

1                                   **OPTIONAL FORMS OF COUNTY GOVERNMENT**

2   1998 GENERAL SESSION

3   STATE OF UTAH

4   **Sponsor: R. Mont Evans**

5 AN ACT RELATING TO COUNTIES; MODIFYING THE PROCEDURE FOR ADOPTING AN  
6 OPTIONAL FORM OF COUNTY GOVERNMENT.

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

8 AMENDS:

9           **20A-1-102**, as last amended by Chapter 183, Laws of Utah 1997

10           **53A-2-109**, as last amended by Chapter 77, Laws of Utah 1997

11           **68-3-12**, as last amended by Chapter 223, Laws of Utah 1994

12 ENACTS:

13           **17-35a-101**, Utah Code Annotated 1953

14           **17-35a-102**, Utah Code Annotated 1953

15           **17-35a-103**, Utah Code Annotated 1953

16           **17-35a-201**, Utah Code Annotated 1953

17           **17-35a-202**, Utah Code Annotated 1953

18           **17-35a-203**, Utah Code Annotated 1953

19           **17-35a-204**, Utah Code Annotated 1953

20           **17-35a-301**, Utah Code Annotated 1953

21           **17-35a-302**, Utah Code Annotated 1953

22           **17-35a-303**, Utah Code Annotated 1953

23           **17-35a-401**, Utah Code Annotated 1953

24           **17-35a-402**, Utah Code Annotated 1953

25           **17-35a-403**, Utah Code Annotated 1953

26           **17-35a-404**, Utah Code Annotated 1953

27           **17-35a-501**, Utah Code Annotated 1953

- 1           **17-35a-502**, Utah Code Annotated 1953
- 2           **17-35a-503**, Utah Code Annotated 1953
- 3           **17-35a-504**, Utah Code Annotated 1953
- 4           **17-35a-505**, Utah Code Annotated 1953
- 5           **17-35b-301**, Utah Code Annotated 1953
- 6           **17-35b-302**, Utah Code Annotated 1953
- 7           **17-35b-303**, Utah Code Annotated 1953

8 REPEALS:

- 9           **17-35a-1**, as enacted by Chapter 26, Laws of Utah 1973
- 10          **17-35a-2**, as last amended by Chapter 227, Laws of Utah 1993
- 11          **17-35a-3**, as last amended by Chapter 227, Laws of Utah 1993
- 12          **17-35a-4**, as last amended by Chapter 227, Laws of Utah 1993
- 13          **17-35a-5**, as last amended by Chapter 227, Laws of Utah 1993
- 14          **17-35a-6**, as last amended by Chapter 227, Laws of Utah 1993
- 15          **17-35a-7**, as last amended by Chapter 198, Laws of Utah 1996
- 16          **17-35a-8**, as last amended by Chapter 60, Laws of Utah 1977
- 17          **17-35a-9**, as last amended by Chapters 12 and 147, Laws of Utah 1994
- 18          **17-35a-10**, as last amended by Chapters 12 and 147, Laws of Utah 1994
- 19          **17-35a-11**, as last amended by Chapter 79, Laws of Utah 1996
- 20          **17-35a-12**, as last amended by Chapter 244, Laws of Utah 1987
- 21          **17-35a-12.5**, as last amended by Chapter 60, Laws of Utah 1977
- 22          **17-35a-13**, as enacted by Chapter 26, Laws of Utah 1973
- 23          **17-35a-14**, as last amended by Chapter 219, Laws of Utah 1989
- 24          **17-35a-15**, as enacted by Chapter 26, Laws of Utah 1973
- 25          **17-35a-15.5**, as enacted by Chapter 244, Laws of Utah 1987
- 26          **17-35a-16**, as last amended by Chapter 227, Laws of Utah 1993
- 27          **17-35a-17**, as enacted by Chapter 3, Laws of Utah 1987, First Special Session

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

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

30                           **CHAPTER 35a. OPTIONAL FORMS OF COUNTY GOVERNMENT**

31   **Part 1. General Provisions**

1        **17-35a-101. Title.**

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

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

4        **17-35a-102. Definitions.**

5        As used in this chapter:

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

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

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

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

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

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

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

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

18       (3) "Study committee" means a group of persons:

19       (a) (i) elected pursuant to a resolution adopted under Subsection 17-35a-202(3)(a) or  
20 17-35a-203(3)(d)(i)(B) in which the county legislative body specifies that the members should be  
21 elected; or

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

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

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

25       **17-35a-103. Legislative intent.**

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

1 wishing to do so.

