

OPTIONAL FORMS OF COUNTY GOVERNMENT

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

AN ACT RELATING TO COUNTIES; MODIFYING THE PROCEDURE FOR ADOPTING AN OPTIONAL FORM OF COUNTY GOVERNMENT; REPEALING PROVISIONS RELATING TO THE PROCEDURE FOR ADOPTING AN OPTIONAL FORM OF COUNTY GOVERNMENT; REPEALING AND REENACTING, WITH AMENDMENTS, PROVISIONS RELATING TO OPTIONAL STRUCTURAL FORMS OF COUNTY GOVERNMENT; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

20A-1-102, as last amended by Chapter 183, Laws of Utah 1997

53A-2-109, as last amended by Chapter 77, Laws of Utah 1997

68-3-12, as last amended by Chapter 223, Laws of Utah 1994

ENACTS:

17-35a-101, Utah Code Annotated 1953

17-35a-102, Utah Code Annotated 1953

17-35a-103, Utah Code Annotated 1953

17-35a-201, Utah Code Annotated 1953

17-35a-202, Utah Code Annotated 1953

17-35a-203, Utah Code Annotated 1953

17-35a-204, Utah Code Annotated 1953

17-35a-301, Utah Code Annotated 1953

17-35a-302, Utah Code Annotated 1953

17-35a-303, Utah Code Annotated 1953

17-35a-401, Utah Code Annotated 1953

17-35a-402, Utah Code Annotated 1953

17-35a-403, Utah Code Annotated 1953

- 17-35a-404**, Utah Code Annotated 1953
- 17-35a-501**, Utah Code Annotated 1953
- 17-35a-502**, Utah Code Annotated 1953
- 17-35a-503**, Utah Code Annotated 1953
- 17-35a-504**, Utah Code Annotated 1953
- 17-35b-301**, Utah Code Annotated 1953
- 17-35b-302**, Utah Code Annotated 1953
- 17-35b-303**, Utah Code Annotated 1953
- 17-35b-304**, Utah Code Annotated 1953

REPEALS:

- 17-35a-1**, as enacted by Chapter 26, Laws of Utah 1973
- 17-35a-2**, as last amended by Chapter 227, Laws of Utah 1993
- 17-35a-3**, as last amended by Chapter 227, Laws of Utah 1993
- 17-35a-4**, as last amended by Chapter 227, Laws of Utah 1993
- 17-35a-5**, as last amended by Chapter 227, Laws of Utah 1993
- 17-35a-6**, as last amended by Chapter 227, Laws of Utah 1993
- 17-35a-7**, as last amended by Chapter 198, Laws of Utah 1996
- 17-35a-8**, as last amended by Chapter 60, Laws of Utah 1977
- 17-35a-9**, as last amended by Chapters 12 and 147, Laws of Utah 1994
- 17-35a-10**, as last amended by Chapters 12 and 147, Laws of Utah 1994
- 17-35a-11**, as last amended by Chapter 79, Laws of Utah 1996
- 17-35a-12**, as last amended by Chapter 244, Laws of Utah 1987
- 17-35a-12.5**, as last amended by Chapter 60, Laws of Utah 1977
- 17-35a-13**, as enacted by Chapter 26, Laws of Utah 1973
- 17-35a-14**, as last amended by Chapter 219, Laws of Utah 1989
- 17-35a-15**, as enacted by Chapter 26, Laws of Utah 1973
- 17-35a-15.5**, as enacted by Chapter 244, Laws of Utah 1987
- 17-35a-16**, as last amended by Chapter 227, Laws of Utah 1993

17-35a-17, as enacted by Chapter 3, Laws of Utah 1987, First Special Session

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

Section 1. Section 17-35a-101 is enacted to read:

CHAPTER 35a. OPTIONAL FORMS OF COUNTY GOVERNMENT

Part 1. General Provisions

17-35a-101. Title.

This chapter is known as the "Optional Forms of County Government Act."

Section 2. Section 17-35a-102 is enacted to read:

17-35a-102. Definitions.

As used in this chapter:

(1) "Appointment council" means a group of persons consisting of:

(a) the governor or the governor's designee;

(b) the speaker of the House of Representatives or the speaker's designee;

(c) the president of the Senate or the president's designee;

(d) a resident of the county in which the optional plan is proposed, designated by the county legislative body;

(e) a resident of the county in which the optional plan is proposed, designated by majority vote of the mayors of all cities and towns in the county in which the optional plan is proposed; and

(f) four other residents of the county in which the optional plan is proposed, designated by majority vote of the five other members of the appointment council.

(2) "Optional plan" means a plan establishing an alternate form of government for a county as provided in Section 17-35a-401.

(3) "Reasonable notice" means, at a minimum:

(a) (i) publication in a newspaper of general circulation within the county at least once a week for at least two consecutive weeks ending no more than ten and no fewer than three days before the event that is the subject of the notice; or

(ii) if there is no newspaper of general circulation within the county, posting at least one notice per 1,000 population within the county, for at least a week ending no more than three days

before the event that is the subject of the notice, at locations throughout the county that are most likely to give actual notice to county residents; and

(b) if the county has an Internet home page, posting an electronic notice on the Internet for at least seven days immediately before the event that is the subject of the notice.

(4) "Study committee" means a group of persons:

(a) (i) elected pursuant to a resolution adopted under Subsection 17-35a-202(3)(a) or 17-35a-203(3)(d)(i)(B) in which the county legislative body specifies that the members should be elected; or

(ii) appointed under Section 17-35a-301; and

(b) charged with the duties provided in Section 17-35a-303.

Section 3. Section **17-35a-103** is enacted to read:

17-35a-103. Legislative intent.

The Legislature finds and determines that greater economy and efficiency in providing local governmental services can be achieved in certain counties by modernizing the existing form of county government to conform more closely to the needs and desires of their citizens. In order to accomplish this purpose, optional plans establishing alternate forms of citizen representation or alternate forms for the organization, administration, and allocation of governmental powers, duties, functions, and services may be proposed, approved, and placed in operation in counties wishing to do so.

Section 4. Section **17-35a-201** is enacted to read:

Part 2. Procedure

17-35a-201. Procedure for initiating adoption of optional plan -- Limitations -- Pending proceedings.

(1) An optional plan proposing an alternate form of government for a county may be adopted as provided in this chapter.

(2) The process to adopt an optional plan establishing an alternate form of county government may be initiated by:

(a) the county legislative body as provided in Section 17-35a-202; or

(b) registered voters of the county as provided in Section 17-35a-203.

(3) (a) If the process to adopt an optional plan has been initiated under Chapter 26, Laws of Utah 1973, Section 3, 4, or 5, or Section 17-35a-202 or 17-35a-203, the county legislative body may not initiate the process again under Section 17-35a-202 unless the earlier proceeding:

(i) has been concluded by the county legislative body rejecting the optional plan;

(ii) has been concluded by an affirmative or negative vote of registered voters; or

(iii) has not been concluded but has been pending for at least two years.

(b) A county legislative body may not initiate the process to adopt an optional plan under Section 17-35a-202 within four years of an election at which voters approved or rejected an optional plan proposed as a result of a process initiated by the county legislative body.

(c) Registered voters of a county may not initiate the process to adopt an optional plan under Section 17-35a-203 within four years of an election at which voters approved or rejected an optional plan proposed as a result of a process initiated by registered voters.

