

METRO TOWNSHIP AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to metro townships.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of a municipality in various sections to include a metro township;
- ▶ addresses the annexation or incorporation of certain areas;
- ▶ provides for continuity of county process when a metro township is incorporated;
- ▶ modifies the staff that a county provides to a metro township;
- ▶ amends provisions related to certain local districts; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-402, as last amended by Laws of Utah 2008, Chapter 384

10-2-418, as last amended by Laws of Utah 2015, Chapter 352

10-2a-405, as enacted by Laws of Utah 2015, Chapter 352



- 28 **10-3c-103**, as enacted by Laws of Utah 2015, Chapter 352
- 29 **10-3c-203**, as enacted by Laws of Utah 2015, Chapter 352
- 30 **11-14-102**, as last amended by Laws of Utah 2008, Chapter 360
- 31 **11-17-2**, as last amended by Laws of Utah 2013, Chapter 345
- 32 **11-39-101**, as last amended by Laws of Utah 2012, Chapter 347
- 33 **11-41-102**, as last amended by Laws of Utah 2008, Chapters 286 and 384
- 34 **13-14-102**, as last amended by Laws of Utah 2015, Chapter 268
- 35 **17B-1-102**, as last amended by Laws of Utah 2015, Chapter 352
- 36 **17B-1-502**, as last amended by Laws of Utah 2015, Chapter 352
- 37 **17B-1-1308**, as last amended by Laws of Utah 2009, Chapter 350
- 38 **17B-2a-1007**, as last amended by Laws of Utah 2015, Chapter 258
- 39 **17B-2a-1106**, as last amended by Laws of Utah 2015, Chapter 352
- 40 **17B-2a-1110**, as enacted by Laws of Utah 2015, Chapter 352
- 41 **17B-2a-1111**, as enacted by Laws of Utah 2015, Chapter 352
- 42 **20A-1-102**, as last amended by Laws of Utah 2015, Chapters 296, 352, and 392
- 43 **20A-5-301**, as last amended by Laws of Utah 2007, Chapter 256
- 44 **20A-6-401**, as last amended by Laws of Utah 2012, Chapter 68
- 45 **20A-6-402**, as last amended by Laws of Utah 2014, Chapter 169
- 46 **20A-7-101**, as last amended by Laws of Utah 2014, Chapters 364 and 396
- 47 **20A-7-501**, as last amended by Laws of Utah 2011, Chapter 17
- 48 **32B-1-102**, as last amended by Laws of Utah 2013, Chapter 349
- 49 **32B-1-202**, as enacted by Laws of Utah 2010, Chapter 276
- 50 **32B-2-402**, as last amended by Laws of Utah 2014, Chapter 119
- 51 **32B-4-202**, as enacted by Laws of Utah 2010, Chapter 276
- 52 **32B-5-403**, as enacted by Laws of Utah 2010, Chapter 276
- 53 **52-1-1**, Utah Code Annotated 1953
- 54 **63G-6a-103**, as last amended by Laws of Utah 2015, Chapters 218 and 464
- 55 **63I-1-220**, as last amended by Laws of Utah 2014, Chapter 231
- 56 ENACTS:
- 57 **10-2a-414**, Utah Code Annotated 1953
- 58 **52-1-5.1**, Utah Code Annotated 1953

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

Section 1. Section **10-1-402** is amended to read:

10-1-402. Definitions.

As used in this part:

(1) "Commission" means the State Tax Commission.

(2) (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

(b) For purposes of this section and Section [10-1-407](#), "customer" means:

(i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

(ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.

(c) "Customer" does not include a reseller:

(i) of telecommunications service; or

(ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

(3) (a) "End user" means the person who uses a telecommunications service.

(b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

(4) (a) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

(i) a tax, fee, or charge:

(A) imposed by a governmental entity;

(B) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and

(C) imposed only on a telecommunications provider;

(ii) sales and use taxes collected by the telecommunications provider from a customer

90 under Title 59, Chapter 12, Sales and Use Tax Act; or

91 (iii) interest, a fee, or a charge that is charged by a telecommunications provider on a
92 customer for failure to pay for telecommunications service when payment is due.

93 (b) "Gross receipts from telecommunications service" includes a charge necessary to
94 complete a sale of a telecommunications service.

95 (5) "Mobile telecommunications service" is as defined in the Mobile
96 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

97 (6) "Municipality" means [~~a city or town~~] the same as that term is defined in Section
98 [10-1-104](#).

99 (7) "Place of primary use":

100 (a) for telecommunications service other than mobile telecommunications service,
101 means the street address representative of where the customer's use of the telecommunications
102 service primarily occurs, which shall be:

103 (i) the residential street address of the customer; or

104 (ii) the primary business street address of the customer; or

105 (b) for mobile telecommunications service, is as defined in the Mobile
106 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

107 (8) Notwithstanding where a call is billed or paid, "service address" means:

108 (a) if the location described in this Subsection (8)(a) is known, the location of the
109 telecommunications equipment:

110 (i) to which a call is charged; and

111 (ii) from which the call originates or terminates;

112 (b) if the location described in Subsection (8)(a) is not known but the location
113 described in this Subsection (8)(b) is known, the location of the origination point of the signal
114 of the telecommunications service first identified by:

115 (i) the telecommunications system of the telecommunications provider; or

116 (ii) if the system used to transport the signal is not a system of the telecommunications
117 provider, information received by the telecommunications provider from its service provider;

118 or

119 (c) if the locations described in Subsection (8)(a) or (b) are not known, the location of a
120 customer's place of primary use.

121 (9) (a) Subject to Subsections (9)(b) and (9)(c), "telecommunications provider" means
122 a person that:

123 (i) owns, controls, operates, or manages a telecommunications service; or

124 (ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or
125 resale to any person of the telecommunications service.

126 (b) A person described in Subsection (9)(a) is a telecommunications provider whether
127 or not the Public Service Commission of Utah regulates:

128 (i) that person; or

129 (ii) the telecommunications service that the person owns, controls, operates, or
130 manages.

131 (c) "Telecommunications provider" does not include an aggregator as defined in
132 Section 54-8b-2.

133 (10) "Telecommunications service" means:

134 (a) telecommunications service, as defined in Section 59-12-102, other than mobile
135 telecommunications service, that originates and terminates within the boundaries of this state;

136 (b) mobile telecommunications service, as defined in Section 59-12-102:

137 (i) that originates and terminates within the boundaries of one state; and

138 (ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4
139 U.S.C. Sec. 116 et seq.; or

140 (c) an ancillary service as defined in Section 59-12-102.

141 (11) (a) Except as provided in Subsection (11)(b), "telecommunications tax or fee"
142 means any of the following imposed by a municipality on a telecommunications provider:

143 (i) a tax;

144 (ii) a license;

145 (iii) a fee;

146 (iv) a license fee;

147 (v) a license tax;

148 (vi) a franchise fee; or

149 (vii) a charge similar to a tax, license, or fee described in Subsections (11)(a)(i)
150 through (vi).

151 (b) "Telecommunications tax or fee" does not include:

152 (i) the municipal telecommunications license tax authorized by this part; or
153 (ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and

154 Taxation, that is imposed:

- 155 (A) on telecommunications providers; and
- 156 (B) on persons who are not telecommunications providers.

157 Section 2. Section **10-2-418** is amended to read:

158 **10-2-418. Annexation of an island or peninsula without a petition -- Notice --**
159 **Hearing.**

160 (1) For purposes of an annexation conducted in accordance with this section of an area
161 located within a county of the first class, "municipal-type services" for purposes of Subsection
162 (2)(a)(ii)(B) does not include a service provided by a municipality pursuant to a contract that
163 the municipality has with another political subdivision as "political subdivision" is defined in
164 Section [17B-1-102](#).

165 (2) (a) Notwithstanding Subsection [10-2-402](#)(2), a municipality may annex an
166 unincorporated area under this section without an annexation petition if:

167 (i) (A) the area to be annexed consists of one or more unincorporated islands within or
168 unincorporated peninsulas contiguous to the municipality;

169 (B) the majority of each island or peninsula consists of residential or commercial
170 development;

171 (C) the area proposed for annexation requires the delivery of municipal-type services;
172 and

173 (D) the municipality has provided most or all of the municipal-type services to the area
174 for more than one year;

175 (ii) (A) the area to be annexed consists of one or more unincorporated islands within or
176 unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800
177 residents; and

178 (B) the municipality has provided one or more municipal-type services to the area for
179 at least one year; or

180 (iii) (A) the area consists of:

181 (I) an unincorporated island within or an unincorporated peninsula contiguous to the
182 municipality; and

183 (II) for an area outside of the county of the first class proposed for annexation, no more
184 than 50 acres; and

185 (B) the county in which the area is located, subject to Subsection (3)(b), and the
186 municipality agree that the area should be included within the municipality.

187 (b) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a
188 portion of an unincorporated island or unincorporated peninsula under this section, leaving
189 unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

190 (i) in adopting the resolution under Subsection (4)(a)(i), the municipal legislative body
191 determines that not annexing the entire unincorporated island or unincorporated peninsula is in
192 the municipality's best interest; and

193 (ii) for an annexation of one or more unincorporated islands under Subsection
194 (2)(a)(ii), the entire island of unincorporated area, of which a portion is being annexed,
195 complies with the requirement of Subsection (2)(a)(ii)(A) relating to the number of residents.

196 (3) (a) This Subsection (3) applies only to an annexation within a county of the first
197 class.

198 (b) A county of the first class shall agree to the annexation if the majority of private
199 property owners within the area to be annexed has indicated in writing, subject to Subsection
200 (3)(d), to the city or town recorder of the annexing city or town the private property owners'
201 consent to be annexed into the municipality.

202 (c) For purposes of Subsection (3)(b), the majority of private property owners is
203 property owners who own:

204 (i) the majority of the total private land area within the area proposed for annexation;
205 and

206 (ii) private real property equal to at least one half the value of private real property
207 within the area proposed for annexation.

208 (d) (i) A property owner consenting to annexation shall indicate the property owner's
209 consent on a form which includes language in substantially the following form:

210 "Notice: If this written consent is used to proceed with an annexation of your property
211 in accordance with Utah Code Section 10-2-418, no public election is required by law to
212 approve the annexation. If you sign this consent and later decide you do not want to support
213 the annexation of your property, you may withdraw your signature by submitting a signed,

214 written withdrawal with the recorder or clerk of [name of annexing municipality]. If you
215 choose to withdraw your signature, you must do so no later than the close of the public hearing
216 on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(a)(iv).".

217 (e) A private property owner may withdraw the property owner's signature indicating
218 consent by submitting a signed, written withdrawal with the recorder or clerk no later than the
219 close of the public hearing held in accordance with Subsection (4)(a)(iv).

220 (4) (a) The legislative body of each municipality intending to annex an area under this
221 section shall:

222 (i) adopt a resolution indicating the municipal legislative body's intent to annex the
223 area, describing the area proposed to be annexed;

224 (ii) ~~publish~~ provide notice by:

225 (A) (I) publishing a notice at least once a week for three successive weeks in a
226 newspaper of general circulation within the municipality and the area proposed for annexation;
227 ~~or~~

228 (II) if there is no newspaper of general circulation in the areas described in Subsection
229 (4)(a)(ii)(A), post at least one notice per 1,000 population in places within those areas that are
230 most likely to give notice to the residents of those areas; ~~and~~ or

231 (III) mailing notice to the owner of record of each parcel within the area proposed for
232 annexation; and

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

234 (iii) send written notice to the board of each local district and special service district
235 whose boundaries contain some or all of the area proposed for annexation and to the legislative
236 body of the county in which the area proposed for annexation is located; and

237 (iv) hold a public hearing on the proposed annexation no earlier than 30 days after the
238 adoption of the resolution under Subsection (4)(a)(i).

239 (b) Each notice under Subsections (4)(a)(ii) and (iii) shall:

240 (i) state that the municipal legislative body has adopted a resolution indicating its intent
241 to annex the area proposed for annexation;

242 (ii) state the date, time, and place of the public hearing under Subsection (4)(a)(iv);

243 (iii) describe the area proposed for annexation; and

244 (iv) except for an annexation that meets the property owner consent requirements of

245 Subsection (5)(b), state in conspicuous and plain terms that the municipal legislative body will
246 annex the area unless, at or before the public hearing under Subsection (4)(a)(iv), written
247 protests to the annexation are filed by the owners of private real property that:

248 (A) is located within the area proposed for annexation;

249 (B) covers a majority of the total private land area within the entire area proposed for
250 annexation; and

251 (C) is equal in value to at least 1/2 the value of all private real property within the
252 entire area proposed for annexation.

253 (c) The first publication of the notice required under Subsection (4)(a)(ii)(A) shall be
254 within 14 days of the municipal legislative body's adoption of a resolution under Subsection
255 (4)(a)(i).

256 (5) (a) Upon conclusion of the public hearing under Subsection (4)(a)(iv), the
257 municipal legislative body may adopt an ordinance approving the annexation of the area
258 proposed for annexation under this section unless, at or before the hearing, written protests to
259 the annexation have been filed with the city recorder or town clerk, as the case may be, by the
260 owners of private real property that:

261 (i) is located within the area proposed for annexation;

262 (ii) covers a majority of the total private land area within the entire area proposed for
263 annexation; and

264 (iii) is equal in value to at least 1/2 the value of all private real property within the
265 entire area proposed for annexation.

266 (b) (i) Upon conclusion of the public hearing under Subsection (4)(a)(iv), a
267 municipality may adopt an ordinance approving the annexation of the area proposed for
268 annexation under this section without allowing or considering protests under Subsection (5)(a)
269 if the owners of at least 75% of the total private land area within the entire area proposed for
270 annexation, representing at least 75% of the value of the private real property within the entire
271 area proposed for annexation, have consented in writing to the annexation.

272 (ii) Upon the effective date under Section [10-2-425](#) of an annexation approved by an
273 ordinance adopted under Subsection (5)(b)(i), the area annexed shall be conclusively presumed
274 to be validly annexed.

275 (6) (a) If protests are timely filed that comply with Subsection (5), the municipal

276 legislative body may not adopt an ordinance approving the annexation of the area proposed for
277 annexation, and the annexation proceedings under this section shall be considered terminated.

278 (b) Subsection (6)(a) may not be construed to prohibit the municipal legislative body
279 from excluding from a proposed annexation under Subsection (2)(a)(ii) the property within an
280 unincorporated island regarding which protests have been filed and proceeding under
281 Subsection (2)(b) to annex some or all of the remaining portion of the unincorporated island.

282 Section 3. Section **10-2a-405** is amended to read:

283 **10-2a-405. Duties of county legislative body -- Public hearing -- Notice -- Other**
284 **election and incorporation issues -- Rural real property excluded.**

285 (1) The legislative body of a county of the first class shall before an election described
286 in Section 10-2a-404:

287 (a) in accordance with Subsection (3), publish notice of the public hearing described in
288 Subsection (1)(b);

289 (b) hold a public hearing; and

290 (c) at the public hearing, adopt a resolution:

291 (i) identifying, including a map prepared by the county surveyor, all unincorporated
292 islands within the county;

293 (ii) identifying each eligible city that will annex each unincorporated island, including
294 whether the unincorporated island may be annexed by one eligible city or divided and annexed
295 by multiple eligible cities, if approved by the residents at an election under Section 10-2a-404;
296 and

297 (iii) identifying, including a map prepared by the county surveyor, the planning
298 townships within the county and any changes to the boundaries of a planning township that the
299 county legislative body proposes under Subsection (5).

300 (2) The county legislative body shall exclude from a resolution adopted under
301 Subsection (1)(c) rural real property unless the owner of the rural real property provides written
302 consent to include the property in accordance with Subsection [~~(6)~~] (7).

303 (3) (a) The county clerk shall publish notice of the public hearing described in
304 Subsection (1)(b):

305 (i) by mailing notice to each owner of real property located in an unincorporated island
306 or planning township no later than 15 days before the day of the public hearing;

307 (ii) at least once a week for three successive weeks in a newspaper of general
308 circulation within each unincorporated island, each eligible city, and each planning township;
309 and

310 (iii) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks
311 before the day of the public hearing.

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

314 (c) (i) If, under Subsection (3)(a)(ii), there is no newspaper of general circulation
315 within an unincorporated island, an eligible city, or a planning township, the county clerk shall
316 post at least one notice of the hearing per 1,000 population in conspicuous places within the
317 selected unincorporated island, eligible city, or planning township, as applicable, that are most
318 likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or
319 planning township.

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

322 (d) The notice under Subsection (3)(a) or (c) shall include:

323 (i) (A) for a resident of an unincorporated island, a statement that the property in the
324 unincorporated island may be, if approved at an election under Section 10-2a-404, annexed by
325 an eligible city, including divided and annexed by multiple cities if applicable, and the name of
326 the eligible city or cities; or

327 (B) for residents of a planning township, a statement that the property in the planning
328 township shall be, pending the results of the election held under Section 10-2a-404,
329 incorporated as a city, town, or metro township;

330 (ii) the location and time of the public hearing; and

331 (iii) the county website where a map may be accessed showing:

332 (A) how the unincorporated island boundaries will change if annexed by an eligible
333 city; or

334 (B) how the planning township area boundaries will change, if applicable under
335 Subsection (5), when the planning township incorporates as a metro township or as a city or
336 town.

337 (e) The county clerk shall publish a map described in Subsection (3)(d)(iii) on the

338 county website.

339 (4) The county legislative body may, by ordinance or resolution adopted at a public
340 meeting and in accordance with applicable law, resolve an issue that arises with an election
341 held in accordance with this part or the incorporation and establishment of a metro township in
342 accordance with this part.

343 (5) (a) The county legislative body may, by ordinance or resolution adopted at a public
344 meeting, change the boundaries of a planning township.

345 (b) A change to a planning township boundary under this Subsection (5) is effective
346 only upon the vote of the residents of the planning township at an election under Section
347 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the
348 boundaries of the planning township before the election.

349 (c) The county legislative body:

350 (i) may alter a planning township boundary under Subsection (5)(a) only if the
351 alteration:

352 (A) affects less than 5% of the residents residing within the planning advisory area; and

353 (B) does not increase the area located within the planning township's boundaries; and

354 (ii) may not alter the boundaries of a planning township whose boundaries are entirely
355 surrounded by one or more municipalities.

356 (6) After November 2, 2015, and before January 1, 2017, a person may not initiate an
357 annexation or an incorporation process that, if approved, would change the boundaries of a
358 planning township.

359 ~~[(6)]~~ (7) (a) As used in this Subsection ~~[(6)]~~ (7), "rural real property" means an area:

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

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

362 (b) Unless an owner of rural real property gives written consent to a county legislative
363 body, rural real property described in Subsection ~~[(6)]~~ (7)(c) may not be:

364 (i) included in a planning township identified under Subsection (1)(c); or

365 (ii) incorporated as part of a metro township, city, or town, in accordance with this
366 part.

367 (c) The following rural real property is subject to an owner's written consent under
368 Subsection ~~[(6)]~~ (7)(b):

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

371 (ii) rural real property that is not contiguous to, but used in connection with, rural real
372 property that consists of 1,500 or more contiguous acres of real property consisting of one or
373 more tax parcels;

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

377 (iv) rural real property that is located in whole or in part in one of the following as
378 defined in Section 17-41-101:

379 (A) an agricultural protection area;

380 (B) an industrial protection area; or

381 (C) a mining protection area.

382 Section 4. Section 10-2a-414 is enacted to read:

383 **10-2a-414. Transition -- Continuity of county process.**

384 When a metro township is incorporated:

385 (1) the operations, services, and functions provided by the county shall continue with
386 as little interruption as possible as the operations, services, and functions are assumed by the
387 metro township;

388 (2) all proceedings pending before the county shall continue without change until
389 altered by a valid metro township ordinance, action, or decision; and

390 (3) each county ordinance in effect on the day on which the metro township is
391 incorporated shall remain in effect as a metro township ordinance until the metro township
392 council amends or repeals the ordinance.

393 Section 5. Section 10-3c-103 is amended to read:

394 **10-3c-103. Status and powers.**

395 A metro township:

396 (1) is:

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

398 (b) a [~~quasi-municipal~~] municipal corporation; and

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

400 (2) may:
401 (a) sue and be sued[-]; and
402 (b) except where expressly prohibited, exercise any power or responsibility generally
403 granted to a municipality.