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

3 **Part 2. Procedure**

4 **17-35a-201. Procedure for initiating adoption of optional plan -- Limitations.**

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

7 (2) The process for adopting an optional plan establishing an alternate form of county  
8 government may be initiated by:

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

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

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

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

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

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

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

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

21 **17-35a-202. County legislative body initiation of optional plan -- Procedure.**

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

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

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

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

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

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

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

1           (ii) set a public hearing or series of public hearings on the proposed optional plan; and  
2           (iii) require that reasonable notice be given of the public hearing or series of public  
3 hearings.

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

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

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

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

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

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

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

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

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

26          (g) No later than three months before an election under Section 17-35a-204 , a county  
27 legislative body may reconsider its action in proposing an optional plan under this Subsection (2)  
28 and terminate the process to adopt the optional plan.

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

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

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

5 (ii) specify the number of members of the proposed study committee, subject to Subsection  
6 17-35a-303(1)(a), and whether the members are to be elected or appointed; and

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

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

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

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

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

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

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

20 **17-35a-203. Registered voter initiation of optional plan -- Procedure.**

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

22 (a) filing a petition under Subsection (2); or

23 (b) filing a petition under Subsection (3).

24 (2) (a) Registered voters of a county may file a petition requesting the county legislative  
25 body to submit a proposed optional plan to the registered voters of the county.

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

27 (i) be signed by registered voters residing in the county equal in number to at least 15%  
28 of the total number of votes cast in the county at the most recent election for governor;

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

30 (iii) indicate that a complete copy of the proposed optional plan is available for inspection  
31 and copying at the county clerk's office;

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

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

4 (c) Before circulating a petition under Subsection (2)(a) for signature, the petition sponsors  
5 shall file with the county clerk at least three complete copies of the proposed optional plan that is  
6 the subject of the petition.

7 (d) A county legislative body may not alter an optional plan proposed under this  
8 Subsection (2).

9 (e) Each county legislative body shall hold an election as provided under Section  
10 17-35a-204 on a petition filed under this Subsection (2) that is certified under Subsection (4)(a)(ii).

11 (3) (a) Registered voters of a county may file a petition requesting the county legislative  
12 body to adopt a resolution for the establishment of a study committee.

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

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

15 (A) adopting a resolution that establishes a study committee with members appointed  
16 under Section 17-35a-301; or

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

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

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

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

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

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

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

31 (A) adopt a resolution approving the establishment of a study committee with members

1 appointed under Section 17-35a-301 and specifying the number of members to be appointed,  
2 subject to Subsection 17-35a-303(1)(a); or

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

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

7 (4) (a) Within 30 days of the filing of a petition under Subsection (2)(a) or (3)(a), the  
8 county clerk shall:

9 (i) determine whether the petition has been signed by the required number of registered  
10 voters; and

11 (ii) (A) if so:

12 (I) certify the petition and deliver it to the county legislative body; and

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

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

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

19 (ii) The county clerk shall certify or reject an amended or supplemented petition under  
20 Subsection (4)(b)(i) in accordance with the provisions of Subsection (4)(a).

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

22 **17-35a-204. Election on proposed optional plan -- Procedure.**

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

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

25 (b) in a petition filed under Subsection 17-35a-203(2)(a) that is certified under Subsection  
26 17-35a-203(4)(a)(ii); or

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

28 (2) Each election under Subsection (1) shall be held at a general or special election, as  
29 designated by the county legislative body, no less than three months but no later than 18 months  
30 after, as the case may be:

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



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

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

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

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

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

7 (4) The county legislative body shall:

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

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

13 (c) if the optional plan is proposed by a study committee report filed under Subsection  
14 17-35a-303(3)(d), make a complete copy of the study committee's report available free of charge  
15 to any member of the public who requests a copy.

