly investigated and  
1771 specifically approved by the executive or legislative body.

1772           (3) Unless otherwise provided by the governing body, the budget officer or the budget  
1773 officer's agents shall serve as a purchasing agent.

1774           Section 57. Section **17-36-21** is amended to read:

1775           **17-36-21. Expenditure limitation.**

1776           No officer or employee of a county or noncontiguous municipality shall make any  
1777 expenditure or encumbrance in excess of the total appropriation for any department. Any  
1778 obligation that is contracted by any such officer or employee in excess of the total departmental  
1779 appropriation is the personal obligation of the officer or employee and is unenforceable against  
1780 the county or noncontiguous municipality.

1781           Section 58. Section **17-36-22** is amended to read:

1782           **17-36-22. Transfer of unexpended appropriation balance by department.**

1783           (1) After review by the budget officer and in accordance with budgetary and fiscal  
1784 policies or ordinances adopted by the county legislative body or noncontiguous municipal  
1785 council, any department may:

1786           (a) transfer any unencumbered or unexpended appropriation balance or any part from  
1787 one expenditure account to another within the department during the budget year; or

1788           (b) incur an excess expenditure of one or more line items.

1789           (2) A transfer or expenditure under Subsection (1) may not occur if the transfer or  
1790 expenditure would cause the total of all excess expenditures or encumbrances to exceed the  
1791 total unused appropriation within the department at the close of the budget period.

1792           Section 59. Section **17-36-26** is amended to read:

1793 **17-36-26. Increase in budgetary fund or general fund -- Public hearing.**

1794 (1) Before the governing body may, by resolution, increase a budget appropriation of  
 1795 any budgetary fund, increase the budget of the general fund or noncontiguous municipality  
 1796 general fund, or make an amendment to a budgetary fund or the general fund or noncontiguous  
 1797 municipality general fund, the governing body shall hold a public hearing giving all interested  
 1798 parties an opportunity to be heard.

1799 (2) Notice of the public hearing described in Subsection (1) shall be published at least  
 1800 five days before the day of the hearing:

1801 (a) (i) in at least one issue of a newspaper generally circulated in the county or  
 1802 noncontiguous municipality, respectively; or

1803 (ii) if there is not a newspaper generally circulated in the county or noncontiguous  
 1804 municipality, the hearing may be published by posting notice in three conspicuous places  
 1805 within the county or noncontiguous municipality; and

1806 (b) on the Utah Public Notice Website created under Section [63F-1-701](#).

1807 Section 60. Section **17-36-27** is amended to read:

1808 **17-36-27. Emergency expenditures -- Deficit.**

1809 (1) If the governing body determines that an emergency exists, such as widespread  
 1810 damage from fire, flood, or earthquake, and that the expenditure of money in excess of the  
 1811 general fund or noncontiguous municipality general fund budget is necessary, [it] the governing  
 1812 body may make [such] expenditures and incur [such] deficits [as] that are reasonably necessary  
 1813 to meet the emergency.

1814 (2) Except to the extent provided for in Title 53, Chapter 2a, Part 6, Disaster Recovery  
 1815 Funding Act, the governing body of the county may not expend money in the county's local  
 1816 fund for an emergency, if the county creates a local fund under Title 53, Chapter 2a, Part 6,  
 1817 Disaster Recovery Funding Act.

1818 Section 61. Section **17-36-29** is amended to read:

1819 **17-36-29. Special fund ceases -- Transfer.**

1820 [~~If the necessity to maintain any special fund ceases and there is a balance in such~~  
 1821 ~~fund,~~]

1822 (1) If the purpose for which a special fund was created no longer exists and a balance  
 1823 remains in the fund, the governing body shall authorize the transfer of the balance to the fund

1824 balance account in the General Fund or noncontiguous municipality general fund.

1825 (2) Any balance which remains in a special assessment fund and any unrequired  
1826 balance in a special improvement guaranty fund shall be treated as provided in Subsection  
1827 11-42-701(5).

1828 (3) Any balance which remains in a capital projects fund shall be transferred to the  
1829 appropriate debt service fund or such other fund as the bond ordinance requires or to the  
1830 general fund or noncontiguous municipality general fund balance account.

1831 Section 62. Section **17-36-30** is amended to read:

1832 **17-36-30. Interfund loans -- Acquisition of issued unmatured bonds.**

1833 The governing body may:

1834 (1) authorize interfund loans from one fund to another at such interest rates and subject  
1835 to such terms for repayment as it may prescribe; and [may]

1836 (2) with available cash in any fund, purchase or otherwise acquire for investment,  
1837 issued unmatured bonds of the county or of any county fund or of the noncontiguous  
1838 municipality or any noncontiguous municipality fund, respectively.