404 Section 6. Section **10-3c-203** is amended to read:

405 **10-3c-203. Administrative and operational services -- Staff provided by county or**
406 **municipal services district.**

407 (1) (a) The following officials elected or appointed, or persons employed by, the county
408 in which a [~~municipality~~] metro township is located shall, for the purposes of interpreting and
409 complying with applicable law, fulfill the responsibilities and hold the following metro
410 township offices or positions:

411 (i) the county treasurer shall fulfill the duties and hold the powers of treasurer for the
412 metro township;

413 (ii) the county clerk shall fulfill the duties and hold the powers of recorder and clerk for
414 the metro township;

415 (iii) the county surveyor shall fulfill, on behalf of the metro township, all surveyor
416 duties imposed by law;

417 (iv) the county engineer shall fulfill the duties and hold the powers of engineer for the
418 metro township; and

419 [~~(v) the district attorney shall provide legal counsel to the metro township; and]~~

420 [~~(vi)~~] (v) subject to Subsection (1)(b), the county auditor shall fulfill the duties and
421 hold the powers of auditor for the metro township.

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

426 (ii) Notwithstanding Subsection (1)(b), in a metro township, services described in
427 Sections [17-19a-203](#), [17-19a-204](#), and [17-19a-205](#), and services other than those described in
428 Subsection (1)(b)(i) that are provided by a municipal auditor in accordance with this title that
429 are required by law, shall be performed by county staff other than the county auditor.

430 (2) (a) Nothing in Subsection (1) may be construed to relieve an official described in

431 Subsections (1)(a)(i) through (iv) of a duty to either the county or metro township or a duty to
 432 fulfill that official's position as required by law.

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

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

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

440 (iii) is not subject to:

441 (A) Chapter 3, Part 11, Personnel Rules and Benefits; or

442 (B) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; and

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

445 (3) The district attorney of the county in which a metro township is located may
 446 provide legal counsel to the metro township if the county and the metro township agree.

447 ~~[(3)]~~ (4) The metro township may establish a planning commission in accordance with
 448 Section 10-9a-301 and an appeal authority in accordance with Section 10-9a-701.

449 ~~[(4)]~~ (5) A municipal services district established in accordance with Title 17B,
 450 Chapter 2a, Part 11, Municipal Services District Act, and of which the metro township is a
 451 part, may provide staff to the metro township planning commission and appeal authority.

452 ~~[(5)]~~ (6) (a) This section applies only to a metro township in which:

453 (i) the electors at an election under Section 10-2a-404 chose a metro township that is
 454 included in a municipal services district and has limited municipal powers; or

455 (ii) the metro township subsequently joins a municipal services district.

456 (b) This section does not apply to a metro township described in Subsection ~~[(5)]~~ (6)(a)
 457 if the municipal services district is dissolved.

458 Section 7. Section 11-14-102 is amended to read:

459 **11-14-102. Definitions.**

460 For the purpose of this chapter:

461 (1) "Bond" means any bond authorized to be issued under this chapter, including

462 municipal bonds.

463 (2) "Election results" has the same meaning as defined in Section 20A-1-102.

464 (3) "Governing body" means:

465 (a) for a county, city, [or] town, or metro township, the legislative body of the county,
466 city, or town;

467 (b) for a local district, the board of trustees of the local district;

468 (c) for a school district, the local board of education; or

469 (d) for a special service district under Title 17D, Chapter 1, Special Service District

470 Act:

471 (i) the governing body of the county or municipality that created the special service
472 district, if no administrative control board has been established under Section 17D-1-301; or

473 (ii) the administrative control board, if one has been established under Section
474 17D-1-301 and the power to issue bonds not payable from taxes has been delegated to the
475 administrative control board.

476 (4) "Local district" means a district operating under Title 17B, Limited Purpose Local
477 Government Entities - Local Districts.

478 (5) (a) "Local political subdivision" means a county, city, town, metro township, school
479 district, local district, or special service district.

480 (b) "Local political subdivision" does not include the state and its institutions.

481 Section 8. Section 11-17-2 is amended to read:

482 **11-17-2. Definitions.**

483 As used in this chapter:

484 (1) "Bonds" means bonds, notes, or other evidences of indebtedness.

485 (2) "Energy efficiency upgrade" means an improvement that is permanently affixed to
486 real property and that is designed to reduce energy consumption, including:

487 (a) insulation in:

488 (i) a wall, ceiling, roof, floor, or foundation; or

489 (ii) a heating or cooling distribution system;

490 (b) an insulated window or door, including:

491 (i) a storm window or door;

492 (ii) a multiglazed window or door;

- 493 (iii) a heat-absorbing window or door;
- 494 (iv) a heat-reflective glazed and coated window or door;
- 495 (v) additional window or door glazing;
- 496 (vi) a window or door with reduced glass area; or
- 497 (vii) other window or door modifications that reduce energy loss;
- 498 (c) an automatic energy control system;
- 499 (d) in a building or a central plant, a heating, ventilation, or air conditioning and
- 500 distribution system;
- 501 (e) caulking or weatherstripping;
- 502 (f) a light fixture that does not increase the overall illumination of a building unless an
- 503 increase is necessary to conform with the applicable building code;
- 504 (g) an energy recovery system;
- 505 (h) a daylighting system;
- 506 (i) measures to reduce the consumption of water, through conservation or more
- 507 efficient use of water, including:
- 508 (i) installation of a low-flow toilet or showerhead;
- 509 (ii) installation of a timer or timing system for a hot water heater; or
- 510 (iii) installation of a rain catchment system; or
- 511 (j) any other modified, installed, or remodeled fixture that is approved as a utility
- 512 cost-savings measure by the governing body.
- 513 (3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or
- 514 state university for the purpose of using a portion, or all or substantially all of the proceeds to
- 515 pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the
- 516 acquisition of facilities of a project, or to create funds for the project itself where appropriate,
- 517 whether these costs are incurred by the municipality, the county, the state university, the user,
- 518 or a designee of the user. If title to or in these facilities at all times remains in the user, the
- 519 bonds of the municipality or county shall be secured by a pledge of one or more notes,
- 520 debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the
- 521 sinking fund or other arrangement as in the judgment of the governing body is appropriate for
- 522 the purpose of assuring repayment of the bond obligations to investors in accordance with their
- 523 terms.

524 (4) "Governing body" means:

525 (a) for a county, city, [or] town, or metro township, the legislative body of the county,
526 city, [or] town, or metro township;

527 (b) for the military installation development authority created in Section [63H-1-201](#),
528 the authority board, as defined in Section [63H-1-102](#);

529 (c) for a state university except as provided in Subsection (4)(d), the board or body
530 having the control and supervision of the state university; and

531 (d) for a nonprofit corporation or foundation created by and operating under the
532 auspices of a state university, the board of directors or board of trustees of that corporation or
533 foundation.

534 (5) (a) "Industrial park" means land, including all necessary rights, appurtenances,
535 easements, and franchises relating to it, acquired and developed by a municipality, county, or
536 state university for the establishment and location of a series of sites for plants and other
537 buildings for industrial, distribution, and wholesale use.

538 (b) "Industrial park" includes the development of the land for an industrial park under
539 this chapter or the acquisition and provision of water, sewerage, drainage, street, road,
540 sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or
541 any combination of them, but only to the extent that these facilities are incidental to the use of
542 the land as an industrial park.

543 (6) "Lender" means a trust company, savings bank, savings and loan association, bank,
544 credit union, or any other lending institution that lends, loans, or leases proceeds of a financing
545 to the user or a user's designee.

546 (7) "Mortgage" means a mortgage, trust deed, or other security device.

547 (8) "Municipality" means any incorporated city [or], town, or metro township in the
548 state, including cities or towns operating under home rule charters.

549 (9) "Pollution" means any form of environmental pollution including water pollution,
550 air pollution, pollution caused by solid waste disposal, thermal pollution, radiation
551 contamination, or noise pollution.

552 (10) (a) "Project" means:

553 (i) an industrial park, land, interest in land, building, structure, facility, system, fixture,
554 improvement, appurtenance, machinery, equipment, or any combination of them, whether or

555 not in existence or under construction:

556 (A) that is suitable for industrial, manufacturing, warehousing, research, business, and
557 professional office building facilities, commercial, shopping services, food, lodging, low
558 income rental housing, recreational, or any other business purposes;

559 (B) that is suitable to provide services to the general public;

560 (C) that is suitable for use by any corporation, person, or entity engaged in health care
561 services, including hospitals, nursing homes, extended care facilities, facilities for the care of
562 persons with a physical or mental disability, and administrative and support facilities; or

563 (D) that is suitable for use by a state university for the purpose of aiding in the
564 accomplishment of its authorized academic, scientific, engineering, technical, and economic
565 development functions;

566 (ii) any land, interest in land, building, structure, facility, system, fixture, improvement,
567 appurtenance, machinery, equipment, or any combination of them, used by any individual,
568 partnership, firm, company, corporation, public utility, association, trust, estate, political
569 subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns,
570 for the reduction, abatement, or prevention of pollution, including the removal or treatment of
571 any substance in process material, if that material would cause pollution if used without the
572 removal or treatment;

573 (iii) an energy efficiency upgrade;

574 (iv) a renewable energy system;

575 (v) facilities, machinery, or equipment, the manufacturing and financing of which will
576 maintain or enlarge domestic or foreign markets for Utah industrial products; or

577 (vi) any economic development or new venture investment fund to be raised other than
578 from:

579 (A) municipal or county general fund money;

580 (B) money raised under the taxing power of any county or municipality; or

581 (C) money raised against the general credit of any county or municipality.

582 (b) "Project" does not include any property, real, personal, or mixed, for the purpose of
583 the construction, reconstruction, improvement, or maintenance of a public utility as defined in
584 Section [54-2-1](#).

585 (11) "Renewable energy system" means a product, system, device, or interacting group

586 of devices that is permanently affixed to real property and that produces energy from renewable
587 resources, including:

- 588 (a) a photovoltaic system;
- 589 (b) a solar thermal system;
- 590 (c) a wind system;
- 591 (d) a geothermal system, including:
 - 592 (i) a direct-use system; or
 - 593 (ii) a ground source heat pump system;
- 594 (e) a micro-hydro system; or
- 595 (f) another renewable energy system approved by the governing body.

596 (12) "State university" means an institution of higher education as described in Section
597 53B-2-101 and includes any nonprofit corporation or foundation created by and operating
598 under their authority.

599 (13) "User" means the person, whether natural or corporate, who will occupy, operate,
600 maintain, and employ the facilities of, or manage and administer a project after the financing,
601 acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

602 Section 9. Section 11-39-101 is amended to read:

603 **11-39-101. Definitions.**

604 As used in this chapter:

- 605 (1) "Bid limit" means:
 - 606 (a) for a building improvement:
 - 607 (i) for the year 2003, \$40,000; and
 - 608 (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an
609 amount calculated by multiplying the amount of the bid limit for the previous year by the lesser
610 of 3% or the actual percent change in the Consumer Price Index during the previous calendar
611 year; and
 - 612 (b) for a public works project:
 - 613 (i) for the year 2003, \$125,000; and
 - 614 (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an
615 amount calculated by multiplying the amount of the bid limit for the previous year by the lesser
616 of 3% or the actual percent change in the Consumer Price Index during the previous calendar

617 year.

618 (2) "Building improvement":

619 (a) means the construction or repair of a public building or structure; and

620 (b) does not include construction or repair at an international airport.

621 (3) "Consumer Price Index" means the Consumer Price Index for All Urban

622 Consumers as published by the Bureau of Labor Statistics of the United States Department of

623 Labor.

624 (4) "Design-build project":

625 (a) means a building improvement or public works project costing over \$250,000 with
626 respect to which both the design and construction are provided for in a single contract with a

627 contractor or combination of contractors capable of providing design-build services; and

628 (b) does not include a building improvement or public works project:

629 (i) that is undertaken by a local entity under contract with a construction manager that
630 guarantees the contract price and is at risk for any amount over the contract price; and

631 (ii) each component of which is competitively bid.

632 (5) "Design-build services" means the engineering, architectural, and other services
633 necessary to formulate and implement a design-build project, including its actual construction.

634 (6) "Emergency repairs" means a building improvement or public works project
635 undertaken on an expedited basis to:

636 (a) eliminate an imminent risk of damage to or loss of public or private property;

637 (b) remedy a condition that poses an immediate physical danger; or

638 (c) reduce a substantial, imminent risk of interruption of an essential public service.

639 (7) "Governing body" means:

640 (a) for a county, city, [or] town, or metro township, the legislative body of the county,
641 city, [or] town, or metro township;

642 (b) for a local district, the board of trustees of the local district; and

643 (c) for a special service district:

644 (i) the legislative body of the county, city, or town that established the special service
645 district, if no administrative control board has been appointed under Section 17D-1-301; or

646 (ii) the administrative control board of the special service district, if an administrative
647 control board has been appointed under Section 17D-1-301.

- 648 (8) "Local district" has the same meaning as defined in Section 17B-1-102.
- 649 (9) "Local entity" means a county, city, town, metro township, local district, or special
650 service district.
- 651 (10) "Lowest responsive responsible bidder" means a prime contractor who:
- 652 (a) has submitted a bid in compliance with the invitation to bid and within the
653 requirements of the plans and specifications for the building improvement or public works
654 project;
- 655 (b) is the lowest bidder that satisfies the local entity's criteria relating to financial
656 strength, past performance, integrity, reliability, and other factors that the local entity uses to
657 assess the ability of a bidder to perform fully and in good faith the contract requirements;
- 658 (c) has furnished a bid bond or equivalent in money as a condition to the award of a
659 prime contract; and
- 660 (d) furnishes a payment and performance bond as required by law.
- 661 (11) "Procurement code" means the provisions of Title 63G, Chapter 6a, Utah
662 Procurement Code.
- 663 (12) "Public works project":
- 664 (a) means the construction of:
- 665 (i) a park or recreational facility; or
- 666 (ii) a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or
667 flood control; and
- 668 (b) does not include:
- 669 (i) the replacement or repair of existing infrastructure on private property;
- 670 (ii) construction commenced before June 1, 2003; and
- 671 (iii) construction or repair at an international airport.
- 672 (13) "Special service district" has the same meaning as defined in Section 17D-1-102.
- 673 Section 10. Section 11-41-102 is amended to read:
- 674 **11-41-102. Definitions.**
- 675 As used in this chapter:
- 676 (1) "Agreement" means an oral or written agreement between a:
- 677 (a) (i) county; or
- 678 (ii) municipality; and

- 679 (b) person.
- 680 (2) "Municipality" means a:
 - 681 (a) city; [~~or~~]
 - 682 (b) town[-]; or
 - 683 (c) metro township.
- 684 (3) "Payment" includes:
 - 685 (a) a payment;
 - 686 (b) a rebate;
 - 687 (c) a refund; or
 - 688 (d) an amount similar to Subsections (3)(a) through (c).
- 689 (4) "Regional retail business" means a:
 - 690 (a) retail business that occupies a floor area of more than 80,000 square feet;
 - 691 (b) dealer as defined in Section 41-1a-102;
 - 692 (c) retail shopping facility that has at least two anchor tenants if the total number of
 - 693 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
 - 694 feet; or
 - 695 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 696 (5) (a) "Sales and use tax" means a tax:
 - 697 (i) imposed on transactions within a:
 - 698 (A) county; or
 - 699 (B) municipality; and
 - 700 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
 - 701 Sales and Use Tax Act.
- 702 (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax
- 703 authorized under:
 - 704 (i) Subsection 59-12-103(2)(a)(i);
 - 705 (ii) Subsection 59-12-103(2)(b)(i);
 - 706 (iii) Subsection 59-12-103(2)(c)(i);
 - 707 (iv) Subsection 59-12-103(2)(d)(i)(A);
 - 708 (v) Section 59-12-301;
 - 709 (vi) Section 59-12-352;

- 710 (vii) Section 59-12-353;
- 711 (viii) Section 59-12-603; or
- 712 (ix) Section 59-12-1201.
- 713 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
- 714 (i) to a person;
- 715 (ii) by a:
- 716 (A) county; or
- 717 (B) municipality;
- 718 (iii) to induce the person to locate or relocate a regional retail business within the:
- 719 (A) county; or
- 720 (B) municipality; and
- 721 (iv) that are derived from a sales and use tax.

722 (b) "Sales and use tax incentive payment" does not include funding for public
723 infrastructure.

724 Section 11. Section 13-14-102 is amended to read:

725 **13-14-102. Definitions.**

726 As used in this chapter:

727 (1) "Advisory board" or "board" means the Utah Motor Vehicle Franchise Advisory
728 Board created in Section 13-14-103.

729 (2) "Affected municipality" means an incorporated city [or], town, or metro township:

730 (a) that is located in the notice area; and

731 (b) (i) within which a franchisor is proposing a new or relocated dealership that is
732 within the relevant market area of an existing dealership of the same line-make owned by
733 another franchisee; or

734 (ii) within which an existing dealership is located and a franchisor is proposing a new
735 or relocated dealership within the relevant market area of that existing dealership of the same
736 line-make.

737 (3) "Affiliate" has the meaning set forth in Section 16-10a-102.

738 (4) "Aftermarket product" means any product or service not included in the franchisor's
739 suggested retail price of the new motor vehicle, as that price appears on the label required by
740 15 U.S.C. Sec. 1232(f).

- 741 (5) "Dealership" means a site or location in this state:
- 742 (a) at which a franchisee conducts the business of a new motor vehicle dealer; and
- 743 (b) that is identified as a new motor vehicle dealer's principal place of business for
- 744 licensing purposes under Section [41-3-204](#).
- 745 (6) "Department" means the Department of Commerce.
- 746 (7) "Executive director" means the executive director of the Department of Commerce.
- 747 (8) (a) "Franchise" or "franchise agreement" means a written agreement, or in the
- 748 absence of a written agreement, then a course of dealing or a practice for a definite or indefinite
- 749 period, in which:
- 750 (i) a person grants to another person a license to use a trade name, trademark, service
- 751 mark, or related characteristic; and
- 752 (ii) a community of interest exists in the marketing of new motor vehicles, new motor
- 753 vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or
- 754 retail.
- 755 (b) "Franchise" or "franchise agreement" includes a sales and service agreement.
- 756 (9) "Franchisee" means a person with whom a franchisor has agreed or permitted, in
- 757 writing or in practice, to purchase, sell, or offer for sale new motor vehicles manufactured,
- 758 produced, represented, or distributed by the franchisor.
- 759 (10) "Franchisor" means a person who has, in writing or in practice, agreed with or
- 760 permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured,
- 761 produced, assembled, represented, or distributed by the franchisor, and includes:
- 762 (a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;
- 763 (b) an intermediate distributor; and
- 764 (c) an agent, officer, or field or area representative of the franchisor.
- 765 (11) "Lead" means the referral by a franchisor to a franchisee of a potential customer
- 766 whose contact information was obtained from a franchisor's program, process, or system
- 767 designed to generate referrals for the purchase or lease of a new motor vehicle, or for service
- 768 work related to the franchisor's vehicles.
- 769 (12) "Line-make" means:
- 770 (a) for other than a recreational vehicle, the motor vehicles that are offered for sale,
- 771 lease, or distribution under a common name, trademark, service mark, or brand name of the

772 franchisor; or

773 (b) for a recreational vehicle, a specific series of recreational vehicle product that:

774 (i) is identified by a common series trade name or trademark;

775 (ii) is targeted to a particular market segment, as determined by decor, features,

776 equipment, size, weight, and price range;

777 (iii) has a length and floor plan that distinguish the recreational vehicle from other

778 recreational vehicles with substantially the same decor, features, equipment, size, weight, and

779 price;

780 (iv) belongs to a single, distinct classification of recreational vehicle product type

781 having a substantial degree of commonality in the construction of the chassis, frame, and body;

782 and

783 (v) a franchise agreement authorizes a dealer to sell.

784 (13) "Mile" means 5,280 feet.

785 (14) "Motor home" means a self-propelled vehicle, primarily designed as a temporary

786 dwelling for travel, recreational, or vacation use.

787 (15) (a) "Motor vehicle" means:

788 (i) a travel trailer;

789 (ii) except as provided in Subsection (15)(b), a motor vehicle as defined in Section

790 [41-3-102](#);

791 (iii) a semitrailer as defined in Section [41-1a-102](#);

792 (iv) a trailer as defined in Section [41-1a-102](#); and

793 (v) a recreational vehicle.

794 (b) "Motor vehicle" does not include:

795 (i) a motorcycle as defined in Section [41-1a-102](#);

796 (ii) an off-highway vehicle as defined in Section [41-3-102](#); and

797 (iii) a small trailer as defined in Section [41-3-102](#).

798 (16) "New motor vehicle" means a motor vehicle as defined in Subsection (15) that has

799 never been titled or registered and has been driven less than 7,500 miles, unless the motor

800 vehicle is a trailer, travel trailer, or semitrailer, in which case the mileage limit does not apply.

801 (17) "New motor vehicle dealer" is a person who is licensed under Subsection

802 [41-3-202\(1\)\(a\)](#) to sell new motor vehicles.

803 (18) "Notice" or "notify" includes both traditional written communications and all
804 reliable forms of electronic communication unless expressly prohibited by statute or rule.

