MUNICIPAL GOVERNMENT AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Wayne A. Harper

This act modifies city classification provisions and adds new classifications. The act modifies the population size of cities to which certain meeting requirements apply. The act modifies the population size of cities subject to certain animal shelter provisions. The act modifies the population size of cities to which a maximum charge for newspaper official notices applies. The act also makes conforming and technical changes. The act provides a coordination clause.

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

AMENDS:

9-2-404, as last amended by Chapters 275 and 334, Laws of Utah 1998

10-1-104, as last amended by Chapter 209, Laws of Utah 2000

10-2-112, as repealed and reenacted by Chapter 389, Laws of Utah 1997

10-2-114, as repealed and reenacted by Chapter 389, Laws of Utah 1997

10-2-125, as last amended by Chapter 318, Laws of Utah 2000

10-2-301, as last amended by Chapter 178, Laws of Utah 2001

10-2-405, as last amended by Chapter 29, Laws of Utah 2002

10-3-105, as last amended by Chapter 17, Laws of Utah 1999

10-3-205, as last amended by Chapter 278, Laws of Utah 1997

10-3-205.5, as enacted by Chapter 278, Laws of Utah 1997

10-3-208, as last amended by Chapter 272, Laws of Utah 2002

10-3-402, as last amended by Chapter 147, Laws of Utah 1997

10-3-502, as enacted by Chapter 48, Laws of Utah 1977

10-3-504, as enacted by Chapter 48, Laws of Utah 1977

10-3-507, as enacted by Chapter 48, Laws of Utah 1977

10-3-609, as enacted by Chapter 48, Laws of Utah 1977

10-3-808, as enacted by Chapter 48, Laws of Utah 1977

10-3-809, as last amended by Chapter 147, Laws of Utah 1997

10-3-810, as last amended by Chapter 59, Laws of Utah 1990

10-3-811, as enacted by Chapter 48, Laws of Utah 1977

10-3-812, as enacted by Chapter 48, Laws of Utah 1977

10-3-916, as last amended by Chapter 207, Laws of Utah 1987

10-3-917, as enacted by Chapter 48, Laws of Utah 1977

10-3-918, as last amended by Chapter 219, Laws of Utah 2002

10-3-919, as enacted by Chapter 48, Laws of Utah 1977

10-3-920, as last amended by Chapter 186, Laws of Utah 1991

10-3-1208, as enacted by Chapter 48, Laws of Utah 1977

10-3-1212, as last amended by Chapter 47, Laws of Utah 1981

10-6-106, as last amended by Chapter 300, Laws of Utah 1999

10-6-111, as last amended by Chapter 300, Laws of Utah 1999

10-6-135, as last amended by Chapter 12, Laws of Utah 2002

10-6-139, as enacted by Chapter 26, Laws of Utah 1979

10-6-148, as enacted by Chapter 26, Laws of Utah 1979

10-6-153, as last amended by Chapter 243, Laws of Utah 1996

10-6-154, as last amended by Chapter 4, Laws of Utah 1993

10-6-157, as last amended by Chapter 119, Laws of Utah 1985

10-7-7, as last amended by Chapter 2, Laws of Utah 1970

10-8-90, Utah Code Annotated 1953

10-8-91, as last amended by Chapter 3, Laws of Utah 1988

10-9-307, as last amended by Chapter 159, Laws of Utah 2002

10-11-1, Utah Code Annotated 1953

10-17-102, as last amended by Chapter 318, Laws of Utah 2000

11-14-3, as last amended by Chapter 270, Laws of Utah 2000

17-42-102, as last amended by Chapter 318, Laws of Utah 2000

17A-2-1302, as last amended by Chapter 1, Laws of Utah 2000

17A-2-1308, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-3-306, as last amended by Chapter 84, Laws of Utah 1997

17A-3-317, as last amended by Chapter 5, Laws of Utah 1991

17A-3-407, as last amended by Chapter 84, Laws of Utah 1997

20A-5-301, as last amended by Chapter 228, Laws of Utah 1993

20A-7-601, as last amended by Chapter 45, Laws of Utah 1999

20A-9-404, as last amended by Chapter 328, Laws of Utah 2000

32A-2-101, as last amended by Chapter 132, Laws of Utah 1991

32A-3-101, as last amended by Chapter 354, Laws of Utah 2001

32A-4-101, as last amended by Chapter 87, Laws of Utah 2002

32A-5-101, as last amended by Chapter 132, Laws of Utah 1991

32A-10-201, as last amended by Chapter 87, Laws of Utah 2002

45-1-2, as last amended by Chapter 43, Laws of Utah 1983

53-6-106, as last amended by Chapter 243, Laws of Utah 1996

57-11-4, as last amended by Chapter 165, Laws of Utah 1991

67-3-8, as last amended by Chapter 300, Laws of Utah 1999

72-3-104, as last amended by Chapter 324, Laws of Utah 2000

72-8-102, as renumbered and amended by Chapter 270, Laws of Utah 1998

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

Section 1. Section **9-2-404** is amended to read:

9-2-404. Criteria for designation of enterprise zones -- Application.

(1) A county applicant seeking designation as an enterprise zone shall file an application with the department that, in addition to complying with other requirements of this part:

(a) verifies that the entire county is not located in a metropolitan statistical area that is entirely located within Utah;

(b) verifies that the county has a population of 50,000 or less; and

(c) provides clear evidence of the need for development in the county.

(2) A municipal applicant seeking designation as an enterprise zone shall file an

application with the department that, in addition to complying with other requirements of this part:

(a) verifies that the municipality [~~has a population of 10,000 persons or less~~] is a city of the fifth class or a town;

(b) verifies that the municipality is within a county that has a population of 50,000 or less; and

(c) provides clear evidence of the need for development in the municipality.

(3) An application filed under Subsection (1) or (2) shall be in a form and in accordance with procedures approved by the department, and shall include the following information:

(a) a plan developed by the county applicant or municipal applicant that identifies local contributions meeting the requirements of Section 9-2-405;

(b) the county applicant or municipal applicant has a development plan that outlines:

(i) the types of investment and development within the zone that the county applicant or municipal applicant expects to take place if the incentives specified in this part are provided;

(ii) the specific investment or development reasonably expected to take place;

(iii) any commitments obtained from businesses;

(iv) the projected number of jobs that will be created and the anticipated wage level of those jobs;

(v) any proposed emphasis on the type of jobs created, including any affirmative action plans; and

(vi) a copy of the county applicant's or municipal applicant's economic development plan to demonstrate coordination between the zone and overall county or municipal goals;

(c) the county applicant's or municipal applicant's proposed means of assessing the effectiveness of the development plan or other programs to be implemented within the zone once they have been implemented;

(d) any additional information required by the department; and

(e) any additional information the county applicant or municipal applicant considers relevant to its designation as an enterprise zone.

Section 2. Section **10-1-104** is amended to read:

10-1-104. Definitions.

As used in this title:

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

(2) "Contiguous" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 3. Section **10-2-112** is amended to read:

10-2-112. Ballot used at the incorporation election.

(1) The ballot at the incorporation election under Subsection 10-2-111(1) shall pose the incorporation question substantially as follows:

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

(2) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (1).

(3) (a) The ballot at the incorporation election shall also pose the question relating to the form of government substantially as follows:

If the above incorporation proposal passes, under what form of municipal government shall (insert the name of the proposed city) operate? Vote for one:

City (insert "Commission" for a city of the first or second class or "Council" for a city of the third, fourth, or fifth class) form

Council-Mayor form

Council-Manager form.

(b) The ballot shall provide a space for the voter to vote for one form of government.

(4) (a) The ballot at the incorporation election shall also pose the question of whether to elect city commission or council members by district substantially as follows:

If the above incorporation proposal passes, shall members of the city (insert "commission" or "council," as the case may be) of (insert the name of the proposed city) be elected by district?

(b) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (4)(a).

Section 4. Section **10-2-114** is amended to read:

10-2-114. Determination of number of commission or council members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of the canvass of the election under Section 10-2-111:

(a) if the voters at the incorporation election choose either the council-mayor or the council-manager form of government, determine the number of commission or council members that will constitute the commission or council of the future city;

(b) if the voters at the incorporation election vote to elect commission or council members by district, determine the number of commission or council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population;

(c) determine the initial terms of the mayor and members of the city commission or council so that:

(i) the mayor and approximately half the members of the city commission or council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-203(1) for a first class city, Subsection 10-3-204(1) for a second class city, and Subsection 10-3-205(1) for a third, fourth, or fifth class city; and

(ii) the remaining members of the city commission or council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-203(2) for a first class city, Subsection 10-3-204(2) for a second class city, and Subsection 10-3-205(2) for a third, fourth, or fifth class city; and

(d) submit in writing to the county legislative body the results of the sponsors' determinations under Subsections (1)(a), (b), and (c).

(2) (a) Before making a determination under Subsection (1)(a), (b), or (c), the petition sponsors shall hold a public hearing within the future city on the applicable issues under

Subsections (1)(a), (b), and (c).

(b) (i) The petition sponsors shall publish notice of the public hearing under Subsection (2)(a) in a newspaper of general circulation within the future city at least once a week for two successive weeks before the hearing.

(ii) The last publication of notice under Subsection (2)(b)(i) shall be at least three days before the public hearing under Subsection (2)(a).

(c) (i) If there is no newspaper of general circulation within the future city, the petition sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous places within the future city that are most likely to give notice of the hearing to the residents of the future city.

(ii) The petition sponsors shall post the notices under Subsection (2)(c)(i) at least seven days before the hearing under Subsection (2)(a).

Section 5. Section **10-2-125** is amended to read:

10-2-125. Incorporation of a town.

(1) (a) A contiguous area of a county not within a municipality, with a population of at least 100 but [~~not more~~] less than [~~800~~] 1,000, may incorporate as a town as provided in this section.

(b) (i) The population figure under Subsection (1)(a) shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population Estimates Committee.

(2) (a) The process to incorporate an area as a town is initiated by filing a petition with the clerk of the county in which the area is located.

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

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

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

(B) covers a majority of the total private land area within the area; and

(C) is equal in value to at least 1/3 of the value of all private real property within the area;

(ii) state the legal description of the boundaries of the area proposed to be incorporated as a town; and

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

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

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

We, the undersigned owners of real property within the area described in this petition, respectfully petition the county legislative body to examine the question of whether the area should incorporate as a town. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a town is described as follows: (insert an accurate description of the area proposed to be incorporated).

(c) A petition under this section may not describe an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the petition; and

(ii) is still pending on the date the petition is filed.

(3) Section 10-2-104 applies to a petition for incorporation as a town, except that the notice under Subsection 10-2-104(1) shall be sent within seven calendar days of the filing of a petition under Subsection (2).

(4) (a) A county legislative body may treat a petition filed under Subsection (2) as a request for a feasibility study under Section 10-2-103 and process it as a request under that section would be processed under this part to determine whether the feasibility study results meet the requirements of Subsection 10-2-109(3).

(b) If the results of a feasibility study under Subsection (4)(a) do not meet the

requirements of Subsection 10-2-109(3), the county legislative body may not approve the incorporation petition.

(c) If the results of the feasibility study under Subsection (4)(a) meet the requirements of Subsection 10-2-109(3), the county legislative body may approve the incorporation petition, if the county legislative body determines that the incorporation is in the best interests of the citizens of the county and the proposed town.

(5) Upon approval of a petition filed under Subsection (2), the legislative body of the county in which the proposed town is located shall appoint a mayor and members of the town council who shall hold office until the next regular municipal election and until their successors are elected and qualified.

(6) (a) (i) Each mayor appointed under Subsection (5) shall, within seven days of appointment, file articles of incorporation of the new town with the lieutenant governor.

(ii) The articles of incorporation shall meet the requirements of Subsection 10-2-119(2).