1839 Section 63. Section **17-36-31** is amended to read:

1840 **17-36-31. Tax levy -- Amount.**

1841 (1) (a) Before June 22 of each year[;]:

1842 (i) the county legislative body shall levy a tax on the taxable real and personal property  
1843 within the county[;]; and

1844 (ii) the noncontiguous municipality shall levy a tax on the taxable real and personal  
1845 property within the noncontiguous municipality.

1846 (b) In its computation of the total levy subject to Sections 59-2-908 and 59-2-911, [it]  
1847 the county or noncontiguous municipality shall determine the requirements for each fund and  
1848 specify the amount of the levy apportioned to each fund.

1849 (2) The proceeds of the tax apportioned for purposes of the General Fund or  
1850 noncontiguous municipality general fund shall be credited in the General Fund or  
1851 noncontiguous municipality general fund.

1852 (3) The proceeds of the tax apportioned for utility and other special fund purposes shall  
1853 be credited to the appropriate accounts in the utility or other special funds.

1854 Section 64. Section **17-36-35** is amended to read:

1855           **17-36-35. County officials -- Profit from public funds.**

1856           If the governing body receives evidence that a county or noncontiguous municipality  
1857 official is profiting from public money or uses it for any unauthorized purpose, the matter shall  
1858 be promptly referred to the county attorney or district attorney for appropriate action. If  
1859 convicted for any such offense, the county or noncontiguous municipality official shall  
1860 immediately forfeit his office.

1861           Section 65. Section **17-36-36** is amended to read:

1862           **17-36-36. Financial statements.**

1863           The budget officer shall present to the governing body the following financial  
1864 statements prepared in the manner prescribed by the uniform system of budgeting, accounting,  
1865 and reporting:

1866           (1) A summary of cash receipts and disbursements for each fund or group of funds and  
1867 for each department within each fund reportable at the end of each month showing the cash and  
1868 invested balance at the beginning of the period, the total receipts collected during the period,  
1869 the total disbursements made during the period and the cash and invested balance at the end of  
1870 the period.

1871           (2) Not less than once each quarter or more often if requested by the governing body, a  
1872 condensed statement of revenues and expenditures and comparison with the budget of the  
1873 general fund or noncontiguous municipality general fund and the allotments thereof, as  
1874 reflected by the books of account.

1875           (3) A comparative quarterly income and expense statement for each enterprise fund  
1876 showing a comparative analysis between the operations of such fund for the current fiscal  
1877 reporting period and the same period in the previous year.

1878           (4) A condensed statement of the operating and capital budget of each enterprise fund  
1879 showing revenues and expenses and balances compared with the budget for any period  
1880 requested by the governing body or required by the uniform system of budgeting, accounting  
1881 and reporting.

1882           (5) Any other statements of operations or reports on financial condition as the  
1883 governing body or the uniform system of budgeting, accounting, and reporting may require.

1884           All financial statements made pursuant to this section shall be open for public  
1885 inspection during regular business hours.

1886 Section 66. Section 17-36-37 is amended to read:

1887 **17-36-37. Budget officer -- Annual financial statement -- Contents.**

1888 (1) The budget officer of each county and noncontiguous municipality, within 180 days  
1889 after the close of each fiscal period or, for a county that has adopted a fiscal period that is a  
1890 biennial period, within 180 days after both the midpoint and the close of the fiscal period,  
1891 except as provided by Section 17-36-38, shall prepare and make available to the governing  
1892 body an annual financial report which shall contain:

1893 (a) a statement of revenues and expenditures and a comparison with the budget of the  
1894 general fund or noncontiguous municipality general fund, similar statements of all other funds  
1895 for which budgets are required, and statements of revenues and expenditures or of income and  
1896 expense, as the case may be, of all other operating funds of the county or noncontiguous  
1897 municipality;

1898 (b) a balance sheet of each fund and a combined balance sheet of all funds as of:

1899 (i) for a county that has adopted a fiscal period that is a biennial period, the midpoint  
1900 and the close of the fiscal period; and

1901 (ii) for each other county and noncontiguous municipality, the close of the fiscal  
1902 period; or

1903 (c) any other reports the governing body may require, including work performance  
1904 data, tax levies, taxable values, details of bonded indebtedness, and historical facts of interest  
1905 to the governing body and the public.

1906 (2) Copies of the annual report shall be furnished to the state auditor and made a matter  
1907 of public record in the office of the budget officer.

1908 Section 67. Section 17-36-38 is amended to read:

1909 **17-36-38. Presentation of annual report by independent auditor.**

1910 The annual report required by Section 17-36-37 may be satisfied by a county or  
1911 noncontiguous municipality by the presentation of the report of the independent auditor on the  
1912 results of operations for the year and financial condition at the midpoint of the fiscal period or  
1913 at the close of the fiscal period if it is prepared in conformity with the uniform system of  
1914 budgeting, accounting, and reporting.