805 (19) "Notice area" means the geographic area that is:

806 (a) within a radius of at least six miles and no more than 10 miles from the site of an
807 existing dealership; and

808 (b) located within a county with a population of at least 225,000.

809 (20) "Primary market area" means:

810 (a) for an existing dealership, the geographic area established by the franchisor that the
811 existing dealership is intended to serve; or

812 (b) for a new or relocated dealership, the geographic area proposed by the franchisor
813 that the new or relocated dealership is intended to serve.

814 (21) (a) "Recreational vehicle" means a vehicular unit other than a mobile home,
815 primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is
816 either self-propelled or pulled by another vehicle.

817 (b) "Recreational vehicle" includes:

818 (i) a travel trailer;

819 (ii) a camping trailer;

820 (iii) a motor home;

821 (iv) a fifth wheel trailer; and

822 (v) a van.

823 (22) (a) "Relevant market area," except with respect to recreational vehicles, means:

824 (i) as applied to an existing dealership that is located in a county with a population of
825 less than 225,000:

826 (A) the county in which the existing dealership is located; and

827 (B) the area within a 15-mile radius of the existing dealership; or

828 (ii) as applied to an existing dealership that is located in a county with a population of
829 225,000 or more, the area within a 10-mile radius of the existing dealership.

830 (b) "Relevant market area," with respect to recreational vehicles, means:

831 (i) the county in which the dealership is to be established or relocated; and

832 (ii) the area within a 35-mile radius from the site of the existing dealership.

833 (23) "Sale, transfer, or assignment" means any disposition of a franchise or an interest

834 in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange,
835 lease, or license.

836 (24) "Serve" or "served," unless expressly indicated otherwise by statute or rule,
837 includes any reliable form of communication.

838 (25) "Site-control agreement" means an agreement, however denominated and
839 regardless of the agreement's form or of the parties to the agreement, that has the effect of:

840 (a) controlling in any way the use and development of the premises upon which a
841 franchisee's business operations are located;

842 (b) requiring a franchisee to establish or maintain an exclusive dealership facility on
843 the premises upon which the franchisee's business operations are located; or

844 (c) restricting the ability of the franchisee or, if the franchisee leases the dealership
845 premises, the franchisee's lessor to transfer, sell, lease, develop, redevelop, or change the use of
846 some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease,
847 right of first refusal to purchase or lease, option to purchase or lease, or any similar
848 arrangement.

849 (26) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle
850 without motive power, designed as a temporary dwelling for travel, recreational, or vacation
851 use that does not require a special highway movement permit when drawn by a self-propelled
852 motor vehicle.

853 (27) "Written," "write," "in writing," or other variations of those terms shall include all
854 reliable forms of electronic communication.

855 Section 12. Section **17B-1-102** is amended to read:

856 **17B-1-102. Definitions.**

857 As used in this title:

858 (1) "Appointing authority" means the person or body authorized to make an
859 appointment to the board of trustees.

860 (2) "Basic local district":

861 (a) means a local district that is not a specialized local district; and

862 (b) includes an entity that was, under the law in effect before April 30, 2007, created
863 and operated as a local district, as defined under the law in effect before April 30, 2007.

864 (3) "Bond" means:

865 (a) a written obligation to repay borrowed money, whether denominated a bond, note,
866 warrant, certificate of indebtedness, or otherwise; and

867 (b) a lease agreement, installment purchase agreement, or other agreement that:

868 (i) includes an obligation by the district to pay money; and

869 (ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title
870 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond
871 Act.

872 (4) "Cemetery maintenance district" means a local district that operates under and is
873 subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District
874 Act, including an entity that was created and operated as a cemetery maintenance district under
875 the law in effect before April 30, 2007.

876 (5) "Drainage district" means a local district that operates under and is subject to the
877 provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that
878 was created and operated as a drainage district under the law in effect before April 30, 2007.

879 (6) "Facility" or "facilities" includes any structure, building, system, land, water right,
880 water, or other real or personal property required to provide a service that a local district is
881 authorized to provide, including any related or appurtenant easement or right-of-way,
882 improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

883 (7) "Fire protection district" means a local district that operates under and is subject to
884 the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an
885 entity that was created and operated as a fire protection district under the law in effect before
886 April 30, 2007.

887 (8) "General obligation bond":

888 (a) means a bond that is directly payable from and secured by ad valorem property
889 taxes that are:

890 (i) levied:

891 (A) by the district that issues the bond; and

892 (B) on taxable property within the district; and

893 (ii) in excess of the ad valorem property taxes of the district for the current fiscal year;

894 and

895 (b) does not include:

- 896 (i) a short-term bond;
- 897 (ii) a tax and revenue anticipation bond; or
- 898 (iii) a special assessment bond.
- 899 (9) "Improvement assurance" means a surety bond, letter of credit, cash, or other
- 900 security:
- 901 (a) to guarantee the proper completion of an improvement;
- 902 (b) that is required before a local district may provide a service requested by a service
- 903 applicant; and
- 904 (c) that is offered to a local district to induce the local district before construction of an
- 905 improvement begins to:
- 906 (i) provide the requested service; or
- 907 (ii) commit to provide the requested service.
- 908 (10) "Improvement assurance warranty" means a promise that the materials and
- 909 workmanship of an improvement:
- 910 (a) comply with standards adopted by a local district; and
- 911 (b) will not fail in any material respect within an agreed warranty period.
- 912 (11) "Improvement district" means a local district that operates under and is subject to
- 913 the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an
- 914 entity that was created and operated as a county improvement district under the law in effect
- 915 before April 30, 2007.
- 916 (12) "Irrigation district" means a local district that operates under and is subject to the
- 917 provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that
- 918 was created and operated as an irrigation district under the law in effect before April 30, 2007.
- 919 (13) "Local district" means a limited purpose local government entity, as described in
- 920 Section [17B-1-103](#), that operates under, is subject to, and has the powers set forth in:
- 921 (a) this chapter; or
- 922 (b) (i) this chapter; and
- 923 (ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;
- 924 (B) Chapter 2a, Part 2, Drainage District Act;
- 925 (C) Chapter 2a, Part 3, Fire Protection District Act;
- 926 (D) Chapter 2a, Part 4, Improvement District Act;

- 927 (E) Chapter 2a, Part 5, Irrigation District Act;
- 928 (F) Chapter 2a, Part 6, Metropolitan Water District Act;
- 929 (G) Chapter 2a, Part 7, Mosquito Abatement District Act;
- 930 (H) Chapter 2a, Part 8, Public Transit District Act;
- 931 (I) Chapter 2a, Part 9, Service Area Act;
- 932 (J) Chapter 2a, Part 10, Water Conservancy District Act; or
- 933 (K) Chapter 2a, Part 11, Municipal Services District Act.
- 934 (14) "Metropolitan water district" means a local district that operates under and is
- 935 subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District
- 936 Act, including an entity that was created and operated as a metropolitan water district under the
- 937 law in effect before April 30, 2007.
- 938 (15) "Mosquito abatement district" means a local district that operates under and is
- 939 subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District
- 940 Act, including an entity that was created and operated as a mosquito abatement district under
- 941 the law in effect before April 30, 2007.
- 942 (16) "Municipal" means of or relating to a municipality.
- 943 (17) "Municipality" means a city [or], town, or metro township.
- 944 (18) "Municipal services district" means a local district that operates under and is
- 945 subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District
- 946 Act.
- 947 (19) "Person" means an individual, corporation, partnership, organization, association,
- 948 trust, governmental agency, or other legal entity.
- 949 (20) "Political subdivision" means a county, city, town, metro township, local district
- 950 under this title, special service district under Title 17D, Chapter 1, Special Service District Act,
- 951 an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal
- 952 Cooperation Act, or any other governmental entity designated in statute as a political
- 953 subdivision of the state.
- 954 (21) "Private," with respect to real property, means not owned by the United States or
- 955 any agency of the federal government, the state, a county, or a political subdivision.
- 956 (22) "Public entity" means:
- 957 (a) the United States or an agency of the United States;

958 (b) the state or an agency of the state;

959 (c) a political subdivision of the state or an agency of a political subdivision of the
960 state;

961 (d) another state or an agency of that state; or

962 (e) a political subdivision of another state or an agency of that political subdivision.

963 (23) "Public transit district" means a local district that operates under and is subject to
964 the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an
965 entity that was created and operated as a public transit district under the law in effect before
966 April 30, 2007.

967 (24) "Revenue bond":

968 (a) means a bond payable from designated taxes or other revenues other than the local
969 district's ad valorem property taxes; and

970 (b) does not include:

971 (i) an obligation constituting an indebtedness within the meaning of an applicable
972 constitutional or statutory debt limit;

973 (ii) a tax and revenue anticipation bond; or

974 (iii) a special assessment bond.

975 (25) "Rules of order and procedure" means a set of rules that govern and prescribe in a
976 public meeting:

977 (a) parliamentary order and procedure;

978 (b) ethical behavior; and

979 (c) civil discourse.

980 (26) "Service applicant" means a person who requests that a local district provide a
981 service that the local district is authorized to provide.

982 (27) "Service area" means a local district that operates under and is subject to the
983 provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was
984 created and operated as a county service area or a regional service area under the law in effect
985 before April 30, 2007.

986 (28) "Short-term bond" means a bond that is required to be repaid during the fiscal year
987 in which the bond is issued.

988 (29) "Special assessment" means an assessment levied against property to pay all or a

989 portion of the costs of making improvements that benefit the property.

990 (30) "Special assessment bond" means a bond payable from special assessments.

991 (31) "Specialized local district" means a local district that is a cemetery maintenance
992 district, a drainage district, a fire protection district, an improvement district, an irrigation
993 district, a metropolitan water district, a mosquito abatement district, a public transit district, a
994 service area, a water conservancy district, or a municipal services district.

995 (32) "Taxable value" means the taxable value of property as computed from the most
996 recent equalized assessment roll for county purposes.

997 (33) "Tax and revenue anticipation bond" means a bond:

998 (a) issued in anticipation of the collection of taxes or other revenues or a combination
999 of taxes and other revenues; and

1000 (b) that matures within the same fiscal year as the fiscal year in which the bond is
1001 issued.

1002 (34) "Unincorporated" means not included within a municipality.

1003 (35) "Water conservancy district" means a local district that operates under and is
1004 subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District
1005 Act, including an entity that was created and operated as a water conservancy district under the
1006 law in effect before April 30, 2007.

1007 (36) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel,
1008 power plant, and any facility, improvement, or property necessary or convenient for supplying
1009 or treating water for any beneficial use, and for otherwise accomplishing the purposes of a local
1010 district.

1011 Section 13. Section **17B-1-502** is amended to read:

1012 **17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in**
1013 **certain circumstances.**

1014 (1) (a) An area within the boundaries of a local district may be withdrawn from the
1015 local district only as provided in this part or, if applicable, as provided in Chapter 2a, Part 11,
1016 Municipal Services District Act.

1017 (b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local
1018 district within a municipality because of a municipal incorporation under Title 10, Chapter 2a,
1019 Municipal Incorporation, or a municipal annexation or boundary adjustment under Title 10,

1020 Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process
1021 of withdrawing that area from the local district.

1022 (2) (a) An area within the boundaries of a local district is automatically withdrawn
1023 from the local district by the annexation of the area to a municipality or the adding of the area
1024 to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

1025 (i) the local district provides:

1026 (A) fire protection, paramedic, and emergency services; or

1027 (B) law enforcement service;

1028 (ii) an election for the creation of the local district was not required because of

1029 Subsection 17B-1-214(3)(d) or (g); and

1030 (iii) before annexation or boundary adjustment, the boundaries of the local district do
1031 not include any of the annexing municipality.

1032 (b) The effective date of a withdrawal under this Subsection (2) is governed by
1033 Subsection 17B-1-512(2)(b).

1034 (3) (a) Except as provided in Subsection (3)(c) or (d), an area within the boundaries of
1035 a local district located in a county of the first class is automatically withdrawn from the local
1036 district by the incorporation of a municipality whose boundaries include the area if:

1037 (i) the local district provides[~~:(A) fire protection, paramedic, and emergency services;~~
1038 ~~(B) law enforcement service; or (C)~~] municipal services, as defined in Section 17B-2a-1102;

1039 (ii) an election for the creation of the local district was not required because of

1040 Subsection 17B-1-214(3)[~~(d) or~~] (g); and

1041 (iii) the legislative body of the newly incorporated municipality:

1042 (A) for a city [~~or~~], town, or metro township incorporated under Title 10, Chapter 2a,
1043 Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First
1044 Class on and after May 12, 2015, complies with the feasibility study requirements of Section
1045 17B-2a-1110;

1046 (B) adopts a resolution no later than 180 days after the effective date of incorporation
1047 approving the withdrawal that includes the legal description of the area to be withdrawn; and

1048 (C) delivers a copy of the resolution to the board of trustees of the local district.

1049 (b) The effective date of a withdrawal under this Subsection (3) is governed by

1050 Subsection 17B-1-512(2)(a).

1051 (c) Section 17B-1-505 shall govern the withdrawal of an incorporated area within a
 1052 county of the first class [~~after the expiration of the 180-day period described in Subsection~~
 1053 ~~(3)(a)(iii)(B)~~] if:

1054 (i) the local district from which the area is withdrawn provides:

1055 (A) fire protection, paramedic, and emergency services;

1056 (B) law enforcement service; or

1057 (C) municipal services, as defined in Section 17B-2a-1102; [~~and~~]

1058 (ii) an election for the creation of the local district was not required under Subsection

1059 17B-1-214(3)(d) or (g); and

1060 (iii) for a local district that provides municipal services, as defined in Section

1061 17B-2a-1102, the 180-day period described in Subsection (3)(a)(iii)(B) is expired.

1062 (d) An area within the boundaries of a local district that is incorporated as a metro
 1063 township and for which the residents of the metro township at an election to incorporate chose
 1064 to be included in a municipal services district is not subject to the provisions of this Subsection
 1065 (3).

1066 Section 14. Section 17B-1-1308 is amended to read:

1067 **17B-1-1308. Dissolution resolution -- Limitations on dissolution -- Distribution of**
 1068 **remaining assets -- Notice to lieutenant governor -- Recording requirements.**

1069 (1) After the public hearing required under Section 17B-1-1306 and subject to
 1070 Subsection (2), the administrative body may adopt a resolution approving dissolution of the
 1071 local district.

1072 (2) A resolution under Subsection (1) may not be adopted unless:

1073 (a) any outstanding debt of the local district is:

1074 (i) satisfied and discharged in connection with the dissolution; or

1075 (ii) assumed by another governmental entity with the consent of all the holders of that
 1076 debt and all the holders of other debts of the local district;

1077 (b) for a local district that has provided service during the preceding three years or
 1078 undertaken planning or other activity preparatory to providing service:

1079 (i) another entity has committed to provide the same service to the area being served or
 1080 proposed to be served by the local district; and

1081 (ii) all who are to receive the service have consented to the service being provided by

1082 the other entity; and

1083 (c) all outstanding contracts to which the local district is a party are resolved through
1084 mutual termination or the assignment of the district's rights, duties, privileges, and
1085 responsibilities to another entity with the consent of the other parties to the contract.

1086 (3) (a) (i) Any assets of the local district remaining after paying all debts and other
1087 obligations of the local district shall be used to pay costs associated with the dissolution
1088 process under this part.

1089 (ii) Any costs of the dissolution process remaining after exhausting the remaining
1090 assets of the local district under Subsection (3)(a)(i) shall be paid by the administrative body.

1091 (b) Any assets of the local district remaining after application of Subsection (3)(a) shall
1092 be distributed:

1093 (i) proportionately to the owners of real property within the dissolved local district if
1094 there is a readily identifiable connection between a financial burden borne by the real property
1095 owners in the district and the remaining assets; or

1096 (ii) except as provided in Subsection (3)(b)(i), to each county, city, ~~or~~ town, or metro
1097 township in which the dissolved local district was located before dissolution in the same
1098 proportion that the land area of the local district located within the unincorporated area of the
1099 county or within the city ~~or~~, town, or metro township bears to the total local district land area.

1100 (4) (a) The administrative body shall:

1101 (i) within 30 days after adopting a resolution approving dissolution, file with the
1102 lieutenant governor a copy of a notice of an impending boundary action, as defined in Section
1103 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

1104 (ii) upon the lieutenant governor's issuance of a certificate of dissolution under Section
1105 67-1a-6.5:

1106 (A) if the local district was located within the boundary of a single county, submit to
1107 the recorder of that county:

1108 (I) the original:

1109 (Aa) notice of an impending boundary action; and

1110 (Bb) certificate of dissolution; and

1111 (II) a certified copy of the resolution adopted under Subsection (1); or

1112 (B) if the local district was located within the boundaries of more than a single county:

- 1113 (I) submit to the recorder of one of those counties:
 1114 (Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa) and (Bb);
 1115 and
 1116 (Bb) a certified copy of the resolution adopted under Subsection (1); and
 1117 (II) submit to the recorder of each other county:
 1118 (Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa) and
 1119 (Bb); and
 1120 (Bb) a certified copy of the resolution adopted under Subsection (1).
 1121 (b) Upon the lieutenant governor's issuance of the certificate of dissolution under
 1122 Section [67-1a-6.5](#), the local district is dissolved.
 1123 Section 15. Section **17B-2a-1007** is amended to read:
 1124 **17B-2a-1007. Contract assessments.**
 1125 (1) As used in this section:
 1126 (a) "Assessed land" means:
 1127 (i) for a contract assessment under a water contract with a private water user, the land
 1128 owned by the private water user that receives the beneficial use of water under the water
 1129 contract; or
 1130 (ii) for a contract assessment under a water contract with a public water user, the land
 1131 within the boundaries of the public water user that is within the boundaries of the water
 1132 conservancy district and that receives the beneficial use of water under the water contract.
 1133 (b) "Contract assessment" means an assessment levied as provided in this section by a
 1134 water conservancy district on assessed land.
 1135 (c) "Governing body" means:
 1136 (i) for a county, city, ~~or~~ town, or metro township, the legislative body of the county,
 1137 city, ~~or~~ town, or metro township;
 1138 (ii) for a local district, the board of trustees of the local district;
 1139 (iii) for a special service district:
 1140 (A) the legislative body of the county, city, ~~or~~ town, or metro township that
 1141 established the special service district, if no administrative control board has been appointed
 1142 under Section [17D-1-301](#); or
 1143 (B) the administrative control board of the special service district, if an administrative

1144 control board has been appointed under Section 17D-1-301; and

1145 (iv) for any other political subdivision of the state, the person or body with authority to
1146 govern the affairs of the political subdivision.

1147 (d) "Petitioner" means a private petitioner or a public petitioner.

1148 (e) "Private petitioner" means an owner of land within a water conservancy district
1149 who submits a petition to a water conservancy district under Subsection (3) to enter into a
1150 water contract with the district.

1151 (f) "Private water user" means an owner of land within a water conservancy district
1152 who enters into a water contract with the district.

1153 (g) "Public petitioner" means a political subdivision of the state:

1154 (i) whose territory is partly or entirely within the boundaries of a water conservancy
1155 district; and

1156 (ii) that submits a petition to a water conservancy district under Subsection (3) to enter
1157 into a water contract with the district.

1158 (h) "Public water user" means a political subdivision of the state:

1159 (i) whose territory is partly or entirely within the boundaries of a water conservancy
1160 district; and

1161 (ii) that enters into a water contract with the district.

1162 (i) "Water contract" means a contract between a water conservancy district and a
1163 private water user or a public water user under which the water user purchases, leases, or
1164 otherwise acquires the beneficial use of water from the water conservancy district for the
1165 benefit of:

1166 (i) land owned by the private water user; or

1167 (ii) land within the public water user's boundaries that is also within the boundaries of
1168 the water conservancy district.

1169 (j) "Water user" means a private water user or a public water user.

1170 (2) A water conservancy district may levy a contract assessment as provided in this
1171 section.

1172 (3) (a) The governing body of a public petitioner may authorize its chief executive
1173 officer to submit a written petition on behalf of the public petitioner to a water conservancy
1174 district requesting to enter into a water contract.

1175 (b) A private petitioner may submit a written petition to a water conservancy district
1176 requesting to enter into a water contract.

1177 (c) Each petition under this Subsection (3) shall include:

1178 (i) the petitioner's name;

1179 (ii) the quantity of water the petitioner desires to purchase or otherwise acquire;

1180 (iii) a description of the land upon which the water will be used;

1181 (iv) the price to be paid for the water;

1182 (v) the amount of any service, turnout, connection, distribution system, or other charge
1183 to be paid;

1184 (vi) whether payment will be made in cash or annual installments;

1185 (vii) a provision requiring the contract assessment to become a lien on the land for
1186 which the water is petitioned and is to be allotted; and

1187 (viii) an agreement that the petitioner is bound by the provisions of this part and the
1188 rules and regulations of the water conservancy district board of trustees.