(b) Within ten days of receipt of the articles of incorporation, the lieutenant governor shall:

(i) certify the articles of incorporation;

(ii) return a copy of the articles of incorporation to the appointed mayor; and

(iii) send a copy of the articles of incorporation to the recorder of the county in which the town is located.

(7) A town is incorporated upon the lieutenant governor's certification of the articles of incorporation.

(8) (a) Within 30 days of incorporation, the legislative body of the new town shall record with the recorder of the county in which the new town is located a plat or map, prepared by a licensed surveyor and approved by the legislative body, showing the boundaries of the town.

(b) The legislative body of the new town shall comply with the notice requirements of Section 10-1-116.

Section 6. Section **10-2-301** is amended to read:

10-2-301. Classification of municipalities according to population.

(1) Each municipality shall be classified according to its population, as provided in this section.

(2) (a) A municipality with a population of 100,000 or more is a city of the first class.

(b) A municipality with a population of [~~60,000~~] 65,000 or more but less than 100,000 is a city of the second class.

(c) A municipality with a population of [~~1,000~~] 30,000 or more but less than [~~60,000~~] 65,000 is a city of the third class.

(d) A municipality with a population of 10,000 or more but less than 30,000 is a city of the fourth class.

(e) A municipality with a population of 1,000 or more but less than 10,000 is a city of the fifth class.

[~~(d)~~] (f) A municipality with a population under 1,000 is a town.

Section 7. Section **10-2-405** is amended to read:

10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.

(1) (a) (i) (A) A municipal legislative body may:

(I) except as provided in Subsection (1)(b) and subject to Subsection (1)(a)(i)(B), deny a petition filed under Section 10-2-403; or

(II) accept the petition for further consideration under this part.

(B) A petition shall be considered to have been accepted for further consideration under this part if a municipal legislative body fails to act to deny or accept the petition under Subsection (1)(a)(i)(A):

(I) in the case of a city of the first or second class, within 14 days after the filing of the petition; or

(II) in the case of a city of the third, fourth, or fifth class or a town, at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days after the date the petition was filed.

(ii) If a municipal legislative body denies a petition under Subsection (1)(a)(i)(A), it shall, within five days of the denial, mail written notice of the denial to the contact sponsor, the

clerk of the county in which the area proposed for annexation is located, and the chair of the planning commission of each township in which any part of the area proposed for annexation is located.

(b) A municipal legislative body may not deny a petition filed under Section 10-2-403 proposing to annex an area located in a county of the first class if:

(i) the petition contains the signatures of the owners of private real property that:

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

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

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

(ii) the population in the area proposed for annexation does not exceed 10% of the population of the proposed annexing municipality;

(iii) the property tax rate for municipal services in the area proposed to be annexed is higher than the property tax rate of the proposed annexing municipality; and

(iv) all annexations by the proposed annexing municipality during the year that the petition was filed have not increased the municipality's population by more than 20%.

(2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i)(A) or is considered to have accepted the petition under Subsection (1)(a)(i)(B), the city recorder or town clerk, as the case may be, shall, within 30 days of that acceptance:

(a) with the assistance of the municipal attorney and of the clerk, surveyor, and recorder of the county in which the area proposed for annexation is located, determine whether the petition meets the requirements of Subsections 10-2-403(2), (3), and (4); and

(b) (i) if the city recorder or town clerk determines that the petition meets those requirements, certify the petition and mail or deliver written notification of the certification to the municipal legislative body, the contact sponsor, the county legislative body, and the chair of the planning commission of each township in which any part of the area proposed for annexation is located; or

(ii) if the city recorder or town clerk determines that the petition fails to meet any of those requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the municipal legislative body, the contact sponsor, the county legislative body, and the chair of the planning commission of each township in which any part of the area proposed for annexation is located.

(3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection (2)(b)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the city recorder or town clerk, as the case may be.

(ii) A signature on an annexation petition filed under Section 10-2-403 may be used toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as modified under Subsection (3)(a)(i).

(b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city recorder or town clerk under Subsection (2)(b)(ii), the refiled petition shall be treated as a newly filed petition under Subsection 10-2-403(1).

(4) Each county clerk, surveyor, and recorder shall cooperate with and assist a city recorder or town clerk in the determination under Subsection (2)(a).

Section 8. Section **10-3-105** is amended to read:

10-3-105. Governing body in cities of the third, fourth, and fifth class.

Except as provided under Subsection 10-2-303(1)(f), the governing body of each city of the third, fourth, or fifth class that has not adopted an optional form of government under Part 12, Alternative Forms of Municipal Government Act, shall be a council composed of six members, one of whom shall be the mayor and the remaining five shall be council members.

Section 9. Section **10-3-205** is amended to read:

10-3-205. Election of officers in cities of the third, fourth, and fifth class.

In [~~cities~~] each city of the third, fourth, or fifth class, the election and terms of office shall be as follows:

(1) The offices of mayor and two council members shall be filled in municipal elections held in 1977. The terms shall be for four years. These offices shall be filled every four years in

municipal elections.

(2) The offices of the other three council members shall be filled in a municipal election held in 1979. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

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

10-3-205.5. At-large election of officers of first, second, and third class -- Election of commissioners or council members.

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

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

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

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

Section 11. Section **10-3-208** is amended to read:

10-3-208. Campaign financial disclosure in municipal elections.

(1) (a) (i) [~~By August 1, 1995, each~~] Each first [~~and~~], second [~~class city and each~~], third, and fourth class city [~~having a population of 10,000 or more~~] shall adopt an ordinance establishing campaign finance disclosure requirements for candidates for city office.

(ii) [~~By August 1, 2001, each third~~] Each fifth class city [~~with a population under 10,000~~] and [~~each~~] town shall adopt an ordinance establishing campaign finance disclosure requirements for candidates for city or town office who:

(A) receive more than $750 in campaign contributions; or

(B) spend more than $750 on their campaign for city or town office.

(b) The ordinance required under Subsection (1)(a) shall include:

(i) a requirement that each candidate for municipal office to whom the ordinance applies report the candidate's itemized and total campaign contributions and expenditures at least once seven days before the municipal general election and at least once 30 days after the municipal general election;

(ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things; and

(iii) a requirement that the financial reports identify:

(A) for each contribution of more than $50, the name of the donor of the contribution and the amount of the contribution; and

(B) for each expenditure, the name of the recipient and the amount of the expenditure.

(2) (a) Except as provided in Subsection (2)(b), if a city or town fails to adopt a campaign finance disclosure ordinance as required under Subsection (1), candidates for office in that city or town shall comply with the financial reporting requirements contained in Subsections (3) through (6).

(b) (i) If a city or town adopts a campaign finance disclosure ordinance that meets the requirements of Subsection (1), that city or town need not comply with the requirements of Subsections (3) through (6).

(ii) Subsection (2)(a) and the financial reporting requirements of Subsections (3) through (6) do not apply to a candidate for municipal office who:

(A) is a candidate for municipal office in a fifth class city [~~with a population under 10,000~~] or a town; and

(B) (I) receives $750 or less in campaign contributions; and

(II) spends $750 or less on the candidate's campaign for municipal office.

(3) If there is no municipal ordinance meeting the requirements of this section upon the dates specified in Subsection (1), each candidate for elective municipal office shall file a signed

campaign financial statement with the city recorder:

(a) seven days before the date of the municipal general election, reporting each contribution of more than $50 and each expenditure as of ten days before the date of the municipal general election; and

(b) no later than 30 days after the date of the municipal general election.

(4) (a) The statement filed seven days before the municipal general election shall include:

(i) a list of each contribution of more than $50 received by the candidate, and the name of the donor;

(ii) an aggregate total of all contributions of $50 or less received by the candidate; and

(iii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

(b) The statement filed 30 days after the municipal general election shall include:

(i) a list of each contribution of more than $50 received after the cutoff date for the statement filed seven days before the election, and the name of the donor;

(ii) an aggregate total of all contributions of $50 or less received by the candidate after the cutoff date for the statement filed seven days before the election; and

(iii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.

(5) Candidates for elective municipal office who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(6) Any person who fails to comply with this section is guilty of an infraction.

(7) A city or town may, by ordinance, enact requirements that:

(a) require greater disclosure of campaign contributions and expenditures; and

(b) impose additional penalties.

(8) (a) If a candidate fails to file an interim report due before the municipal general election, the city recorder shall, after making a reasonable attempt to discover if the report was timely mailed, inform the appropriate election officials who:

(i) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

(ii) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

(iii) may not count any votes for that candidate.

(b) Notwithstanding Subsection (8)(a), a candidate is not disqualified if:

(i) the candidate files the reports required by this section;

(ii) those reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

(iii) those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(9) (a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection (9)(a), the court may award costs and attorney's fees to the prevailing party.

Section 12. Section **10-3-402** is amended to read:

10-3-402. Mayor in third, fourth, or fifth class city -- Mayor may not vote -- Exceptions.

The mayor in a city of the third, fourth, or fifth class may not vote, except in case of a tie vote of the council or in the appointment or dismissal of a city manager under Section 10-3-830.

Section 13. Section **10-3-502** is amended to read:

10-3-502. Meetings in cities of the third, fourth, or fifth class and towns.

In [~~cities~~] each city of the third, fourth, or fifth class and [~~towns~~] each town, the governing body shall by ordinance prescribe the time and place for holding its regular meeting which shall be held at least once each month. If at any time the business of such city or town requires a special meeting of the governing body, such meeting may be ordered by the mayor or

any two members of the governing body. The order shall be entered in the minutes of the governing body. The order shall provide at least three hours' notice of the special meeting and notice thereof shall be served by the recorder or clerk on each member who did not sign the order by delivering the notice personally or by leaving it at the member's usual place of abode. The personal appearance by a member at any specially called meeting constitutes a waiver of the notice required in this section.

Section 14. Section **10-3-504** is amended to read:

10-3-504. Quorum defined.

The number of members of the governing body necessary to constitute a quorum is, in:

[~~(a) cities~~] (1) a city of the first class, three or more;

[~~(b) cities~~] (2) a city of the second class, two or more;

[~~(c) cities~~] (3) a city of the third, fourth, or fifth class, three or more;

[~~(d) towns~~] (4) a town, three or more.

Section 15. Section **10-3-507** is amended to read:

10-3-507. Minimum vote required.

(1) The minimum number of yes votes required to pass any ordinance, resolution, or to take any action by the governing body unless otherwise prescribed by law, shall be a majority of the members of the quorum, but shall never be less than:

(a) three in [~~cities~~] a city of the first class;

(b) two in [~~cities~~] a city of the second class;

(c) three in [~~cities~~] a city of the third, fourth, or fifth class; and

(d) three in [~~towns~~] a town.

(2) Any ordinance, resolution, or motion of the governing body having fewer favorable votes than required [~~herein~~] in this section shall be [~~deemed~~] considered defeated and invalid, except a meeting may be adjourned to a specific time by a majority vote of the governing body even though such majority vote is less than that required [~~herein~~] in this section.

(3) A majority of the members of the governing body, regardless of number, may fill any vacancy in the governing body.

Section 16. Section **10-3-609** is amended to read:

10-3-609. Action on committee reports.

Final action on any report of any committee appointed by the governing body shall be deferred to the next regular meeting of the governing body on the request of any two members, except that the council in [~~cities~~] a city of the third, fourth, or fifth class [~~and towns~~] or a town may call a special meeting to consider final action.

Section 17. Section **10-3-808** is amended to read:

10-3-808. Administration vested in mayor.

The administrative powers, authority, and duties in [~~cities~~] a city of the third, fourth, or fifth class and [~~towns~~] a town are vested in the mayor.

Section 18. Section **10-3-809** is amended to read:

10-3-809. Powers of mayors in a city of third, fourth, or fifth class or a town.