(4) (a) A proceeding to adopt an optional form of county government commenced under Chapter 26, Laws of Utah 1973, as amended, and pending on the effective date of this section may continue under the applicable provisions of this chapter.

(b) No part of a proceeding to adopt an optional form of county government commenced under Chapter 26, Laws of Utah 1973, as amended, and pending on the effective date of this section, may be considered invalid because of a failure to meet a requirement of this chapter that was not included in Chapter 26, Laws of Utah 1973, as amended.

Section 5. Section **17-35a-202** is enacted to read:

17-35a-202. County legislative body initiation of adoption of optional plan -- Procedure.

(1) A county legislative body may initiate the process of adopting an optional plan by:

(a) adopting a resolution of intent as provided in Subsection (2)(a);

(b) adopting a resolution to submit to the voters the question of whether a study committee should be established as provided in Subsection (3)(a); or

(c) adopting a resolution to approve the establishment of a study committee as provided in Subsection (4)(a).

(2) (a) A county legislative body may adopt a resolution indicating its intent to propose the adoption of an optional plan.

(b) Each resolution under Subsection (2)(a) shall:

(i) contain a general description of the proposed optional plan;

(ii) set a public hearing or series of public hearings on the proposed optional plan; and

(iii) require that reasonable notice be given of the public hearing or series of public hearings.

(c) A county legislative body may appoint an advisory committee to assist it in preparing the optional plan that the county legislative body intends to propose for adoption.

(d) Each county legislative body adopting a resolution under Subsection (2)(a) shall:

(i) hold a public hearing or series of public hearings, as the county legislative body determines, on the proposed optional plan beginning no less than 15 days after adoption of the resolution;

(ii) beginning the day after the resolution is adopted, maintain at least three complete copies of the proposed optional plan at the office of the county clerk for inspection and copying by the public; and

(iii) in each notice or publication of the public hearing or series of public hearings, refer to the complete proposed optional plan and its availability for inspection and copying in the county clerk's office.

(e) (i) At the conclusion of the public hearing or series of hearings required under Subsection (2)(d)(i), a county legislative body may adopt a resolution recommending the adoption of the proposed optional plan by registered voters.

(ii) Before adopting a resolution under Subsection (2)(e)(i), a county legislative body may modify the proposed optional plan.

(iii) Each resolution under Subsection (2)(e)(i) shall provide for submitting the proposed optional plan to the voters at an election held under Section 17-35a-204.

(f) Failure to adopt a resolution under Subsection (2)(e)(i) within six months of the adoption of a resolution under Subsection (2)(a) shall be considered a rejection of the proposed optional plan.

(g) A county legislative body may reconsider its action in proposing an optional plan under

this Subsection (2) and terminate the process to adopt the optional plan if the reconsideration and termination occur:

(i) within six months after the adoption of a resolution under Subsection (2)(e)(i); and

(ii) no later than six months before the date on which an election under Section 17-35a-204 is scheduled.

(3) (a) As an alternative to the procedure under Subsection (2), a county legislative body may adopt a resolution to submit to the registered voters of the county the question of whether a study committee should be established.

(b) Each resolution adopted under Subsection (3)(a) shall:

(i) require the question to be submitted to the registered voters of the county at a general or special election, as the county legislative body determines, no less than 90 days and no more than 180 days after adoption of the resolution under Subsection (3)(a);

(ii) specify the number of members of the proposed study committee, subject to Subsection 17-35a-303(1)(a), and whether the members are to be elected or appointed; and

(iii) if the members are to be elected, provide procedures for the nonpartisan nomination of the members of the proposed study committee and their nonpartisan election at the same election at which the question of the establishment of the study committee is submitted.

(c) If the members of the proposed study committee are to be appointed, their appointment shall be governed by Section 17-35a-301.

(4) (a) As an alternative to the procedures under Subsections (2) and (3), a county legislative body may adopt a resolution approving the establishment of a study committee with appointed members.

(b) Each resolution under Subsection (4)(a) shall:

(i) specify the number of members of the study committee, subject to Subsection 17-35a-303(1)(a); and

(ii) provide for the appointment of the members as provided in Section 17-35a-301.

Section 6. Section **17-35a-203** is enacted to read:

17-35a-203. Registered voter initiation of adoption of optional plan -- Procedure.

- (1) Registered voters of a county may initiate the process of adopting an optional plan by:

 - (a) filing copies of a proposed optional plan, as provided in Subsection (2)(c), in anticipation of filing a petition under Subsection (2)(a); or
 - (b) filing a petition under Subsection (3).
- (2) (a) Registered voters of a county may file a petition requiring the county legislative body to submit a proposed optional plan to the registered voters of the county.

 - (b) Each petition under Subsection (2)(a) shall:

 - (i) be signed by registered voters residing in the county equal in number to at least 15% of the total number of votes cast in the county at the most recent election for governor;
 - (ii) contain a general description of the proposed optional plan;
 - (iii) indicate that a complete copy of the proposed optional plan is available for inspection and copying at the county clerk's office;
 - (iv) designate up to five of the petition signers as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each; and
 - (v) be filed in the office of the clerk of the county in which the petition signers reside.
 - (c) Before circulating a petition under Subsection (2)(a) for signature, the petition sponsors shall file with the county clerk at least three complete copies of the proposed optional plan that is the subject of the petition.
 - (d) A county legislative body may not alter an optional plan proposed under this Subsection (2).
 - (e) Within 30 days after certification of a petition under Subsection (4)(a)(ii)(A), each county legislative body shall establish the date for an election to be held as provided under Section 17-35a-204.
- (3) (a) Registered voters of a county may file a petition requiring the county legislative body to adopt a resolution for the establishment of a study committee.

 - (b) Each petition under Subsection (3)(a) shall:

 - (i) request the county legislative body to choose between:

 - (A) adopting a resolution that establishes a study committee with members appointed under

Section 17-35a-301; or

(B) adopting a resolution submitting to the county's registered voters the question of whether a study committee should be established;

(ii) be signed by registered voters residing in the county equal in number to at least 10% of the total number of votes cast in the county at the most recent election for governor;

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

(iv) be filed in the office of the clerk of the county in which the petition signers reside.

(c) (i) Within 90 days of the certification of the petition under Subsection (4)(a)(ii)(A), the county legislative body shall hold a public hearing or series of public hearings, as the county legislative body determines, on the petition.

(ii) The county legislative body shall give reasonable notice of the public hearing or series of public hearings under Subsection (3)(c)(i).

(d) (i) At the conclusion of the public hearing or series of public hearings required under Subsection (3)(c)(i), the county legislative body shall:

(A) adopt a resolution approving the establishment of a study committee with members appointed under Section 17-35a-301 and specifying the number of members to be appointed, subject to Subsection 17-35a-303(1)(a); or

(B) adopt a resolution submitting to the county's registered voters the question of whether a study committee under Section 17-35a-301 should be established.

(ii) Each resolution under Subsection (3)(d)(i)(B) shall comply with the requirements of Subsection 17-35a-202(3)(b).