1189 (4) (a) If the board of a water conservancy district desires to consider a petition
1190 submitted by a petitioner under Subsection (3), the board shall:

1191 (i) publish notice of the petition and of the hearing required under Subsection (4)(a)(ii)
1192 at least once a week in two successive weeks in a newspaper of general circulation within the
1193 county in which the political subdivision or private petitioner's land, as the case may be, is
1194 located; and

1195 (ii) hold a public hearing on the petition.

1196 (b) Each notice under Subsection (4)(a)(i) shall:

1197 (i) state that a petition has been filed and that the district is considering levying a
1198 contract assessment; and

1199 (ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).

1200 (c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the
1201 water conservancy district shall:

1202 (A) allow any interested person to appear and explain why the petition should not be
1203 granted; and

1204 (B) consider each written objection to the granting of the petition that the board
1205 receives before or at the hearing.

1206 (ii) The board of trustees may adjourn and reconvene the hearing as the board
1207 considers appropriate.

1208 (d) (i) Any interested person may file with the board of the water conservancy district,
1209 at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting
1210 a petition.

1211 (ii) Each person who fails to submit a written objection within the time provided under
1212 Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and
1213 levying a contract assessment.

1214 (5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of
1215 trustees of a water conservancy district may:

1216 (a) deny the petition; or

1217 (b) grant the petition, if the board considers granting the petition to be in the best
1218 interests of the district.

1219 (6) The board of a water conservancy district that grants a petition under this section
1220 may:

1221 (a) make an allotment of water for the benefit of assessed land;

1222 (b) authorize any necessary construction to provide for the use of water upon the terms
1223 and conditions stated in the water contract;

1224 (c) divide the district into units and fix a different rate for water purchased or otherwise
1225 acquired and for other charges within each unit, if the rates and charges are equitable, although
1226 not equal and uniform, for similar classes of services throughout the district; and

1227 (d) levy a contract assessment on assessed land.

1228 (7) (a) The board of trustees of each water conservancy district that levies a contract
1229 assessment under this section shall:

1230 (i) cause a certified copy of the resolution, ordinance, or order levying the assessment
1231 to be recorded in the office of the recorder of each county in which assessed land is located;
1232 and

1233 (ii) on or before July 1 of each year after levying the contract assessment, certify to the
1234 auditor of each county in which assessed land is located the amount of the contract assessment.

1235 (b) Upon the recording of the resolution or ordinance under Subsection (7)(a)(i), the
1236 contract assessment associated with allotting water to the assessed land under the water

1237 contract becomes a perpetual lien on the assessed land.

1238 (c) Each county in which assessed land is located shall collect the contract assessment
1239 in the same manner as taxes levied by the county.

1240 (8) (a) The board of trustees of each water conservancy district that levies a contract
1241 assessment under this section shall:

1242 (i) hold a public hearing, before August 8 of each year in which a contract assessment
1243 is levied, to hear and consider objections filed under Subsection (8)(b); and

1244 (ii) twice publish a notice, at least a week apart:

1245 (A) (I) in a newspaper of general circulation in each county with assessed land included
1246 within the district boundaries; or

1247 (II) if there is no newspaper of general circulation within the county, in a newspaper of
1248 general circulation in an adjoining county;

1249 (B) that contains:

1250 (I) a general description of the assessed land;

1251 (II) the amount of the contract assessment; and

1252 (III) the time and place of the public hearing under Subsection (8)(a)(i).

1253 (b) An owner of assessed land within the water conservancy district who believes that
1254 the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the
1255 hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to
1256 the assessment, stating the grounds for the objection.

1257 (c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and
1258 consider the evidence and arguments supporting each objection.

1259 (ii) After hearing and considering the evidence and arguments supporting an objection,
1260 the board of trustees:

1261 (A) shall enter a written order, stating its decision; and

1262 (B) may modify the assessment.

1263 (d) (i) An owner of assessed land may file a petition in district court seeking review of
1264 a board of trustees' order under Subsection (8)(c)(ii)(A).

1265 (ii) Each petition under Subsection (8)(d)(i) shall:

1266 (A) be filed within 30 days after the board enters its written order;

1267 (B) state specifically the part of the board's order for which review is sought; and

1268 (C) be accompanied by a bond with good and sufficient security in an amount not
1269 exceeding \$200, as determined by the court clerk.

1270 (iii) If more than one owner of assessed land seeks review, the court may, upon a
1271 showing that the reviews may be consolidated without injury to anyone's interests, consolidate
1272 the reviews and hear them together.

1273 (iv) The court shall act as quickly as possible after a petition is filed.

1274 (v) A court may not disturb a board of trustees' order unless the court finds that the
1275 contract assessment on the petitioner's assessed land is manifestly disproportionate to
1276 assessments imposed upon other land in the district.

1277 (e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is
1278 conclusively considered to have been made in proportion to the benefits conferred on the land
1279 in the district.

1280 (9) Each resolution, ordinance, or order under which a water conservancy district
1281 levied a Class B, Class C, or Class D assessment before April 30, 2007, under the law in effect
1282 at the time of the levy is validated, ratified, and confirmed, and a water conservancy district
1283 may continue to levy the assessment according to the terms of the resolution, ordinance, or
1284 order.

1285 (10) A contract assessment is not a levy of an ad valorem property tax and is not
1286 subject to the limits stated in Section [17B-2a-1006](#).

1287 Section 16. Section **17B-2a-1106** is amended to read:

1288 **17B-2a-1106. Municipal services district board of trustees -- Governance.**

1289 (1) Except as provided in Subsection (2), and notwithstanding any other provision of
1290 law regarding the membership of a local district board of trustees, the initial board of trustees
1291 of a municipal services district shall consist of the county legislative body.

1292 (2) (a) Notwithstanding any provision of law regarding the membership of a local
1293 district board of trustees or the governance of a local district, and, except as provided in
1294 Subsection (3), if a municipal services district is created in a county of the first class with the
1295 county executive-council form of government, the initial governance of the municipal services
1296 district is as follows:

1297 (i) subject to Subsection (2)(b), the county council is the municipal services district
1298 board of trustees; and

1299 (ii) subject to Subsection (2)(c), the county executive is the executive of the municipal
1300 services district.

1301 (b) Notwithstanding any other provision of law, the board of trustees of a municipal
1302 services district described in Subsection (2)(a) shall:

1303 (i) act as the legislative body of the district; and

1304 (ii) exercise legislative branch powers and responsibilities established for county
1305 legislative bodies in:

1306 (A) Title 17, Counties; and

1307 (B) an optional plan, as defined in Section 17-52-101, adopted for a county
1308 executive-council form of county government as described in Section 17-52-504.

1309 (c) Notwithstanding any other provision of law, in a municipal services district
1310 described in Subsection (2)(a), the executive of the district shall:

1311 (i) act as the executive of the district; and

1312 (ii) exercise executive branch powers and responsibilities established for a county
1313 executive in:

1314 (A) Title 17, Counties; and

1315 (B) an optional plan, as defined in Section 17-52-101, adopted for a county
1316 executive-council form of county government as described in Section 17-52-504.

1317 (3) (a) If, after the initial creation of a municipal services district, an area within the
1318 district is incorporated as a municipality as defined in Section 10-1-104 and the area is not
1319 withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area
1320 within the municipality is annexed into the municipal services district in accordance with
1321 Section 17B-2a-1103, the district's board of trustees shall be as follows:

1322 (i) subject to Subsection (3)(b), a member of that municipality's governing body;

1323 (ii) subject to Subsection (4), two members of the county council of the county in
1324 which the municipal services district is located; and

1325 (iii) the total number of board members shall be an odd number.

1326 (b) A member described in Subsection (3)(a)(i) shall be:

1327 (i) for a municipality other than a metro township, designated by the municipal
1328 legislative body; and

1329 (ii) for a metro township, the chair of the metro township.

1330 (c) A member of the board of trustees has the powers and duties described in
1331 Subsection (2)(b).

1332 (d) The county executive is the executive and has the powers and duties as described in
1333 Subsection (2)(c).

1334 (4) (a) The number of county council members may be increased or decreased to meet
1335 the membership requirements of Subsection (3)(a)(iii) but may not be less than one.

1336 (b) The number of county council members described in Subsection (3)(a)(ii) does not
1337 include the county mayor.

1338 (5) For a board of trustees described in Subsection (3), each board member's vote is
1339 weighted using the proportion of the municipal services district population that resides:

1340 (a) for each member described in Subsection (3)(a)(i), within that member's
1341 municipality; and

1342 (b) for each member described in Subsection (3)(a)(ii), within the unincorporated
1343 county, with the members' weighted vote divided evenly if there is more than one member on
1344 the board described in Subsection (3)(a)(ii).

1345 (6) The board may adopt a resolution providing for future board members to be
1346 appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

1347 (7) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of
1348 trustees may adopt a resolution to determine the internal governance of the board.

1349 (b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of
1350 trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's
1351 duties, powers, or responsibilities described in Subsection (2)(c).

1352 (8) The municipal services district and the county may enter into an agreement for the
1353 provision of legal services to the municipal services district.

1354 Section 17. Section 17B-2a-1110 is amended to read:

1355 **17B-2a-1110. Withdrawal from a municipal services district upon incorporation**
1356 **-- Feasibility study required for city or town withdrawal -- Public hearing -- Revenues**
1357 **transferred to municipal services district.**

1358 (1) (a) A municipality may withdraw from a municipal services district in accordance
1359 with Section 17B-1-502 or 17B-1-505, as applicable, and the requirements of this section.

1360 (b) If a municipality engages a feasibility consultant to conduct a feasibility study

1361 under Subsection (2)(a), the 180 days described in Subsection [17B-1-502\(3\)\(a\)\(iii\)\(A\)](#)~~(A)~~[\(B\)](#) is
1362 tolled from the day that the municipality engages the feasibility consultant to the day on which
1363 the municipality holds the final public hearing under Subsection (5).

1364 (2) (a) If a municipality decides to withdraw from a municipal services district, the
1365 municipal legislative body shall, before adopting a resolution under Section [17B-1-502](#) or
1366 [17B-1-505](#), as applicable, engage a feasibility consultant to conduct a feasibility study.

1367 (b) The feasibility consultant shall be chosen:

1368 (i) by the municipal legislative body; and

1369 (ii) in accordance with applicable municipal procurement procedures.

1370 (3) The municipal legislative body shall require the feasibility consultant to:

1371 (a) complete the feasibility study and submit the written results to the municipal
1372 legislative body before the council adopts a resolution under Section [17B-1-502](#);

1373 (b) submit with the full written results of the feasibility study a summary of the results
1374 no longer than one page in length; and

1375 (c) attend the public hearings under Subsection (5).

1376 (4) (a) The feasibility study shall consider:

1377 (i) population and population density within the withdrawing municipality;

1378 (ii) current and five-year projections of demographics and economic base in the
1379 withdrawing municipality, including household size and income, commercial and industrial
1380 development, and public facilities;

1381 (iii) projected growth in the withdrawing municipality during the next five years;

1382 (iv) subject to Subsection (4)(b), the present and five-year projections of the cost,
1383 including overhead, of municipal services in the withdrawing municipality;

1384 (v) assuming the same tax categories and tax rates as currently imposed by the
1385 municipal services district and all other current service providers, the present and five-year
1386 projected revenue for the withdrawing municipality;

1387 (vi) a projection of any new taxes per household that may be levied within the
1388 withdrawing municipality within five years of the withdrawal; and

1389 (vii) the fiscal impact on other municipalities serviced by the municipal services
1390 district.

1391 (b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a

1392 level and quality of municipal services to be provided to the withdrawing municipality in the
1393 future that fairly and reasonably approximates the level and quality of municipal services being
1394 provided to the withdrawing municipality at the time of the feasibility study.

1395 (ii) In determining the present cost of a municipal service, the feasibility consultant
1396 shall consider:

1397 (A) the amount it would cost the withdrawing municipality to provide municipal
1398 services for the first five years after withdrawing; and

1399 (B) the municipal services district's present and five-year projected cost of providing
1400 municipal services.

1401 (iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation
1402 and anticipated growth.

1403 (5) If the results of the feasibility study meet the requirements of Subsection (4), the
1404 municipal legislative body shall, at its next regular meeting after receipt of the results of the
1405 feasibility study, schedule at least one public hearing to be held:

1406 (a) within the following 60 days; and

1407 (b) for the purpose of allowing:

1408 (i) the feasibility consultant to present the results of the study; and

1409 (ii) the public to become informed about the feasibility study results, including the
1410 requirement that if the municipality withdraws from the municipal services district, the
1411 municipality must comply with Subsection (9), and to ask questions about those results of the
1412 feasibility consultant.

1413 (6) At a public hearing described in Subsection (5), the municipal legislative body
1414 shall:

1415 (a) provide a copy of the feasibility study for public review; and

1416 (b) allow the public to express its views about the proposed withdrawal from the
1417 municipal services district.

1418 (7) (a) (i) The municipal clerk or recorder shall publish notice of the public hearings
1419 required under Subsection (5):

1420 (A) at least once a week for three successive weeks in a newspaper of general
1421 circulation within the municipality; and

1422 (B) on the Utah Public Notice Website created in Section [63F-1-701](#), for three weeks.

1423 (ii) The municipal clerk or recorder shall publish the last publication of notice required
1424 under Subsection (7)(a)(i)(A) at least three days before the first public hearing required under
1425 Subsection (5).

1426 (b) (i) If, under Subsection (7)(a)(i)(A), there is no newspaper of general circulation
1427 within the proposed municipality, the municipal clerk or recorder shall post at least one notice
1428 of the hearings per 1,000 population in conspicuous places within the municipality that are
1429 most likely to give notice of the hearings to the residents.

1430 (ii) The municipal clerk or recorder shall post the notices under Subsection (7)(b)(i) at
1431 least seven days before the first hearing under Subsection (5).

1432 (c) The notice under Subsections (7)(a) and (b) shall include the feasibility study
1433 summary and shall indicate that a full copy of the study is available for inspection and copying
1434 at the office of the municipal clerk or recorder.

1435 (8) At a public meeting held after the public hearing required under Subsection (5), the
1436 municipal legislative body may adopt a resolution under Section 17B-1-502 or 17B-1-505, as
1437 applicable, if the municipality is in compliance with the other requirements of that section.

1438 (9) The municipality shall pay revenues in excess of 5% to the municipal services
1439 district for 10 years beginning on the next fiscal year immediately following the municipal
1440 legislative body adoption of a resolution or an ordinance to withdraw under Section 17B-1-502
1441 or 17B-1-505 if the results of the feasibility study show that the average annual amount of
1442 revenue under Subsection (4)(a)(v) exceed the average annual amount of cost under Subsection
1443 (4)(a)(iv) by more than 5%.

1444 Section 18. Section 17B-2a-1111 is amended to read:

1445 **17B-2a-1111. Withdrawal of a municipality that changes form of government.**

1446 If a municipality after the 180-day period described in Subsection
1447 17B-1-502(3)(a)(iii)[(A)](B) changes form of government in accordance with Title 10, Chapter
1448 3b, Part 6, Changing to Another Form of Municipal Government, the municipality under the
1449 new form of government may withdraw from a municipal services district only in accordance
1450 with the provisions of Section 17B-1-505.

1451 Section 19. Section 20A-1-102 is amended to read:

1452 **20A-1-102. Definitions.**

1453 As used in this title:

1454 (1) "Active voter" means a registered voter who has not been classified as an inactive
1455 voter by the county clerk.

1456 (2) "Automatic tabulating equipment" means apparatus that automatically examines
1457 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

1458 (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic,
1459 upon which a voter records the voter's votes.

1460 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy
1461 envelopes.

1462 (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

1463 (a) contain the names of offices and candidates and statements of ballot propositions to
1464 be voted on; and

1465 (b) are used in conjunction with ballot sheets that do not display that information.

1466 (5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
1467 on the ballot for their approval or rejection including:

1468 (a) an opinion question specifically authorized by the Legislature;

1469 (b) a constitutional amendment;

1470 (c) an initiative;

1471 (d) a referendum;

1472 (e) a bond proposition;

1473 (f) a judicial retention question;

1474 (g) an incorporation of a city or town; or

1475 (h) any other ballot question specifically authorized by the Legislature.

1476 (6) "Ballot sheet":

1477 (a) means a ballot that:

1478 (i) consists of paper or a card where the voter's votes are marked or recorded; and

1479 (ii) can be counted using automatic tabulating equipment; and

1480 (b) includes punch card ballots and other ballots that are machine-countable.

1481 (7) "Bind," "binding," or "bound" means securing more than one piece of paper
1482 together with a staple or stitch in at least three places across the top of the paper in the blank
1483 space reserved for securing the paper.

1484 (8) "Board of canvassers" means the entities established by Sections [20A-4-301](#) and

1485 [20A-4-306](#) to canvass election returns.

1486 (9) "Bond election" means an election held for the purpose of approving or rejecting
1487 the proposed issuance of bonds by a government entity.

1488 (10) "Book voter registration form" means voter registration forms contained in a
1489 bound book that are used by election officers and registration agents to register persons to vote.

1490 (11) "Business reply mail envelope" means an envelope that may be mailed free of
1491 charge by the sender.

1492 (12) "By-mail voter registration form" means a voter registration form designed to be
1493 completed by the voter and mailed to the election officer.

1494 (13) "Canvass" means the review of election returns and the official declaration of
1495 election results by the board of canvassers.

1496 (14) "Canvassing judge" means a poll worker designated to assist in counting ballots at
1497 the canvass.

1498 (15) "Contracting election officer" means an election officer who enters into a contract
1499 or interlocal agreement with a provider election officer.

1500 (16) "Convention" means the political party convention at which party officers and
1501 delegates are selected.

1502 (17) "Counting center" means one or more locations selected by the election officer in
1503 charge of the election for the automatic counting of ballots.

1504 (18) "Counting judge" means a poll worker designated to count the ballots during
1505 election day.

1506 (19) "Counting poll watcher" means a person selected as provided in Section
1507 [20A-3-201](#) to witness the counting of ballots.

1508 (20) "Counting room" means a suitable and convenient private place or room,
1509 immediately adjoining the place where the election is being held, for use by the poll workers
1510 and counting judges to count ballots during election day.

1511 (21) "County officers" means those county officers that are required by law to be
1512 elected.

1513 (22) "Date of the election" or "election day" or "day of the election":

1514 (a) means the day that is specified in the calendar year as the day that the election
1515 occurs; and

- 1516 (b) does not include:
- 1517 (i) deadlines established for absentee voting; or
- 1518 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early
- 1519 Voting.
- 1520 (23) "Elected official" means:
- 1521 (a) a person elected to an office under Section [20A-1-303](#);
- 1522 (b) a person who is considered to be elected to a municipal office in accordance with
- 1523 Subsection [20A-1-206\(1\)\(c\)\(ii\)](#); or
- 1524 (c) a person who is considered to be elected to a local district office in accordance with
- 1525 Subsection [20A-1-206\(3\)\(c\)\(ii\)](#).
- 1526 (24) "Election" means a regular general election, a municipal general election, a
- 1527 statewide special election, a local special election, a regular primary election, a municipal
- 1528 primary election, and a local district election.
- 1529 (25) "Election Assistance Commission" means the commission established by [~~Public~~
- 1530 ~~Law 107-252;~~] the Help America Vote Act of 2002, Pub. L. No. 107-252.
- 1531 (26) "Election cycle" means the period beginning on the first day persons are eligible to
- 1532 file declarations of candidacy and ending when the canvass is completed.
- 1533 (27) "Election judge" means a poll worker that is assigned to:
- 1534 (a) preside over other poll workers at a polling place;
- 1535 (b) act as the presiding election judge; or
- 1536 (c) serve as a canvassing judge, counting judge, or receiving judge.
- 1537 (28) "Election officer" means:
- 1538 (a) the lieutenant governor, for all statewide ballots and elections;
- 1539 (b) the county clerk for:
- 1540 (i) a county ballot and election; and
- 1541 (ii) a ballot and election as a provider election officer as provided in Section
- 1542 [20A-5-400.1](#) or [20A-5-400.5](#);
- 1543 (c) the municipal clerk for:
- 1544 (i) a municipal ballot and election; and
- 1545 (ii) a ballot and election as a provider election officer as provided in Section
- 1546 [20A-5-400.1](#) or [20A-5-400.5](#);

- 1547 (d) the local district clerk or chief executive officer for:
- 1548 (i) a local district ballot and election; and
- 1549 (ii) a ballot and election as a provider election officer as provided in Section
- 1550 [20A-5-400.1](#) or [20A-5-400.5](#); or
- 1551 (e) the business administrator or superintendent of a school district for:
- 1552 (i) a school district ballot and election; and
- 1553 (ii) a ballot and election as a provider election officer as provided in Section
- 1554 [20A-5-400.1](#) or [20A-5-400.5](#).
- 1555 (29) "Election official" means any election officer, election judge, or poll worker.
- 1556 (30) "Election results" means:
- 1557 (a) for an election other than a bond election, the count of votes cast in the election and
- 1558 the election returns requested by the board of canvassers; or
- 1559 (b) for bond elections, the count of those votes cast for and against the bond
- 1560 proposition plus any or all of the election returns that the board of canvassers may request.
- 1561 (31) "Election returns" includes the pollbook, the military and overseas absentee voter
- 1562 registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all
- 1563 counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition
- 1564 form, and the total votes cast form.
- 1565 (32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
- 1566 device or other voting device that records and stores ballot information by electronic means.
- 1567 (33) "Electronic signature" means an electronic sound, symbol, or process attached to
- 1568 or logically associated with a record and executed or adopted by a person with the intent to sign
- 1569 the record.
- 1570 (34) (a) "Electronic voting device" means a voting device that uses electronic ballots.
- 1571 (b) "Electronic voting device" includes a direct recording electronic voting device.
- 1572 (35) "Inactive voter" means a registered voter who has:
- 1573 (a) been sent the notice required by Section [20A-2-306](#); and
- 1574 (b) failed to respond to that notice.
- 1575 (36) "Inspecting poll watcher" means a person selected as provided in this title to
- 1576 witness the receipt and safe deposit of voted and counted ballots.
- 1577 (37) "Judicial office" means the office filled by any judicial officer.