(1) The mayor in a city of the third, fourth, or fifth class or a town is the chief executive officer to whom all employees of the municipality shall report.

(2) The mayor shall:

(a) keep the peace and enforce the laws of the city or town;

(b) remit fines and forfeitures;

(c) report remittances under Subsection (2)(b) to the council at its next regular session;

(d) perform all duties prescribed by law, resolution, or ordinance;

(e) ensure that all the laws, ordinances, and resolutions are faithfully executed and observed;

(f) report to the council the condition of the city or town and recommend for council consideration any measures that the mayor considers to be in the best interests of the city or town;

(g) when necessary, call on the residents of the city or town over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality;

(h) appoint, with the advice and consent of the council, persons to fill municipal offices or vacancies on commissions or committees of the municipality; and

(i) report to the council any release granted under Subsection (4)(b).

(3) Subsection (2)(h) does not apply to the appointment of a manager under Section 10-3-830.

(4) The mayor may:

(a) at any reasonable time, examine and inspect the official books, papers, records, or documents of the city or town or any officer, employee, or agent of the city or town; and

(b) release any person imprisoned for violation of any municipal ordinance.

Section 19. Section **10-3-810** is amended to read:

10-3-810. Additional powers and duties of elected officials in a city of the third, fourth, or fifth class or a town.

[~~All cities~~] A city of the third, fourth, or fifth class [~~and towns~~] or a town may by resolution prescribe additional duties, powers, and responsibilities for any elected or appointed official which are not prohibited by any specific statute, except that the mayor may not serve as recorder and neither the mayor nor the recorder may serve as treasurer. A justice court judge may not hold any other municipal office or position of employment with the municipality.

Section 20. Section **10-3-811** is amended to read:

10-3-811. Members of the governing body may be appointed to administration in a city of the third, fourth, or fifth class or a town.

The mayor of any city of the third, fourth, or fifth class or the mayor of any town may, with the advice and consent of the majority of the governing body, assign or appoint any member or members of the governing body to administer one or more departments of the municipality and shall by ordinance provide the salary for the administrator or administrators.

Section 21. Section **10-3-812** is amended to read:

10-3-812. Change of duties in a city of the third, fourth, or fifth class or a town.

The mayor of a city of the third, fourth, or fifth class or a town may, with the concurrence of a majority of the governing body, change the administrative assignment of any member of the governing body who is serving in any administrative position in the municipal government.

Section 22. Section **10-3-916** is amended to read:

10-3-916. Appointment of recorder and treasurer in a city of third, fourth, or fifth class or a town -- Vacancies in office.

(1) In each city of the third, fourth, or fifth class and in each town, on or before the first Monday in February following a municipal election, the mayor, with the advice and consent of the city council, shall appoint a qualified person to each of the offices of city recorder and treasurer.

(2) The city recorder is ex officio the city auditor and shall perform the duties of that office.

(3) The mayor, with the advice and consent of the council, may also appoint and fill vacancies in all offices provided for by law or ordinance.

(4) All appointed officers shall continue in office until their successors are appointed and qualified.

Section 23. Section **10-3-917** is amended to read:

10-3-917. Engineer in a city of the third, fourth, or fifth class or town.

The governing body of [~~cities~~] a city of the third, fourth, or fifth class [~~and towns~~] or a town may by ordinance establish the office of municipal engineer and prescribe the duties and obligations for that office which are consistent with the duties and obligations of the city engineer in cities of the first and second class. [~~Where~~] If a city of the third, fourth, or fifth class or town uses the engineer employed by the county in which the municipality is located, the municipality may, by ordinance prescribe for its municipal engineer either the duties of a municipal engineer or, if different, the duties of the county engineer, or a combination of duties.

Section 24. Section **10-3-918** is amended to read:

10-3-918. Chief of police or marshal in a city of the third, fourth, or fifth class or town.

The chief of police or marshal in [~~a~~] each city of the third, fourth, or fifth class or town:

(1) shall:

(a) exercise and perform the duties that are prescribed by the legislative body;

(b) be under the direction, control, and supervision of the person or body that appointed

the chief or marshal; and

(c) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender; and

(2) may, with the consent of the person or body that appointed the chief or marshal, appoint assistants to the chief of police or marshal.

Section 25. Section **10-3-919** is amended to read:

10-3-919. Powers, duties, and obligations of police chief, marshal, and their assistants in a city of the third, fourth, or fifth class or town.

The chief of police, marshals, and their assistants in [~~cities~~] a city of the third, fourth, or fifth class [~~and towns~~] or town shall have all of the powers, rights, and duties respectively conferred on such officers in Sections 10-3-913 through 10-3-915.

Section 26. Section **10-3-920** is amended to read:

10-3-920. Bail commissioner -- Powers and duties.

(1) With the advice and consent of the city council and the board of commissioners in other cities, the mayor of a city of the third, fourth, or fifth class may appoint from among the officers and members of the police department of the city one or more discreet persons as a bail commissioner.

(2) A bail commissioner shall have authority to fix and receive bail for a person arrested within the corporate limits of the city in accordance with the uniform bail schedule adopted by the Judicial Council or a reasonable bail for city ordinances not contained in the schedule for:

(a) misdemeanors under the laws of the state; or

(b) violation of the city ordinances.

(3) A person who has been ordered by a bail commissioner to give bail may deposit with the bail commissioner the amount:

(a) in money, by cash, certified or cashier's check, personal check with check guarantee card, money order, or credit card, if the bail commissioner has chosen to establish any of those options; or

(b) by a bond issued by a bail bond surety qualified under the rules of the Judicial Council.

(4) Any money or bond collected by a bail commissioner shall be delivered to the appropriate court within three days of receipt of the money or bond.

(5) The court may review the amount of bail ordered by a bail commissioner and modify the amount of bail required for good cause.

Section 27. Section **10-3-1208** is amended to read:

10-3-1208. Election of officers -- When new government operative -- Compensation of officials without position in new government.

Upon approval of an optional form of government by a municipality pursuant to this part, election of officers shall be held in the municipality on the Tuesday next following the first Monday in November following approval of the optional form, or on the same day in the year next following, whichever day falls in an odd-numbered year. The new government shall become effective at 12 [~~o'clock~~] noon on the first Monday of January following the election of officers. Elected officials of the municipality whose positions would no longer exist as a result of the adoption of a form of government provided for in this [~~act~~] part shall be paid at the same rate until the date on which their terms would have expired, if they hold no municipal office in the new government for which they are regularly compensated. At their option, former commissioners of a first and second class [~~cities~~] city, council members of third, fourth, or fifth class [~~cities~~] city, or board members of [~~towns~~] a town may serve as one of the council members for the remainder of their term.

Section 28. Section **10-3-1212** is amended to read:

10-3-1212. Meetings of council -- Access to records.

(1) In municipalities organized under an optional form of government provided for in this [~~act~~] part, the council shall prescribe by ordinance the time and place of its regular meetings provided that the council shall hold at least two public meetings each month in [~~cities with 3,000 or more population~~] a city of the first, second, third, or fourth class and at least one meeting each month in [~~municipalities with less than 3,000 population~~] a city of the fifth class or town. All

meetings of the council shall be held in compliance with the provisions of Title 52, Chapter 4, [~~relating to~~] Open and Public Meetings.

(2) The books, records, and accounts of the council shall be kept at the office of the city recorder or town clerk. Individual citizens or citizen groups may have access to all public records with the exception of personnel records, which have not been classified as confidential for public policy purposes.

Section 29. Section **10-6-106** is amended to read:

10-6-106. Definitions.

As used in this chapter:

(1) "Account group" is defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

(2) "Appropriation" means an allocation of money by the governing body for a specific purpose.

(3) (a) "Budget" means a plan of financial operations for a fiscal period which embodies estimates of proposed expenditures for given purposes and the proposed means of financing them.

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

(4) "Budgetary fund" means a fund for which a budget is required.

(5) "Budget officer" means the city auditor in [~~cities~~] a city of the first and second class, the mayor or some person appointed by the mayor with the approval of the city council in [~~cities~~] a city of the third, fourth, or fifth class, the mayor in the council-mayor optional form of government, or the person designated by the charter in a charter [~~cities~~] city.

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

(7) "Check" means an order in a specific amount drawn upon a depository by an authorized officer of a city.

(8) "Current period" means the fiscal period in which a budget is prepared and adopted, i.e., the fiscal period next preceding the budget period.

(9) "Department" means any functional unit within a fund that carries on a specific activity, such as a fire or police department within a General Fund.

(10) "Encumbrance system" means a method of budgetary control in which part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account at their time of origin. Such obligations cease to be encumbrances when paid or when the actual liability is entered on the city's books of account.

(11) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget period in each fund for which a budget is being prepared.

(12) "Financial officer" means the mayor in the council-mayor optional form of government or the city official as authorized by Section 10-6-158.

(13) "Fiscal period" means the annual or biennial period for accounting for fiscal operations in each city.

(14) "Fund" is as defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

(15) "Fund balance," "retained earnings," and "deficit" have the meanings commonly accorded such terms under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

(16) "Governing body" means a city council, or city commission, as the case may be, but the authority to make any appointment to any position created by this chapter is vested in the mayor in the council-mayor optional form of government.

(17) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment and does not constitute an expenditure or a use of retained earnings or fund balance of the lending fund or revenue to the borrowing fund.

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

(19) "Public funds" means any money or payment collected or received by an officer or employee of the city acting in an official capacity and includes money or payment to the officer

or employee for services or goods provided by the city, or the officer or employee while acting within the scope of employment or duty. Public funds do not include money or payments collected or received by an officer or employee of a city for charitable purposes if the mayor or city council has consented to the officer's or employee's participation in soliciting contributions for a charity.

(20) "Special fund" means any fund other than the General Fund.

(21) "Warrant" means an order drawn upon the city treasurer, in the absence of sufficient money in the city's depository, by an authorized officer of a city for the purpose of paying a specified amount out of the city treasury to the person named or to the bearer as money becomes available.

Section 30. Section **10-6-111** is amended to read:

10-6-111. Tentative budget to be prepared -- Contents -- Estimate of expenditures -- Budget message -- Review by governing body.

(1) On or before the first regularly scheduled meeting of the governing body in the last May of the current period, the budget officer shall prepare for the ensuing fiscal period, on forms provided by the state auditor, and file with the governing body, a tentative budget for each fund for which a budget is required. The tentative budget of each fund shall set forth in tabular form the following:

(a) Actual revenues and expenditures in the last completed fiscal period.

(b) Budget estimates for the current fiscal period.

(c) Actual revenues and expenditures for a period of [~~six~~] 6 to 21 months, as appropriate, of the current fiscal period.

(d) Estimated total revenues and expenditures for the current fiscal period.

(e) The budget officer's estimates of revenues and expenditures for the budget period, computed in the following manner:

(i) The budget officer shall estimate, on the basis of demonstrated need, the expenditures for the budget period after a review of the budget requests and estimates of the department heads. Each department head shall be heard by the budget officer prior to making of the final estimates,

but the officer may revise any department's estimate as the officer considers advisable for the purpose of presenting the budget to the governing body.

(ii) The budget officer shall estimate the amount of revenue available to serve the needs of each fund, estimate the portion to be derived from all sources other than general property taxes, and estimate the portion that must be derived from general property taxes. From the latter estimate the officer shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy upon the latest taxable value.

(f) If the governing body elects, actual performance experience to the extent established by Section 10-6-154 and available in work units, unit costs, man hours, or man years for each budgeted fund on an actual basis for the last completed fiscal period, and estimated for the current fiscal period and for the ensuing budget period.