1915 Section 68. Section 17-36-39 is amended to read:

1916 **17-36-39. Independent audits.**

1917 Independent audits are required for all counties and noncontiguous municipalities as  
1918 provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal  
1919 Organizations, and Other Local Entities Act.

1920 Section 69. Section **17-36-40** is amended to read:

1921 **17-36-40. Notice that audit is complete.**

1922 (1) Within 10 days after the receipt of the audit report furnished by the independent  
1923 auditor, the county auditor shall prepare and publish a notice to the public that the county audit  
1924 or noncontiguous municipality audit is complete:

1925 (a) at least twice in a newspaper of general circulation within the county or  
1926 noncontiguous municipality, respectively; and

1927 (b) as required in Section [45-1-101](#).

1928 (2) A copy of the county audit may be inspected at the office of the county auditor.

1929 Section 70. Section **17-36-41** is amended to read:

1930 **17-36-41. Analysis and evaluation of accounting practices and systems by state**  
1931 **auditor -- Regional accounting services.**

1932 (1) The state auditor shall analyze and evaluate the accounting practices and systems  
1933 used by the counties and noncontiguous municipalities and provide advice and consultation to  
1934 them in improving and updating their practices and systems.

1935 (2) Any county or group or association of counties may by agreement pursuant to the  
1936 Interlocal Co-operation Act provide accounting services upon a regional basis for other  
1937 counties or other local governmental units. The state auditor shall evaluate the county or other  
1938 organization's ability to provide such service and shall periodically review the internal controls  
1939 maintained by such a county or organization.

1940 Section 71. Section **17-36-43** is amended to read:

1941 **17-36-43. Financial administration ordinance -- Purposes.**

1942 (1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or  
1943 sixth class is not subject to the provisions of this section; and

1944 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class  
1945 is subject to the provisions of this section.

1946 (2) (a) The county legislative body, after consultation with the county auditor, may  
1947 adopt a financial administration ordinance authorizing the county auditor, county executive,

1948 county manager, or, in the case of county operated hospitals or mental health districts, an  
1949 appointed administrator, to act as the financial officer for the purpose of approving:

1950 ~~[(a)]~~ (i) payroll checks, if the checks are prepared in accordance with a salary schedule  
1951 established in a personnel ordinance or resolution; or

1952 ~~[(b)]~~ (ii) routine expenditures, such as utility bills, payroll-related expenses, supplies,  
1953 materials, and payments on county-approved contracts and capital expenditures which are  
1954 referenced in the budget document and approved by an appropriation resolution adopted for the  
1955 current fiscal year.

1956 (b) A noncontiguous municipality may adopt a financial administration ordinance  
1957 authorizing the noncontiguous municipality manager or county executive to act as the financial  
1958 officer for the purpose of approving an expenditure described in Subsection (2)(a)(i) or (ii).

1959 Section 72. Section ~~17-36-44~~ is amended to read:

1960 **17-36-44. Financial administration ordinance -- Required provisions.**

1961 The financial administration ordinance, adopted pursuant to Section ~~17-36-43~~ or  
1962 ~~17-36-43.1~~, as applicable, shall provide:

1963 (1) a maximum amount over which purchases may not be made without the approval  
1964 of the county executive;

1965 (2) that the financial officer be bonded for a reasonable amount; and

1966 (3) any other provisions the county legislative body or noncontiguous municipality  
1967 council, respectively, considers advisable.

1968 Section 73. Section ~~17-36-45~~ is amended to read:

1969 **17-36-45. Internal control structure.**

1970 (1) Each county legislative body and noncontiguous municipality council shall~~[-with~~  
1971 ~~the advice and assistance of the county auditor and county treasurer,]~~ implement an internal  
1972 control structure to ensure, on a reasonable basis, that all valid financial transactions of the  
1973 county are identified and recorded accurately and timely. The objectives of the internal control  
1974 structure shall be to ensure:

1975 (a) the proper authorization of transactions and activities;

1976 (b) the appropriate segregation of:

1977 (i) the duty to authorize transactions;

1978 (ii) the duty to record transactions; and



- 1979 (iii) the duty to maintain custody of assets;
- 1980 (c) the design and use of adequate documents and records to ensure the proper
- 1981 recording of events;
- 1982 (d) adequate safeguards over access to and use of assets and records; and
- 1983 (e) independent checks on performance and proper valuation of recorded amounts.
- 1984 (2) The state auditor shall evaluate procedures implemented to effectuate this section
- 1985 and shall provide advice and consultation in approving and updating these procedures.