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

17 **Part 3. Study Committee**

18 **17-35a-301. Procedure for appointing members to study committee.**

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

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

24 (i) the adoption of a resolution under Subsection 17-35a-202(4)(a) or  
25 17-35a-203(3)(d)(i)(A); or

26 (ii) the canvass of an election pursuant to a resolution adopted under Subsection  
27 17-35a-202(3)(a) or 17-35a-203(3)(d)(i)(B) if:

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

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

30 (b) Within ten days of the convening of the first meeting under Subsection (2)(a), the five  
31 members of the appointment council shall designate the remaining four members referred to in

1 Subsection 17-35a-102(1)(f).

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

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

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

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

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

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

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

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

15 **17-35a-302. Convening of first meeting of study committee.**

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

18 (1) receipt of notification of the study committee members' appointment under Subsection  
19 17-35a-301(3)(a); or

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

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

23 **17-35a-303. Study committee -- Members -- Powers and duties -- Report -- Services**  
24 **provided by county.**

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

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

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

30 (2) A study committee may:

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

1 membership;

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

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

6 (3) Each study committee shall:

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

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

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

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

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

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

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

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

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

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

31 (i) that would recommend the adoption of an optional form different from that

1 recommended in the original report; or

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

3 (6) Each meeting held by the study committee shall comply with Title 52, Chapter 4, Open  
4 and Public Meetings.

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

6 (a) suitable meeting facilities;

7 (b) necessary secretarial services;

8 (c) necessary printing and photocopying services;

9 (d) necessary clerical and staff assistance; and

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

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

14 **Part 4. Optional Plan**

15 **17-35a-401. Contents of proposed optional plan.**

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

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

18 (b) contain detailed provisions relating to the transition from the existing form of county  
19 government to the form proposed in the optional plan, including provisions relating to the:

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

22 (ii) effect of the optional plan on existing elected offices and officers;

23 (iii) continuity of existing ordinances and regulations;

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

25 (v) making of interim and temporary appointments; and

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

27 (c) provide that the county auditor's role with respect to the county budget is to project  
28 county revenues, the county executive's role is to propose the budget, and the county legislative  
29 body's role is to adopt the budget.

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

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

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

4           **17-35a-402. Adoption of optional plan -- Effect of adoption.**

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

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

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

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

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

17           (2) Adoption of an optional plan changing the form of county government does not alter  
18 or affect the boundaries, organization, powers, duties, or functions of any:

19           (a) school district;

20           (b) justice court;

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

23           (d) city or town; or

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

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

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

29           **17-35a-403. Amendment of optional plan.**

30           (1) Subject to Subsection (2), an optional plan, after being adopted at an election held  
31 under Section 17-35a-204, may be amended by an affirmative vote of two-thirds of the county

1 legislative body.

2 (2) Notwithstanding Subsection (1), an amendment to an adopted optional plan may not  
3 take effect until approved by a majority of registered voters voting in a general or special election  
4 at which the amendment is proposed, if the amendment changes:

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

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

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

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

12 **17-35a-404. Validation of prior optional plans.**

13 (1) Each optional plan adopted before the effective date of this section is hereby validated,  
14 ratified, and confirmed.

15 (2) Nothing in this part may be construed to affect or validate an optional plan whose  
16 legality is being contested in a court action pending at the time this section takes effect.

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

18 **Part 5. Optional Forms of County Government**

19 **17-35a-501. Optional forms of county government.**

20 An optional plan may propose changing the form of county government to:

21 (1) the county commissioner form under Title 17, Chapter 5, Part 1, County Commissioner  
22 Form of Government;

23 (2) executive and chief administrative officer form under Section 17-35a-502;

24 (3) the county executive and council form under Section 17-35a-503;

25 (4) the council-manager form under Section 17-35a-504; or

26 (5) the council and county administrative officer form under Section 17-35a-505.

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

28 **17-35a-502. County executive and chief administrative officer-council form of county**  
29 **government.**

30 (1) A county operating under the form of government known as the "county executive and  
31 chief administrative officer-council" form shall be governed by the county council, a county

1 executive elected at large by the voters of the county, an appointed chief administrative officer,  
2 and such other officers and employees as are authorized by law. The optional plan shall provide  
3 for the qualifications, time and manner of election, term of office, compensation, and removal of  
4 the county executive.