(2) (a) Each tentative budget, when filed by the budget officer with the governing body, shall contain the estimates of expenditures submitted by department heads, together with specific work programs and such other supporting data as this chapter requires or the governing body may request. [~~First and second-class cities~~] Each city of the first or second class shall, and [~~third-class cities~~] a city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which each department head believes should be undertaken within the next three succeeding years.

(b) Each tentative budget submitted by the budget officer to the governing body shall be accompanied by a budget message, which shall explain the budget, contain an outline of the proposed financial policies of the city for the budget period, and shall describe the important features of the budgetary plan. It shall set forth the reasons for salient changes from the previous fiscal period in appropriation and revenue items and shall explain any major changes in financial policy.

(3) Each tentative budget shall be reviewed, considered, and tentatively adopted by the governing body in any regular meeting or special meeting called for the purpose and may be amended or revised in such manner as is considered advisable prior to public hearings, except that no appropriation required for debt retirement and interest or reduction of any existing

deficits pursuant to Section 10-6-117, or otherwise required by law or ordinance, may be reduced below the minimums so required.

(4) [~~In the event~~] If the municipality is acting pursuant to Section 10-2-120, the tentative budget shall be submitted to the governing body 60 days prior to the intended filing of the articles of incorporation and shall cover each fund for which a budget is required from the date of incorporation to the end of the fiscal year. The governing body shall substantially comply with all other provisions of this act, and the budget shall be passed upon incorporation.

Section 31. Section **10-6-135** is amended to read:

10-6-135. Operating and capital budgets.

(1) On or before the time the governing body adopts budgets for the funds set forth in Section 10-6-109, it shall adopt for the ensuing fiscal period an "operating and capital budget" for each enterprise fund and shall adopt the type of budget for other special funds as required by the Uniform Accounting Manual for Utah Cities.

(2) An "operating and capital budget," for purposes of this section, means a plan of financial operation for an enterprise or other required special fund, embodying estimates of operating resources and expenses and other outlays for a fiscal period. Except as otherwise expressly provided, the reference to "budget" or "budgets" and the procedures and controls relating to them in other sections of this chapter do not apply or refer to the "operating and capital budgets" provided for in this section.

(3) "Operating and capital budgets" shall be adopted and administered in the following manner:

(a) On or before the first regularly scheduled meeting of the governing body in the last May of the current period, the budget officer shall prepare for the ensuing fiscal period and file with the governing body a tentative operating and capital budget for each enterprise fund and for other required special funds, together with specific work programs as submitted by the department head and any other supporting data required by the governing body.

(b) [~~First and second-class cities~~] Each city of the first or second class shall, and [~~third-class cities~~] a city of the third, fourth, or fifth class may, submit a supplementary estimate

of all capital projects which the department head believes should be undertaken within the three next succeeding fiscal periods.

(c) The budget officer shall prepare estimates in cooperation with the appropriate department heads. Each department head shall be heard by the budget officer prior to making final estimates, but thereafter the officer may revise any department's estimate for the purpose of presenting the budget to the governing body.

(d) If within any enterprise fund, allocations or transfers which cannot be defined as a reasonable allocation of costs between funds are included in a tentative budget, a written notice as to date, time, place, and purpose of the hearing is to be mailed to utility fund customers at least seven days prior to the hearing.

(4) The tentative budget or budgets shall be reviewed and considered by the governing body at any regular meeting or special meeting called for that purpose. The governing body may make changes in the tentative budgets.

(5) Budgets for enterprise or other required special funds shall comply with the public hearing requirements established in Sections 10-6-113 and 10-6-114.

(6) Before the last June 30 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a property tax increase is proposed, the governing body shall adopt an operating and capital budget for each applicable fund for the ensuing fiscal period. A copy of the budget as finally adopted for each fund shall be:

(a) certified by the budget officer;

(b) filed by the officer in the office of the city auditor or city recorder;

(c) available to the public during regular business hours; and

(d) filed with the state auditor within 30 days after adoption.

(7) Upon final adoption, the operating and capital budget shall be in effect for the budget period, subject to later amendment. During the budget period the governing body may, in any regular meeting or special meeting called for that purpose, review any one or more of the operating and capital budgets for the purpose of determining if the total of any of them should be

increased. [~~In the event~~] If the governing body decides that the budget total of one or more of these funds should be increased, the procedures set forth in Section 10-6-136 shall be followed.

(8) Expenditures from operating and capital budgets shall conform to the requirements relating to budgets specified in Sections 10-6-121 through 10-6-126.

Section 32. Section **10-6-139** is amended to read:

10-6-139. City auditor or recorder -- Bookkeeping duties -- Duties with respect to payment of claims.

(1) The city auditor in [~~cities~~] each city of the first and second class, and the city recorder in [~~cities~~] each city of the third, fourth, or fifth class shall maintain the general books for each fund of the city and all subsidiary records relating thereto, including a list of the outstanding bonds, their purpose, amount, terms, date, and place payable.

(2) (a) The city auditor or city recorder, as appropriate, shall keep accounts with all receiving and disbursing officers of the city, shall preaudit all claims and demands against the city before they are allowed, and shall prepare the necessary checks in payment. [~~Such~~]

(b) Those checks shall include an appropriate certification pursuant to Section 11-1-1, examples of which shall be presented in the Uniform Accounting Manual for Utah Cities.

(c) The city auditor or city recorder shall also certify on the voucher or check copy, as appropriate, that:

[~~(1)~~] (i) the claim has been preaudited and documented[~~,~~];

[~~(2)~~] (ii) the claim has been approved in one of the following ways:

[~~(a)~~] (A) purchase order directly approved by the mayor in the council-mayor optional form of government, or the governing body or its delegate in other cities;

[~~(b)~~] (B) claim directly approved by the governing body; or

[~~(c)~~] (C) claim approved by the financial officer[~~,~~];

[~~(3)~~] (iii) the claim is within the lawful debt limit of the city[~~,~~]; and

[~~(4)~~] (iv) the claim does not overexpend the appropriate departmental budget established by the governing body.

Section 33. Section **10-6-148** is amended to read:

10-6-148. Monthly and quarterly financial reports -- Cities of the third, fourth, and fifth class.

The city recorder or other delegated person in [~~cities~~] each city of the third, fourth, or fifth class shall prepare and present to the governing body monthly summary financial reports and quarterly detail financial reports, prepared in the manner prescribed in the Uniform Accounting Manual for Utah Cities.

Section 34. Section **10-6-153** is amended to read:

10-6-153. Municipal government fiscal committee created -- Members -- Terms -- Vacancies -- Recommendations.

(1) There is hereby created a municipal government fiscal committee, the members of which shall be:

(a) all auditors of cities of the first class and two auditors from cities of the second class appointed by the state auditor;

(b) four elected or appointed municipal officials, two of whom shall be from larger cities of the third class [~~and two~~], one of whom shall be from [~~smaller~~] cities of the [~~third~~] fourth class, and one of whom shall be from cities of the fifth class, appointed by the state auditor from a list recommended by the Utah League of Cities and Towns; and

(c) two additional members who are knowledgeable in the area of municipal fiscal affairs appointed by the state auditor.

(2) (a) Members shall be appointed to four-year terms on the committee, provided that the term of an elected or appointed official shall terminate upon ceasing to be an elected official or an employee of the city for which such person worked when appointed.

(b) Notwithstanding the requirements of Subsection (2)(a), the auditor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(3) Any vacancy shall be filled by the state auditor from the same class as the original appointment as described in Subsection (1). Members may be reappointed.

(4) The advisory committee shall assist, advise, and make recommendations to the state

auditor in the preparation of uniform accounting and reporting procedures and program and performance accounting, budgeting, and reporting for cities.

(5) (a) Members shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Members may decline to receive per diem and expenses for their service.

(c) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(d) Local government members may decline to receive per diem and expenses for their service.

Section 35. Section **10-6-154** is amended to read:

10-6-154. Duties of state auditor and committee -- Adoption and expansion of uniform system.

(1) The state auditor with the assistance, advice, and recommendations of the municipal government fiscal committee shall:

(a) prescribe uniform accounting and reporting procedures for cities, in conformity with generally accepted accounting principles;

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

(c) prepare and supply each city with suitable budget and reporting forms; and

(d) prepare instructional materials, conduct training programs and render other services deemed necessary to assist cities in implementing the uniform accounting, budgeting and reporting procedures.

(2) The Uniform Accounting Manual for Utah Cities shall prescribe reasonable exceptions and modifications for [~~smaller third~~] fourth and fifth class cities to the uniform system of accounting, budgeting, and reporting.

(3) The advisory committee shall establish and conduct a continuing review of suggested

measurements and procedures for program and performance budgeting and reporting which may be evaluated on a statewide basis.

(4) Cities may expand the uniform accounting and reporting procedures to better serve their needs; however, no deviations from or alterations to the basic prescribed classification systems for the identity of funds and accounts shall be made.

Section 36. Section **10-6-157** is amended to read:

10-6-157. Director of finance in certain cities.

The governing body of [~~third~~] a city of the third, fourth, or fifth class [~~cities~~] may, and the cities under an optional form of city government shall, by resolution or ordinance, create a director of finance position to perform the financial duties and responsibilities of the city recorder in third, fourth, and fifth class cities or the city auditor in first and second class cities, as established by this chapter. The director of finance shall be a qualified person appointed and removed with the advice and consent of the governing body, and may not assume the duties of the city treasurer. The governing body may also adopt the financial administrative duties of the director of finance prescribed in the Uniform Accounting Manual for Utah Cities.

Section 37. Section **10-7-7** is amended to read:

10-7-7. Bond issues for water, light, and sewers.

[~~Any~~] (1) A city of the first or second class may incur an indebtedness, not exceeding in the aggregate with all other indebtedness [~~eight per cent~~] 8% of the value of the taxable property [~~therein~~] in the city, for the purpose of supplying [~~such~~] the city with water, artificial light, or sewers, when the works for supplying [~~such~~] the water, light, and sewers [~~shall be~~] are owned and controlled by the [~~municipality~~] city. [~~Any~~]

(2) A city of the third, fourth, or fifth class [~~and any~~] or a town may become indebted to an amount not exceeding in the aggregate with all other indebtedness [~~twelve per cent~~] 12% of the value of the taxable property [~~therein~~] in the city or town for the purpose of supplying [~~such~~] the city or town with water, artificial light, or sewers, when the works for supplying [~~such~~] the water, light, and sewers [~~shall be~~] are owned and controlled by the [~~municipality~~] city or town.

Section 38. Section **10-8-90** is amended to read:

10-8-90. Ownership and operation of hospitals.

[~~Cities~~] Each city of the third, fourth, or fifth class and [~~towns~~] each town of the state [~~of Utah are hereby~~] is authorized to construct, own, and operate hospitals and to join with other cities, towns, and counties in the construction, ownership, and operation of hospitals.

Section 39. Section **10-8-91** is amended to read:

10-8-91. Levy of tax by cities of the third, fourth, and fifth class and towns.

[~~Cities~~] A city of the third, fourth, or fifth class [~~and towns of the state are authorized to~~] or a town may levy a tax not exceeding .001 per dollar of taxable value of taxable property for the purposes [~~above-mentioned~~] stated in Section 10-8-90.

Section 40. Section **10-9-307** is amended to read:

10-9-307. Plans for moderate income housing.

(1) The availability of moderate income housing is an issue of statewide concern. To this end:

(a) municipalities should afford a reasonable opportunity for a variety of housing, including moderate income housing, to meet the needs of people desiring to live there; and

(b) moderate income housing should be encouraged to allow persons with moderate incomes to benefit from and to fully participate in all aspects of neighborhood and community life.

(2) As used in this section:

(a) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the metropolitan statistical area for households of the same size.