(4) (a) Within 30 days of the filing of a petition under Subsection (2)(a) or (3)(a) or an amended or supplemental petition under Subsection (4)(b), the county clerk shall:

(i) determine whether the petition or amended or supplemental petition has been signed by the required number of registered voters; and

(ii) (A) if so:

(I) certify the petition or amended or supplemental petition and deliver it to the county

legislative body; and

(II) notify in writing the contact sponsor of the certification; or

(B) if not, reject the petition or the amended or supplemental petition and notify in writing the county legislative body and the contact sponsor of the rejection and the reasons for the rejection.

(b) If a county clerk rejects a petition or an amended or supplemental petition under Subsection (4)(a)(ii)(B), the petition may be amended or supplemented or an amended or supplemental petition may be further amended or supplemented with additional signatures and refiled within 20 days of the date of rejection.

(5) With the unanimous approval of petition sponsors, a petition filed under Subsection (2)(a) or (3) may be withdrawn at any time within 90 days after petition certification but no later than 45 days before an election under Section 17-35a-204 or Subsection 17-35a-203(3)(d)(i)(B) if:

(a) the petition notified signers in conspicuous language that the petition sponsors are authorized to withdraw the petition; and

(b) there are at least three sponsors of the petition.

Section 7. Section **17-35a-204** is enacted to read:

17-35a-204. Election on proposed optional plan -- Procedure.

(1) The county legislative body shall hold an election if an optional plan is proposed:

(a) by a resolution adopted under Subsection 17-35a-202(2)(e);

(b) in a petition filed under Subsection 17-35a-203(2)(a) that is certified under Subsection 17-35a-203(4)(a)(ii)(A); or

(c) in a study committee report filed under Subsection 17-35a-303(3)(d).

(2) Each election under Subsection (1) shall be held at the next regular general or municipal general election no less than two months after, as the case may be:

(a) adoption of a resolution under Subsection 17-35a-202(2)(e);

(b) certification of a petition filed under Subsection 17-35a-203(2)(a); or

(c) the filing of a study committee report under Subsection 17-35a-303(3)(d).

(3) The county legislative body shall prepare the ballot for each election under Subsection (1) so that the question on the ballot:

(a) clearly, accurately, and impartially presents the proposition to be voted on; and

(b) does not constitute an argument or create prejudice for or against the proposition.

(4) The county legislative body shall:

(a) cause the complete text of the proposed optional plan to be published in a newspaper of general circulation within the county at least once during two different calendar weeks within the 30-day period immediately before the date of the election under Subsection (1);

(b) make a complete copy of the optional plan available free of charge to any member of the public who requests a copy; and

(c) if the optional plan is proposed by a study committee report filed under Subsection 17-35a-303(3)(d), make a complete copy of the study committee's report available free of charge to any member of the public who requests a copy.

(5) If an optional plan proposed as a result of a process initiated by the county legislative body and an optional plan proposed as a result of a process initiated by registered voters are both scheduled for the same election:

(a) both proposals shall appear on the same ballot;

(b) a voter may vote for or against each proposal; and

(c) if both proposals receive a majority vote of those voting, the proposal with more votes shall prevail and the other shall be considered rejected.

Section 8. Section **17-35a-301** is enacted to read:

Part 3. Study Committee

17-35a-301. Procedure for appointing members to study committee.

(1) Each appointed member of a study committee shall be appointed by an appointment council as provided in this section.

(2) (a) The county legislative body shall convene a meeting of the five members of the appointment council referred to in Subsections 17-35a-102(1)(a), (b), (c), (d), and (e), within ten days of:

(i) the adoption of a resolution under Subsection 17-35a-202(4)(a) or 17-35a-203(3)(d)(i)(A); or

(ii) the canvass of an election pursuant to a resolution adopted under Subsection 17-35a-202(3)(a) or 17-35a-203(3)(d)(i)(B) if:

(A) the resolution specified that study committee members would be appointed; and

(B) a majority of those voting voted in favor of establishing a study committee.

(b) Within ten days of the convening of the first meeting under Subsection (2)(a), the five members of the appointment council shall designate the remaining four members referred to in Subsection 17-35a-102(1)(f).

(3) (a) Within 30 days of the designation of the remaining four members under Subsection (2)(b), the appointment council shall:

(i) appoint the members to the study committee; and

(ii) notify in writing the appointees and the county legislative body of the appointments.

(b) In making appointments to the study committee, the appointment council shall work to achieve a broadly representative membership.

(c) The appointment council may not appoint a person to the study committee unless that person:

(i) is a registered voter in the county whose form of government will be studied by the study committee; and

(ii) does not hold any public office or employment other than membership on the appointment council.

Section 9. Section **17-35a-302** is enacted to read:

17-35a-302. Convening of first meeting of study committee.

The county legislative body shall convene the first meeting of the study committee within ten days of:

(1) receipt of notification of the study committee members' appointment under Subsection 17-35a-301(3)(a); or

(2) the canvass of an election at which study committee members were elected pursuant to a resolution adopted under Subsection 17-35a-202(3)(a) or 17-35a-203(3)(d)(i)(B).

Section 10. Section **17-35a-303** is enacted to read:

17-35a-303. Study committee -- Members -- Powers and duties -- Report -- Services provided by county.

(1) (a) Each study committee shall consist of at least seven but no more than 11 members.

(b) A member of a study committee may not receive compensation for service on the committee.

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

(2) A study committee may:

(a) adopt rules for its own organization and procedure and to fill a vacancy in its membership;

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

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

(3) Each study committee shall:

(a) study the form of government within the county and compare it with other forms available under this chapter;

(b) determine whether the administration of local government in the county could be strengthened, made more clearly responsive or accountable to the people, or significantly improved in the interest of economy and efficiency by a change in the form of county government;

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

(d) file a written report of its findings and recommendations with the county legislative body no later than one year after the convening of its first meeting under Section 17-35a-302.

(4) Each study committee report under Subsection (3)(d) shall include:

(a) the study committee's recommendation as to whether the form of county government should be changed to an optional form authorized under this chapter;

(b) if the study committee recommends changing the form of government, a complete detailed draft of a proposed plan to change the form of county government, including all necessary implementing provisions; and

(c) any additional recommendations the study committee considers appropriate to improve the efficiency and economy of the administration of local government within the county.

(5) (a) If the study committee's report recommends a change in the form of county government, the study committee may conduct additional public hearings after filing the report under Subsection (3)(d) and, following the hearings and subject to Subsection (5)(b), alter the report.

(b) Notwithstanding Subsection (5)(a), the study committee may not make an alteration to the report:

(i) that would recommend the adoption of an optional form different from that recommended in the original report; or

(ii) within the 120-day period before the election under Section 17-35a-204.

(6) Each meeting held by the study committee shall be open to the public.

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

(a) suitable meeting facilities;

(b) necessary secretarial services;

(c) necessary printing and photocopying services;

(d) necessary clerical and staff assistance; and

(e) adequate funds for the employment of independent legal counsel and professional consultants that the study committee reasonably determines to be necessary to help the study committee fulfill its duties.

Section 11. Section **17-35a-401** is enacted to read:

Part 4. Optional Plan

17-35a-401. Contents of proposed optional plan.

(1) Each optional plan proposed under this chapter shall:

(a) specify the optional form of county government that is being proposed;

(b) contain detailed provisions relating to the transition from the existing form of county

government to the form proposed in the optional plan, including provisions relating to the:

(i) election or appointment of officers specified in the optional plan for the new form of county government;

(ii) continuity of existing offices and officers;

(iii) continuity of existing ordinances and regulations;

(iv) continuation of pending legislative, administrative, or judicial proceedings;

(v) making of interim and temporary appointments; and

(vi) preparation, approval, and adjustment of necessary budget appropriations; and

(c) notwithstanding any other provision of this title, provide that, with respect to the county budget, the county auditor's role is to be the budget officer and to project county revenues, the county executive's role is to propose the budget, and the county legislative body's role is to adopt the budget.