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

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

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

9 (c) faithfully enforce all applicable laws and county ordinances;

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

12 (e) except as otherwise provided in the optional plan, appoint, suspend, and remove the  
13 directors of all county departments and all appointive officers of boards and commissions;

14 (f) exercise administrative and auditing control over all funds and assets, tangible and  
15 intangible, of the county;

16 (g) serve as and perform the duties of the budget officer of the county, as provided in the  
17 Uniform Municipal Fiscal Procedures Act, which shall be applicable except as otherwise provided  
18 in the optional plan;

19 (h) supervise and direct centralized budgeting, accounting, personnel management,  
20 purchasing, and other service functions of the county;

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

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

26 (3) The chief administrative officer shall be appointed and removed by the county  
27 executive, with the approval of the council, except that the plan may specifically provide for his  
28 appointment and removal by the council. He shall have the qualifications, training, and experience  
29 and receive compensation as provided in the optional plan. He shall be principal staff assistant to  
30 the county executive, and under the direction and supervision of the county executive shall:

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

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

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

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

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

10           (4) All powers and duties of the county shall be allocated for administrative and executive  
11 purposes to departments of the county as designated by the optional plan. Transfers of employees  
12 and reallocation of powers and duties between departments may be made by the county executive  
13 in his discretion, except as otherwise provided in the plan or by ordinance.

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

15           **17-35a-503. County executive-council form of county government.**

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

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

21           (2) The county executive shall be the chief executive officer of the county and shall have  
22 the powers and duties provided in Subsection 17-35b-502(2).

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

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

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

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

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

31           **17-35a-504. Council-manager form of county government.**



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

6       (2) The county manager shall be the administrative head of the county government and  
7 shall have the powers and duties of a county executive, under Subsection 17-35b-502(2), except  
8 that the county manager shall not have any power of veto over ordinances enacted by the council.

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

21       Section 19. Section **17-35a-505** is enacted to read:

22       **17-35a-505. Council-county administrative officer form of county government.**

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

25       (a) a county council;

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

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

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

31       (b) The optional plan submitted to the voters shall establish the qualifications, time, and

1 manner of employment, term of office, compensation, and procedures for removal of the county  
2 administrative officer.

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

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

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

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

14 Section 20. Section **17-35b-301** is enacted to read:

15 **CHAPTER 35b. CONSOLIDATION OF LOCAL GOVERNMENT UNITS**

16 **Part 1. Reserved**

17 **Part 2. Reserved**

18 **Part 3. Structural Forms of County Government**

19 **17-35b-301. Urban county form of county government.**

20 (1) The structural form of county government known as the "urban county" form retains,  
21 without change or modification, except to the extent that changes or modifications may be  
22 effectuated under other proceedings authorized by law, all existing incorporated cities and towns,  
23 special taxing districts, public authorities, county service areas, and other local public entities  
24 functioning within the boundaries of the county. Under this form of government, the county  
25 remains vested with all powers and duties vested in counties by general law, but in addition is  
26 vested with and empowered to exercise within the unincorporated territory of the county all powers  
27 and duties which, by general law, are conferred upon cities whose population is equal to that of  
28 the unincorporated territory of such county.

29 (2) The urban county is empowered to enter into contractual arrangements for the joint  
30 exercise of powers or for performance of services and, for that purpose, may employ and be  
31 subject to the provisions of Title 11, Chapter 13, Interlocal Cooperation Act. By contract, the

1 urban county may perform for any city, town, special taxing district, public authority, county  
2 service area, or other local public entity within the county any governmental service or function  
3 which such entity is lawfully empowered to perform for itself within its own territory, or which  
4 the county is lawfully empowered to perform anywhere within the county boundaries. No contract  
5 service or function shall be performed by the county except for a consideration which is at least  
6 substantially equal to the cost of performing it.

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

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

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

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

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

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

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

30 Section 21. Section **17-35b-302** is enacted to read:

31 **17-35b-302. Community council form of county government.**

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

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

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

30           (4) The voters of each community shall elect a community council composed of the  
31 community's elected member of the county council, who shall be chairman of the community

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

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

15 (b) may provide for supplying of such services by contract or by joint or cooperative action  
16 pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, in which case the community council  
17 shall be considered a "public agency" within the meaning of said act; and

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

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

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

29 (b) may, by resolution or ordinance, provide that any designated part of the community  
30 council program relating to a service to be provided within the city or town shall be submitted to  
31 the voters thereof at a general or special election to be held therein within 60 days after the date

1 of the resolution or ordinance. Any part of the program submitted to the voters of a city or town  
2 under this Subsection (5) shall not be included in the program as submitted to the county council  
3 unless it receives an approving vote at such election by majority of all votes cast on the question.