1986 Section 74. Section 17-36-46 is amended to read:

1987 **17-36-46. Reserve fund for capital improvements -- Creation -- Purpose --**  
1988 **Limitation.**

1989 (1) The legislative body of any county, or a noncontiguous municipality council, may  
1990 establish and maintain, by ordinance, a cumulative reserve fund to be accumulated by levy for  
1991 the purpose of financing the purchase of real property and the cost of planning, constructing or  
1992 rehabilitating public buildings or other public works and capital improvements.

1993 (2) (a) Before a reserve fund under Subsection (1) may be established, the county  
1994 legislative body or noncontiguous municipality council shall designate by ordinance the  
1995 specific purpose for which the fund is established.

1996 (b) Except as provided in Section 17-36-50, all funds in a reserve fund under  
1997 Subsection (1) shall be expended for the designated purposes.

1998 Section 75. Section 17-36-47 is amended to read:

1999 **17-36-47. Reserve fund for capital improvements -- Estimate of amount required**  
2000 **-- Tax levy -- Accumulation from year to year -- Restriction on use.**

2001 (1) Subject to Subsection (4) the legislative body of a county, or noncontiguous  
2002 municipality council, that has established a reserve fund under Section 17-36-46 may:

2003 (a) include in the annual budget or estimate of amounts required to meet the public  
2004 expenses of the county for the ensuing year such sum as it considers necessary for the uses and  
2005 purposes of the fund; and

2006 (b) include those amounts in the annual tax levy of the county or noncontiguous  
2007 municipality.

2008 (2) Subject to Subsection (4), the money in the fund shall be allowed to accumulate  
2009 from year to year until the county legislative body or noncontiguous municipality council

2010 determines to spend any money in the fund for the purpose specified.

2011 (3) Subject to Subsection (4), money in the fund at the end of a fiscal year shall remain  
2012 in the fund as surplus available for future use, and may not be transferred to any other fund or  
2013 used for any other purpose.

2014 (4) The amount of money in a reserve fund established under Section 17-36-46 may  
2015 not exceed .6% of the taxable value of the county.

2016 Section 76. Section 17-36-48 is amended to read:

2017 **17-36-48. Reserve fund for capital improvements -- Transfer to fund of**  
2018 **unencumbered surplus county funds.**

2019 At any time after the creation of a reserve fund under Section 17-36-46, the county  
2020 legislative body or noncontiguous municipality council may transfer to the fund any  
2021 unencumbered surplus county funds remaining at the end of a fiscal year.

2022 Section 77. Section 17-36-49 is amended to read:

2023 **17-36-49. Reserve fund for capital improvements -- Investment -- Interest and**  
2024 **income.**

2025 (1) All money belonging to a reserve fund created under Section 17-36-46 shall be  
2026 invested in such securities as are legal for other funds of the county or noncontiguous  
2027 municipality, respectively.

2028 (2) The interest and income from the investments shall be a part of the fund.

2029 Section 78. Section 17-36-50 is amended to read:

2030 **17-36-50. Reserve fund for capital improvements -- Use for projects other than**  
2031 **originally specified -- Special election.**

2032 (1) The legislative body of any county, or a noncontiguous municipality council, may  
2033 submit the proposition of using funds in a reserve fund established under Section 17-36-46 for  
2034 projects other than originally specified to the electors of the county or noncontiguous  
2035 municipality, respectively, at a special election if the projects are for the purposes set forth in  
2036 Section 17-36-46.

2037 (2) If a proposition under Subsection (1) is proposed, the county legislative body or  
2038 noncontiguous municipality council shall fix a time and place for a special election on the  
2039 proposition, to be held as provided by law.

2040 Section 79. Section 17-36-51 is amended to read:

2041 **17-36-51. Establishment of tax stability and trust fund -- Increase in tax levy.**

2042 (1) (a) Notwithstanding anything to the contrary contained in statute, the legislative  
2043 body of any county, or noncontiguous municipality council, may by ordinance establish and  
2044 maintain a tax stability and trust fund, for the purpose of preserving funds during years with  
2045 favorable tax revenues for use during years with less favorable tax revenues.

2046 (b) Each fund under Subsection (1)(a) shall be subject to all of the limitations and  
2047 restrictions imposed by this section and Sections [17-36-52](#) and [17-36-53](#).

2048 (c) The principal of the fund shall consist of all sums transferred to it in accordance  
2049 with Subsection (2) and interest or other income retained in the fund under Subsection  
2050 [17-36-52\(2\)](#).