1578 (38) "Judicial officer" means any justice or judge of a court of record or any county
1579 court judge.

1580 (39) "Local district" means a local government entity under Title 17B, Limited Purpose
1581 Local Government Entities - Local Districts, and includes a special service district under Title
1582 17D, Chapter 1, Special Service District Act.

1583 (40) "Local district officers" means those local district board members that are required
1584 by law to be elected.

1585 (41) "Local election" means a regular county election, a regular municipal election, a
1586 municipal primary election, a local special election, a local district election, and a bond
1587 election.

1588 (42) "Local political subdivision" means a county, a municipality, a local district, or a
1589 local school district.

1590 (43) "Local special election" means a special election called by the governing body of a
1591 local political subdivision in which all registered voters of the local political subdivision may
1592 vote.

1593 (44) "Municipal executive" means:

1594 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

1595 (b) the mayor in the council-manager form of government defined in Subsection
1596 10-3b-103(7); or

1597 (c) the chair of a metro township form of government defined in Section 10-3b-102.

1598 (45) "Municipal general election" means the election held in municipalities and, as
1599 applicable, local districts on the first Tuesday after the first Monday in November of each
1600 odd-numbered year for the purposes established in Section 20A-1-202.

1601 (46) "Municipal legislative body" means:

1602 (a) the council of the city or town in any form of municipal government; or

1603 (b) the council of a metro township.

1604 (47) "Municipal office" means an elective office in a municipality.

1605 (48) "Municipal officers" means those municipal officers that are required by law to be
1606 elected.

1607 (49) "Municipal primary election" means an election held to nominate candidates for
1608 municipal office.

- 1609 (50) "Municipality" means a city, town, or metro township.
- 1610 ~~[(50)]~~ (51) "Official ballot" means the ballots distributed by the election officer to the
1611 poll workers to be given to voters to record their votes.
- 1612 ~~[(51)]~~ (52) "Official endorsement" means:
- 1613 (a) the information on the ballot that identifies:
- 1614 (i) the ballot as an official ballot;
- 1615 (ii) the date of the election; and
- 1616 (iii) (A) for a ballot prepared by an election officer other than a county clerk, the
1617 facsimile signature required by Subsection [20A-6-401\(1\)\(b\)\(iii\)](#); or
- 1618 (B) for a ballot prepared by a county clerk, the words required by Subsection
1619 [20A-6-301\(1\)\(c\)\(iii\)](#); and
- 1620 (b) the information on the ballot stub that identifies:
- 1621 (i) the poll worker's initials; and
- 1622 (ii) the ballot number.
- 1623 ~~[(52)]~~ (53) "Official register" means the official record furnished to election officials
1624 by the election officer that contains the information required by Section [20A-5-401](#).
- 1625 ~~[(53)]~~ (54) "Paper ballot" means a paper that contains:
- 1626 (a) the names of offices and candidates and statements of ballot propositions to be
1627 voted on; and
- 1628 (b) spaces for the voter to record the voter's vote for each office and for or against each
1629 ballot proposition.
- 1630 ~~[(54)]~~ (55) "Pilot project" means the election day voter registration pilot project created
1631 in Section [20A-4-108](#).
- 1632 ~~[(55)]~~ (56) "Political party" means an organization of registered voters that has
1633 qualified to participate in an election by meeting the requirements of Chapter 8, Political Party
1634 Formation and Procedures.
- 1635 ~~[(56)]~~ (57) "Pollbook" means a record of the names of voters in the order that they
1636 appear to cast votes.
- 1637 ~~[(57)]~~ (58) "Polling place" means the building where voting is conducted.
- 1638 ~~[(58)]~~ (59) (a) "Poll worker" means a person assigned by an election official to assist
1639 with an election, voting, or counting votes.

1640 (b) "Poll worker" includes election judges.

1641 (c) "Poll worker" does not include a watcher.

1642 ~~[(59)]~~ (60) "Position" means a square, circle, rectangle, or other geometric shape on a
1643 ballot in which the voter marks the voter's choice.

1644 ~~[(60)]~~ (61) "Primary convention" means the political party conventions held during the
1645 year of the regular general election.

1646 ~~[(61)]~~ (62) "Protective counter" means a separate counter, which cannot be reset, that:

1647 (a) is built into a voting machine; and

1648 (b) records the total number of movements of the operating lever.

1649 ~~[(62)]~~ (63) "Provider election officer" means an election officer who enters into a
1650 contract or interlocal agreement with a contracting election officer to conduct an election for
1651 the contracting election officer's local political subdivision in accordance with Section
1652 20A-5-400.1.

1653 ~~[(63)]~~ (64) "Provisional ballot" means a ballot voted provisionally by a person:

1654 (a) whose name is not listed on the official register at the polling place;

1655 (b) whose legal right to vote is challenged as provided in this title; or

1656 (c) whose identity was not sufficiently established by a poll worker.

1657 ~~[(64)]~~ (65) "Provisional ballot envelope" means an envelope printed in the form
1658 required by Section 20A-6-105 that is used to identify provisional ballots and to provide
1659 information to verify a person's legal right to vote.

1660 ~~[(65)]~~ (66) "Qualify" or "qualified" means to take the oath of office and begin
1661 performing the duties of the position for which the person was elected.

1662 ~~[(66)]~~ (67) "Receiving judge" means the poll worker that checks the voter's name in the
1663 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
1664 after the voter has voted.

1665 ~~[(67)]~~ (68) "Registration form" means a book voter registration form and a by-mail
1666 voter registration form.

1667 ~~[(68)]~~ (69) "Regular ballot" means a ballot that is not a provisional ballot.

1668 ~~[(69)]~~ (70) "Regular general election" means the election held throughout the state on
1669 the first Tuesday after the first Monday in November of each even-numbered year for the
1670 purposes established in Section 20A-1-201.

1671 [~~(70)~~] (71) "Regular primary election" means the election on the fourth Tuesday of
1672 June of each even-numbered year, to nominate candidates of political parties and candidates for
1673 nonpartisan local school board positions to advance to the regular general election.

1674 [~~(71)~~] (72) "Resident" means a person who resides within a specific voting precinct in
1675 Utah.

1676 [~~(72)~~] (73) "Sample ballot" means a mock ballot similar in form to the official ballot
1677 printed and distributed as provided in Section 20A-5-405.

1678 [~~(73)~~] (74) "Scratch vote" means to mark or punch the straight party ticket and then
1679 mark or punch the ballot for one or more candidates who are members of different political
1680 parties or who are unaffiliated.

1681 [~~(74)~~] (75) "Secrecy envelope" means the envelope given to a voter along with the
1682 ballot into which the voter places the ballot after the voter has voted it in order to preserve the
1683 secrecy of the voter's vote.

1684 [~~(75)~~] (76) "Special election" means an election held as authorized by Section
1685 20A-1-203.

1686 [~~(76)~~] (77) "Spoiled ballot" means each ballot that:

1687 (a) is spoiled by the voter;

1688 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

1689 (c) lacks the official endorsement.

1690 [~~(77)~~] (78) "Statewide special election" means a special election called by the governor
1691 or the Legislature in which all registered voters in Utah may vote.

1692 [~~(78)~~] (79) "Stub" means the detachable part of each ballot.

1693 [~~(79)~~] (80) "Substitute ballots" means replacement ballots provided by an election
1694 officer to the poll workers when the official ballots are lost or stolen.

1695 [~~(80)~~] (81) "Ticket" means each list of candidates for each political party or for each
1696 group of petitioners.

1697 [~~(81)~~] (82) "Transfer case" means the sealed box used to transport voted ballots to the
1698 counting center.

1699 [~~(82)~~] (83) "Vacancy" means the absence of a person to serve in any position created
1700 by statute, whether that absence occurs because of death, disability, disqualification,
1701 resignation, or other cause.

- 1702 [~~(83)~~] (84) "Valid voter identification" means:
- 1703 (a) a form of identification that bears the name and photograph of the voter which may
- 1704 include:
- 1705 (i) a currently valid Utah driver license;
- 1706 (ii) a currently valid identification card that is issued by:
- 1707 (A) the state; or
- 1708 (B) a branch, department, or agency of the United States;
- 1709 (iii) a currently valid Utah permit to carry a concealed weapon;
- 1710 (iv) a currently valid United States passport; or
- 1711 (v) a currently valid United States military identification card;
- 1712 (b) one of the following identification cards, whether or not the card includes a
- 1713 photograph of the voter:
- 1714 (i) a valid tribal identification card;
- 1715 (ii) a Bureau of Indian Affairs card; or
- 1716 (iii) a tribal treaty card; or
- 1717 (c) two forms of identification not listed under Subsection [~~(83)~~] (84)(a) or (b) but that
- 1718 bear the name of the voter and provide evidence that the voter resides in the voting precinct,
- 1719 which may include:
- 1720 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
- 1721 election;
- 1722 (ii) a bank or other financial account statement, or a legible copy thereof;
- 1723 (iii) a certified birth certificate;
- 1724 (iv) a valid social security card;
- 1725 (v) a check issued by the state or the federal government or a legible copy thereof;
- 1726 (vi) a paycheck from the voter's employer, or a legible copy thereof;
- 1727 (vii) a currently valid Utah hunting or fishing license;
- 1728 (viii) certified naturalization documentation;
- 1729 (ix) a currently valid license issued by an authorized agency of the United States;
- 1730 (x) a certified copy of court records showing the voter's adoption or name change;
- 1731 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- 1732 (xii) a currently valid identification card issued by:

- 1733 (A) a local government within the state;
- 1734 (B) an employer for an employee; or
- 1735 (C) a college, university, technical school, or professional school located within the
1736 state; or
- 1737 (xiii) a current Utah vehicle registration.
- 1738 ~~[(84)]~~ (85) "Valid write-in candidate" means a candidate who has qualified as a
1739 write-in candidate by following the procedures and requirements of this title.
- 1740 ~~[(85)]~~ (86) "Voter" means a person who:
- 1741 (a) meets the requirements for voting in an election;
- 1742 (b) meets the requirements of election registration;
- 1743 (c) is registered to vote; and
- 1744 (d) is listed in the official register book.
- 1745 ~~[(86)]~~ (87) "Voter registration deadline" means the registration deadline provided in
1746 Section [20A-2-102.5](#).
- 1747 ~~[(87)]~~ (88) "Voting area" means the area within six feet of the voting booths, voting
1748 machines, and ballot box.
- 1749 ~~[(88)]~~ (89) "Voting booth" means:
- 1750 (a) the space or compartment within a polling place that is provided for the preparation
1751 of ballots, including the voting machine enclosure or curtain; or
- 1752 (b) a voting device that is free standing.
- 1753 ~~[(89)]~~ (90) "Voting device" means:
- 1754 (a) an apparatus in which ballot sheets are used in connection with a punch device for
1755 piercing the ballots by the voter;
- 1756 (b) a device for marking the ballots with ink or another substance;
- 1757 (c) an electronic voting device or other device used to make selections and cast a ballot
1758 electronically, or any component thereof;
- 1759 (d) an automated voting system under Section [20A-5-302](#); or
- 1760 (e) any other method for recording votes on ballots so that the ballot may be tabulated
1761 by means of automatic tabulating equipment.
- 1762 ~~[(90)]~~ (91) "Voting machine" means a machine designed for the sole purpose of
1763 recording and tabulating votes cast by voters at an election.

1764 [~~(91)~~] (92) "Voting poll watcher" means a person appointed as provided in this title to
1765 witness the distribution of ballots and the voting process.

1766 [~~(92)~~] (93) "Voting precinct" means the smallest voting unit established as provided by
1767 law within which qualified voters vote at one polling place.

1768 [~~(93)~~] (94) "Watcher" means a voting poll watcher, a counting poll watcher, an
1769 inspecting poll watcher, and a testing watcher.

1770 [~~(94)~~] (95) "Western States Presidential Primary" means the election established in
1771 Chapter 9, Part 8, Western States Presidential Primary.

1772 [~~(95)~~] (96) "Write-in ballot" means a ballot containing any write-in votes.

1773 [~~(96)~~] (97) "Write-in vote" means a vote cast for a person whose name is not printed on
1774 the ballot according to the procedures established in this title.

1775 Section 20. Section **20A-5-301** is amended to read:

1776 **20A-5-301. Combined voting precincts -- Municipalities.**

1777 (1) (a) The municipal legislative body of a city of the first or second class may combine
1778 up to four regular county voting precincts into one municipal voting precinct for purposes of a
1779 municipal election if they designate the location and address of each of those combined voting
1780 precincts.

1781 (b) The polling place shall be within the combined voting precinct or within 1/2 mile
1782 of the boundaries of the voting precinct.

1783 (2) (a) The municipal legislative body of a city of the third, fourth, or fifth class [~~or~~], a
1784 town, or a metro township may combine two or more regular county voting precincts into one
1785 municipal voting precinct for purposes of an election if it designates the location and address of
1786 that combined voting precinct.

1787 (b) If only two precincts are combined, the polling place shall be within the combined
1788 precinct or within 1/2 mile of the boundaries of the combined voting precinct.

1789 (c) If more than two precincts are combined, the polling place should be as near as
1790 practical to the middle of the combined precinct.

1791 Section 21. Section **20A-6-401** is amended to read:

1792 **20A-6-401. Ballots for municipal primary elections.**

1793 (1) Each election officer shall ensure that:

1794 (a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across

- 1795 the top of the ballot;
- 1796 (ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the
1797 stub; and
- 1798 (iii) ballot stubs are numbered consecutively;
- 1799 (b) immediately below the perforated ballot stub, the following endorsements are
1800 printed in 18 point bold type:
- 1801 (i) "Official Primary Ballot for ____ (City [or], Town, or Metro Township), Utah";
1802 (ii) the date of the election; and
1803 (iii) a facsimile of the signature of the election officer and the election officer's title in
1804 eight point type;
- 1805 (c) immediately below the election officer's title, two one-point parallel horizontal
1806 rules separate endorsements from the rest of the ballot;
- 1807 (d) immediately below the horizontal rules, an "Instructions to Voters" section is
1808 printed in 10 point bold type that states: "To vote for a candidate, place a cross (X) in the
1809 square following the name(s) of the person(s) you favor as the candidate(s) for each respective
1810 office." followed by two one-point parallel rules;
- 1811 (e) after the rules, the designation of the office for which the candidates seek
1812 nomination is printed flush with the left-hand margin and the words, "Vote for one" or "Vote
1813 for up to ____ (the number of candidates for which the voter may vote)" are printed to extend
1814 to the extreme right of the column in 10-point bold type, followed by a hair-line rule;
- 1815 (f) after the hair-line rule, the names of the candidates are printed in heavy face type
1816 between lines or rules three-eighths inch apart, in the order specified under Section [20A-6-305](#)
1817 with surnames last and grouped according to the office that they seek;
- 1818 (g) a square with sides not less than one-fourth inch long is printed immediately
1819 adjacent to the names of the candidates; and
- 1820 (h) the candidate groups are separated from each other by one light and one heavy line
1821 or rule.
- 1822 (2) A municipal primary ballot may not contain any space for write-in votes.
1823 Section 22. Section **20A-6-402** is amended to read:
1824 **20A-6-402. Ballots for municipal general elections.**
1825 (1) When using a paper ballot at municipal general elections, each election officer shall

1826 ensure that:

1827 (a) the names of the two candidates who received the highest number of votes for
1828 mayor in the municipal primary are placed upon the ballot;

1829 (b) if no municipal primary election was held, the names of the candidates who filed
1830 declarations of candidacy for municipal offices are placed upon the ballot;

1831 (c) for other offices:

1832 (i) twice the number of candidates as there are positions to be filled are certified as
1833 eligible for election in the municipal general election from those candidates who received the
1834 greater number of votes in the primary election; and

1835 (ii) the names of those candidates are placed upon the municipal general election
1836 ballot;

1837 (d) the names of the candidates are placed on the ballot in the order specified under
1838 Section [20A-6-305](#);

1839 (e) in an election in which a voter is authorized to cast a write-in vote and where a
1840 write-in candidate is qualified under Section [20A-9-601](#), a write-in area is placed upon the
1841 ballot that contains, for each office in which there is a qualified write-in candidate:

1842 (i) a blank, horizontal line to enable a voter to submit a valid write-in candidate; and

1843 (ii) a square or other conforming area that is adjacent to or opposite the blank
1844 horizontal line to enable the voter to indicate the voter's vote;

1845 (f) ballot propositions that have qualified for the ballot, including propositions
1846 submitted to the voters by the municipality, municipal initiatives, and municipal referenda, are
1847 listed on the ballot in accordance with Section [20A-6-107](#); and

1848 (g) bond propositions that have qualified for the ballot are listed on the ballot under the
1849 title assigned to each bond proposition under Section [11-14-206](#).

1850 (2) When using a punch card ballot at municipal general elections, each election officer
1851 shall ensure that:

1852 (a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across
1853 the top of the ballot;

1854 (ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the
1855 stub; and

1856 (iii) ballot stubs are numbered consecutively;

1857 (b) immediately below the perforated ballot stub, the following endorsements are
1858 printed in 18 point bold type:

1859 (i) "Official Ballot for ____ (City [or], Town, or Metro Township), Utah";

1860 (ii) the date of the election; and

1861 (iii) a facsimile of the signature of the election officer and the election officer's title in
1862 eight-point type;

1863 (c) immediately below the election officer's title, two one-point parallel horizontal
1864 rules separate endorsements from the rest of the ballot;

1865 (d) immediately below the horizontal rules, an "Instructions to Voters" section is
1866 printed in 10-point bold type that states: "To vote for a candidate, place a cross (X) in the
1867 square following the name(s) of the person(s) you favor as the candidate(s) for each respective
1868 office." followed by two one-point parallel rules;

1869 (e) after the rules, the designation of the office for which the candidates seek election is
1870 printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to ____
1871 (the number of candidates for which the voter may vote)" are printed to extend to the extreme
1872 right of the column in 10-point bold type, followed by a hair-line rule;

1873 (f) after the hair-line rule, the names of the candidates are printed in heavy face type
1874 between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305
1875 with surnames last and grouped according to the office that they seek;

1876 (g) a square with sides not less than one-fourth inch long is printed immediately
1877 adjacent to the names of the candidates;

1878 (h) following the name of the last candidate for each office in which a write-in
1879 candidate is qualified under Section 20A-9-601, the ballot contains:

1880 (i) a write-in space for each elective office in which a write-in candidate is qualified
1881 where the voter may enter the name of a valid write-in candidate; and

1882 (ii) a square printed immediately adjacent to the write-in space or line where the voter
1883 may vote for a valid write-in candidate; and

1884 (i) the candidate groups are separated from each other by one light and one heavy line
1885 or rule.