(2) Subject to Subsection (3), an optional plan may include provisions that are considered necessary or advisable to the effective operation of the proposed optional plan.

(3) An optional plan may not include any provision that is inconsistent with or prohibited by the Utah Constitution or any statute.

(4) Each optional plan proposing to change the form of government to a form under Section 17-35a-501, 17-35a-502, 17-35a-503, or 17-35a-504 shall:

(a) provide for the election of the county council;

(b) specify whether the members of the county council are to be elected from districts, at large, or by a combination of at large and by district;

(c) specify county council members' qualifications and terms and whether the terms are to be staggered;

(d) state the grounds for and methods of removal of county council members from office;

(e) contain procedures for filling vacancies on the county council, consistent with the provisions of Sections 17-5-104 and 20A-1-508; and

(f) state the compensation, if any, of county council members and procedures for prescribing and changing compensation.

Section 12. Section **17-35a-402** is enacted to read:

17-35a-402. Plan may propose optional forms of county government -- County executive -- Plan may propose change of structural form.

(1) An optional plan may propose changing the form of county government to:

(a) the county commissioner form under Title 17, Chapter 5, Part 1, County Commissioner

Form of Government;

(b) executive and chief administrative officer-council form under Section 17-35a-501;

(c) the county executive and council form under Section 17-35a-502;

(d) the council-manager form under Section 17-35a-503; or

(e) the council and county administrative officer form under Section 17-35a-504.

(2) (a) If an optional plan proposes changing the form of county government to a form that has a county executive, the county executive may be:

(i) an individual elected at large in the county; or

(ii) a county executive body consisting of at least three members, elected at large or by district or a combination of both, as provided in the optional plan.

(b) An optional plan that proposes changing to a form of government with an executive body, as provided in Subsection (2)(a)(ii), may divide the executive duties among the members of the executive body.

(3) In addition to proposing the adoption of any one of the optional forms of county government under Subsection (1), an optional plan may also propose the adoption of any one of the structural forms of county government provided under Chapter 35b, Part 3, Structural Forms of County Government.

Section 13. Section **17-35a-403** is enacted to read:

17-35a-403. Adoption of optional plan -- Effect of adoption.

(1) If a proposed optional plan is approved at an election held under Section 17-35a-204:

(a) the proposed optional plan becomes effective according to its terms and at the time specified in it, is public record open to inspection by the public, and is judicially noticeable by all courts;

(b) the county clerk shall, within ten days of the canvass of the election, file with the lieutenant governor a copy of the optional plan, certified by the clerk to be a true and correct copy;

(c) all public officers and employees shall cooperate fully in making the transition between forms of county government; and

(d) the county legislative body may enact and enforce necessary ordinances to bring about an orderly transition to the new form of government, including any transfer of power, records, documents, properties, assets, funds, liabilities, or personnel that are consistent with the approved optional plan and necessary or convenient to place it into full effect.

(2) Adoption of an optional plan changing only the form of county government without adopting one of the structural forms under Chapter 35b, Part 3, Structural Forms of County Government, does not alter or affect the boundaries, organization, powers, duties, or functions of any:

(a) school district;

(b) justice court;

(c) independent special district established under Title 17A, Chapter 2, Independent Special Districts;

(d) city or town; or

(e) entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(3) After the adoption of an optional plan, the county remains vested with all powers and duties vested generally in counties by statute.

Section 14. Section **17-35a-404** is enacted to read:

17-35a-404. Amendment of optional plan.

(1) Subject to Subsection (2), an optional plan, after going into effect following an election held under Section 17-35a-204, may be amended by an affirmative vote of two-thirds of the county legislative body.

(2) Notwithstanding Subsection (1), an amendment to an optional plan in effect may not take effect until approved by a majority of registered voters voting in a general or special election at

which the amendment is proposed, if the amendment changes:

(a) the size or makeup of the legislative body, except for adjustments necessary due to decennial reapportionment;

(b) the distribution of powers between the executive and legislative branches of county government; or

(c) the status of the county executive or legislative body from full-time to part-time or vice versa.

Section 15. Section **17-35a-501** is enacted to read:

Part 5. Optional Forms of County Government

17-35a-501. County executive and chief administrative officer-council form of county government.

(1) A county operating under the form of government known as the "county executive and chief administrative officer-council" form shall be governed by the county council, a county executive, an appointed chief administrative officer, and such other officers and employees as are authorized by law. The optional plan shall provide for the qualifications, time and manner of election, term of office, compensation, and removal of the county executive.

(2) The county executive shall be the chief executive officer or body of the county, and shall:

(a) direct and organize the management of the county in a manner consistent with the optional plan;

(b) carry out programs and policies established by the council;

(c) faithfully ensure compliance with all applicable laws and county ordinances;

(d) exercise supervisory and coordinating control over all departments of county government;

(e) except as otherwise provided in the optional plan or as otherwise delegated by statute to the legislative body, appoint, suspend, and remove the directors of all county departments and all appointive officers of boards and commissions;

(f) except as otherwise delegated by statute to another county officer, exercise administrative and auditing control over all funds and assets, tangible and intangible, of the county;

(g) except as otherwise delegated by statute to another county officer, supervise and direct centralized budgeting, accounting, personnel management, purchasing, and other service functions of the county;

(h) conduct planning studies and make recommendations to the council relating to financial, administrative, procedural, and operational plans, programs, and improvements in county government; and

(i) exercise a power of veto over ordinances enacted by the council, including an item veto upon budget appropriations, in the manner provided in the optional plan.

(3) The chief administrative officer shall:

(a) be appointed and removed by the county executive, with the approval of the council, except that the plan may specifically provide for the appointment and removal of the chief administrative officer by the council; and

(b) have the qualifications, training, and experience and receive compensation as provided in the optional plan.

(4) The chief administrative officer shall be principal staff assistant to the county executive and, under the direction and supervision of the county executive, shall:

(a) exercise supervisory control over all functions of the executive branch;

(b) study and make recommendations to the county executive with respect to the administration of county affairs and the efficiency and economy of county programs and operations;

(c) maintain a continuing review of expenditures and of the effectiveness of departmental budgetary controls;

(d) develop systems and procedures, not inconsistent with statutes, for planning, programming, budgeting, and accounting for all activities of the county; and

(e) perform any other functions and duties required of him by the optional plan, by any applicable statutes or ordinances, or by the county executive.

(5) All powers and duties of the county shall be allocated for administrative and executive purposes to departments of the county as designated by the optional plan. Transfers of employees and reallocation of powers and duties between departments may be made within budgetary

constraints by and at the discretion of the county executive, except as otherwise provided in the plan or by ordinance.

(6) In the county executive and chief administrative officer-council form of county government, the legislative powers of the county shall be vested in the county council, and the executive powers of the county shall be vested in the county executive.

(7) A reference in statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the county executive and chief administrative officer-council form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county executive, with respect to executive functions, duties, and powers.