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

7 (7) Upon the effective date of the plan and as provided in it, all properties and assets,  
8 whether tangible or intangible, and all obligations, debts, and liabilities, of those governmental  
9 entities which are merged into the new countywide government shall become vested and  
10 transferred by operation of law in and to the new countywide government. The properties, assets,  
11 obligations, debts, and liabilities of any city or town not merged into the new countywide  
12 government, so far as allocated, used, or incurred primarily to discharge a function which under  
13 the plan will no longer be a responsibility of the city or town, shall likewise be vested in and  
14 transferred to the new countywide government. All transfers under this Subsection (7) shall be  
15 subject to equitable adjustments, conditions, and limitations provided in the plan and determined  
16 by procedures specified in the plan; but the contractual rights of any bondholder or creditor shall  
17 not be impaired.

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

25 Section 22. Section **17-35b-303** is enacted to read:

26 **17-35b-303. Consolidated city and county -- Structural form.**

27 (1) The structural form of county government known as the "consolidated city and county"  
28 form unites in a single consolidated city and county government the powers, duties, and functions  
29 which, immediately prior to its effective date, are vested in the county, the largest city in the  
30 county, such other cities and towns as elect to merge in it, and all special taxing districts, public  
31 authorities, county service areas, and other local public entities functioning within the boundaries

1 of the county, except school districts. The consolidated government shall with the consent of the  
2 continuing municipalities have power to extend on a countywide basis any governmental service  
3 or function which is authorized by law or which the previous county, cities, and other local public  
4 agencies included in them were empowered to provide for their residents. No such service,  
5 however, shall be provided within an incorporated municipality which continues to provide that  
6 such service for its own inhabitants, except upon a contract basis for the municipality. No taxes,  
7 assessments, fees, or other charges shall be extended or collected by the consolidated government  
8 within any municipality for the purpose of financing any service which is not provided by the  
9 consolidated government within the municipality. "Largest city," as used in this section, means  
10 a city or cities the population of which, as shown by the most recent decennial or special census,  
11 exceeds 35% of the total county population.

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

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

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

27 (5) Upon the effective date of the plan, as provided in it, all properties and assets, whether  
28 tangible or intangible, and all obligations, debts, and liabilities of those governmental entities  
29 which are merged into the consolidated government shall become vested and transferred by  
30 operation of law in and to the consolidated government. The properties, assets, obligations, debts,  
31 and liabilities of any city or town not merged into the consolidated government, so far as allocated,

1 used, or incurred primarily to discharge a function which under the plan will no longer be a  
2 responsibility of the city or town, shall likewise be vested in and transferred to the consolidated  
3 government. All transfers under this Subsection (5) shall be subject to equitable adjustments,  
4 conditions, and limitations provided in the plan and determined by procedures specified in the  
5 plan; but the contractual rights of any bondholder or creditor shall not be impaired.

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

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

14 **20A-1-102. Definitions.**

15 As used in this title:

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

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

20 (3) "Ballot" means the cardboard, paper, or other material upon which a voter records his  
21 votes and includes ballot cards, paper ballots, and secrecy envelopes.

22 (4) "Ballot card" means a ballot that can be counted using automatic tabulating equipment.

23 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that contain  
24 the names of offices and candidates and statements of ballot propositions to be voted on and which  
25 are used in conjunction with ballot cards.

26 (6) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial  
27 retention questions, opinion questions, and other questions submitted to the voters for their  
28 approval or rejection.

29 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and  
30 20A-4-306 to canvass election returns.

31 (8) "Book voter registration form" means voter registration forms contained in a bound



1 book that are used by election officers and registration agents to register persons to vote.

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

4 (10) "By-mail voter registration form" means a voter registration form designed to be  
5 completed by the voter and mailed to the election officer.