2051 (2) After establishing a tax stability and trust fund as provided in Subsection (1), the  
2052 legislative body or noncontiguous municipality council, in establishing the levy for the property  
2053 tax levied by the county under Section [59-2-908](#), may establish the levy at a level not to exceed  
2054 .0001 per dollar of taxable value of taxable property increase per year that will permit the  
2055 county to receive during that fiscal year sums in excess of what may be required to provide for  
2056 the purposes of the county. Any excess sums so received are to be transferred from the General  
2057 Fund of the county or noncontiguous municipality general fund into the tax stability and trust  
2058 fund.

2059 Section 80. Section **17-36-52** is amended to read:

2060 **17-36-52. Tax stability and trust fund -- Deposit or investment of funds -- Use of**  
2061 **interest or other income.**

2062 (1) All amounts in the tax stability and trust fund established by a county or  
2063 noncontiguous municipality under Section [17-36-51](#) may be deposited or invested as provided  
2064 in Section [51-7-11](#). These amounts may also be transferred by the county treasurer to the state  
2065 treasurer under Section [51-7-5](#) for the treasurer's management and control under Title 51,  
2066 Chapter 7, State Money Management Act.

2067 (2) The interest or other income realized from amounts in the tax stability and trust  
2068 fund shall be returned to the general fund of the county or noncontiguous municipality general  
2069 fund during the fiscal year in which the income or interest is paid to the extent the interest or  
2070 income is required by the county or noncontiguous municipality to provide for its purposes  
2071 during that fiscal year. Any amounts so returned may be used for all purposes as other amounts

2072 in such general fund or noncontiguous municipality general fund. Any interest or income not  
 2073 so returned to the county's or noncontiguous municipality general fund shall be added to the  
 2074 principal of that county's tax stability and trust fund.

2075 Section 81. Section **17-36-53** is amended to read:

2076 **17-36-53. Tax stability and trust fund -- Amount in fund limited -- Disposition of**  
 2077 **excess.**

2078 (1) The total amount in a county's or noncontiguous municipality's tax stability and  
 2079 trust fund established under Section **17-36-51** shall be limited to the percentage of the total  
 2080 taxable value of property in that county or noncontiguous municipality, respectively, not to  
 2081 exceed the limits provided in the following schedule:

2082	Total Taxable Value	Fund Limits Percentage of Taxable Value	but not to exceed:
2083	Less than \$500,000,000	1.6%	\$5,000,000
2084	From 500,000,000 to 1,500,000,000	1.0%	7,500,000
2085	Over 1,500,000,000	.5%	15,000,000

2086 (2) If any excess occurs in the tax stability and trust fund over the percentage or  
 2087 maximum dollar amounts specified in Subsection (1), this excess shall be transferred to the  
 2088 general fund of the county or noncontiguous municipality general fund and may be used for all  
 2089 purposes as other amounts in the general fund or noncontiguous municipality general fund are  
 2090 used.

2091 (3) If any excess in the fund exists because of a decrease in total taxable value, that  
 2092 excess may remain in the fund, but if the excess amount in the fund is decreased below the  
 2093 limitations of the fund for any reason, the fund limitations established under Subsection (1)  
 2094 apply.

2095 Section 82. Section **17-36-54** is amended to read:

2096 **17-36-54. Tax stability and trust fund -- Use of principal -- Determination of**  
 2097 **necessity -- Election.**

2098 If the legislative body of a county, or noncontiguous municipal council, that has

2099 established a tax stability and trust fund under Section 17-36-51 determines that it is necessary  
2100 for purposes of that county or noncontiguous municipality to use any portion of the principal of  
2101 the fund, the county legislative body or noncontiguous municipality shall submit this  
2102 proposition to the electorate of that county or noncontiguous municipality in a special election  
2103 called and held in the manner provided for in Title 11, Chapter 14, Local Government Bonding  
2104 Act, for the holding of bond elections. If the proposition is approved at this special election by  
2105 a majority of the qualified electors of the county or noncontiguous municipality voting at the  
2106 election, then that portion of the principal of the fund covered by the proposition may be  
2107 transferred to the [county's] county or noncontiguous municipality general fund for use for  
2108 purposes of that county or noncontiguous municipality.

2109 Section 83. Section 17B-1-502 is amended to read:

2110 **17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in**  
2111 **certain circumstances.**

2112 (1) (a) An area within the boundaries of a local district may be withdrawn from the  
2113 local district only as provided in this part.

2114 (b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local  
2115 district within a municipality because of a municipal incorporation under Title 10, Chapter 2,  
2116 Part 1, Incorporation, or a municipal annexation or boundary adjustment under Title 10,  
2117 Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process  
2118 of withdrawing that area from the local district.