1886 (3) When using a ballot sheet other than a punch card ballot at municipal general
1887 elections, each election officer shall ensure that:

- 1888 (a) (i) the ballot contains a perforated ballot stub placed across the top of the ballot;
- 1889 (ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the
- 1890 stub; and
- 1891 (iii) ballot stubs are numbered consecutively;
- 1892 (b) immediately below the perforated ballot stub, the following endorsements are
- 1893 printed:
- 1894 (i) "Official Ballot for ____ (City [or] Town, or Metro Township), Utah";
- 1895 (ii) the date of the election; and
- 1896 (iii) a facsimile of the signature of the election officer and the election officer's title;
- 1897 (c) immediately below the election officer's title, a distinct border or line separates
- 1898 endorsements from the rest of the ballot;
- 1899 (d) immediately below the border or line, an "Instructions to Voters" section is printed
- 1900 that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the
- 1901 candidate(s) for each respective office." followed by another border or line;
- 1902 (e) after the border or line, the designation of the office for which the candidates seek
- 1903 election is printed and the words, "Vote for one" or "Vote for up to ____ (the number of
- 1904 candidates for which the voter may vote)" are printed, followed by a line or border;
- 1905 (f) after the line or border, the names of the candidates are printed in the order
- 1906 specified under Section [20A-6-305](#) with surnames last and grouped according to the office that
- 1907 they seek;
- 1908 (g) an oval is printed adjacent to the names of the candidates;
- 1909 (h) following the name of the last candidate for each office in which a write-in
- 1910 candidate is qualified under Section [20A-9-601](#), the ballot contains:
- 1911 (i) a write-in space or blank line for each elective office in which a write-in candidate
- 1912 is qualified where the voter may enter the name of a valid write-in candidate; and
- 1913 (ii) an oval printed adjacent to the write-in space or line where the voter may vote for a
- 1914 valid write-in candidate; and
- 1915 (i) the candidate groups are separated from each other by a line or border.
- 1916 (4) When using an electronic ballot at municipal general elections, each election officer
- 1917 shall ensure that:
- 1918 (a) the following endorsements are displayed on the first screen of the ballot:

- 1919 (i) "Official Ballot for ____ (City [or], Town, or Metro Township), Utah";
- 1920 (ii) the date of the election; and
- 1921 (iii) a facsimile of the signature of the election officer and the election officer's title;
- 1922 (b) immediately below the election officer's title, a distinct border or line separates the
- 1923 endorsements from the rest of the ballot;
- 1924 (c) immediately below the border or line, an "Instructions to Voters" section is
- 1925 displayed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as
- 1926 the candidate(s) for each respective office." followed by another border or line;
- 1927 (d) after the border or line, the designation of the office for which the candidates seek
- 1928 election is displayed, and the words, "Vote for one" or "Vote for up to ____ (the number of
- 1929 candidates for which the voter may vote)" are displayed, followed by a line or border;
- 1930 (e) after the line or border, the names of the candidates are displayed in the order
- 1931 specified under Section 20A-6-305 with surnames last and grouped according to the office that
- 1932 they seek;
- 1933 (f) a voting square or position is located adjacent to the name of each candidate;
- 1934 (g) following the name of the last candidate for each office in which a write-in
- 1935 candidate is qualified under Section 20A-9-601, the ballot contains a write-in space where the
- 1936 voter may enter the name of and vote for a valid write-in candidate for the office; and
- 1937 (h) the candidate groups are separated from each other by a line or border.
- 1938 (5) When a municipality has chosen to nominate candidates by convention or
- 1939 committee, the election officer shall ensure that the party name is included with the candidate's
- 1940 name on the ballot.

1941 Section 23. Section 20A-7-101 is amended to read:

1942 **20A-7-101. Definitions.**

1943 As used in this chapter:

- 1944 (1) "Budget officer" means:
- 1945 (a) for a county, the person designated as budget officer in Section 17-19a-203;
- 1946 (b) for a city, the person designated as budget officer in Subsection 10-6-106(5); [or]
- 1947 (c) for a town, the town council[-]; or
- 1948 (d) for a metro township, the person described in Subsection (1)(a) for the county in
- 1949 which the metro township is located.

1950 (2) "Certified" means that the county clerk has acknowledged a signature as being the
1951 signature of a registered voter.

1952 (3) "Circulation" means the process of submitting an initiative or referendum petition
1953 to legal voters for their signature.

1954 (4) "Final fiscal impact statement" means a financial statement prepared after voters
1955 approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or
1956 20A-7-502.5(2).

1957 (5) "Initial fiscal impact estimate" means:

1958 (a) a financial statement prepared under Section 20A-7-202.5 after the filing of an
1959 application for an initiative petition; or

1960 (b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5
1961 for an initiative or referendum petition.

1962 (6) "Initiative" means a new law proposed for adoption by the public as provided in
1963 this chapter.

1964 (7) "Initiative packet" means a copy of the initiative petition, a copy of the proposed
1965 law, and the signature sheets, all of which have been bound together as a unit.

1966 (8) "Legal signatures" means the number of signatures of legal voters that:

1967 (a) meet the numerical requirements of this chapter; and

1968 (b) have been certified and verified as provided in this chapter.

1969 (9) "Legal voter" means a person who:

1970 (a) is registered to vote; or

1971 (b) becomes registered to vote before the county clerk certifies the signatures on an
1972 initiative or referendum petition.

1973 (10) "Local attorney" means the county attorney, city attorney, or town attorney in
1974 whose jurisdiction a local initiative or referendum petition is circulated.

1975 (11) "Local clerk" means the county clerk, city recorder, or town clerk in whose
1976 jurisdiction a local initiative or referendum petition is circulated.

1977 (12) (a) "Local law" includes an ordinance, resolution, master plan, and any
1978 comprehensive zoning regulation adopted by ordinance or resolution.

1979 (b) "Local law" does not include an individual property zoning decision.

1980 (13) "Local legislative body" means the legislative body of a county, city, ~~or~~ town, or

1981 metro township.

1982 (14) "Local obligation law" means a local law passed by the local legislative body
1983 regarding a bond that was approved by a majority of qualified voters in an election.

1984 (15) "Local tax law" means a local law, passed by a political subdivision with an
1985 annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

1986 (16) "Measure" means a proposed constitutional amendment, an initiative, or
1987 referendum.

1988 (17) "Referendum" means a process by which a law passed by the Legislature or by a
1989 local legislative body is submitted or referred to the voters for their approval or rejection.

1990 (18) "Referendum packet" means a copy of the referendum petition, a copy of the law
1991 being submitted or referred to the voters for their approval or rejection, and the signature
1992 sheets, all of which have been bound together as a unit.

1993 (19) (a) "Signature" means a holographic signature.

1994 (b) "Signature" does not mean an electronic signature.

1995 (20) "Signature sheets" means sheets in the form required by this chapter that are used
1996 to collect signatures in support of an initiative or referendum.

1997 (21) "Sponsors" means the legal voters who support the initiative or referendum and
1998 who sign the application for petition copies.

1999 (22) "Sufficient" means that the signatures submitted in support of an initiative or
2000 referendum petition have been certified and verified as required by this chapter.

2001 (23) "Verified" means acknowledged by the person circulating the petition as required
2002 in Sections [20A-7-205](#) and [20A-7-305](#).

2003 Section 24. Section **20A-7-501** is amended to read:

2004 **20A-7-501. Initiatives.**

2005 (1) (a) Except as provided in Subsection (1)(b), a person seeking to have an initiative
2006 submitted to a local legislative body or to a vote of the people for approval or rejection shall
2007 obtain legal signatures equal to:

2008 (i) 10% of all the votes cast in the county, city, [or] town, or metro township for all
2009 candidates for President of the United States at the last election at which a President of the
2010 United States was elected if the total number of votes exceeds 25,000;

2011 (ii) 12-1/2% of all the votes cast in the county, city, [or] town, or metro township for

2012 all candidates for President of the United States at the last election at which a President of the
2013 United States was elected if the total number of votes does not exceed 25,000 but is more than
2014 10,000;

2015 (iii) 15% of all the votes cast in the county, city, ~~[or]~~ town, or metro township for all
2016 candidates for President of the United States at the last election at which a President of the
2017 United States was elected if the total number of votes does not exceed 10,000 but is more than
2018 2,500;

2019 (iv) 20% of all the votes cast in the county, city, ~~[or]~~ town, or metro township for all
2020 candidates for President of the United States at the last election at which a President of the
2021 United States was elected if the total number of votes does not exceed 2,500 but is more than
2022 500;

2023 (v) 25% of all the votes cast in the county, city, ~~[or]~~ town, or metro township for all
2024 candidates for President of the United States at the last election at which a President of the
2025 United States was elected if the total number of votes does not exceed 500 but is more than
2026 250; and

2027 (vi) 30% of all the votes cast in the county, city, ~~[or]~~ town, or metro township for all
2028 candidates for President of the United States at the last election at which a President of the
2029 United States was elected if the total number of votes does not exceed 250.

2030 (b) In addition to the signature requirements of Subsection (1)(a), a person seeking to
2031 have an initiative submitted to a local legislative body or to a vote of the people for approval or
2032 rejection in a county, city, ~~[or]~~ town, or metro township where the local legislative body is
2033 elected from council districts shall obtain, from each of a majority of council districts, legal
2034 signatures equal to the percentages established in Subsection (1)(a).

2035 (2) If the total number of certified names from each verified signature sheet equals or
2036 exceeds the number of names required by this section, the clerk or recorder shall deliver the
2037 proposed law to the local legislative body at its next meeting.

2038 (3) (a) The local legislative body shall either adopt or reject the proposed law without
2039 change or amendment within 30 days of receipt of the proposed law.

2040 (b) The local legislative body may:

2041 (i) adopt the proposed law and refer it to the people;

2042 (ii) adopt the proposed law without referring it to the people; or

2043 (iii) reject the proposed law.

2044 (c) If the local legislative body adopts the proposed law but does not refer it to the
2045 people, it is subject to referendum as with other local laws.

2046 (d) (i) If a county legislative body rejects a proposed county ordinance or amendment,
2047 or takes no action on it, the county clerk shall submit it to the voters of the county at the next
2048 regular general election immediately after the petition is filed under Section 20A-7-502.

2049 (ii) If a local legislative body rejects a proposed municipal ordinance or amendment, or
2050 takes no action on it, the municipal recorder or clerk shall submit it to the voters of the
2051 municipality at the next municipal general election immediately after the petition is filed under
2052 Section 20A-7-502.

2053 (e) (i) If the local legislative body rejects the proposed ordinance or amendment, or
2054 takes no action on it, the local legislative body may adopt a competing local law.

2055 (ii) The local legislative body shall prepare and adopt the competing local law within
2056 the 30 days allowed for its action on the measure proposed by initiative petition.

2057 (iii) If the local legislative body adopts a competing local law, the clerk or recorder
2058 shall submit it to the voters of the county or municipality at the same election at which the
2059 initiative proposal is submitted.

2060 (f) If conflicting local laws are submitted to the people at the same election and two or
2061 more of the conflicting measures are approved by the people, then the measure that receives the
2062 greatest number of affirmative votes shall control all conflicts.

2063 Section 25. Section 32B-1-102 is amended to read:

2064 **32B-1-102. Definitions.**

2065 As used in this title:

2066 (1) "Airport lounge" means a business location:

2067 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

2068 (b) that is located at an international airport with a United States Customs office on the
2069 premises of the international airport.

2070 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,
2071 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

2072 (3) "Alcoholic beverage" means the following:

2073 (a) beer; or

- 2074 (b) liquor.
- 2075 (4) (a) "Alcoholic product" means a product that:
- 2076 (i) contains at least .5% of alcohol by volume; and
- 2077 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
- 2078 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
- 2079 in an amount equal to or greater than .5% of alcohol by volume.
- 2080 (b) "Alcoholic product" includes an alcoholic beverage.
- 2081 (c) "Alcoholic product" does not include any of the following common items that
- 2082 otherwise come within the definition of an alcoholic product:
- 2083 (i) except as provided in Subsection (4)(d), an extract;
- 2084 (ii) vinegar;
- 2085 (iii) cider;
- 2086 (iv) essence;
- 2087 (v) tincture;
- 2088 (vi) food preparation; or
- 2089 (vii) an over-the-counter medicine.
- 2090 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 2091 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 2092 (5) "Alcohol training and education seminar" means a seminar that is:
- 2093 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- 2094 (b) described in Section [62A-15-401](#).
- 2095 (6) "Banquet" means an event:
- 2096 (a) that is held at one or more designated locations approved by the commission in or
- 2097 on the premises of a:
- 2098 (i) hotel;
- 2099 (ii) resort facility;
- 2100 (iii) sports center; or
- 2101 (iv) convention center;
- 2102 (b) for which there is a contract:
- 2103 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
- 2104 and

2105 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
2106 provide an alcoholic product at the event; and

2107 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.

2108 (7) (a) "Bar" means a surface or structure:

2109 (i) at which an alcoholic product is:

2110 (A) stored; or

2111 (B) dispensed; or

2112 (ii) from which an alcoholic product is served.

2113 (b) "Bar structure" means a surface or structure on a licensed premises if on or at any
2114 place of the surface or structure an alcoholic product is:

2115 (i) stored; or

2116 (ii) dispensed.

2117 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:

2118 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
2119 volume or 3.2% by weight; and

2120 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

2121 (b) "Beer" may or may not contain hops or other vegetable products.

2122 (c) "Beer" includes a product that:

2123 (i) contains alcohol in the percentages described in Subsection (8)(a); and

2124 (ii) is referred to as:

2125 (A) beer;

2126 (B) ale;

2127 (C) porter;

2128 (D) stout;

2129 (E) lager; or

2130 (F) a malt or malted beverage.

2131 (d) "Beer" does not include a flavored malt beverage.

2132 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
2133 Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

2134 (10) "Beer retailer" means a business:

2135 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,

2136 whether for consumption on or off the business premises; and

2137 (b) to whom a license is issued:

2138 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise
2139 Beer Retailer Local Authority; or

2140 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
2141 and Chapter 6, Part 7, On-Premise Beer Retailer License.

2142 (11) "Beer wholesaling license" means a license:

2143 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

2144 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
2145 retail licensees or off-premise beer retailers.

2146 (12) "Billboard" means a public display used to advertise, including:

2147 (a) a light device;

2148 (b) a painting;

2149 (c) a drawing;

2150 (d) a poster;

2151 (e) a sign;

2152 (f) a signboard; or

2153 (g) a scoreboard.

2154 (13) "Brewer" means a person engaged in manufacturing:

2155 (a) beer;

2156 (b) heavy beer; or

2157 (c) a flavored malt beverage.

2158 (14) "Brewery manufacturing license" means a license issued in accordance with
2159 Chapter 11, Part 5, Brewery Manufacturing License.

2160 (15) "Certificate of approval" means a certificate of approval obtained from the
2161 department under Section [32B-11-201](#).

2162 (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
2163 a bus company to a group of persons pursuant to a common purpose:

2164 (a) under a single contract;

2165 (b) at a fixed charge in accordance with the bus company's tariff; and

2166 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other

2167 motor vehicle, and a driver to travel together to one or more specified destinations.

2168 (17) "Church" means a building:

2169 (a) set apart for worship;

2170 (b) in which religious services are held;

2171 (c) with which clergy is associated; and

2172 (d) that is tax exempt under the laws of this state.

2173 (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail
2174 License Act, and Chapter 6, Part 4, Club License.

2175 (b) "Club license" includes:

2176 (i) a dining club license;

2177 (ii) an equity club license;

2178 (iii) a fraternal club license; or

2179 (iv) a social club license.

2180 (19) "Commission" means the Alcoholic Beverage Control Commission created in
2181 Section [32B-2-201](#).

2182 (20) "Commissioner" means a member of the commission.

2183 (21) "Community location" means:

2184 (a) a public or private school;

2185 (b) a church;

2186 (c) a public library;

2187 (d) a public playground; or

2188 (e) a public park.

2189 (22) "Community location governing authority" means:

2190 (a) the governing body of the community location; or

2191 (b) if the commission does not know who is the governing body of a community
2192 location, a person who appears to the commission to have been given on behalf of the
2193 community location the authority to prohibit an activity at the community location.

2194 (23) "Container" means a receptacle that contains an alcoholic product, including:

2195 (a) a bottle;

2196 (b) a vessel; or

2197 (c) a similar item.

- 2198 (24) "Convention center" means a facility that is:
2199 (a) in total at least 30,000 square feet; and
2200 (b) otherwise defined as a "convention center" by the commission by rule.
- 2201 (25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a
2202 dining area of a licensed premises where seating is provided to a patron for service of food.
2203 (b) "Counter" does not include a surface or structure if on or at any point of the surface
2204 or structure an alcoholic product is:
2205 (i) stored; or
2206 (ii) dispensed.
- 2207 (26) "Department" means the Department of Alcoholic Beverage Control created in
2208 Section [32B-2-203](#).
- 2209 (27) "Department compliance officer" means an individual who is:
2210 (a) an auditor or inspector; and
2211 (b) employed by the department.
- 2212 (28) "Department sample" means liquor that is placed in the possession of the
2213 department for testing, analysis, and sampling.
- 2214 (29) "Dining club license" means a license issued in accordance with Chapter 5, Retail
2215 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
2216 dining club license.
- 2217 (30) "Director," unless the context requires otherwise, means the director of the
2218 department.
- 2219 (31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
2220 title:
2221 (a) against a person subject to administrative action; and
2222 (b) that is brought on the basis of a violation of this title.
- 2223 (32) (a) Subject to Subsection (32)(b), "dispense" means:
2224 (i) drawing of an alcoholic product:
2225 (A) from an area where it is stored; or
2226 (B) as provided in Subsection [32B-6-205\(12\)\(b\)\(ii\)](#), [32B-6-305\(12\)\(b\)\(ii\)](#),
2227 [32B-6-805\(15\)\(b\)\(ii\)](#), or [32B-6-905\(12\)\(b\)\(ii\)](#); and
2228 (ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of

2229 the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the
2230 retail licensee.

2231 (b) The definition of "dispense" in this Subsection (32) applies only to:

2232 (i) a full-service restaurant license;

2233 (ii) a limited-service restaurant license;

2234 (iii) a reception center license; and

2235 (iv) a beer-only restaurant license.

2236 (33) "Distillery manufacturing license" means a license issued in accordance with

2237 Chapter 11, Part 4, Distillery Manufacturing License.

2238 (34) "Distressed merchandise" means an alcoholic product in the possession of the

2239 department that is saleable, but for some reason is unappealing to the public.

2240 (35) "Educational facility" includes:

2241 (a) a nursery school;

2242 (b) an infant day care center; and

2243 (c) a trade and technical school.

2244 (36) "Equity club license" means a license issued in accordance with Chapter 5, Retail

2245 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an

2246 equity club license.

2247 (37) "Event permit" means:

2248 (a) a single event permit; or

2249 (b) a temporary beer event permit.

2250 (38) "Exempt license" means a license exempt under Section [32B-1-201](#) from being

2251 considered in determining the total number of a retail license that the commission may issue at

2252 any time.

2253 (39) (a) "Flavored malt beverage" means a beverage:

2254 (i) that contains at least .5% alcohol by volume;

2255 (ii) that is treated by processing, filtration, or another method of manufacture that is not

2256 generally recognized as a traditional process in the production of a beer as described in 27

2257 C.F.R. Sec. 25.55;

2258 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop

2259 extract; and

- 2260 (iv) (A) for which the producer is required to file a formula for approval with the
2261 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or
2262 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.
- 2263 (b) "Flavored malt beverage" is considered liquor for purposes of this title.
- 2264 (40) "Fraternal club license" means a license issued in accordance with Chapter 5,
2265 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
2266 as a fraternal club license.
- 2267 (41) "Full-service restaurant license" means a license issued in accordance with
2268 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.
- 2269 (42) (a) "Furnish" means by any means to provide with, supply, or give an individual
2270 an alcoholic product, by sale or otherwise.
- 2271 (b) "Furnish" includes to:
- 2272 (i) serve;
- 2273 (ii) deliver; or
- 2274 (iii) otherwise make available.
- 2275 (43) "Guest" means an individual who meets the requirements of Subsection
2276 [32B-6-407\(9\)](#).
- 2277 (44) "Health care practitioner" means:
- 2278 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 2279 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 2280 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 2281 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
2282 Act;
- 2283 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
2284 Nurse Practice Act;
- 2285 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
2286 Practice Act;
- 2287 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
2288 Therapy Practice Act;
- 2289 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 2290 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health

- 2291 Professional Practice Act;
- 2292 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 2293 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
- 2294 Practice Act;
- 2295 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
- 2296 Hygienist Practice Act; and
- 2297 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- 2298 (45) (a) "Heavy beer" means a product that:
- 2299 (i) contains more than 4% alcohol by volume; and
- 2300 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 2301 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 2302 (46) "Hotel" is as defined by the commission by rule.
- 2303 (47) "Identification card" means an identification card issued under Title 53, Chapter 3,
- 2304 Part 8, Identification Card Act.
- 2305 (48) "Industry representative" means an individual who is compensated by salary,
- 2306 commission, or other means for representing and selling an alcoholic product of a
- 2307 manufacturer, supplier, or importer of liquor.
- 2308 (49) "Industry representative sample" means liquor that is placed in the possession of
- 2309 the department for testing, analysis, and sampling by a local industry representative on the
- 2310 premises of the department to educate the local industry representative of the quality and
- 2311 characteristics of the product.
- 2312 (50) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
- 2313 of an alcoholic product is prohibited by:
- 2314 (a) law; or
- 2315 (b) court order.
- 2316 (51) "Intoxicated" means that a person:
- 2317 (a) is significantly impaired as to the person's mental or physical functions as a result of
- 2318 the use of:
- 2319 (i) an alcoholic product;
- 2320 (ii) a controlled substance;
- 2321 (iii) a substance having the property of releasing toxic vapors; or

2322 (iv) a combination of Subsections (51)(a)(i) through (iii); and
2323 (b) exhibits plain and easily observed outward manifestations of behavior or physical
2324 signs produced by the overconsumption of an alcoholic product.