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

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

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

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

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

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

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

20 (18) "County executive" means:

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

24 (b) the county executive in the county executive and chief administrative officer-council  
25 optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-13~~]  
26 17-35a-502;

27 (c) the county executive in the county executive-council optional form of [~~management~~  
28 ~~arrangement~~] government authorized by Section [~~17-35a-14~~] 17-35a-503;

29 (d) the county council in the council-manager optional form of [~~management arrangement~~]  
30 government authorized by Section [~~17-35a-15~~] 17-35a-504; and

31 (e) the county council in the council-county administrative officer optional form of

1 ~~[management arrangement]~~ government authorized by Section ~~[17-35a-15.5]~~ 17-35a-505.

2 (19) "County legislative body" means:

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

5 (b) the county council in the county executive and chief administrative officer-council  
6 optional form of ~~[management arrangement]~~ government authorized by Section ~~[17-35a-13]~~  
7 17-35a-502;

8 (c) the county council in the county executive-council optional form of ~~[management~~  
9 ~~arrangement]~~ government authorized by Section ~~[17-35a-14]~~ 17-35a-503;

10 (d) the county council in the council-manager optional form of ~~[management arrangement]~~  
11 government authorized by Section ~~[17-35a-15]~~ 17-35a-504; and

12 (e) the county council in the council-county administrative officer optional form of  
13 ~~[management arrangement]~~ government authorized by Section ~~[17-35a-15.5]~~ 17-35a-505.

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

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

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

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

21 (24) "Election officer" means:

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

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

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

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

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

28 (26) "Election returns" includes the pollbook, all affidavits of registration, the military and  
29 overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed  
30 absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the  
31 ballot disposition form, and the total votes cast form.

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

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

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

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

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

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

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

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

17 (35) "Municipal executive" means:

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

20 (b) the mayor in the council-mayor optional form of government defined in Section  
21 10-3-1209; and

22 (c) the manager in the council-manager optional form of government defined in Section  
23 10-3-1209.

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

27 (37) "Municipal legislative body" means:

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

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

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

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

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

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

9 (41) "Official endorsement" means:

10 (a) the information on the ballot that identifies:

11 (i) the ballot as an official ballot;

12 (ii) the date of the election; and

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

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

15 (i) the election judge's initials; and

16 (ii) the ballot number.

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

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

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

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

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

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

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

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

31 (48) "Primary convention" means the political party conventions at which nominees for

1 the regular primary election are selected.

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

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

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

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

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

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

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

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

20 (57) "Sample ballot" means a mock ballot similar in form to the official ballot printed and  
21 distributed as provided in Section 20A-5-405.

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

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

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

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

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

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

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

4 (a) is spoiled by the voter;

5 (b) is unable to be voted because it was spoiled by the printer or the election judge; or

6 (c) lacks the official endorsement.

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

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

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

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

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

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

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

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

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

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

27 (75) "Voting device" means:

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

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

31 (c) any other method for recording votes on ballots so that the ballot may be tabulated by

1 means of automatic tabulating equipment.

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

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

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

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

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

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

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

14 **53A-2-109. Annexation of territory of school district by city -- Attendance options**  
15 **of students -- Adoption of optional form of county government not to affect school districts.**

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

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

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

25 (2) Adoption of a plan for an optional form of county government under Section  
26 [~~17-35a-15~~] 17-35a-504 is not an extension of the boundaries of a city under this chapter, and the  
27 adoption may not alter or affect the boundaries, organization, powers, duties, or functions of any  
28 school district.

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

30 **68-3-12. Rules of construction.**

31 (1) In the construction of these statutes, the following general rules shall be observed,

1 unless such construction would be inconsistent with the manifest intent of the Legislature or  
2 repugnant to the context of the statute:

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

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

9 (a) "Adjudicative proceeding" means:

10 (i) all actions by a board, commission, department, officer, or other administrative unit of  
11 the state that determine the legal rights, duties, privileges, immunities, or other legal interests of  
12 one or more identifiable persons, including all actions to grant, deny, revoke, suspend, modify,  
13 annul, withdraw, or amend an authority, right, or license; and

14 (ii) judicial review of all such actions.

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

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

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

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

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

24 (d) "County executive" means:

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

27 (ii) the county executive in the "county executive and chief administrative officer-council"  
28 optional form of [~~management arrangement~~] government authorized by Section [~~17-35a-13~~]  
29 17-35a-502;

30 (iii) the county executive in the "county executive-council" optional form of [~~management~~  
31 arrangement] government authorized by Section [~~17-35a-14~~] 17-35a-503;



1 (iv) the county manager in the "council-manager" optional form of [management  
2 arrangement] government authorized by Section [17-35a-15] 17-35a-504; and

3 (v) the county council in the "council-county administrative officer" optional form of  
4 [management arrangement] government authorized by Section [17-35a-15.5] 17-35a-505.