Section 16. Section **17-35a-502** is enacted to read:

17-35a-502. County executive-council form of county government.

(1) (a) A county operating under the form of government known as the "county executive-council" form shall be governed by the county council, a county executive, and such other officers and employees as are authorized by law.

(b) The optional plan shall provide for the qualifications, time, and manner of election, term of office, compensation, and removal of the county executive.

(2) The county executive shall be the chief executive officer or body of the county and shall have the powers and duties provided in Subsection 17-35b-501(2).

(3) In the county executive-council form of county government, the legislative powers of the county shall be vested in the county council, and the executive powers of the county shall be vested in the county executive.

(4) References in any statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the county executive-council form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county executive, with respect to executive functions, duties, and powers.

Section 17. Section **17-35a-503** is enacted to read:

17-35a-503. Council-manager form of county government.

(1) A county operating under the form of government known as the "council-manager" form shall be governed by the county council, a county manager appointed by the council, and such other officers and employees as are authorized by law. The optional plan shall provide for the qualifications, time and manner of appointment, term of office, compensation, and removal of the county manager.

(2) The county manager shall be the administrative head of the county government and shall have the powers and duties of a county executive, under Subsection 17-35b-501(2), except that the county manager shall not have any power of veto over ordinances enacted by the council.

(3) No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the manager in the making of any appointment or removal of any officer or employee or in the purchase of supplies, attempt to exact any promise relative to any appointment from any candidate for manager, or discuss directly or indirectly with him the matter of specific appointments to any county office or employment. A violation of the foregoing provisions of this Subsection (3) shall forfeit the office of the offending member of the council. Nothing in this section shall be construed, however, as prohibiting the council while in open session from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county. Neither manager nor any person in the employ of the county shall take part in securing, or contributing any money toward, the nomination or election of any candidate for a county office. The optional plan may provide procedures for implementing this Subsection (3).

(4) In the council-manager form of county government, the legislative powers of the county shall be vested in the county council, and the executive powers of the county shall be vested in the county manager.

(5) A reference in statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the council-manager form of county government, means:

- (a) the county council, with respect to legislative functions, duties, and powers; and
- (b) the county manager, with respect to executive functions, duties, and powers.

Section 18. Section **17-35a-504** is enacted to read:

17-35a-504. Council-county administrative officer form of county government.

(1) A county operating under the form of government known as the "council-county administrative officer" form shall be governed by:

(a) a county council;

(b) a county administrative officer appointed by the county council; and

(c) other officers and employees that are authorized by law.

(2) (a) The optional plan submitted to the voters shall require that the county council establish by ordinance, maintain, and keep filled a permanent position of county administrative officer.

(b) The optional plan submitted to the voters shall establish the qualifications, time, and manner of employment, term of office, compensation, and procedures for removal of the county administrative officer.

(c) The optional plan submitted to the voters shall require that the county administrative officer be appointed solely on the basis of his abilities, integrity, and prior experience as related to the duties of his office.

(d) The optional plan submitted to the voters shall designate the position of county administrative officer as either exempt or not exempt from any applicable county merit system.

(3) The county administrative officer shall administer the functions, responsibilities, powers, and duties of his office as set forth in the optional plan adopted by the voters, subject to the direction and control of the county council, and acting as its agent.

(4) The county council may assign additional functions, responsibilities, powers, and duties to the county administrative officer that do not conflict with the functions, responsibilities, powers, and duties set forth in the optional plan.

Section 19. Section **17-35b-301** is enacted to read:

CHAPTER 35b. CONSOLIDATION OF LOCAL GOVERNMENT UNITS

Part 1. Reserved

Part 2. Reserved

Part 3. Structural Forms of County Government

17-35b-301. "General county (modified)" form of county government.

(1) The structural form of county government known as the "general county (modified)" form retains, without change or modification, except to the extent that changes or modifications may be effectuated under other proceedings authorized by law, all existing incorporated cities and towns, special taxing districts, public authorities, county service areas, and other local public entities functioning within the boundaries of the county. Under this form of government, the county remains vested with all powers and duties vested in counties by general law, but the county legislative body, together with such other officers as may be specified in the optional plan, shall be elected or appointed in the manner authorized by this act and as provided in the optional plan.

(2) An optional plan for this form of county government shall provide for the election of a county council, composed of not less than three members, which shall be the county legislative body and shall exercise all legislative powers authorized by law. The plan shall specify:

(a) whether the members of the council are to be elected from districts, at large, or by a combination of district and at-large constituencies;

(b) their qualifications and terms of office, and whether such terms are concurrent or overlapping;

(c) grounds for and methods of removal of council members from office;

(d) procedures for filling vacancies on the council, provided that the procedures shall conform with Sections 17-5-104 and 20A-1-508; and

(e) the compensation, if any, of council members together with procedures for prescribing and changing such compensation from time to time.

Section 20. Section **17-35b-302** is enacted to read:

17-35b-302. Urban county form of county government.

(1) The structural form of county government known as the "urban county" form retains, without change or modification, except to the extent that changes or modifications may be effectuated under other proceedings authorized by law, all existing incorporated cities and towns, special taxing districts, public authorities, county service areas, and other local public entities functioning within the boundaries of the county. Under this form of government, the county remains vested with all powers and duties vested in counties by general law, but in addition is vested with

and empowered to exercise within the unincorporated territory of the county all powers and duties which, by general law, are conferred upon cities whose population is equal to that of the unincorporated territory of such county.

(2) The urban county is empowered to enter into contractual arrangements for the joint exercise of powers or for performance of services and, for that purpose, may employ and be subject to the provisions of Title 11, Chapter 13, Interlocal Cooperation Act. By contract, the urban county may perform for any city, town, special taxing district, public authority, county service area, or other local public entity within the county any governmental service or function which such entity is lawfully empowered to perform for itself within its own territory, or which the county is lawfully empowered to perform anywhere within the county boundaries. No contract service or function shall be performed by the county except for a consideration which is at least substantially equal to the cost of performing it.

(3) The plan for an urban county form of county government may provide for organization of the unincorporated territory of the county into one or more county service areas and, for this purpose, may provide for special organizing or implementing procedures which differ from those provided in Title 17A, Chapter 2, Part 4, County Service Areas Act. Except to the extent that the plan provides to the contrary, all noncontract services and functions lawfully performed by the county solely within unincorporated territory and not on a countywide basis shall, after the effective date of the plan, be considered performed and extended solely as services of, and financed by and through, the county service area. The plan may provide for, limit, or condition the services and functions which the urban county is authorized to perform and extend within the territory of incorporated cities and towns within the county and may provide procedures by which such provisions, limits, or conditions may be established and changed from time to time.

(4) The plan for the urban county shall provide for the election of a county council, composed of not less than three members. The council shall be the county legislative body and shall exercise all legislative powers authorized by law. The plan shall specify:

(a) whether the members of the council are to be elected from districts, at large, or by a combination of district and at-large constituencies;

(b) their qualifications and terms of office, and whether such terms are concurrent or overlapping;

(c) grounds for and methods for removal of council members from office;

(d) procedures for filling vacancies on the council, provided that the procedures shall conform with Sections 17-5-104 and 20A-1-508; and

(e) the compensation, if any, of council members together with procedures for prescribing and changing such compensation from time to time.

Section 21. Section **17-35b-303** is enacted to read:

17-35b-303. Community council form of county government.