(b) "Plan for moderate income housing" or "plan" means a written document adopted by a municipal legislative body that includes:

(i) an estimate of the existing supply of moderate income housing located within the municipality;

(ii) an estimate of the need for moderate income housing in the municipality for the next five years as revised annually;

(iii) a survey of total residential zoning;

(iv) an evaluation of how existing zoning densities affect opportunities for moderate income housing; and

(v) a description of the municipality's program to encourage an adequate supply of moderate income housing.

(3) Before December 31, 1998, each municipal legislative body shall, as part of its general plan, adopt a plan for moderate income housing within that municipality.

(4) A plan may provide moderate income housing by any means or combination of techniques which provide a realistic opportunity to meet estimated needs. The plan may include an analysis of why the means or techniques selected provide a realistic opportunity to meet the objectives of this section. Such techniques may include:

(a) rezoning for densities necessary to assure the economic viability of inclusionary developments, either through mandatory set asides or density bonuses;

(b) infrastructure expansion and rehabilitation that will facilitate the construction of moderate income housing;

(c) rehabilitation of existing uninhabitable housing stock;

(d) consideration of waiving construction related fees generally imposed by the municipality;

(e) utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(f) utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(g) utilization of affordable housing programs administered by the Department of Community and Economic Development.

(5) (a) After adoption of a plan for moderate income housing under Subsection (3), the legislative body of each city that is located within a county of the first or second class and of each other city [~~with a population over 10,000~~] of the first, second, third, or fourth class shall annually:

(i) review the plan and its implementation; and

(ii) prepare a report setting forth the findings of the review.

(b) Each report under Subsection (5)(a)(ii) shall include a description of:

(i) efforts made by the municipality to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

(ii) actions taken by the municipality to encourage preservation of existing moderate income housing and development of new moderate income housing;

(iii) progress made within the municipality to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and

(iv) efforts made by the municipality to coordinate moderate income housing plans and actions with neighboring municipalities.

(c) The legislative body of each city that is located within a county of the first or second class and of each other city [~~with a population over 10,000~~] of the first, second, third, or fourth class shall send a copy of the report under Subsection (5)(a)(ii) to the Department of Community and Economic Development and the association of governments in which the municipality is located.

Section 41. Section **10-11-1** is amended to read:

10-11-1. Abatement of weeds, garbage, refuse, and unsightly objects.

[~~The city commissioners of cities of the first and second class and the city councils of the cities of the third class, and the board of trustees of towns,~~] A municipal legislative body may designate, and regulate the abatement of, injurious and noxious weeds, garbage, refuse, or any unsightly or deleterious objects or structures, and may appoint a [~~city~~] municipal inspector for the purpose of carrying out the provisions of this chapter.

Section 42. Section **10-17-102** is amended to read:

10-17-102. Definitions.

As used in this chapter:

(1) "Animal" means a cat or dog.

(2) "Animal shelter" means a facility or program:

(a) providing services for stray, lost, or unwanted animals, including holding and placing the animals for adoption, but does not include an institution conducting research on animals, as defined in Section 26-26-1; and

(b) operated by:

(i) a first or second class county as defined in Section 17-50-501;

(ii) a [~~municipality with a population of 40,000 or greater~~] city of the first, second, or third class;

(iii) a first or second class county operating the shelter jointly with any municipality; or

(iv) a private humane society or private animal welfare organization located within a first or second class county or within a [~~municipality with a population of 40,000 or greater~~] city of the first, second, or third class.

(3) "Person" means an individual, an entity, or a representative of an entity.

(4) "Proof of sterilization" means a written document signed by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, stating:

(a) a specified animal has been sterilized;

(b) the date on which the sterilization was performed; and

(c) the location where the sterilization was performed.

(5) "Recipient" means the person to whom an animal shelter transfers an animal for adoption.

(6) "Sterilization deposit" means the portion of a fee charged by an animal shelter to a recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in accordance with an agreement between the recipient or the claimant and the animal shelter.

(7) "Sterilized" means that an animal has been surgically altered, either by the spaying of a female animal or by the neutering of a male animal, so it is unable to reproduce.

(8) "Transfer" means that an animal shelter sells, gives away, places for adoption, or transfers an animal to a recipient.

Section 43. Section **11-14-3** is amended to read:

11-14-3. Notice of election -- Contents -- Publication -- Mailing.

(1) (a) Notice of the election shall be published once a week during three consecutive weeks in a newspaper designated in accordance with Section 11-14-21, the first publication to be not less than 21 nor more than 35 days before the election.

(b) If no official newspaper is designated, the notices shall be published in a newspaper published in the municipality, or if no newspaper is published in the municipality, the notices shall be published in a newspaper having general circulation in the municipality.

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to $15 per year, the governing body shall, at least seven days but not more than 30 days before the bond election, if the bond election is not held on the date of a regular primary election, a municipal primary election, a regular general election, or a municipal general election, either mail:

(a) written notice of the bond election on a minimum three inch by five inch postcard to every household containing a registered voter who is eligible to vote on the bonds; or

(b) a voter information pamphlet prepared by the governing body, if one is prepared, that includes the information required by Subsection (4).

(3) (a) Except as provided in Subsection (3)(b), election notice given for any bond election held in this state need not be posted by any persons.

(b) (i) In a city of the third, fourth, or fifth class [~~cities~~] or [~~towns~~] a town where no newspaper is published, the governing body may require that notice of a bond election be given by posting in lieu of the publication requirements of Subsection (1).

(ii) When the governing body imposes a posting requirement, the city recorder, town clerk, or other officer designated by the governing body shall post notice of the bond election in at least five public places in the city or town at least 21 days before the election.

(4) The printed, posted, and mailed notice required by this section shall identify:

(a) the date and place of the election;

(b) the hours during which the polls will be open; and

(c) the purpose for which the bonds are to be issued, the maximum amount of bonds to be issued, and the maximum number of years to maturity of the bonds.

(5) The governing body shall pay the costs associated with the printed, posted, and mailed notice required by this section.

Section 44. Section **17-42-102** is amended to read:

17-42-102. Definitions.

As used in this chapter:

(1) "Animal" means a cat or dog.

(2) "Animal shelter" means a facility or program:

(a) providing services for stray, lost, or unwanted animals, including holding and placing the animals for adoption, but does not include an institution conducting research on animals, as defined in Section 26-26-1; and

(b) operated by:

(i) a first or second class county as defined in Section 17-50-501;

(ii) a [~~municipality with a population of 40,000 or greater~~] city of the first, second, or third class;

(iii) a first or second class county operating the shelter jointly with any municipality; or

(iv) a private humane society or private animal welfare organization located within a first or second class county or within a [~~municipality with a population of 40,000 or greater~~] city of the first, second, or third class.

(3) "Person" means an individual, an entity, or a representative of an entity.

(4) "Proof of sterilization" means a written document signed by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, stating:

(a) a specified animal has been sterilized;

(b) the date on which the sterilization was performed; and

(c) the location where the sterilization was performed.

(5) "Recipient" means the person to whom an animal shelter transfers an animal for adoption.

(6) "Sterilization deposit" means the portion of a fee charged by an animal shelter to a recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in

accordance with an agreement between the recipient or the claimant and the animal shelter.

(7) "Sterilized" means that an animal has been surgically altered either by the spaying of a female animal or by the neutering of a male animal, so it is unable to reproduce.

(8) "Transfer" means that an animal shelter sells, gives away, places for adoption, or transfers an animal to a recipient.

Section 45. Section **17A-2-1302** is amended to read:

17A-2-1302. Definitions.

As used in this part:

(1) "County" means a county of this state and includes any such county regardless of the form of government under which it is operating.

(2) "Facility" or "facilities" means any structure, building, system, land, water right, and other real and personal property required to provide any service authorized by Section 17A-2-1304, including, without limitation, all related and appurtenant easements and rights-of-way, improvements, utilities, landscaping, sidewalks, roads, curbs and gutters, and equipment and furnishings.

(3) "Governing authority" means the board or body, however designated, in which the general legislative powers of a county, municipality, or improvement district are vested [~~and includes the board of commissioners of a county or a city of the first or second class, the city council of a city of the third class, the town council of a town, and the board of trustees of an improvement district~~].

(4) "Guaranteed bonds" mean bonds the annual debt service on which is or will be guaranteed by one or more taxpayers owning property within the boundaries of the service district.

(5) "Improvement district" means an improvement district established under Chapter 2, Part 3, County Improvement Districts for Water, Sewerage, Flood Control, Electric and Gas.

(6) "Municipality" means a city or town of this state.

(7) "Service district" means a special service district established in the manner provided by this part under Article XIV, Section 8 of the Constitution of Utah.

Section 46. Section **17A-2-1308** is amended to read:

17A-2-1308. Publication of notice.

The notice of intention to establish a service district shall be published at least once a week during three consecutive weeks, the first publication to be not less than 21 days nor more than 35 days before the hearing, in a newspaper having general circulation in the county or municipality proposing the establishment of the service district; except for service districts located entirely within [~~cities~~] a city of the third, fourth, or fifth class or [~~towns~~] a town where there is no newspaper published in the city or town, the governing authority of that city or town may provide that the notice of intention may be given by posting in lieu of publication of the notice. In this event the notice of intention shall be posted by the city recorder, town clerk, or other officer designated by the governing authority in at least five public places in the city or town at least 21 days before the hearing. If the service district proposed to be established by a county includes any part of another county or counties or improvement district or if proposed by a municipality includes any part of another municipality or improvement district, the notice of intention shall also be published or posted in each such other county or counties, municipality or municipalities, or improvement district, as the case may be.

Section 47. Section **17A-3-306** is amended to read:

17A-3-306. Notice of intention to create district -- Publication -- Mailing.

(1) (a) The notice of intention shall be published in a newspaper published in the municipality, or if there is no newspaper published in the municipality, then in a newspaper having general circulation in the municipality.

(b) In a city of the third, fourth, or fifth class or a town where there is no newspaper published or of general circulation in the city or town, the governing body may provide that the notice of intention be given by posting in lieu of publication of this notice.

(2) If the notice is published, it shall be published once during each week for four successive weeks, the last publication to be at least five days and not more than 20 days prior to the time fixed in the notice as the last day for filing of protests.

(3) If the notice is posted, it shall be posted in at least three public places in the

municipality at least 20 and not more than 35 days prior to the time fixed in the notice as the last day for the filing of protests.

(4) (a) No later than ten days after the first publication or posting of the notice, it shall be mailed, postage prepaid:

(i) addressed to each owner of property to be assessed within the special improvement district at the last-known address of that owner using for this purpose the names and addresses appearing on the last completed real property assessment rolls of the county in which the property is located; and

(ii) addressed to "owner" at the street number of each piece of improved property to be assessed.

(b) If a street number has not been assigned, then the post office box, rural route number, or any other mailing address of the improved property shall be used for the mailing of the notice under Subsection (4)(a)(ii).

Section 48. Section **17A-3-317** is amended to read:

17A-3-317. Assessment list -- Board of equalization and review -- Hearings -- Appeal -- Corrections -- Report -- Waiver of objections.

(1) Before an assessment is levied, an assessment list shall be prepared designating each parcel of property proposed to be assessed and the amount of the assessment apportioned to this property as provided in this part.

(2) (a) Upon completion of the assessment list, the governing body shall:

(i) appoint a board of equalization and review consisting of three or more of the members of the governing body or, at the option of the governing body of any municipality, consisting of the municipal recorder or a designee, the municipal engineer or public works director or a designee, or the municipal attorney or a designee; and

(ii) give public notice of the completion of the assessment list and of the time and place of the holding of public hearings relating to the proposed assessments.

(b) If the board of equalization and review consists of other than members of the governing body of the municipality, appeal from a decision of the board of equalization and

review shall be taken to the governing body of the municipality by filing a written notice of appeal in the offices of the city or town recorder within 15 days from the date the board's final report to the governing body is mailed to the affected property owners as provided in Subsection (7).