2119 (2) (a) An area within the boundaries of a local district is automatically withdrawn  
2120 from the local district by the annexation of the area to a municipality or the adding of the area  
2121 to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

2122 (i) the local district provides:

2123 (A) fire protection, paramedic, and emergency services; or

2124 (B) law enforcement service;

2125 (ii) an election for the creation of the local district was not required because of  
2126 Subsection 17B-1-214(3)(d); and

2127 (iii) before annexation or boundary adjustment, the boundaries of the local district do  
2128 not include any of the annexing municipality.

2129 (b) The effective date of a withdrawal under this Subsection (2) is governed by

2130 Subsection [17B-1-512\(2\)\(b\)](#).

2131 (3) (a) An area within the boundaries of a local district located in a county of the first  
2132 class is automatically withdrawn from the local district by the incorporation of a municipality,  
2133 other than the incorporation of a noncontiguous municipality as defined in Section [10-3c-102](#),  
2134 whose boundaries include the area if:

2135 (i) the local district provides:

2136 (A) fire protection, paramedic, and emergency services; or

2137 (B) law enforcement service;

2138 (ii) an election for the creation of the local district was not required because of

2139 Subsection [17B-1-214\(3\)\(d\)](#); and

2140 (iii) the legislative body of the newly incorporated municipality:

2141 (A) adopts a resolution no later than 180 days after the effective date of incorporation  
2142 approving the withdrawal that includes the legal description of the area to be withdrawn; and

2143 (B) delivers a copy of the resolution to the board of trustees of the local district.

2144 (b) The effective date of a withdrawal under this Subsection (3) is governed by

2145 Subsection [17B-1-512\(2\)\(a\)](#).

2146 (c) Section [17B-1-505](#) shall govern the withdrawal of an area within a noncontiguous  
2147 municipality, as defined in Section [10-3c-102](#), in a county of the first class if:

2148 (i) the local district from which the area is withdrawn provides:

2149 (A) fire protection, paramedic, and emergency services; or

2150 (B) law enforcement services; or

2151 (ii) an election for the creation of the local district was not required under Subsection  
2152 [17B-1-214\(3\)\(d\)](#).

2153 Section 84. Section **20A-9-202** is amended to read:

2154 **20A-9-202. Declarations of candidacy for regular general elections --**

2155 **Requirements for candidates.**

2156 (1) (a) Each person seeking to become a candidate for elective office for any county  
2157 office that is to be filled at the next regular general election shall:

2158 (i) file a declaration of candidacy in person with the county clerk on or after the second  
2159 Friday in March and before 5 p.m. on the third Thursday in March before the next regular  
2160 general election; and

2161 (ii) pay the filing fee.

2162 (b) Each person intending to become a candidate for any legislative office or  
2163 multicounty office that is to be filled at the next regular general election shall:

2164 (i) file a declaration of candidacy in person with either the lieutenant governor or the  
2165 county clerk in the candidate's county of residence on or after the second Friday in March and  
2166 before 5 p.m. on the third Thursday in March before the next regular general election; and

2167 (ii) pay the filing fee.

2168 (c) (i) Each county clerk who receives a declaration of candidacy from a candidate for  
2169 multicounty office shall transmit the filing fee and a copy of the candidate's declaration of  
2170 candidacy to the lieutenant governor within one working day after it is filed.

2171 (ii) Each day during the filing period, each county clerk shall notify the lieutenant  
2172 governor electronically or by telephone of legislative candidates who have filed in their office.

2173 (d) Each person seeking to become a candidate for elective office for any federal office  
2174 or constitutional office that is to be filled at the next regular general election shall:

2175 (i) file a declaration of candidacy in person with the lieutenant governor on or after the  
2176 second Friday in March and before 5 p.m. on the third Thursday in March before the next  
2177 regular general election; and

2178 (ii) pay the filing fee.

2179 (e) Each person seeking the office of lieutenant governor, the office of district attorney,  
2180 or the office of president or vice president of the United States shall comply with the specific  
2181 declaration of candidacy requirements established by this section.

2182 (2) (a) Each person intending to become a candidate for the office of district attorney  
2183 within a multicounty prosecution district that is to be filled at the next regular general election  
2184 shall:

2185 (i) file a declaration of candidacy with the clerk designated in the interlocal agreement  
2186 creating the prosecution district on or after the second Friday in March and before 5 p.m. on the  
2187 third Thursday in March before the next regular general election; and

2188 (ii) pay the filing fee.

2189 (b) The designated clerk shall provide to the county clerk of each county in the  
2190 prosecution district a certified copy of each declaration of candidacy filed for the office of  
2191 district attorney.