(1) The structural form of county government known as the "community council" form unites in a single consolidated city and county government the powers, duties, and functions which, immediately prior to its effective date, are vested in the county, the largest city in the county, such other cities and towns as elect to merge in it, and all special taxing districts, public authorities, county service areas, and other local public entities functioning within the boundaries of the county, except school districts. The consolidated government shall have power to extend on a countywide basis any governmental service or function which is authorized by law or which the previous county, cities, and other local public agencies included therein were empowered to provide for their residents, but no such service shall be provided within an incorporated municipality which continues to provide that service for its own inhabitants, except upon a contract basis for the municipality, and no taxes, assessments, fees, or other charges shall be extended or collected within the municipality for the purpose of financing any service which is not provided by the consolidated government within the municipality. "Largest city," as used in this section, means a city or cities the population of which, as shown by the most recent decennial or special census, exceeds 35% of the total county population.

(2) The incorporated cities and towns, other than the largest city, in the county shall retain independent corporate existence and shall continue to provide local services to their inhabitants of the type and to the extent provided in the plan, but any such city or town, by majority vote of its qualified voters, cast either concurrently with the election at which the plan is approved or

subsequently to it, as provided by the governing body of the city or town, may cause the city or town to be dissolved and its powers, duties, and functions vested in the countywide government.

(3) The county legislative body of the countywide government shall be a council composed of not less than five persons as specified in the plan, elected respectively from communities, which collectively include all of the territory within the county, having boundaries described in the plan embracing substantially equal populations. In addition to other powers vested in the countywide government by law or pursuant to this act, the county council shall have all of the legislative and policymaking powers which it is possible for the governing body of a county or a city to possess and which are not expressly denied by the constitution, by a general law applicable to all cities or all counties, or by a specific restriction in the plan itself.

(4) The voters of each community shall elect a community council composed of the community's elected member of the county council, who shall be chairman of the community council, and not less than two nor more than four additional members elected either from districts of substantially equal population within the community, or at large therein, as may be provided in the plan. A community council shall have the power and duty, in conformity with guidelines prescribed by the county council, to adopt policies and formulate specific programs relating to and defining the kinds and levels of local governmental services necessary to satisfy the needs and desires of the citizens within the community, but a community council shall have no power to engage personnel or to acquire facilities, property, or equipment for the administration or performance of such services. Authorized programs for local governmental services which have been approved by a community council shall be submitted to the county council for implementation and shall be carried into effect by the county council and county executive unless, by a vote of not less than 3/4 of its entire membership, the county council determines that a particular program, in whole or in part, should be rejected as contrary to the general welfare of the county. A community council program for local governmental services within a community:

(a) shall include a method or methods for financing such services;

(b) may provide for supplying of such services by contract or by joint or cooperative action pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, in which case the community council

shall be considered a "public agency" within the meaning of said act; and

(c) may provide for supplying of such services through the creation of county service areas pursuant to Title 17A, Chapter 2, Part 4, County Service Area Act.

(5) Notwithstanding Subsection (4) of this section, in any community which includes, in whole or in part, the territory of a city or town, no community council program for local government services above the minimum level of area-wide services provided countywide may be submitted to the county council for implementation unless it first is submitted to the governing body of each such city or town for review. Within 30 days after such submission, the governing body of the city or town:

(a) may file with the community council a written statement of its comments, suggestions, and recommendations relating to the program, and the community council shall give due consideration thereto; or

(b) may, by resolution or ordinance, provide that any designated part of the community council program relating to a service to be provided within the city or town shall be submitted to the voters thereof at a general or special election to be held therein within 60 days after the date of the resolution or ordinance. Any part of the program submitted to the voters of a city or town under this Subsection (5) shall not be included in the program as submitted to the county council unless it receives an approving vote at such election by majority of all votes cast on the question.

(6) Except as provided herein, the qualifications, mode of election, term of office, method of removal, procedure to fill vacancies, compensation, and other appropriate provisions relating to membership on the county council or community councils shall be provided in the plan.

(7) Upon the effective date of the plan and as provided in it, all properties and assets, whether tangible or intangible, and all obligations, debts, and liabilities, of those governmental entities which are merged into the new countywide government shall become vested and transferred by operation of law in and to the new countywide government. The properties, assets, obligations, debts, and liabilities of any city or town not merged into the new countywide government, so far as allocated, used, or incurred primarily to discharge a function which under the plan will no longer be a responsibility of the city or town, shall likewise be vested in and transferred to the new countywide

government. All transfers under this Subsection (7) shall be subject to equitable adjustments, conditions, and limitations provided in the plan and determined by procedures specified in the plan, but the contractual rights of any bondholder or creditor shall not be impaired.

(8) Upon the effective date of the plan and as provided in it, nonelective officers and employees of governmental entities which are merged into the new countywide government and such officers and employees of nonmerged cities or towns whose qualifications and duties relate primarily to functions which under the plan will no longer be a responsibility of those cities or towns, shall be blanketed in and transferred to the new countywide government as officers and employees of it. Standards and procedures relating to such personnel transfers, and for resolving disputes or grievances relating thereto, shall be provided in the plan.

Section 22. Section **17-35b-304** is enacted to read:

17-35b-304. Consolidated city and county -- Structural form.

(1) The structural form of county government known as the "consolidated city and county" form unites in a single consolidated city and county government the powers, duties, and functions which, immediately prior to its effective date, are vested in the county, the largest city in the county, such other cities and towns as elect to merge in it, and all special taxing districts, public authorities, county service areas, and other local public entities functioning within the boundaries of the county, except school districts. The consolidated government shall with the consent of the continuing municipalities have power to extend on a countywide basis any governmental service or function which is authorized by law or which the previous county, cities, and other local public agencies included in them were empowered to provide for their residents. No such service, however, shall be provided within an incorporated municipality which continues to provide that such service for its own inhabitants, except upon a contract basis for the municipality. No taxes, assessments, fees, or other charges shall be extended or collected by the consolidated government within any municipality for the purpose of financing any service which is not provided by the consolidated government within the municipality. "Largest city," as used in this section, means a city or cities the population of which, as shown by the most recent decennial or special census, exceeds 35% of the total county population.

(2) The incorporated cities and towns, other than the largest city in the county, shall retain independent corporate existence and shall continue to provide local services to their inhabitants of the type and to the extent provided in the plan; but any such city or town by majority vote of its qualified voters cast either concurrently with the election at which the plan is approved or subsequently to it, as provided by the governing body of the city or town, may cause the city or town to be dissolved and its powers, duties, and functions vested in the consolidated government.

(3) The governing body of the consolidated government shall be a council composed of not less than five persons elected as specified in the plan. In addition to other powers vested in the consolidated government by law or pursuant to this act, the county council shall have all the legislative and policymaking powers which it is possible for the governing body of a county or a city to possess and which are not expressly denied by the constitution, by general law applicable to all cities or all counties, or by a specific restriction in the plan itself.

(4) Except as provided in this act, the qualifications, mode of election, term of office, method of removal, procedure to fill vacancies, compensation, or other appropriate provisions relating to membership on the county council shall be provided in the plan.