(3) (a) The notice shall be published in a newspaper published in the municipality or, if there is no newspaper published in the municipality, in a newspaper having general circulation in the municipality. In [~~cities~~] a city of the third, fourth, or fifth class or [~~towns~~] a town where there is no newspaper published, the governing body may provide that the notice be given by posting in lieu of publication.

(b) The notice shall be published at least one time or, if posted, shall be posted in at least three public places in the municipality. In either case, the first publication or posting shall be at least 20 and not more than 35 days prior to the date the board will begin its hearings.

(4) Not later than ten days after the first publication or posting of the notice, the notice shall be mailed, postage prepaid:

(a) addressed to each owner of property to be assessed within the special improvement district at the last-known address of the owner, using for this purpose the names and addresses appearing on the last completed real property assessment rolls of the county in which the property is located; and

(b) addressed to "owner" at the street number of each piece of improved property to be assessed. If a street number has not been assigned, then the post office box, rural route number, or any other mailing address of the improved property shall be used for the mailing of the notice.

(5) The board of equalization and review shall convene at the time and place specified in the notice. Hearings shall be held on not less than three consecutive days for at least one hour between [~~9:00~~] 9 a.m. and [~~9:00~~] 9 p.m. as specified in the notice. The hearings may be adjourned or recessed from time to time to a specific place and a specific hour and day until the work of the board shall have been completed. At each hearing the board shall hear arguments from any person who believes himself to be aggrieved, including arguments relating to the benefits accruing to any tract, block, lot, or parcel of property in the district or relating to the

amount of the proposed assessment against that tract, block, lot, or parcel.

(6) (a) After the hearings have been completed, the board shall consider all facts and arguments presented and shall make those corrections in any proposed assessment as it may consider just and equitable. These corrections may eliminate one or more pieces of property or may increase or decrease the amount of the assessment proposed to be levied against any piece of property.

(b) If the corrections result in an increase of any proposed assessment, before approving the corrected assessment list, the board shall cause to be mailed, to each owner of property whose assessment is to be increased, a notice stating that the assessment will be increased, the amount of the proposed new assessment, that a hearing will be held at which the owner may appear and make any objections to the increase, and the time and place of the hearing. The notice shall be mailed to the last known address of the owner, using for this purpose the names and addresses appearing on the last completed real property assessment rolls of the county where the affected property is located. A copy of the notice shall be addressed to "owner" and shall be so mailed addressed to the street number of each piece of improved property to be affected by the increased assessment. If a street number has not been assigned, then the post office box, rural route number, or any other mailing address of the improved property shall be used for the mailing of the notice. The notice shall be mailed at least 15 days prior to the date stated in the notice for the holding of the new hearing.

(7) (a) After all corrections have been made and all hearings, including hearings under Subsection (6), have been held, the board shall report to the governing body its findings that each piece of property within the special improvement district will be benefited in an amount not less than the assessment to be levied against the property, and that no piece of property listed on the assessment will bear more than its proportionate share of the cost of the improvement.

(b) The board shall cause to be mailed a copy of the board's final report to each owner of property who objected at the hearings of the board to the assessment proposed to be levied against his property.

(c) The findings of the board, when approved by the governing body or after passage of

time for appeal and review by the governing body of the city, shall be final and, except as provided in Subsection (2)(b), no appeal may be taken from them.

(d) After receipt of the report from the board and the running of the appeal period provided in Subsection (2)(b), if applicable, the governing body may proceed with the levy of the assessments.

(8) Each person whose property is subject to assessment and who fails to appear before the board of equalization and review to raise his objections to the levy of the assessment shall be deemed to have waived all objections to the levy except the objection that the governing body failed to obtain jurisdiction to order the making of the improvements which the assessment is intended to pay.

Section 49. Section **17A-3-407** is amended to read:

17A-3-407. Publication or posting of notice.

(1) The notice of intention to establish a district shall be published at least once a week during three consecutive weeks, the first publication to be not less than 21 days nor more than 35 days before the hearing, in a newspaper published or of general circulation in the county or municipality proposing the establishment of the district.

(2) (a) If a district is located entirely within a city of the third, fourth, or fifth class or town where there is no newspaper published or of general circulation in the city or town, the governing authority of that city or town may provide that the notice of intention may be given by posting in lieu of publication of the notice.

(b) The notice of intention under Subsection (2)(a) shall be posted by the city recorder, town clerk, or other officer designated by the governing authority in at least five public places in the city or town at least 21 days before the hearing.

Section 50. Section **20A-5-301** is amended to read:

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

(1) (a) The municipal legislative body of [~~cities~~] a city of the first [~~and~~] or second class may combine two regular county voting precincts into one municipal voting precinct for purposes of a municipal election if they designate the location and address of each of those combined

voting precincts.

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

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

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

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

Section 51. Section **20A-7-601** is amended to read:

20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws -- Time requirements.

(1) Except as provided in Subsection (2), a person seeking to have a law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) 10% of all the votes cast in the county, city, or town for all candidates for governor at the last election at which a governor was elected if the total number of votes exceeds 25,000;

(b) 12-1/2% of all the votes cast in the county, city, or town for all candidates for governor at the last election at which a governor was elected if the total number of votes does not exceed 25,000 but is more than 10,000;

(c) 15% of all the votes cast in the county, city, or town for all candidates for governor at the last election at which a governor was elected if the total number of votes does not exceed 10,000 but is more than 2,500;

(d) 20% of all the votes cast in the county, city, or town for all candidates for governor at the last election at which a governor was elected if the total number of votes does not exceed 2,500 but is more than 500;

(e) 25% of all the votes cast in the county, city, or town for all candidates for governor at

the last election at which a governor was elected if the total number of votes does not exceed 500 but is more than 250; and

(f) 30% of all the votes cast in the county, city, or town for all candidates for governor at the last election at which a governor was elected if the total number of votes does not exceed 250.

(2) (a) As used in this Subsection (2), "land use law" includes a land use development code, an annexation ordinance, and comprehensive zoning ordinances.

(b) A person seeking to have a land use law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(i) in [~~counties and~~] a county or in a city of the first [~~and~~] or second class [~~cities~~], 20% of all votes cast in the county or city for all candidates for governor at the last election at which a governor was elected; and

(ii) in a city of the third, fourth, or fifth class [~~cities and towns~~] or a town, 35% of all the votes cast in the city or town for all candidates for governor at the last election at which a governor was elected.

(3) (a) Sponsors of any referendum petition challenging, under Subsection (1) or (2), any local law passed by a local legislative body shall file the petition within 35 days after the passage of the local law.

(b) The local law remains in effect until repealed by the voters via referendum.

(4) If the referendum passes, the local law that was challenged by the referendum is repealed as of the date of the election.

Section 52. Section **20A-9-404** is amended to read:

20A-9-404. Municipal primary elections.

(1) (a) Except as otherwise provided in this section, candidates for municipal office in all municipalities shall be nominated at a municipal primary election.

(b) Municipal primary elections shall be held:

(i) on the Tuesday following the first Monday in the October before the regular municipal election; and

(ii) whenever possible, at the same polling places as the regular municipal election.

(2) If the number of candidates for a particular municipal office does not exceed twice the number of persons needed to fill that office, a primary election for that office may not be held and the candidates are considered nominated.

(3) (a) For purposes of this Subsection (3), "convention" means an organized assembly of voters or delegates.

(b) (i) By ordinance adopted before the June 1 before a regular municipal election, any third, fourth, or fifth class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a political party convention or committee.

(ii) Any primary election exemption ordinance adopted under the authority of this subsection remains in effect until repealed by ordinance.

(c) (i) A convention or committee may not nominate more than one group of candidates or have placed on the ballot more than one group of candidates for the municipal offices to be voted upon at the municipal election.

(ii) A convention or committee may nominate a person who has been nominated by a different convention or committee.

(iii) A political party may not have more than one group of candidates placed upon the ballot and may not group the same candidates on different tickets by the same party under a different name or emblem.

(d) (i) The convention or committee shall prepare a certificate of nomination for each person nominated.

(ii) The certificate of nomination shall:

(A) contain the name of the office for which each person is nominated, the name, post office address, and, if in a city, the street number of residence and place of business, if any, of each person nominated;

(B) designate in not more than five words the political party that the convention or committee represents;

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

(D) contain a statement certifying that the name of the candidate nominated by the political party will not appear on the ballot as a candidate for any other political party;

(E) be signed by the presiding officer and secretary of the convention or committee; and

(F) contain a statement identifying the residence and post office address of the presiding officer and secretary and certifying that the presiding officer and secretary were officers of the convention or committee and that the certificates are true to the best of their knowledge and belief.

(iii) Certificates of nomination shall be filed with the clerk not later than the sixth Tuesday before the November municipal election.

(e) A committee appointed at a convention, if authorized by an enabling resolution, may also make nominations or fill vacancies in nominations made at a convention.

(f) The election ballot shall substantially comply with the form prescribed in Title 20A, Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall be included with the candidate's name.

(4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the July 1 before the regular municipal election that:

(i) exempts the city from the other methods of nominating candidates to municipal office provided in this section; and

(ii) provides for a partisan primary election method of nominating candidates as provided in this Subsection (4).

(b) (i) Any party that was a registered political party at the last regular general election or regular municipal election is a municipal political party under this section.

(ii) Any political party may qualify as a municipal political party by presenting a petition to the city recorder that:

(A) is signed by registered voters within the municipality equal to at least 20% of the number of votes cast for all candidates for mayor in the last municipal election at which a mayor

was elected;

(B) is filed with the city recorder by the seventh Tuesday before the date of the municipal primary election;

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

(D) contains the name of the municipal political party using not more than five words.

(c) (i) If the number of candidates for a particular office does not exceed twice the number of offices to be filled at the regular municipal election, no partisan primary election for that office shall be held and the candidates are considered to be nominated.

(ii) If the number of candidates for a particular office exceeds twice the number of offices to be filled at the regular municipal election, those candidates for municipal office shall be nominated at a partisan primary election.

(d) The clerk shall ensure that:

(i) the partisan municipal primary ballot is similar to the ballot forms required by Sections 20A-6-401 and 20A-6-401.1;

(ii) the candidates for each municipal political party are listed in one or more columns under their party name and emblem;

(iii) the names of candidates of all parties are printed on the same ballot, but under their party designation;

(iv) every ballot is folded and perforated so as to separate the candidates of one party from those of the other parties and so as to enable the elector to separate the part of the ballot containing the names of the party of his choice from the remainder of the ballot; and

(v) the side edges of all ballots are perforated so that the outside sections of the ballots, when detached, are similar in appearance to inside sections when detached.

(e) After marking a municipal primary ballot, the voter shall:

(i) detach the part of the ballot containing the names of the candidates of the party he has voted from the rest of the ballot;

(ii) fold the detached part so that its face is concealed and deposit it in the ballot box; and

(iii) fold the remainder of the ballot containing the names of the candidates of the parties for whom the elector did not vote and deposit it in the blank ballot box.

(f) Immediately after the canvass, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

Section 53. Section **32A-2-101** is amended to read:

32A-2-101. Commission's power to establish state stores -- Limitations.

(1) The commission may establish state stores in numbers and at places, owned or leased by the department, it considers proper for the sale of liquor, by employees of the state, in accordance with this title and the rules made under this title. Employees of state stores are considered employees of the department and shall meet all qualification requirements for employment outlined in Section 32A-1-111.

(2) The total number of state stores may not at any time aggregate more than that number determined by dividing the population of the state by 48,000. Population shall be determined by the most recent United States decennial or special census or by any other population determination made by the United States or state governments.

(3) (a) A state store may not be established within 600 feet of any public or private school, church, public library, public playground, or park as measured by the method in Subsection (4).