2325 (52) "Investigator" means an individual who is:

- 2326 (a) a department compliance officer; or
- 2327 (b) a nondepartment enforcement officer.

2328 (53) "Invitee" ~~is as~~ means the same as that term is defined in Section 32B-8-102.

2329 (54) "License" means:

- 2330 (a) a retail license;
- 2331 (b) a license issued in accordance with Chapter 11, Manufacturing and Related

2332 Licenses Act;

- 2333 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

2334 or

- 2335 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

2336 (55) "Licensee" means a person who holds a license.

2337 (56) "Limited-service restaurant license" means a license issued in accordance with
2338 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

2339 (57) "Limousine" means a motor vehicle licensed by the state or a local authority, other
2340 than a bus or taxicab:

- 2341 (a) in which the driver and a passenger are separated by a partition, glass, or other
2342 barrier;

2343 (b) that is provided by a business entity to one or more individuals at a fixed charge in
2344 accordance with the business entity's tariff; and

2345 (c) to give the one or more individuals the exclusive use of the limousine and a driver
2346 to travel to one or more specified destinations.

2347 (58) (a) (i) "Liquor" means a liquid that:

2348 (A) is:

2349 (I) alcohol;

2350 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

2351 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

2352 (IV) other drink or drinkable liquid; and

- 2353 (B) (I) contains at least .5% alcohol by volume; and
2354 (II) is suitable to use for beverage purposes.
- 2355 (ii) "Liquor" includes:
2356 (A) heavy beer;
2357 (B) wine; and
2358 (C) a flavored malt beverage.
- 2359 (b) "Liquor" does not include beer.
- 2360 (59) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.
- 2361 (60) "Liquor warehousing license" means a license that is issued:
2362 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
2363 (b) to a person, other than a licensed manufacturer, who engages in the importation for
2364 storage, sale, or distribution of liquor regardless of amount.
- 2365 (61) "Local authority" means:
2366 (a) for premises that are located in an unincorporated area of a county, the governing
2367 body of a county; or
2368 (b) for premises that are located in an incorporated city [~~or a~~], town, or metro township,
2369 the governing body of the city [~~or~~], town, or metro township.
- 2370 (62) "Lounge or bar area" is as defined by rule made by the commission.
- 2371 (63) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
2372 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 2373 (64) "Member" means an individual who, after paying regular dues, has full privileges
2374 in an equity club licensee or fraternal club licensee.
- 2375 (65) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
2376 or homeport facility for a ship:
2377 (i) (A) under the control of the United States Department of Defense; or
2378 (B) of the National Guard;
2379 (ii) that is located within the state; and
2380 (iii) including a leased facility.
- 2381 (b) "Military installation" does not include a facility used primarily for:
2382 (i) civil works;
2383 (ii) a rivers and harbors project; or

- 2384 (iii) a flood control project.
- 2385 (66) "Minor" means an individual under the age of 21 years.
- 2386 (67) "Nondepartment enforcement agency" means an agency that:
- 2387 (a) (i) is a state agency other than the department; or
- 2388 (ii) is an agency of a county, city, ~~or~~ town, or metro township; and
- 2389 (b) has a responsibility to enforce one or more provisions of this title.
- 2390 (68) "Nondepartment enforcement officer" means an individual who is:
- 2391 (a) a peace officer, examiner, or investigator; and
- 2392 (b) employed by a nondepartment enforcement agency.
- 2393 (69) (a) "Off-premise beer retailer" means a beer retailer who is:
- 2394 (i) licensed in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local
- 2395 Authority; and
- 2396 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 2397 premises.
- 2398 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 2399 (70) "On-premise banquet license" means a license issued in accordance with Chapter
- 2400 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 2401 (71) "On-premise beer retailer" means a beer retailer who is:
- 2402 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 2403 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
- 2404 Retailer License; and
- 2405 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 2406 premises:
- 2407 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 2408 premises; and
- 2409 (ii) on and after March 1, 2012, operating:
- 2410 (A) as a tavern; or
- 2411 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 2412 (72) "Opaque" means impenetrable to sight.
- 2413 (73) "Package agency" means a retail liquor location operated:
- 2414 (a) under an agreement with the department; and

- 2415 (b) by a person:
- 2416 (i) other than the state; and
- 2417 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
- 2418 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 2419 (74) "Package agent" means a person who holds a package agency.
- 2420 (75) "Patron" means an individual to whom food, beverages, or services are sold,
- 2421 offered for sale, or furnished, or who consumes an alcoholic product including:
- 2422 (a) a customer;
- 2423 (b) a member;
- 2424 (c) a guest;
- 2425 (d) an attendee of a banquet or event;
- 2426 (e) an individual who receives room service;
- 2427 (f) a resident of a resort;
- 2428 (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#);
- 2429 or
- 2430 (h) an invitee.
- 2431 (76) "Permittee" means a person issued a permit under:
- 2432 (a) Chapter 9, Event Permit Act; or
- 2433 (b) Chapter 10, Special Use Permit Act.
- 2434 (77) "Person subject to administrative action" means:
- 2435 (a) a licensee;
- 2436 (b) a permittee;
- 2437 (c) a manufacturer;
- 2438 (d) a supplier;
- 2439 (e) an importer;
- 2440 (f) one of the following holding a certificate of approval:
- 2441 (i) an out-of-state brewer;
- 2442 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- 2443 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 2444 (g) staff of:
- 2445 (i) a person listed in Subsections (77)(a) through (f); or

2446 (ii) a package agent.

2447 (78) "Premises" means a building, enclosure, or room used in connection with the
2448 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
2449 unless otherwise defined in this title or rules made by the commission.

2450 (79) "Prescription" means an order issued by a health care practitioner when:

2451 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
2452 to prescribe a controlled substance, other drug, or device for medicinal purposes;

2453 (b) the order is made in the course of that health care practitioner's professional
2454 practice; and

2455 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

2456 (80) (a) "Private event" means a specific social, business, or recreational event:

2457 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
2458 group; and

2459 (ii) that is limited in attendance to people who are specifically designated and their
2460 guests.

2461 (b) "Private event" does not include an event to which the general public is invited,
2462 whether for an admission fee or not.

2463 (81) (a) "Proof of age" means:

2464 (i) an identification card;

2465 (ii) an identification that:

2466 (A) is substantially similar to an identification card;

2467 (B) is issued in accordance with the laws of a state other than Utah in which the
2468 identification is issued;

2469 (C) includes date of birth; and

2470 (D) has a picture affixed;

2471 (iii) a valid driver license certificate that:

2472 (A) includes date of birth;

2473 (B) has a picture affixed; and

2474 (C) is issued:

2475 (I) under Title 53, Chapter 3, Uniform Driver License Act; or

2476 (II) in accordance with the laws of the state in which it is issued;

- 2477 (iv) a military identification card that:
- 2478 (A) includes date of birth; and
- 2479 (B) has a picture affixed; or
- 2480 (v) a valid passport.
- 2481 (b) "Proof of age" does not include a driving privilege card issued in accordance with
- 2482 Section [53-3-207](#).
- 2483 (82) (a) "Public building" means a building or permanent structure that is:
- 2484 (i) owned or leased by:
- 2485 (A) the state; or
- 2486 (B) a local government entity; and
- 2487 (ii) used for:
- 2488 (A) public education;
- 2489 (B) transacting public business; or
- 2490 (C) regularly conducting government activities.
- 2491 (b) "Public building" does not include a building owned by the state or a local
- 2492 government entity when the building is used by a person, in whole or in part, for a proprietary
- 2493 function.
- 2494 (83) "Public conveyance" means a conveyance to which the public or a portion of the
- 2495 public has access to and a right to use for transportation, including an airline, railroad, bus,
- 2496 boat, or other public conveyance.
- 2497 (84) "Reception center" means a business that:
- 2498 (a) operates facilities that are at least 5,000 square feet; and
- 2499 (b) has as its primary purpose the leasing of the facilities described in Subsection
- 2500 (84)(a) to a third party for the third party's event.
- 2501 (85) "Reception center license" means a license issued in accordance with Chapter 5,
- 2502 Retail License Act, and Chapter 6, Part 8, Reception Center License.
- 2503 (86) (a) "Record" means information that is:
- 2504 (i) inscribed on a tangible medium; or
- 2505 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- 2506 (b) "Record" includes:
- 2507 (i) a book;

- 2508 (ii) a book of account;
- 2509 (iii) a paper;
- 2510 (iv) a contract;
- 2511 (v) an agreement;
- 2512 (vi) a document; or
- 2513 (vii) a recording in any medium.
- 2514 (87) "Residence" means a person's principal place of abode within Utah.
- 2515 (88) "Resident," in relation to a resort, [~~is as~~] means the same as that term is defined in
- 2516 Section [32B-8-102](#).
- 2517 (89) "Resort" [~~is as~~] means the same as that term is defined in Section [32B-8-102](#).
- 2518 (90) "Resort facility" is as defined by the commission by rule.
- 2519 (91) "Resort license" means a license issued in accordance with Chapter 5, Retail
- 2520 License Act, and Chapter 8, Resort License Act.
- 2521 (92) "Restaurant" means a business location:
- 2522 (a) at which a variety of foods are prepared;
- 2523 (b) at which complete meals are served to the general public; and
- 2524 (c) that is engaged primarily in serving meals to the general public.
- 2525 (93) "Retail license" means one of the following licenses issued under this title:
- 2526 (a) a full-service restaurant license;
- 2527 (b) a master full-service restaurant license;
- 2528 (c) a limited-service restaurant license;
- 2529 (d) a master limited-service restaurant license;
- 2530 (e) a club license;
- 2531 (f) an airport lounge license;
- 2532 (g) an on-premise banquet license;
- 2533 (h) an on-premise beer license;
- 2534 (i) a reception center license; or
- 2535 (j) a beer-only restaurant license.
- 2536 (94) "Room service" means furnishing an alcoholic product to a person in a guest room
- 2537 of a:
- 2538 (a) hotel; or

- 2539 (b) resort facility.
- 2540 [~~(96)~~] (95) (a) "School" means a building used primarily for the general education of
- 2541 minors.
- 2542 (b) "School" does not include an educational facility.
- 2543 [~~(97)~~] (96) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby,
- 2544 for consideration, an alcoholic product is either directly or indirectly transferred, solicited,
- 2545 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether
- 2546 done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or
- 2547 the rules made by the commission.
- 2548 [~~(95)~~] (97) "Serve" means to place an alcoholic product before an individual.
- 2549 (98) "Sexually oriented entertainer" means a person who while in a state of seminudity
- 2550 appears at or performs:
 - 2551 (a) for the entertainment of one or more patrons;
 - 2552 (b) on the premises of:
 - 2553 (i) a social club licensee; or
 - 2554 (ii) a tavern;
 - 2555 (c) on behalf of or at the request of the licensee described in Subsection (98)(b);
 - 2556 (d) on a contractual or voluntary basis; and
 - 2557 (e) whether or not the person is designated as:
 - 2558 (i) an employee;
 - 2559 (ii) an independent contractor;
 - 2560 (iii) an agent of the licensee; or
 - 2561 (iv) a different type of classification.
- 2562 (99) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3,
- 2563 Single Event Permit.
- 2564 (100) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
- 2565 beer, heavy beer, and flavored malt beverages per year.
- 2566 (101) "Social club license" means a license issued in accordance with Chapter 5, Retail
- 2567 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
- 2568 social club license.
- 2569 (102) "Special use permit" means a permit issued in accordance with Chapter 10,

2570 Special Use Permit Act.

2571 (103) (a) "Spirituous liquor" means liquor that is distilled.

2572 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by

2573 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

2574 (104) "Sports center" is as defined by the commission by rule.

2575 (105) (a) "Staff" means an individual who engages in activity governed by this title:

2576 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
2577 holder;

2578 (ii) at the request of the business, including a package agent, licensee, permittee, or
2579 certificate holder; or

2580 (iii) under the authority of the business, including a package agent, licensee, permittee,
2581 or certificate holder.

2582 (b) "Staff" includes:

2583 (i) an officer;

2584 (ii) a director;

2585 (iii) an employee;

2586 (iv) personnel management;

2587 (v) an agent of the licensee, including a managing agent;

2588 (vi) an operator; or

2589 (vii) a representative.

2590 (106) "State of nudity" means:

2591 (a) the appearance of:

2592 (i) the nipple or areola of a female human breast;

2593 (ii) a human genital;

2594 (iii) a human pubic area; or

2595 (iv) a human anus; or

2596 (b) a state of dress that fails to opaquely cover:

2597 (i) the nipple or areola of a female human breast;

2598 (ii) a human genital;

2599 (iii) a human pubic area; or

2600 (iv) a human anus.

2601 (107) "State of seminudity" means a state of dress in which opaque clothing covers no
2602 more than:

2603 (a) the nipple and areola of the female human breast in a shape and color other than the
2604 natural shape and color of the nipple and areola; and

2605 (b) the human genitals, pubic area, and anus:

2606 (i) with no less than the following at its widest point:

2607 (A) four inches coverage width in the front of the human body; and

2608 (B) five inches coverage width in the back of the human body; and

2609 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

2610 (108) (a) "State store" means a facility for the sale of packaged liquor:

2611 (i) located on premises owned or leased by the state; and

2612 (ii) operated by a state employee.

2613 (b) "State store" does not include:

2614 (i) a package agency;

2615 (ii) a licensee; or

2616 (iii) a permittee.

2617 (109) (a) "Storage area" means an area on licensed premises where the licensee stores
2618 an alcoholic product.

2619 (b) "Store" means to place or maintain in a location an alcoholic product from which a
2620 person draws to prepare an alcoholic product to be furnished to a patron, except as provided in
2621 Subsection [32B-6-205\(12\)\(b\)\(ii\)](#), [32B-6-305\(12\)\(b\)\(ii\)](#), [32B-6-805\(15\)\(b\)\(ii\)](#), or
2622 [32B-6-905\(12\)\(b\)\(ii\)](#).

2623 (110) "Sublicense" ~~is as~~ means the same as that term is defined in Section [32B-8-102](#).

2624 (111) "Supplier" means a person who sells an alcoholic product to the department.

2625 (112) "Tavern" means an on-premise beer retailer who is:

2626 (a) issued a license by the commission in accordance with Chapter 5, Retail License
2627 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

2628 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
2629 On-Premise Beer Retailer License.

2630 (113) "Temporary beer event permit" means a permit issued in accordance with
2631 Chapter 9, Part 4, Temporary Beer Event Permit.

2632 (114) "Temporary domicile" means the principal place of abode within Utah of a
2633 person who does not have a present intention to continue residency within Utah permanently or
2634 indefinitely.

2635 (115) "Translucent" means a substance that allows light to pass through, but does not
2636 allow an object or person to be seen through the substance.

2637 (116) "Unsaleable liquor merchandise" means a container that:

2638 (a) is unsaleable because the container is:

2639 (i) unlabeled;

2640 (ii) leaky;

2641 (iii) damaged;

2642 (iv) difficult to open; or

2643 (v) partly filled;

2644 (b) (i) has faded labels or defective caps or corks;

2645 (ii) has contents that are:

2646 (A) cloudy;

2647 (B) spoiled; or

2648 (C) chemically determined to be impure; or

2649 (iii) contains:

2650 (A) sediment; or

2651 (B) a foreign substance; or

2652 (c) is otherwise considered by the department as unfit for sale.

2653 (117) (a) "Wine" means an alcoholic product obtained by the fermentation of the
2654 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
2655 another ingredient is added.

2656 (b) "Wine" is considered liquor for purposes of this title, except as otherwise provided
2657 in this title.

2658 (118) "Winery manufacturing license" means a license issued in accordance with
2659 Chapter 11, Part 3, Winery Manufacturing License.

2660 Section 26. Section **32B-1-202** is amended to read:

2661 **32B-1-202. Proximity to community location.**

2662 (1) For purposes of this section, "outlet" means:

- 2663 (a) a state store;
- 2664 (b) a package agency; or
- 2665 (c) a retail licensee, except an airport lounge licensee.
- 2666 (2) Except as otherwise provided in this section, the premises of an outlet may not be
- 2667 located:
- 2668 (a) within 600 feet of a community location, as measured from the nearest entrance of
- 2669 the outlet by following the shortest route of ordinary pedestrian travel to the property boundary
- 2670 of the community location; or
- 2671 (b) within 200 feet of a community location, measured in a straight line from the
- 2672 nearest entrance of the outlet to the nearest property boundary of the community location.
- 2673 (3) With respect to the location of an outlet, the commission may authorize a variance
- 2674 to reduce the proximity requirement of Subsection (2) if:
- 2675 (a) when the variance reduces the proximity requirement of Subsection (2)(b), the
- 2676 community location at issue is:
- 2677 (i) a public library; or
- 2678 (ii) a public park;
- 2679 (b) except with respect to a state store, the local authority gives its written consent to
- 2680 the variance;
- 2681 (c) the commission finds that alternative locations for locating that type of outlet in the
- 2682 community are limited;
- 2683 (d) a public hearing is held in the city, town, metro township, or county, and when
- 2684 practical in the neighborhood concerned;
- 2685 (e) after giving full consideration to the attending circumstances and the policies stated
- 2686 in Subsections 32B-1-103(3) and (4), the commission determines that locating the outlet in that
- 2687 location would not be detrimental to the public health, peace, safety, and welfare of the
- 2688 community;
- 2689 (f) (i) the community location governing authority gives its written consent to the
- 2690 variance; or
- 2691 (ii) if the community location governing authority does not give its written consent to a
- 2692 variance, the commission finds the following for a state store, or if the outlet is a package
- 2693 agency or retail licensee, the commission finds that the applicant establishes the following:

- 2694 (A) there is substantial unmet public demand to consume an alcoholic product:
2695 (I) within the geographic boundary of the local authority in which the outlet is to be
2696 located; and
2697 (II) for an outlet that is a retail licensee, in a public setting;
2698 (B) there is no reasonably viable alternative for satisfying the substantial unmet
2699 demand other than through locating that type of outlet in that location; and
2700 (C) there is no reasonably viable alternative location within the geographic boundary of
2701 the local authority in which the outlet is to be located for locating that type of outlet to satisfy
2702 the unmet demand.
2703 (4) With respect to the premises of a package agency or retail licensee that undergoes a
2704 change of ownership, the commission may waive or vary the proximity requirements of
2705 Subsection (2) in considering whether to issue the package agency or same type of retail license
2706 to the new owner of the premises if:
2707 (a) the premises previously received a variance reducing the proximity requirement of
2708 Subsection (2)(a);
2709 (b) the premises received a variance reducing the proximity requirement of Subsection
2710 (2)(b) on or before May 4, 2008; or
2711 (c) a variance from proximity requirements was otherwise allowed under this title.
2712 (5) Nothing in this section prevents the commission from considering the proximity of
2713 an educational, religious, and recreational facility, or any other relevant factor in reaching a
2714 decision on a proposed location of an outlet.
2715 Section 27. Section **32B-2-402** is amended to read:
2716 **32B-2-402. Definitions -- Calculations.**
2717 (1) As used in this part:
2718 (a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and
2719 Treatment Restricted Account created in Section [32B-2-403](#).
2720 (b) "Advisory council" means the Utah Substance Abuse Advisory Council created in
2721 Section [63M-7-301](#).
2722 (c) "Alcohol-related offense" means:
2723 (i) a violation of:
2724 (A) Section [41-6a-502](#); or

- 2725 (B) an ordinance that complies with the requirements of:
- 2726 (I) Subsection 41-6a-510(1); or
- 2727 (II) Section 76-5-207; or
- 2728 (ii) an offense involving the illegal:
- 2729 (A) sale of an alcoholic product;
- 2730 (B) consumption of an alcoholic product;
- 2731 (C) distribution of an alcoholic product;
- 2732 (D) transportation of an alcoholic product; or
- 2733 (E) possession of an alcoholic product.
- 2734 (d) "Annual conviction time period" means the time period that:
- 2735 (i) begins on July 1 and ends on June 30; and
- 2736 (ii) immediately precedes the fiscal year for which an appropriation under this part is
- 2737 made.
- 2738 (e) "Municipality" means:
- 2739 (i) a city; [or]
- 2740 (ii) a town[:]; or
- 2741 (iii) a metro township.
- 2742 (f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah
- 2743 Administrative Rulemaking Act, by the Division of Substance Abuse and Mental Health within
- 2744 the Department of Human Services.
- 2745 (ii) In defining the term "prevention," the Division of Substance Abuse and Mental
- 2746 Health shall:
- 2747 (A) include only evidence-based or evidence-informed programs; and
- 2748 (B) provide for coordination with local substance abuse authorities designated to
- 2749 provide substance abuse services in accordance with Section 17-43-201.
- 2750 (2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located
- 2751 within the limits of a municipality or county:
- 2752 (a) is the number determined by the department to be so located;
- 2753 (b) includes the aggregate number of premises of the following:
- 2754 (i) a state store;
- 2755 (ii) a package agency; and

2756 (iii) a retail licensee; and
2757 (c) for a county, consists only of the number located within an unincorporated area of
2758 the county.