(5) Upon the effective date of the plan, as provided in it, all properties and assets, whether tangible or intangible, and all obligations, debts, and liabilities of those governmental entities which are merged into the consolidated government shall become vested and transferred by operation of law in and to the consolidated government. The properties, assets, obligations, debts, and liabilities of any city or town not merged into the consolidated government, so far as allocated, used, or incurred primarily to discharge a function which under the plan will no longer be a responsibility of the city or town, shall likewise be vested in and transferred to the consolidated government. All transfers under this Subsection (5) shall be subject to equitable adjustments, conditions, and limitations provided in the plan and determined by procedures specified in the plan, but the contractual rights of any bondholder or creditor shall not be impaired.

(6) Upon the effective date of the plan, and as provided in it, nonelective officers and employees of the governmental entities which are merged into the consolidated government and such officers and employees of nonmerged cities or towns whose qualifications and duties relate primarily

to functions which under the plan will no longer be a responsibility of those cities or towns shall be blanketed in and transferred to the consolidated government as officers and employees of it. Standards and procedures relating to such personnel transfers and for resolving disputes or grievances relating to them shall be provided in the plan.

Section 23. Section **20A-1-102** is amended to read:

20A-1-102. Definitions.

As used in this title:

- (1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.
- (2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot cards and tabulates the results.
- (3) "Ballot" means the cardboard, paper, or other material upon which a voter records his votes and includes ballot cards, paper ballots, and secrecy envelopes.
- (4) "Ballot card" means a ballot that can be counted using automatic tabulating equipment.
- (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that contain the names of offices and candidates and statements of ballot propositions to be voted on and which are used in conjunction with ballot cards.
- (6) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, and other questions submitted to the voters for their approval or rejection.
- (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.
- (8) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.
- (9) "Bond election" means an election held for the sole purpose of approving or rejecting the proposed issuance of bonds by a government entity.
- (10) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

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

(12) "Canvassing judge" means an election judge designated to assist in counting ballots at the canvass.

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

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

(15) "Counting judge" means a judge designated to count the ballots during election day.

(16) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

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

(18) "County executive" means:

(a) the county commission in the traditional [management arrangement] form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(b) the county executive in the county executive and chief administrative officer-council optional form of [management arrangement] government authorized by Section [17-35a-13] 17-35a-501;

(c) the county executive in the county executive-council optional form of [management arrangement] government authorized by Section [17-35a-14] 17-35a-502;

(d) the county council in the council-manager optional form of [management arrangement] government authorized by Section [17-35a-15] 17-35a-503; and

(e) the county council in the council-county administrative officer optional form of [management arrangement] government authorized by Section [17-35a-15.5] 17-35a-504.

(19) "County legislative body" means:

(a) the county commission in the traditional [~~management arrangement~~] form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(b) the county council in the county executive and chief administrative officer-council optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-13~~] 17-35a-501;

(c) the county council in the county executive-council optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-14~~] 17-35a-502;

(d) the county council in the council-manager optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-15~~] 17-35a-503; and

(e) the county council in the council-county administrative officer optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-15.5~~] 17-35a-504.

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

(21) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a special district election.

(22) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(23) "Election judge" means each canvassing judge, counting judge, and receiving judge.

(24) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots;

(b) the county clerk or clerks for all county ballots;

(c) the municipal clerk for all municipal ballots; and

(d) the special district clerk or chief executive officer for all special district ballots that are not part of a statewide, county, or municipal ballot.

(25) "Election official" means any election officer, election judge, or satellite registrar.

(26) "Election returns" includes the pollbook, all affidavits of registration, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed

absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(27) "Electronic voting system" means a system in which a voting device is used in conjunction with ballots so that votes recorded by the voter are counted and tabulated by automatic tabulating equipment.

(28) "Inactive voter" means a registered voter who has been sent the notice required by Section 20A-2-306 and who has failed to respond to that notice.

(29) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(30) "Judicial office" means the office filled by any judicial officer.

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

(32) "Local election" means a regular municipal election, a local special election, a special district election, and a bond election.

(33) "Local political subdivision" means a county, a municipality, a special district, or a local school district.

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

(35) "Municipal executive" means:

(a) the city commission, city council, or town council in the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(b) the mayor in the council-mayor optional form of government defined in Section 10-3-1209; and

(c) the manager in the council-manager optional form of government defined in Section 10-3-1209.

(36) "Municipal general election" means the election held in municipalities and special districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(37) "Municipal legislative body" means:

(a) the city commission, city council, or town council in the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(b) the municipal council in the council-mayor optional form of government defined in Section 10-3-1209; and

(c) the municipal council in the council-manager optional form of government defined in Section 10-3-1209.

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

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

(40) "Official ballot" means the ballots distributed by the election officer to the election judges to be given to voters to record their votes.

(41) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

(i) the election judge's initials; and

(ii) the ballot number.

(42) "Official register" means the book furnished election officials by the election officer that contains the information required by Section 20A-5-401.

(43) "Paper ballot" means a paper that contains:

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

(b) spaces for the voter to record his vote for each office and for or against each ballot proposition.

(44) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party Formation and Procedures.

(45) "Polling place" means the building where residents of a voting precinct vote.

(46) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks his choice.

(47) "Posting list" means a list of registered voters within a voting precinct.

(48) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

(49) "Protective counter" means a separate counter, which cannot be reset, that is built into a voting machine and records the total number of movements of the operating lever.

(50) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(51) "Receiving judge" means the election judge that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(52) "Registration days" means the days designated in Section 20A-2-203 when a voter may register to vote with a satellite registrar.

(53) "Registration form" means a book voter registration form and a by-mail voter registration form.

(54) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(55) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, at which candidates of political parties and nonpolitical groups are voted for nomination.

(56) "Resident" means a person who resides within a specific voting precinct in Utah.

(57) "Sample ballot" means a mock ballot similar in form to the official ballot printed and

distributed as provided in Section 20A-5-405.

(58) "Satellite registrar" means a person appointed under Section 20A-5-201 to register voters and perform other duties.

(59) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

(60) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after he has voted it in order to preserve the secrecy of the voter's vote.

(61) "Special election" means an election held as authorized by Section 20A-1-204.

(62) "Special district" means those local government entities created under the authority of Title 17A.

(63) "Special district officers" means those special district officers that are required by law to be elected.

(64) "Spoiled ballot" means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or the election judge; or
- (c) lacks the official endorsement.

(65) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(66) "Stub" means the detachable part of each ballot.

(67) "Substitute ballots" means replacement ballots provided by an election officer to the election judges when the official ballots are lost or stolen.

(68) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(69) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(70) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(71) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(72) "Voter" means a person who meets the requirements of election registration and is registered and is listed in the official register book.

(73) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(74) "Voting booth" means the space or compartment within a polling place that is provided for the preparation of ballots and includes the voting machine enclosure or curtain.

(75) "Voting device" means:

(a) an apparatus in which ballot cards are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance; or

(c) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(76) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(77) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(78) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(79) "Watcher" means a voting poll watcher, a counting poll watcher, and an inspecting poll watcher.

(80) "Write-in ballot" means a ballot containing any write-in votes.

(81) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 24. Section **53A-2-109** is amended to read:

53A-2-109. Annexation of territory of school district by city -- Attendance options of students -- Adoption of optional form of county government not to affect school districts.

(1) (a) If part of the territory of an unincorporated area of a school district is annexed to a city that includes a city school district, the city school district boundaries shall be expanded to include the annexed territory.