2192 (3) (a) Within five working days of nomination, each lieutenant governor candidate  
2193 shall:  
2194 (i) file a declaration of candidacy with the lieutenant governor; and  
2195 (ii) pay the filing fee.  
2196 (b) (i) Any candidate for lieutenant governor who fails to file within five working days  
2197 is disqualified.  
2198 (ii) If a lieutenant governor is disqualified, another candidate shall be nominated to  
2199 replace the disqualified candidate.  
2200 (4) Each registered political party shall:  
2201 (a) certify the names of its candidates for president and vice president of the United  
2202 States to the lieutenant governor no later than August 31; or  
2203 (b) provide written authorization for the lieutenant governor to accept the certification  
2204 of candidates for president and vice president of the United States from the national office of  
2205 the registered political party.  
2206 (5) (a) A declaration of candidacy filed under this section is valid unless a written  
2207 objection is filed with the clerk or lieutenant governor within five days after the last day for  
2208 filing.  
2209 (b) If an objection is made, the clerk or lieutenant governor shall:  
2210 (i) mail or personally deliver notice of the objection to the affected candidate  
2211 immediately; and  
2212 (ii) decide any objection within 48 hours after it is filed.  
2213 (c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the  
2214 problem by amending the declaration or petition within three days after the objection is  
2215 sustained or by filing a new declaration within three days after the objection is sustained.  
2216 (d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.  
2217 (ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable  
2218 by a district court if prompt application is made to the court.  
2219 (iii) The decision of the district court is final unless the Supreme Court, in the exercise  
2220 of its discretion, agrees to review the lower court decision.  
2221 (6) Any person who filed a declaration of candidacy may withdraw as a candidate by  
2222 filing a written affidavit with the clerk.



2223 (7) Except as provided in Subsection [20A-9-201\(4\)\(b\)](#), notwithstanding a requirement  
2224 in this section to file a declaration of candidacy in person, a person may designate an agent to  
2225 file the form described in Subsection [20A-9-201\(4\)](#) in person with the filing officer if:

2226 (a) the person is located outside the state during the filing period because:

2227 (i) of employment with the state or the United States; or

2228 (ii) the person is a member of:

2229 (A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or  
2230 Coast Guard of the United States who is on active duty;

2231 (B) the Merchant Marine, the commissioned corps of the Public Health Service, or the  
2232 commissioned corps of the National Oceanic and Atmospheric Administration of the United  
2233 States; or

2234 (C) the National Guard on activated status;

2235 (b) the person communicates with the filing officer using an electronic device that  
2236 allows the person and filing officer to see and hear each other; and

2237 (c) the person provides the filing officer with an email address to which the filing  
2238 officer may send the copies described in Subsection [20A-9-201\(3\)](#).

2239 (8) (a) A candidate for the initial municipal council of a noncontiguous municipality at  
2240 the time of election to incorporate the noncontiguous municipality as described in Section  
2241 [10-2-138](#), if the election is held at a regular general election, shall:

2242 (i) meet the candidacy requirements of Section [20A-9-203](#) and any other candidacy  
2243 requirement established by law; and

2244 (ii) comply with the provisions of this section except as otherwise provided in Section  
2245 [10-2-138](#).

2246 (b) A candidate for a noncontiguous municipal council who is a candidate after the  
2247 election of the initial municipal council and incorporation of the noncontiguous municipality  
2248 shall comply with the provisions of Section [20A-9-203](#).

2249 Section 85. Section **20A-9-404** is amended to read:

2250 **20A-9-404. Municipal primary elections.**

2251 (1) (a) Except as otherwise provided in this section, candidates for municipal office in  
2252 all municipalities shall be nominated at a municipal primary election.

2253 (b) Municipal primary elections shall be held:

2254 (i) consistent with Section 20A-1-201.5, on the second Tuesday following the first  
2255 Monday in the August before the regular municipal election; and

2256 (ii) whenever possible, at the same polling places as the regular municipal election.

2257 (2) If the number of candidates for a particular municipal office does not exceed twice  
2258 the number of persons needed to fill that office, a primary election for that office may not be  
2259 held and the candidates are considered nominated.

2260 (3) (a) For purposes of this Subsection (3), "convention" means an organized assembly  
2261 of voters or delegates.

2262 (b) (i) By ordinance adopted before the May 1 that falls before a regular municipal  
2263 election, any third, fourth, or fifth class city or town may exempt itself from a primary election  
2264 by providing that the nomination of candidates for municipal office to be voted upon at a  
2265 municipal election be nominated by a political party convention or committee.

2266 (ii) Any primary election exemption ordinance adopted under the authority of this  
2267 subsection remains in effect until repealed by ordinance.

2268 (c) (i) A convention or committee may not nominate more than one group of  
2269 candidates or have placed on the ballot more than one group of candidates for the municipal  
2270 offices to be voted upon at the municipal election.

2271 (ii) A convention or committee may nominate a person who has been nominated by a  
2272 different convention or committee.