(b) A state store may not be established within 200 feet of any public or private school, church, public library, public playground, or park measured in a straight line from the nearest entrance of the proposed state store to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the following exceptions applies:

(i) The commission finds after full investigation that the premises are located within a city of the third, fourth, or fifth class or a town, and compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the establishment of a state store. In that event, the commission may, after giving full

consideration to all of the attending circumstances, following a public hearing in the city or town, and where practical in the neighborhood concerned, authorize a variance from the distance requirements to relieve the difficulties or hardships if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this title.

(ii) With respect to the establishment of a state store in any location, the commission may, after giving full consideration to all of the attending circumstances, following a public hearing in the county, and where practical in the neighborhood concerned, reduce the proximity requirements in relation to a church if the local governing body of the church in question gives its written approval.

(4) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the state store by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

(5) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location. For purposes of this subsection, "educational facility" includes nursery schools, infant day care centers, and trade and technical schools.

Section 54. Section **32A-3-101** is amended to read:

32A-3-101. Commission's power to establish package agencies -- Limitations.

(1) (a) The commission may, when considered necessary, create package agencies by entering into contractual relationships with persons to sell liquor in sealed packages from premises other than those owned or leased by the state.

(b) The commission shall authorize a person to operate a package agency by issuing a certificate from the commission that designates the person in charge of the agency as a "package agent" as defined under Section 32A-1-105.

(2) (a) Subject to this Subsection (2), the total number of package agencies may not at any time aggregate more than that number determined by dividing the population of the state by 18,000.

(b) For purposes of Subsection (2)(a), population shall be determined by:

(i) the most recent United States decennial or special census; or

(ii) any other population determination made by the United States or state governments.

(c) The commission may establish seasonal package agencies established in areas and for periods it considers necessary. A seasonal package agency may not be operated for a period longer than nine consecutive months subject to the restrictions stated in Subsections (2)(c)(i) through (iii).

(i) A package agency established for operation during a summer time period is known as a "Seasonal A" package agency. The period of operation for a "Seasonal A" agency may begin as early as February 1 and may continue until October 31.

(ii) A package agency established for operation during a winter time period is known as a "Seasonal B" package agency. The period of operation for a "Seasonal B" agency may begin as early as September 1 and may continue until May 31.

(iii) In determining the number of package agencies that the commission may establish under this section:

(A) a seasonal package agency is counted as one half of one package agency;

(B) each "Seasonal A" agency shall be paired with a "Seasonal B" agency; and

(C) the total number of months that each combined pair may be established for operation may not exceed 12 months for each calendar year.

(d) (i) If the location, design, and construction of a hotel may require more than one package agency sales location to serve the public convenience, the commission may authorize a single package agent to sell liquor at as many as three locations within the hotel under one package agency if:

(A) the hotel has a minimum of 150 guest rooms; and

(B) all locations under the agency are:

(I) within the same hotel facility; and

(II) on premises that are managed or operated and owned or leased by the package agent.

(ii) Facilities other than hotels may not have more than one sales location under a single package agency.

(3) (a) As measured by the method in Subsection (4), a package agency may not be established within 600 feet of any:

(i) public or private school;

(ii) church;

(iii) public library;

(iv) public playground; or

(v) park.

(b) A package agency may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed package agency to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(c) The restrictions contained in Subsections (3)(a) and (b) govern unless Subsection (3)(c)(i) or (ii) applies.

(i) If the commission finds after full investigation that the premises are located within a city of the third, fourth, or fifth class or a town, and compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the establishment of a package agency, the commission may authorize a variance from the distance requirement to relieve the difficulties or hardships:

(A) after giving full consideration to all of the attending circumstances;

(B) following a public hearing in:

(I) the city or town concerned; and

(II) where practical, in the neighborhood concerned; and

(C) if the variance may be granted without:

(I) substantial detriment to the public good; and

(II) substantially impairing the intent and purpose of this title.

(ii) With respect to the establishment of a package agency in any location, the commission may reduce the proximity requirements in relation to a church:

(A) after giving full consideration to all of the attending circumstances;

(B) following a public hearing in:

(I) the county concerned; and

(II) where practical, in the neighborhood concerned; and

(C) if the local governing body of the church in question gives its written approval.

(4) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the package agency by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

(5) (a) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location.

(b) For purposes of Subsection (5)(a), "educational facility" includes:

(i) a nursery school;

(ii) an infant day care center; and

(iii) a trade and technical school.

(6) (a) The package agent, under the direction of the department, shall be responsible for implementing and enforcing this title and the rules adopted under this title to the extent they relate to the conduct of the agency and its sale of liquor.

(b) A package agent may not be, or construed to be, a state employee nor be otherwise entitled to any benefits of employment from the state.

(c) A package agent, when selling liquor from a package agency, is considered an agent of the state only to the extent specifically expressed in the package agency agreement.

(7) The commission may prescribe by policy, directive, or rule, consistent with this title, general operational requirements of all package agencies relating to:

(a) physical facilities;

(b) conditions of operation;

(c) hours of operation;

(d) inventory levels;

(e) payment schedules;

(f) methods of payment;

(g) premises security; and

(h) any other matters considered appropriate by the commission.

Section 55. Section **32A-4-101** is amended to read:

32A-4-101. Commission's power to grant licenses -- Limitations.

(1) Before any restaurant may sell or allow the consumption of liquor on its premises, it shall first obtain a license from the commission as provided in this part.

(2) The commission may issue restaurant liquor licenses for the purpose of establishing restaurant liquor outlets at places and in numbers it considers proper for the storage, sale, and consumption of liquor on premises operated as public restaurants.

(3) Subject to this Subsection (3), the total number of restaurant liquor licenses may not at any time aggregate more than that number determined by dividing the population of the state by 4,500. Population shall be determined by the most recent United States decennial or special census or by any other population determination made by the United States or state governments.

(a) The commission may issue seasonal restaurant liquor licenses established in areas and for periods it considers necessary. A seasonal restaurant liquor license may not be operated for a period longer than nine consecutive months subject to the following restrictions:

(i) Licenses issued for operation during summer time periods are known as "Seasonal A" restaurant licenses. The period of operation for a "Seasonal A" restaurant license may begin as early as February 1 and may continue until October 31.

(ii) Licenses issued for operation during winter time periods are known as "Seasonal B"

restaurant licenses. The period of operation for a "Seasonal B" restaurant license may begin as early as September 1 and may continue until May 31.

(iii) In determining the number of restaurant liquor licenses that the commission may issue under this section, seasonal licenses are counted as 1/2 of one restaurant liquor license. Each "Seasonal A" license shall be paired with a "Seasonal B" license and the total number of months that each combined pair may be issued for operation may not exceed 12 months for each calendar year.

(b) If the location, design, and construction of a hotel may require more than one restaurant liquor sales location within the hotel to serve the public convenience, the commission may authorize the sale of liquor at as many as three restaurant locations within the hotel under one license if the hotel has a minimum of 150 guest rooms and if all locations under the license are within the same hotel facility and on premises that are managed or operated and owned or leased by the licensee. Facilities other than hotels shall have a separate restaurant liquor license for each restaurant where liquor is sold.

(4) (a) Restaurant liquor licensee premises may not be established within 600 feet of any public or private school, church, public library, public playground, or park, as measured by the method in Subsection (5).

(b) Restaurant liquor licensee premises may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the following exemptions applies:

(i) The commission finds after full investigation that the premises are located within a city of the third, fourth, or fifth class, a town, or the unincorporated area of a county, and compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the granting of a restaurant liquor license. In that event, the commission may, after giving full consideration to all of the attending

circumstances, following a public hearing in the city or town, and where practical in the neighborhood concerned, authorize a variance from the distance requirements to relieve the difficulties or hardships if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this title.

(ii) With respect to the establishment of a restaurant licensee in any location, the commission may, after giving full consideration to all of the attending circumstances, following a public hearing in the county, and where practical in the neighborhood concerned, reduce the proximity requirements in relation to a church if the local governing body of the church in question gives its written approval.

(iii) Any on-premises beer retailer licensee existing on March 1, 1990, need not comply with the restrictions contained in Subsections (4)(a) and (b) if it applies for a restaurant liquor license before January 1, 1991.

(5) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

(6) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location. For purposes of this Subsection (6), "educational facility" includes nursery schools, infant day care centers, and trade and technical schools.

Section 56. Section **32A-5-101** is amended to read:

32A-5-101. Commission's power to license private clubs -- Limitations.

(1) Before any private club may sell or allow the consumption of liquor on its premises, it shall first obtain a license from the commission as provided in this chapter.

(2) The commission may issue private club liquor licenses to social clubs, recreational, athletic, or kindred associations incorporated under the Utah Nonprofit Corporation and Cooperative Association Act, which desire to maintain premises upon which alcoholic beverages

may be stored, sold, served, and consumed. All such licenses shall be issued in the name of an officer or director of the club or association.

(3) A nonprofit corporation, association, or club or any officer, director, managing agent, or employee of a nonprofit corporation, association, or club may not store, sell, serve, or permit consumption of liquor upon its premises, under a permit issued by local authority or otherwise, unless a private club liquor license has been first issued by the commission. Violation of this Subsection (3) is a class A misdemeanor.

(4) Subject to this Subsection (4), the commission may issue private club liquor licenses at places and in numbers as it considers necessary. The total number of private club liquor licenses may not at any time aggregate more than that number determined by dividing the population of the state by 7,000. Population shall be determined by the most recent United States decennial or special census or by any other population determination made by the United States or state governments.

(a) The commission may issue seasonal private club liquor licenses to be established in areas and for periods as it considers necessary. A seasonal private club liquor license may not be operated for a period longer than nine consecutive months subject to the following restrictions:

(i) Licenses issued for operation during summer time periods are known as "Seasonal A" club licenses. The period of operation for a "Seasonal A" club license may begin as early as February 1 and may continue until October 31.

(ii) Licenses issued for operation during winter time periods are known as "Seasonal B" club licenses. The period of operation for a "Seasonal B" club license may begin as early as September 1 and may continue until May 31.

(iii) In determining the number of private club liquor licenses that the commission may issue under this section, seasonal licenses are counted as one half of one private club liquor license. Each "Seasonal A" license shall be paired with a "Seasonal B" license and the total number of months that each combined pair may be issued for operation may not exceed 12 months for each calendar year.

(b) If the location, design, and construction of a hotel may require more than one private

club location within the hotel to serve the public convenience, the commission may authorize as many as three private club locations within the hotel under one license if the hotel has a minimum of 150 guest rooms and if all locations under the license are within the same hotel facility and on premises which are managed or operated and owned or leased by the licensee. Facilities other than hotels may not have more than one private club location under a single private club liquor license.

(5) (a) A private club licensee's premises may not be established within 600 feet of any public or private school, church, public library, public playground, or park, as measured by the method in Subsection (6).

(b) A private club licensee premises may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(c) The restrictions contained in Subsections (5)(a) and (b) govern unless one of the following exemptions applies:

(i) The commission finds after full investigation that the premises are located within a city of the third, fourth, or fifth class or a town, and compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the granting of a private club license. In that event, the commission may, after giving full consideration to all of the attending circumstances, following a public hearing in the city or town, and where practical in the neighborhood concerned, authorize a variance from the distance requirements to relieve the difficulties or hardships if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this title.

(ii) With respect to the establishment of a private club licensee in any location, the commission may, after giving full consideration to all of the attending circumstances, following a public hearing in the county, and where practical in the neighborhood concerned, reduce the proximity requirements in relation to a church if the local governing body of the church in

question gives its written approval.

(iii) Any on-premises beer retailer licensee existing on March 1, 1990, need not comply with the restrictions contained in Subsections (5)(a) and (b) if it applies for a private club liquor license before January 1, 1991.

(6) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, or park.

(7) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on whether to issue a private club liquor license. For purposes of this Subsection (7), "educational facility" includes nursery schools, infant day care centers, and trade and technical schools.