2759 (3) The department shall determine:

2760 (a) a population figure according to the most current population estimate prepared by
2761 the Utah Population Estimates Committee;

2762 (b) a county's population for the 25% distribution to municipalities and counties under
2763 Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated
2764 areas of the county; and

2765 (c) a county's population for the 25% distribution to counties under Subsection
2766 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of
2767 a municipality.

2768 (4) (a) A conviction occurs in the municipality or county that actually prosecutes the
2769 offense to judgment.

2770 (b) If a conviction is based upon a guilty plea, the conviction is considered to occur in
2771 the municipality or county that, except for the guilty plea, would have prosecuted the offense.

2772 Section 28. Section 32B-4-202 is amended to read:

2773 **32B-4-202. Duties to enforce this title.**

2774 (1) It is the duty of the following to diligently enforce this title in their respective
2775 capacities:

2776 (a) the governor;

2777 (b) a commissioner;

2778 (c) the director;

2779 (d) an official, inspector, or department employee;

2780 (e) a prosecuting official of the state or its political subdivisions;

2781 (f) a county, city, [or] town, or metro township;

2782 (g) a peace officer, sheriff, deputy sheriff, constable, marshal, or law enforcement
2783 official;

2784 (h) a state health official; and

2785 (i) a clerk of the court.

2786 (2) Immediately upon conviction of a person for violation of this title or of a local

2787 ordinance relating to an alcoholic product, it is the duty of the clerk of the court to notify the
2788 department of the conviction in writing on forms supplied by the department.

2789 Section 29. Section **32B-5-403** is amended to read:

2790 **32B-5-403. Alcohol training and education -- Revocation, suspension, or**
2791 **nonrenewal of retail license.**

2792 (1) The commission may suspend, revoke, or not renew a license of a retail licensee if
2793 any of the following individuals, as defined in Section **62A-15-401**, fail to complete an alcohol
2794 training and education seminar:

2795 (a) an individual who manages operations at the licensed premises for consumption on
2796 the licensed premises;

2797 (b) an individual who supervises the furnishing of an alcoholic product to a patron for
2798 consumption on the licensed premises; or

2799 (c) an individual who serves an alcoholic product to a patron for consumption on the
2800 licensed premises.

2801 (2) A city, town, metro township, or county in which a retail licensee conducts its
2802 business may suspend, revoke, or not renew the business license of the retail licensee if an
2803 individual described in Subsection (1) fails to complete an alcohol training and education
2804 seminar.

2805 (3) A local authority that issues an off-premise beer retailer license to a business that is
2806 engaged in the retail sale of beer for consumption off the beer retailer's premises may
2807 immediately suspend the off-premise beer retailer license if any of the following individuals
2808 fails to complete an alcohol training and education seminar, an individual who:

2809 (a) directly supervises the sale of beer to a patron for consumption off the premises of
2810 the off-premise beer retailer; or

2811 (b) sells beer to a patron for consumption off the premises of the off-premise beer
2812 retailer.

2813 Section 30. Section **52-1-1** is amended to read:

2814 **52-1-1. Official bonds to run to state, county, municipality, or other agency.**

2815 When the law directs that a public officer shall give a bond without prescribing to
2816 whom it shall run it shall be made, if [~~he~~] the public officer is a state officer, to the state; if a
2817 county, precinct or district officer, to the county; if a municipal officer, to the city [~~or~~], town, or

2818 metro township; and if a school officer, to the board of education.

2819 Section 31. Section **52-1-5.1** is enacted to read:

2820 **52-1-5.1. Metro township officers -- Where filed.**

2821 Official oaths and bonds of metro township officers shall be filed with the county clerk.

2822 Section 32. Section **63G-6a-103** is amended to read:

2823 **63G-6a-103. Definitions.**

2824 As used in this chapter:

2825 (1) "Bidder" means a person who responds to an invitation for bids.

2826 (2) "Change directive" means a written order signed by the procurement officer that
2827 directs the contractor to suspend work or make changes, as authorized by contract, without the
2828 consent of the contractor.

2829 (3) "Change order" means a written alteration in specifications, delivery point, rate of
2830 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual
2831 agreement of the parties to the contract.

2832 (4) "Chief procurement officer" means the chief procurement officer appointed under
2833 Subsection [63G-6a-302\(1\)](#).

2834 (5) "Conducting procurement unit" means a procurement unit that conducts all aspects
2835 of a procurement:

2836 (a) except:

2837 (i) reviewing a solicitation to verify that it is in proper form; and

2838 (ii) causing the publication of a notice of a solicitation; and

2839 (b) including:

2840 (i) preparing any solicitation document;

2841 (ii) appointing an evaluation committee;

2842 (iii) conducting the evaluation process, except as provided in Subsection
2843 [63G-6a-707\(5\)\(b\)](#) relating to scores calculated for costs of proposals;

2844 (iv) selecting and recommending the person to be awarded a contract;

2845 (v) negotiating the terms and conditions of a contract, subject to the issuing
2846 procurement unit's approval; and

2847 (vi) administering a contract.

2848 (6) (a) "Construction" means the process of building, renovating, altering, improving,

2849 or repairing a public building or public work.

2850 (b) "Construction" does not include the routine operation, routine repair, or routine
2851 maintenance of an existing structure, building, or real property.

2852 (7) (a) "Construction manager/general contractor" means a contractor who enters into a
2853 contract for the management of a construction project when the contract allows the contractor
2854 to subcontract for additional labor and materials that are not included in the contractor's cost
2855 proposal submitted at the time of the procurement of the contractor's services.

2856 (b) "Construction manager/general contractor" does not include a contractor whose
2857 only subcontract work not included in the contractor's cost proposal submitted as part of the
2858 procurement of the contractor's services is to meet subcontracted portions of change orders
2859 approved within the scope of the project.

2860 (8) "Contract" means an agreement for the procurement or disposal of a procurement
2861 item.

2862 (9) "Contractor" means a person who is awarded a contract with a procurement unit.

2863 (10) "Cooperative procurement" means procurement conducted by, or on behalf of:

2864 (a) more than one procurement unit; or

2865 (b) a procurement unit and a cooperative purchasing organization.

2866 (11) "Cost-plus-a-percentage-of-cost contract" means a contract where the contractor is
2867 paid a percentage over and above the contractor's actual expenses or costs.

2868 (12) "Cost-reimbursement contract" means a contract under which a contractor is
2869 reimbursed for costs which are allowed and allocated in accordance with the contract terms and
2870 the provisions of this chapter, and a fee, if any.

2871 (13) "Days" means calendar days, unless expressly provided otherwise.

2872 (14) "Definite quantity contract" means a fixed price contract that provides for the
2873 supply of a specified amount of goods over a specified period, with deliveries scheduled
2874 according to a specified schedule.

2875 (15) "Design-build" means the procurement of design professional services and
2876 construction by the use of a single contract with the design-build provider.

2877 (16) "Design professional" means:

2878 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects
2879 Licensing Act; or

2880 (b) an individual licensed as a professional engineer or professional land surveyor
2881 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing
2882 Act.

2883 (17) "Design professional services" means:

2884 (a) professional services within the scope of the practice of architecture as defined in
2885 Section [58-3a-102](#);

2886 (b) professional engineering as defined in Section [58-22-102](#); or

2887 (c) master planning and programming services.

2888 (18) "Directed procurement" means a procurement of a procurement item in which the
2889 source of the funds used to procure the procurement item:

2890 (a) directs from whom the procurement item is to be procured; or

2891 (b) imposes requirements on how the procurement is to be administered.

2892 (19) "Director" means the director of the division.

2893 (20) "Established catalogue price" means the price included in a catalogue, price list,
2894 schedule, or other form that:

2895 (a) is regularly maintained by a manufacturer or contractor;

2896 (b) is either published or otherwise available for inspection by customers; and

2897 (c) states prices at which sales are currently or were last made to a significant number
2898 of any category of buyers or buyers constituting the general buying public for the supplies or
2899 services involved.

2900 (21) "Fixed price contract" means a contract that provides a price, for each
2901 procurement item obtained under the contract, that is not subject to adjustment except to the
2902 extent that:

2903 (a) the contract provides, under circumstances specified in the contract, for an
2904 adjustment in price that is not based on cost to the contractor; or

2905 (b) an adjustment is required by law.

2906 (22) "Fixed price contract with price adjustment" means a fixed price contract that
2907 provides for an upward or downward revision of price, precisely described in the contract, that:

2908 (a) is based on the consumer price index or another commercially acceptable index,
2909 source, or formula; and

2910 (b) is not based on a percentage of the cost to the contractor.

2911 (23) "Grant" means an expenditure of public funds or other assistance, or an agreement
2912 to expend public funds or other assistance, for a public purpose authorized by law, without
2913 acquiring a procurement item in exchange.

2914 (24) "Head of a procurement unit" means:

2915 (a) as it relates to a legislative procurement unit, any person designated by rule made
2916 by the applicable rulemaking authority;

2917 (b) as it relates to an executive branch procurement unit:

2918 (i) the director of a division; or

2919 (ii) any other person designated by the board, by rule;

2920 (c) as it relates to a judicial procurement unit:

2921 (i) the Judicial Council; or

2922 (ii) any other person designated by the Judicial Council, by rule;

2923 (d) as it relates to a local government procurement unit:

2924 (i) the legislative body of the local government procurement unit; or

2925 (ii) any other person designated by the local government procurement unit;

2926 (e) as it relates to a local district, the board of trustees of the local district or a designee
2927 of the board of trustees;

2928 (f) as it relates to a special service district, the governing body of the special service
2929 district or a designee of the governing body;

2930 (g) as it relates to a local building authority, the board of directors of the local building
2931 authority or a designee of the board of directors;

2932 (h) as it relates to a conservation district, the board of supervisors of the conservation
2933 district or a designee of the board of supervisors;

2934 (i) as it relates to a public corporation, the board of directors of the public corporation
2935 or a designee of the board of directors;

2936 (j) as it relates to a school district or any school or entity within a school district, the
2937 board of the school district, or the board's designee;

2938 (k) as it relates to a charter school, the individual or body with executive authority over
2939 the charter school, or the individual's or body's designee;

2940 (l) as it relates to an institution of higher education of the state, the president of the
2941 institution of higher education, or the president's designee; or

2942 (m) as it relates to a public transit district, the board of trustees or a designee of the
2943 board of trustees.

2944 (25) "Indefinite quantity contract" means a fixed price contract that:

2945 (a) is for an indefinite amount of procurement items to be supplied as ordered by a
2946 procurement unit; and

2947 (b) (i) does not require a minimum purchase amount; or

2948 (ii) provides a maximum purchase limit.

2949 (26) "Independent procurement authority" means authority granted to a procurement
2950 unit under Subsection [63G-6a-106\(4\)\(a\)](#).

2951 (27) "Invitation for bids" includes all documents, including documents that are attached
2952 or incorporated by reference, used for soliciting bids to provide a procurement item to a
2953 procurement unit.

2954 (28) "Issuing procurement unit" means a procurement unit that:

2955 (a) reviews a solicitation to verify that it is in proper form;

2956 (b) causes the notice of a solicitation to be published; and

2957 (c) negotiates the terms and conditions of a contract.

2958 (29) "Labor hour contract" is a contract where:

2959 (a) the supplies and materials are not provided by, or through, the contractor; and

2960 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and
2961 profit for a specified number of labor hours or days.

2962 (30) "Multiple award contracts" means the award of a contract for an indefinite
2963 quantity of a procurement item to more than one bidder or offeror.

2964 (31) "Multiyear contract" means a contract that extends beyond a one-year period,
2965 including a contract that permits renewal of the contract, without competition, beyond the first
2966 year of the contract.

2967 (32) "Municipality" means a city [~~or a~~], town, or metro township.

2968 (33) "Offeror" means a person who responds to a request for proposals.

2969 (34) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference
2970 under the requirements of this chapter.

2971 (35) "Procure" means to acquire a procurement item through a procurement.

2972 (36) "Procurement":

2973 (a) means an expenditure of public funds, or an agreement to expend public funds, in
2974 exchange for a procurement item;

2975 (b) includes all functions that pertain to the acquisition of a procurement item,
2976 including:

2977 (i) the description of requirements;

2978 (ii) the selection process;

2979 (iii) solicitation of sources;

2980 (iv) the preparation for soliciting a procurement item; and

2981 (v) the award of a contract; and

2982 (c) does not include a grant.

2983 (37) "Procurement item" means a supply, a service, construction, or technology.

2984 (38) "Procurement officer" means:

2985 (a) as it relates to a procurement unit with independent procurement authority:

2986 (i) the head of the procurement unit;

2987 (ii) a designee of the head of the procurement unit; or

2988 (iii) a person designated by rule made by the applicable rulemaking authority; or

2989 (b) as it relates to the division or a procurement unit without independent procurement
2990 authority, the chief procurement officer.

2991 (39) "Professional service" means a service that requires a high degree of specialized
2992 knowledge and discretion in the performance of the service, including:

2993 (a) legal services;

2994 (b) consultation services;

2995 (c) architectural services;

2996 (d) engineering;

2997 (e) design;

2998 (f) underwriting;

2999 (g) bond counsel;

3000 (h) financial advice;

3001 (i) construction management;

3002 (j) medical services;

3003 (k) psychiatric services; or

- 3004 (l) counseling services.
- 3005 (40) "Protest officer" means:
- 3006 (a) as it relates to the division or a procurement unit with independent procurement
- 3007 authority:
- 3008 (i) the head of the procurement unit;
- 3009 (ii) a designee of the head of the procurement unit; or
- 3010 (iii) a person designated by rule made by the applicable rulemaking authority; or
- 3011 (b) as it relates to a procurement unit without independent procurement authority, the
- 3012 chief procurement officer or the chief procurement officer's designee.
- 3013 (41) "Request for information" means a nonbinding process where a procurement unit
- 3014 requests information relating to a procurement item.
- 3015 (42) "Request for proposals" includes all documents, including documents that are
- 3016 attached or incorporated by reference, used for soliciting proposals to provide a procurement
- 3017 item to a procurement unit.
- 3018 (43) "Request for statement of qualifications" means all documents used to solicit
- 3019 information about the qualifications of the person interested in responding to a potential
- 3020 procurement, including documents attached or incorporated by reference.
- 3021 (44) "Requirements contract" means a contract:
- 3022 (a) where a contractor agrees to provide a procurement unit's entire requirements for
- 3023 certain procurement items at prices specified in the contract during the contract period; and
- 3024 (b) that:
- 3025 (i) does not require a minimum purchase amount; or
- 3026 (ii) provides a maximum purchase limit.
- 3027 (45) "Responsible" means being capable, in all respects, of:
- 3028 (a) meeting all the requirements of a solicitation; and
- 3029 (b) fully performing all the requirements of the contract resulting from the solicitation,
- 3030 including being financially solvent with sufficient financial resources to perform the contract.
- 3031 (46) "Responsive" means conforming in all material respects to the invitation for bids
- 3032 or request for proposals.
- 3033 (47) "Sealed" means manually or electronically sealed and submitted bids or proposals.
- 3034 (48) (a) "Services" means the furnishing of labor, time, or effort by a contractor, not

3035 involving the delivery of a specific end product other than a report that is incidental to the
3036 required performance.

3037 (b) "Services" does not include an employment agreement or a collective bargaining
3038 agreement.

3039 (49) "Sole source contract" means a contract resulting from a sole source procurement.

3040 (50) "Sole source procurement" means a procurement without competition pursuant to
3041 a determination under Subsection 63G-6a-802(2)(a) that there is only one source for the
3042 procurement item.

3043 (51) "Solicitation" means an invitation for bids, request for proposals, notice of a sole
3044 source procurement, request for statement of qualifications, request for information, or any
3045 document used to obtain bids, proposals, pricing, qualifications, or information for the purpose
3046 of entering into a procurement contract.

3047 (52) "Specification" means any description of the physical or functional characteristics,
3048 or nature of a procurement item included in an invitation for bids or a request for proposals, or
3049 otherwise specified or agreed to by a procurement unit, including a description of:

3050 (a) a requirement for inspecting or testing a procurement item; or

3051 (b) preparing a procurement item for delivery.

3052 (53) "Standard procurement process" means one of the following methods of obtaining
3053 a procurement item:

3054 (a) bidding, as described in Part 6, Bidding;

3055 (b) request for proposals, as described in Part 7, Request for Proposals; or

3056 (c) small purchases, in accordance with the requirements established under Section
3057 63G-6a-408.

3058 (54) "State cooperative contract" means a contract awarded by the division for and in
3059 behalf of all public entities.

3060 (55) "Statement of qualifications" means a written statement submitted to a
3061 procurement unit in response to a request for statement of qualifications.

3062 (56) (a) "Subcontractor" means a person under contract with a contractor or another
3063 subcontractor to provide services or labor for design or construction.

3064 (b) "Subcontractor" includes a trade contractor or specialty contractor.

3065 (c) "Subcontractor" does not include a supplier who provides only materials,

3066 equipment, or supplies to a contractor or subcontractor.

3067 (57) "Supplies" means all property, including equipment, materials, and printing.

3068 (58) "Tie bid" means that the lowest responsive and responsible bids are identical in
3069 price.

3070 (59) "Time and materials contract" means a contract where the contractor is paid:

3071 (a) the actual cost of direct labor at specified hourly rates;

3072 (b) the actual cost of materials and equipment usage; and

3073 (c) an additional amount, expressly described in the contract, to cover overhead and
3074 profit, that is not based on a percentage of the cost to the contractor.

3075 Section 33. Section **63I-1-220** is amended to read:

3076 **63I-1-220. Repeal dates, Title 20A.**

3077 On January 1, 2017:

3078 (1) Subsection [20A-1-102](#)~~[(54)]~~[(55)] is repealed.

3079 (2) Subsection [20A-2-102.5](#)(1) the language that states "[20A-4-108](#), or" is repealed.

3080 ~~[(3) Subsection [20A-2-201](#)(3) the language that states "Except as provided in~~
3081 [Subsection \[20A-4-108\]\(#\)\(5\),"](#) is repealed.]

3082 ~~[(4) (3) Subsection [20A-2-202](#)(3)(a) the language that states "Except as provided in~~
3083 [Subsection \[20A-4-108\]\(#\)\(6\),"](#) is repealed.

3084 ~~[(5) (4) Subsection [20A-2-204](#)(5)(a) the language that states "Except as provided in~~
3085 [Subsection \[20A-4-108\]\(#\)\(7\),"](#) is repealed.

3086 ~~[(6) (5) Subsection [20A-2-205](#)(7)(a) the language that states "Except as provided in~~
3087 [Subsection \[20A-4-108\]\(#\)\(8\),"](#) is repealed.

3088 ~~[(7) (6) Subsection [20A-2-206](#)(8)~~[(b)]~~[(c)] the language that states "Except as provided~~
3089 [in Subsection \[20A-4-108\]\(#\)\(9\),"](#) is repealed.

3090 ~~[(8) (7) Subsection [20A-2-307](#)(2)(a) is repealed.~~

3091 ~~[(9) (8) Subsection [20A-4-107](#)(2)(b) the language that states "Except as provided in~~
3092 [Subsection \[20A-4-108\]\(#\)\(10\),"](#) is repealed.

3093 ~~[(10) (9) Subsection [20A-4-107](#)(3) the language that states "or if the voter is, in~~
3094 [accordance with the pilot project, registered to vote under Subsection \[20A-4-108\]\(#\)\(10\),"](#) is
3095 repealed.

3096 ~~[(11) (10) Subsection [20A-4-107](#)(4) the language that states "Except as provided in~~

3097 Subsection 20A-4-108(12)," is repealed.

3098 [~~12~~] (11) Section 20A-4-108 is repealed.

Legislative Review Note
Office of Legislative Research and General Counsel