(b) The city school district shall complete the transition of the unincorporated area into the city school district no later than 36 months from the date of the annexation.

(c) Notwithstanding the requirements of Subsection (1)(a), any student actually attending school in a school district in an unincorporated area at the time of annexation may, at the option of the student's parent or guardian, attend school either in the city school district or in the school district in the unincorporated area.

(2) Adoption of a plan for an optional form of county government under [~~Section 17-35a-15~~] Title 17, Chapter 35a, Optional Forms of County Government Act, is not an extension of the boundaries of a city under this chapter, and the adoption may not alter or affect the boundaries, organization, powers, duties, or functions of any school district.

Section 25. Section **68-3-12** is amended to read:

68-3-12. Rules of construction.

(1) In the construction of these statutes, the following general rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute:

- (a) The singular number includes the plural, and the plural the singular.
- (b) Words used in one gender comprehend the other.
- (c) Words used in the present tense include the future.

(2) In the construction of these statutes, the following definitions shall be observed, unless the definition would be inconsistent with the manifest intent of the Legislature, or repugnant to the context of the statute:

(a) "Adjudicative proceeding" means:

(i) all actions by a board, commission, department, officer, or other administrative unit of the state that determine the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all actions to grant, deny, revoke, suspend, modify, annul,

withdraw, or amend an authority, right, or license; and

(i) judicial review of all such actions.

(b) "Advisory board," "advisory commission," and "advisory council" means a board, commission, or council that:

(i) provides advice and makes recommendations to another person or entity who makes policy for the benefit of the general public;

(ii) is created by and whose duties are provided by statute or by executive order; and

(iii) performs its duties only under the supervision of another person as provided by statute.

(c) "Councilman" includes a town trustee or a city commissioner, and "city commissioner" includes a councilman.

(d) "County executive" means:

(i) the county commission in the traditional [~~management arrangement~~] form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(ii) the county executive in the "county executive and chief administrative officer-council" optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-13~~] 17-35a-501;

(iii) the county executive in the "county executive-council" optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-14~~] 17-35a-502;

(iv) the county manager in the "council-manager" optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-15~~] 17-35a-503; and

(v) the county council in the "council-county administrative officer" optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-15.5~~] 17-35a-504.

(e) "County legislative body" means:

(i) the county commission in the traditional [~~management arrangement~~] form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(ii) the county council in the "county executive and chief administrative officer-council"

optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-13~~] 17-35a-501;

(iii) the county council in the "county executive-council" optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-14~~] 17-35a-502;

(iv) the county council in the "council-manager" optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-15~~] 17-35a-503; and

(v) the county council in the "council-county administrative officer" optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-15.5~~] 17-35a-504.

(f) "Executor" includes administrator, and the term "administrator" includes executor, when the subject matter justifies such use.

(g) "Guardian" includes a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment and a person who is appointed by a court to manage the estate of a minor or incapacitated person.

(h) "Highway" and "road" include public bridges and may be held equivalent to the words "county way," "county road," "common road," and "state road."

(i) "Him," "his," and other masculine pronouns include "her," "hers," and similar feminine pronouns unless the context clearly indicates a contrary intent or the subject matter relates clearly and necessarily to the male sex only.

(j) "Insane person" include idiots, lunatics, distracted persons, and persons of unsound mind.

(k) "Land," "real estate," and "real property" include land, tenements, hereditaments, water rights, possessory rights, and claims.

(l) "Man" or "men" when used alone or in conjunction with other syllables as in "workman," includes "woman" or "women" unless the context clearly indicates a contrary intent or the subject matter relates clearly and necessarily to the male sex only.

(m) "Month" means a calendar month, unless otherwise expressed, and the word "year," or the abbreviation "A.D." is equivalent to the expression "year of our Lord."

(n) "Oath" includes "affirmation," and the word "swear" includes "affirm." Every oral statement under oath or affirmation is embraced in the term "testify," and every written one, in the

term "depose."

(o) "Person" includes individuals, bodies politic and corporate, partnerships, associations, and companies.

(p) "Personal property" includes every description of money, goods, chattels, effects, evidences of rights in action, and all written instruments by which any pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished, and every right or interest therein.

(q) "Personal representative," "executor," and "administrator" includes an executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

(r) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:

(i) possesses a portion of the sovereign power of the state to enable it to make policy for the benefit of the general public;

(ii) is created by and whose duties are provided by the constitution or by statute;

(iii) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute; and

(iv) is permanent and continuous and not temporary and occasional.

(s) "Population" shall be as shown by the last preceding state or national census, unless otherwise specially provided.

(t) "Property" includes both real and personal property.

(u) "Review board," "review commission," or "review council" means a board, commission, or council that:

(i) possesses a portion of the sovereign power of the state only to the extent to enable it to approve policy made for the benefit of the general public by another body or person;

(ii) is created by and whose duties are provided by statute;

(iii) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute; and

(iv) is permanent and continuous and not temporary and occasional.

(v) "Sheriff," "county attorney," "district attorney," "clerk," or other words used to denote an executive or ministerial officer, may include any deputy, or other person performing the duties of such officer, either generally or in special cases; and the words "county clerk" may be held to include "clerk of the district court."

(w) "Signature" includes any name, mark, or sign written with the intent to authenticate any instrument or writing.

(x) "State," when applied to the different parts of the United States, includes the District of Columbia and the territories; and the words "United States" may include the District and the territories.

(y) "Town" may mean incorporated town and may include city, and the word "city" may mean incorporated town.

(z) "Vessel," when used with reference to shipping, includes steamboats, canal boats, and every structure adapted to be navigated from place to place.

(aa) "Will" includes codicils.

(bb) "Writ" means an order or precept in writing, issued in the name of the state or of a court or judicial officer; and "process" means a writ or summons issued in the course of judicial proceedings.

(cc) "Writing" includes printing, handwriting, and typewriting.

Section 26. Repealer.

This act repeals:

Section 17-35a-1, Legislative intent.

Section 17-35a-2, Proceedings for adoption of optional plan -- Initiation proceedings in general.

Section 17-35a-3, Proceedings for adoption of optional plan -- Initiation by county legislative body -- Methods.

Section 17-35a-4, Proceedings for adoption of optional plan -- Initiation by citizens of county -- Methods.

Section 17-35a-5, Study commission -- Appointment -- Powers and duties -- Meetings -- Final report.

Section 17-35a-6, Optional plan -- Proceedings for election -- Operation and effect of passage.

Section 17-35a-7, Optional plan -- Provisions to be included -- Effect of adoption -- Amendment of plan.

Section 17-35a-8, Optional structural forms of government available for adoption.

Section 17-35a-9, "General county (modified)" form of county government.

Section 17-35a-10, "Urban county" form of county government.

Section 17-35a-11, "Community council" form of county government.

Section 17-35a-12, Optional forms of management arrangements.

Section 17-35a-12.5, Consolidated city and county -- Structural form.

Section 17-35a-13, "County executive and chief administrative officer-council" form of management arrangement.

Section 17-35a-14, "County executive-council" form of management arrangement.

Section 17-35a-15, "Council-manager" form of management arrangement.

Section 17-35a-15.5, "Council-county administrative officer" form of county government.

Section 17-35a-16, Restricted taxing authority form of county government -- Procedure for adoption.

Section 17-35a-17, Validation of optional plans already adopted.