Section 57. Section **32A-10-201** is amended to read:

32A-10-201. Commission's power to grant licenses -- Limitations.

(1) Beginning January 1, 1991, before any establishment may sell beer at retail for on-premise consumption, it shall first obtain:

(a) an on-premise beer retailer license from the commission as provided in this part; and

(b) a license issued by the local authority, as provided in Section 32A-10-101, to sell beer at retail for on-premise consumption or other written consent of the local authority to sell beer at retail for on-premise consumption.

(2) The commission may issue on-premise beer retailer licenses for the purpose of establishing on-premise beer retailer outlets at places and in numbers as it considers proper for the storage, sale, and consumption of beer on premises operated as on-premise beer retailer outlets.

(3) (a) Beginning January 1, 1991, on-premise beer retailer licensee premises may not be established within 600 feet of any public or private school, church, public library, public

playground, or park, as measured by the method in Subsection (5).

(b) Beginning January 1, 1991, on-premise beer retailer licensee premises may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(4) The restrictions of Subsection (3) govern unless one of the following exemptions applies:

(a) The commission finds after full investigation that the premises are located within a city of the third, fourth, or fifth class, a town, or the unincorporated area of a county, and compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the granting of an on-premise beer retailer license. In that event, the commission may, after giving full consideration to all of the attending circumstances, following a public hearing in the city or town, and where practical in the neighborhood concerned, authorize a variance from the distance requirements to relieve the difficulties or hardships if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this title.

(b) With respect to the establishment of an on-premise beer retailer licensee in any location, the commission may, after giving full consideration to all of the attending circumstances, following a public hearing in the county, and where practical in the neighborhood concerned, reduce the proximity requirements in relation to a church if the local governing body of the church in question gives its written approval.

(c) With respect to any on-premise beer retailer license issued by the commission before July 1, 1991, to an establishment that undergoes a change in ownership after that date, the commission may waive the proximity restrictions of Subsection (3) in considering whether to grant an on-premise retailer beer license to the new owner.

(5) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet by

following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground or park.

(6) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location. For purposes of this Subsection (6), "educational facility" includes nursery schools, infant day care centers, and trade and technical schools.

Section 58. Section **45-1-2** is amended to read:

45-1-2. Maximum charge.

A legal rate of 30 cents per line on the basis of an eight-point line, not less than [~~eleven~~] 11 ems wide, is hereby established in [~~all cities and towns having a population under 25,000~~] each city of the fourth and fifth class and each town for the publishing of any notice, advertisement, or publication of any kind required by law.

Section 59. Section **53-6-106** is amended to read:

53-6-106. Creation of Peace Officer Standards and Training Council -- Purpose -- Membership -- Quorum -- Meetings -- Compensation.

(1) There is created the Peace Officer Standards and Training Council.

(2) The council shall serve as an advisory board to the director of the division on matters relating to peace officer and dispatcher standards and training.

(3) The council includes:

(a) the attorney general or his designated representative;

(b) the superintendent of the highway patrol;

(c) the executive director of the Department of Corrections or his designated representative; and

(d) 14 additional members appointed by the governor having qualifications, experience, or education in the field of law enforcement as follows:

(i) one incumbent mayor;

(ii) one incumbent county commissioner;

(iii) three incumbent sheriffs, one of whom is a representative of the Utah Sheriffs Association, one of whom is from a county having a population of 100,000 or more, and one of whom is from a county having a population of less than 100,000;

(iv) three incumbent police chiefs, one of whom is a representative of the Utah Chiefs of Police Association, one of whom is from a city of the first or second class, and one of whom is from a city of the third, fourth, or fifth class or town;

(v) one officer from the Federal Bureau of Investigation appointed by the governor upon the recommendation of the agency;

(vi) a representative of the Utah Peace Officers Association;

(vii) an educator in the field of public administration, criminal justice, or related area; and

(viii) three persons selected at large by the governor.

(4) (a) Except as required by Subsection (4)(b), the 14 members of the council shall be appointed by the governor for four-year terms.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) A member may be reappointed for additional terms.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor from the same category in which the vacancy occurs.

(5) A member of the council ceases to be a member:

(a) immediately upon the termination of his holding the office or employment that was the basis for his eligibility to membership on the council; or

(b) upon two unexcused absences in one year from regularly scheduled council meetings.

(6) The council shall select a chair and vice chair from among its members.

(7) Ten members of the advisory council constitute a quorum.

(8) (a) Meetings may be called by the chair, the commissioner, or the director and shall

be called by the chair upon the written request of nine members.

(b) Meetings shall be held at the times and places determined by the director.

(9) The council shall meet at least two times per year.

(10) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the council at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

(11) Membership on the council does not disqualify any member from holding any other public office or employment.

Section 60. Section **57-11-4** is amended to read:

57-11-4. Exemptions.

(1) Unless the method of disposition is adopted for the purpose of evasion of this chapter or the federal act, this chapter does not apply to offers or dispositions of an interest in land:

(a) by a purchaser of subdivided lands for his own account in a single or isolated transaction;

(b) on each unit of which there is a residential, commercial, or industrial building, or on each unit of which there is a legal obligation on the part of the seller to complete construction of such a building within two years from date of disposition;

(c) to any person who acquires that interest for use in the business of constructing residential, commercial, or industrial buildings, or to any person who acquires that type of land for the purpose of disposition to a person engaged in that business, unless the person who acquires land for these purposes sells that land to individuals as unimproved lots with no legal obligation on the part of the seller to construct a residential, commercial, or industrial building on that lot within two years from the date of disposition;

(d) pursuant to court order;

(e) by any government or government agency;

(f) if at the time of the offer or disposition the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsections (1)(f)(ii) and (iii) and the interest lies within the boundaries of a [~~first, second, or third class~~] city or a county which:

(i) has a planning and zoning board utilizing or employing at least one professional planner;

(ii) enacts ordinances that require approval of planning, zoning, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

(iii) in which the interest in land will have the improvements described in Subsection (1)(f)(ii) plus telephone and electricity;

(g) in an industrial park;

(h) as cemetery lots; or

(i) if the interest is offered as part of a camp resort as defined in Section 57-19-2 or a timeshare development as defined in Section 57-19-2.

(2) Unless the method of disposition is adopted for the purpose of evasion of this chapter or the provisions of the federal act, the provisions of this chapter, except as specifically designated, do not apply to:

(a) offers or dispositions of evidences of indebtedness secured by a mortgage or deed of

trust on real estate;

(b) offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any state or federal statute;

(c) offers or dispositions of subdivided lands registered under the federal act and which the division finds to be in the public interest to exempt from the registration requirements of this chapter. A subdivider seeking to qualify under this exemption shall file with the division a copy of an effective statement of record filed with the secretary of the Department of Housing and Urban Development together with a filing fee of $100. In the event the subdivider does not qualify under this exemption, this amount shall be credited to the filing fee required for registration under this chapter. Nothing in this Subsection (2)(c) exempts a subdivider from the provisions of Sections 57-11-16 and 57-11-17 or the requirement to file an annual report with the division under Section 57-11-10;

(d) offers or dispositions of securities currently registered with the Securities Division; or

(e) offers or dispositions of any interest in oil, gas, or other minerals or any royalty interest in these assets if the offers or dispositions of those interests are regulated as securities by the United States or by the Securities Division.

(3) (a) Notwithstanding the exemptions in Subsections (1) and (2), any person making an offer or disposition of an interest in land which is located in Utah shall apply to the division for an exemption before the offer or disposition is made if:

(i) the person is representing, in connection with the offer or disposition, the availability of culinary water service to or on the subdivided land; and

(ii) the culinary water service is provided by a water corporation as defined in Section 54-2-1.

(b) A subdivider seeking to qualify under this exemption shall file with the division an application for exemption together with a filing fee of $50 and an application containing:

(i) information required by the division to show that the offer or disposition is exempt under the provisions of this section;

(ii) a statement as to what entity will be providing culinary water service and the nature

of that entity; and

(iii) a copy of the entity's certificate of convenience and necessity issued by the Public Service Commission, or evidence that the entity providing water service is exempt from the jurisdiction of the Public Service Commission.

(4) The director may by rule or order exempt any person from any requirement of this chapter if the director finds that the offering of an interest in a subdivision is essentially noncommercial. For purposes of this section, the bulk sale of subdivided lands by a subdivider to another person who will become the subdivider of those lands is considered essentially noncommercial.

Section 61. Section **67-3-8** is amended to read:

67-3-8. Preparation and distribution of budget forms.

The state auditor shall formulate and print budget forms for all cities [~~of the first class, cities of the second class, cities of the third class~~], all counties, and all school districts. These budget forms shall be distributed at cost to each city, county, and school district.

Section 62. Section **72-3-104** is amended to read:

72-3-104. City streets -- Class C roads -- Construction and maintenance.

(1) City streets comprise:

(a) highways, roads, and streets within the corporate limits of the municipalities that are not designated as class A state roads or as class B roads; and

(b) those highways, roads, and streets located within a national forest and constructed or maintained by the municipality under agreement with the appropriate federal agency.

(2) City streets are class C roads.

(3) Except for city streets within counties of the first and second class as defined in Section [~~17-16-13~~] 17-50-501, the state and city have joint undivided interest in the title to all rights-of-way for all city streets.

(4) The municipal governing body exercises sole jurisdiction and control of the city streets within the municipality.

(5) The department shall cooperate with the municipal legislative body in the

construction and maintenance of the class C roads within each municipality.

(6) The municipal legislative body shall expend or cause to be expended upon the class C roads the funds allocated to each municipality from the Transportation Fund under rules made by the department.

(7) Any town or city in the third, fourth, or fifth class may:

(a) contract with the county or the department for the construction and maintenance of class C roads within its corporate limits; or

(b) transfer, with the consent of the county, its:

(i) class C roads to the class B road system; and

(ii) funds allocated from the Transportation Fund to the municipality to the county legislative body for use upon the transferred class C roads.

(8) A municipal legislative body of any [~~municipality~~] city of the third, fourth, or fifth class may use any portion of the class C road funds allocated to the municipality for the construction of sidewalks, curbs, and gutters on class A state roads within the municipal limits by cooperative agreement with the department.

Section 63. Section **72-8-102** is amended to read:

72-8-102. Definitions.

As used in this chapter:

(1) "Construction" means the function of constructing or reconstructing a sidewalk with or without curb and gutter and includes land acquisition and engineering or inspection as defined by the rules and regulations of the department.

(2) "Curb and gutter" means the area between the roadway and sidewalk designed for water runoff and providing a barrier for safety of pedestrian and vehicular traffic.

(3) "Participating municipality" means [~~any municipality having at least~~] a city of the third, fourth, or fifth class [~~status~~] or a town.

(4) "Pedestrian safety devices" means any device or method designed to foster the safety of pedestrian traffic including sidewalks, curbs, gutters, and pedestrian overpasses.

Section 64. **Coordination clause.**

(1) If this bill and H.B. 162, Amendments Related to Financial Institutions, both pass, it is the intent of the Legislature that in preparing the Utah Code database for publication the Office of Legislative Research and General Counsel change the language "city of the third class," wherever it is found in the underlined portions of 10th Substitute H.B. 162, to read instead "city of the third, fourth, or fifth class."

(2) If this bill and S.B. 153, Alcoholic Beverage Amendments, both pass, it is the intent of the Legislature that the amendments in S.B. 153 to Sections 32A-2-101, 32A-3-101, 32A-5-101, and 32A-10-201 supercede the amendments in this bill to those same sections, except that in preparing the Utah Code database for publication the Office of Legislative Research and General Counsel shall change the language "city of the third class," wherever it is found in the underlined portions of S.B. 153, to read instead "city of the third, fourth, or fifth class."