2273 (iii) A political party may not have more than one group of candidates placed upon the  
2274 ballot and may not group the same candidates on different tickets by the same party under a  
2275 different name or emblem.

2276 (d) (i) The convention or committee shall prepare a certificate of nomination for each  
2277 person nominated.

2278 (ii) The certificate of nomination shall:

2279 (A) contain the name of the office for which each person is nominated, the name, post  
2280 office address, and, if in a city, the street number of residence and place of business, if any, of  
2281 each person nominated;

2282 (B) designate in not more than five words the political party that the convention or  
2283 committee represents;

2284 (C) contain a copy of the resolution passed at the convention that authorized the

2285 committee to make the nomination;

2286 (D) contain a statement certifying that the name of the candidate nominated by the  
2287 political party will not appear on the ballot as a candidate for any other political party;

2288 (E) be signed by the presiding officer and secretary of the convention or committee;  
2289 and

2290 (F) contain a statement identifying the residence and post office address of the  
2291 presiding officer and secretary and certifying that the presiding officer and secretary were  
2292 officers of the convention or committee and that the certificates are true to the best of their  
2293 knowledge and belief.

2294 (iii) Certificates of nomination shall be filed with the clerk not later than 80 days  
2295 before the municipal general election.

2296 (e) A committee appointed at a convention, if authorized by an enabling resolution,  
2297 may also make nominations or fill vacancies in nominations made at a convention.

2298 (f) The election ballot shall substantially comply with the form prescribed in Title 20A,  
2299 Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall  
2300 be included with the candidate's name.

2301 (4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the May 1  
2302 that falls before the regular municipal election that:

2303 (i) exempts the city from the other methods of nominating candidates to municipal  
2304 office provided in this section; and

2305 (ii) provides for a partisan primary election method of nominating candidates as  
2306 provided in this Subsection (4).

2307 (b) (i) Any party that was a registered political party at the last regular general election  
2308 or regular municipal election is a municipal political party under this section.

2309 (ii) Any political party may qualify as a municipal political party by presenting a  
2310 petition to the city recorder that:

2311 (A) is signed, with a holographic signature, by registered voters within the municipality  
2312 equal to at least 20% of the number of votes cast for all candidates for mayor in the last  
2313 municipal election at which a mayor was elected;

2314 (B) is filed with the city recorder by May 31 of any odd-numbered year;

2315 (C) is substantially similar to the form of the signature sheets described in Section

2316 20A-7-303; and

2317 (D) contains the name of the municipal political party using not more than five words.

2318 (c) (i) If the number of candidates for a particular office does not exceed twice the  
2319 number of offices to be filled at the regular municipal election, no partisan primary election for  
2320 that office shall be held and the candidates are considered to be nominated.

2321 (ii) If the number of candidates for a particular office exceeds twice the number of  
2322 offices to be filled at the regular municipal election, those candidates for municipal office shall  
2323 be nominated at a partisan primary election.

2324 (d) The clerk shall ensure that:

2325 (i) the partisan municipal primary ballot is similar to the ballot forms required by  
2326 Sections 20A-6-401 and 20A-6-401.1;

2327 (ii) the candidates for each municipal political party are listed in one or more columns  
2328 under their party name and emblem;

2329 (iii) the names of candidates of all parties are printed on the same ballot, but under  
2330 their party designation;

2331 (iv) every ballot is folded and perforated so as to separate the candidates of one party  
2332 from those of the other parties and so as to enable the elector to separate the part of the ballot  
2333 containing the names of the party of his choice from the remainder of the ballot; and

2334 (v) the side edges of all ballots are perforated so that the outside sections of the ballots,  
2335 when detached, are similar in appearance to inside sections when detached.

2336 (e) After marking a municipal primary ballot, the voter shall:

2337 (i) detach the part of the ballot containing the names of the candidates of the party he  
2338 has voted from the rest of the ballot;

2339 (ii) fold the detached part so that its face is concealed and deposit it in the ballot box;  
2340 and

2341 (iii) fold the remainder of the ballot containing the names of the candidates of the  
2342 parties for whom the elector did not vote and deposit it in the blank ballot box.

2343 (f) Immediately after the canvass, the election judges shall, without examination,  
2344 destroy the tickets deposited in the blank ballot box.

2345 (5) (a) In an election described in Section 10-2-138 to incorporate a noncontiguous  
2346 municipality and elect the initial members of the municipal council, a municipal primary may

2347 not be held and a candidate is not required to be nominated at a municipal primary.

2348 (b) After incorporation, a primary for the municipal council candidates in a

2349 noncontiguous municipality, as defined in Section [10-3c-102](#), shall be held in accordance with

2350 this section.