5 (e) "County legislative body" means:

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

8 (ii) the county council in the "county executive and chief administrative officer-council"  
9 optional form of [management arrangement] government authorized by Section [17-35a-13]  
10 17-35a-502;

11 (iii) the county council in the "county executive-council" optional form of [management  
12 arrangement] government authorized by Section [17-35a-14] 17-35a-503;

13 (iv) the county council in the "council-manager" optional form of [management  
14 arrangement] government authorized by Section [17-35a-15] 17-35a-504; and

15 (v) the county council in the "council-county administrative officer" optional form of  
16 [management arrangement] government authorized by Section [17-35a-15.5] 17-35a-505.

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

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

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

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

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

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

31 (l) "Man" or "men" when used alone or in conjunction with other syllables as in

1 "workman," includes "woman" or "women" unless the context clearly indicates a contrary intent  
2 or the subject matter relates clearly and necessarily to the male sex only.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (ii) is created by and whose duties are provided by statute;
- 2 (iii) performs its duties according to its own rules without supervision other than under the
- 3 general control of another person as provided by statute; and
- 4 (iv) is permanent and continuous and not temporary and occasional.
- 5 (v) "Sheriff," "county attorney," "district attorney," "clerk," or other words used to denote
- 6 an executive or ministerial officer, may include any deputy, or other person performing the duties
- 7 of such officer, either generally or in special cases; and the words "county clerk" may be held to
- 8 include "clerk of the district court."
- 9 (w) "Signature" includes any name, mark, or sign written with the intent to authenticate
- 10 any instrument or writing.
- 11 (x) "State," when applied to the different parts of the United States, includes the District
- 12 of Columbia and the territories; and the words "United States" may include the District and the
- 13 territories.
- 14 (y) "Town" may mean incorporated town and may include city, and the word "city" may
- 15 mean incorporated town.
- 16 (z) "Vessel," when used with reference to shipping, includes steamboats, canal boats, and
- 17 every structure adapted to be navigated from place to place.
- 18 (aa) "Will" includes codicils.
- 19 (bb) "Writ" means an order or precept in writing, issued in the name of the state or of a
- 20 court or judicial officer; and "process" means a writ or summons issued in the course of judicial
- 21 proceedings.
- 22 (cc) "Writing" includes printing, handwriting, and typewriting.

23 **Section 26. Repealer.**

24 This act repeals:

25 **Section 17-35a-1, Legislative intent.**

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

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

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

- 1           Section 17-35a-5, **Study commission -- Appointment -- Powers and duties -- Meetings**
- 2 **-- Final report.**
- 3           Section 17-35a-6, **Optional plan -- Proceedings for election -- Operation and effect of**
- 4 **passage.**
- 5           Section 17-35a-7, **Optional plan -- Provisions to be included -- Effect of adoption --**
- 6 **Amendment of plan.**
- 7           Section 17-35a-8, **Optional structural forms of government available for adoption.**
- 8           Section 17-35a-9, **"General county (modified)" form of county government.**
- 9           Section 17-35a-10, **"Urban county" form of county government.**
- 10          Section 17-35a-11, **"Community council" form of county government.**
- 11          Section 17-35a-12, **Optional forms of management arrangements.**
- 12          Section 17-35a-12.5, **Consolidated city and county -- Structural form.**
- 13          Section 17-35a-13, **"County executive and chief administrative officer-council" form**
- 14 **of management arrangement.**
- 15          Section 17-35a-14, **"County executive-council" form of management arrangement.**
- 16          Section 17-35a-15, **"Council-manager" form of management arrangement.**
- 17          Section 17-35a-15.5, **"Council-county administrative officer" form of county**
- 18 **government.**
- 19          Section 17-35a-16, **Restricted taxing authority form of county government --**
- 20 **Procedure for adoption.**
- 21          Section 17-35a-17, **Validation of optional plans already adopted.**

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**Legislative Review Note**  
**as of 1-20-98 4:24 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**