

Senator Carlene M. Walker proposes the following substitute bill:

MUNICIPAL GOVERNMENT AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carlene M. Walker

House Sponsor: Aaron Tilton

LONG TITLE

General Description:

This bill modifies provisions of the Utah Municipal Code.

Highlighted Provisions:

This bill:

rewrites and reorganizes provisions relating to forms of municipal government and municipal administration;

repeals provisions relating to forms of municipal government that have been rewritten or made obsolete by the rewritten provisions;

clarifies the forms of government under which a municipality may operate;

clarifies provisions relating to the council-mayor, six-member council, and five-member council forms of municipal government;

specifies that an election on a proposed change in the form of municipal government occur on a municipal general election or regular general election date;

provides that a council modifying a mayor's powers, duties, or functions in a six-member council form or five-member council form of government constitutes a change in the form of government, requiring voter approval;

eliminates a mayor's refusal to act as a basis for the council appointing a mayor pro tempore in a six-member council form or five-member council form of government;

requires persons appointed to an appointed municipal office in certain municipalities to be appointed based on qualifications;



2nd Sub. S.B. 20

- 18j **§→** ▶ authorizes a mayor in certain municipalities to remove any of specified appointed
18k officers;
18l ▶ provides that following the removal of an appointed officer in certain municipalities,
18m the position remains vacant until a successor is appointed; ←**§**
19 ▶ requires municipalities to operate under a council-mayor, six-member council, or
20 five-member council form of government, except those currently operating under a
21 specified council-manager form;
22 ▶ requires municipalities operating under the former council-manager form of
23 government to continue to operate under that form of government, subject to a
24 future potential change to another form; and
25 ▶ makes technical and conforming changes.

26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**31 **AMENDS:**32 **10-2-112**, as last amended by Laws of Utah 2004, Chapter 20233 **10-2-114**, as last amended by Laws of Utah 2004, Chapter 20234 **10-2-125**, as last amended by Laws of Utah 2007, Chapter 21235 **10-2-303**, as last amended by Laws of Utah 2004, Chapter 20236 **10-3-301**, as last amended by Laws of Utah 2000, Chapter 6537 **10-3-502**, as last amended by Laws of Utah 2003, Chapter 29238 **10-3-504**, as last amended by Laws of Utah 2004, Chapter 20239 **10-3-507**, as last amended by Laws of Utah 2004, Chapter 20240 **10-3-820**, as enacted by Laws of Utah 1977, Chapter 4841 **10-3-902**, as enacted by Laws of Utah 1977, Chapter 4841a **§→ 10-3-916, as last amended by Laws of Utah 2003, Chapter 292 ←§**42 **10-3-1106**, as last amended by Laws of Utah 2004, Chapter 26043 **10-6-151**, as last amended by Laws of Utah 2005, Chapter 7144 **10-9a-103**, as last amended by Laws of Utah 2007, Chapters 188, 199, and 32945 **20A-1-102**, as last amended by Laws of Utah 2007, Chapters 75, 256, 285, and 32946 **20A-1-506**, as last amended by Laws of Utah **§→ [2006, Chapter 16] 2008, Chapter 3 ←§**47 **20A-1-510**, as last amended by Laws of Utah 2000, Chapter 348 **20A-9-203**, as last amended by Laws of Utah 2007, Chapters 83, 97, and 25649 **§→ [~~78-5-134, as last amended by Laws of Utah 2006, Chapter 16]~~**49a **78A-7-202, as renumbered and amended by Laws of Utah 2008, Chapter 3 ←§**50 **ENACTS:**51 **10-3b-101**, Utah Code Annotated 195352 **10-3b-102**, Utah Code Annotated 195353 **10-3b-103**, Utah Code Annotated 195354 **10-3b-104**, Utah Code Annotated 195355 **10-3b-105**, Utah Code Annotated 195356 **10-3b-201**, Utah Code Annotated 1953

- 57 **10-3b-202**, Utah Code Annotated 1953
- 58 **10-3b-203**, Utah Code Annotated 1953
- 59 **10-3b-204**, Utah Code Annotated 1953
- 60 **10-3b-205**, Utah Code Annotated 1953
- 61 **10-3b-301**, Utah Code Annotated 1953
- 62 **10-3b-302**, Utah Code Annotated 1953
- 63 **10-3b-303**, Utah Code Annotated 1953
- 64 **10-3b-401**, Utah Code Annotated 1953
- 65 **10-3b-402**, Utah Code Annotated 1953
- 66 **10-3b-403**, Utah Code Annotated 1953
- 67 **10-3b-501**, Utah Code Annotated 1953
- 68 **10-3b-502**, Utah Code Annotated 1953
- 69 **10-3b-503**, Utah Code Annotated 1953
- 70 **10-3b-504**, Utah Code Annotated 1953
- 71 **10-3b-505**, Utah Code Annotated 1953
- 72 **10-3b-506**, Utah Code Annotated 1953
- 73 **10-3b-507**, Utah Code Annotated 1953

74 **REPEALS:**

- 75 **10-3-101**, as last amended by Laws of Utah 2004, Chapter 202
- 76 **10-3-102**, as enacted by Laws of Utah 1977, Chapter 48
- 77 **10-3-106**, as last amended by Laws of Utah 2004, Chapters 90 and 202
- 78 **10-3-206**, as last amended by Laws of Utah 2004, Chapter 202
- 79 **10-3-207**, as enacted by Laws of Utah 1977, Chapter 48
- 80 **10-3-403**, as enacted by Laws of Utah 1977, Chapter 48
- 81 **10-3-404**, as enacted by Laws of Utah 1977, Chapter 48
- 82 **10-3-501**, as last amended by Laws of Utah 1979, Chapter 30
- 83 **10-3-503**, as last amended by Laws of Utah 1987, Chapter 92
- 84 **10-3-802**, as last amended by Laws of Utah 1987, Chapter 92
- 85 **10-3-804**, as last amended by Laws of Utah 1977, Chapter 39
- 86 **10-3-806**, as last amended by Laws of Utah 1993, Chapter 4
- 87 **10-3-807**, as last amended by Laws of Utah 1977, Chapter 39

- 88 **10-3-808**, as last amended by Laws of Utah 2003, Chapter 292
- 89 **10-3-809**, as last amended by Laws of Utah 2003, Chapter 292
- 90 **10-3-810**, as last amended by Laws of Utah 2003, Chapter 292
- 91 **10-3-811**, as last amended by Laws of Utah 2003, Chapter 292
- 92 **10-3-812**, as last amended by Laws of Utah 2003, Chapter 292
- 93 **10-3-813**, as enacted by Laws of Utah 1977, Chapter 48
- 94 **10-3-814**, as enacted by Laws of Utah 1977, Chapter 48
- 95 **10-3-815**, as enacted by Laws of Utah 1977, Chapter 48
- 96 **10-3-816**, as enacted by Laws of Utah 1977, Chapter 48
- 97 **10-3-817**, as enacted by Laws of Utah 1977, Chapter 48
- 98 **10-3-830**, as last amended by Laws of Utah 2007, Chapter 266
- 99 **10-3-901**, as enacted by Laws of Utah 1977, Chapter 48
- 100 **10-3-1201**, as enacted by Laws of Utah 1977, Chapter 48
- 101 **10-3-1202**, as enacted by Laws of Utah 1977, Chapter 48
- 102 **10-3-1203**, as last amended by Laws of Utah 2004, Chapters 202 and 371
- 103 **10-3-1204**, as enacted by Laws of Utah 1977, Chapter 48
- 104 **10-3-1205**, as enacted by Laws of Utah 1977, Chapter 48
- 105 **10-3-1206**, as last amended by Laws of Utah 1985, Chapter 222
- 106 **10-3-1207**, as enacted by Laws of Utah 1977, Chapter 48
- 107 **10-3-1208**, as last amended by Laws of Utah 2004, Chapter 202
- 108 **10-3-1210**, as enacted by Laws of Utah 1977, Chapter 48
- 109 **10-3-1211**, as enacted by Laws of Utah 1977, Chapter 48
- 110 **10-3-1212**, as last amended by Laws of Utah 2006, Chapter 14
- 111 **10-3-1213**, as enacted by Laws of Utah 1977, Chapter 48
- 112 **10-3-1214**, as enacted by Laws of Utah 1977, Chapter 48
- 113 **10-3-1215**, as enacted by Laws of Utah 1977, Chapter 48
- 114 **10-3-1216**, as last amended by Laws of Utah 1991, Chapter 54
- 115 **10-3-1217**, as last amended by Laws of Utah 1981, Chapter 47
- 116 **10-3-1218**, as repealed and reenacted by Laws of Utah 1993, Chapter 1
- 117 **10-3-1219**, as last amended by Laws of Utah 2004, Chapter 156
- 118 **10-3-1219.5**, as enacted by Laws of Utah 1979, Chapter 39

- 119 **10-3-1220**, as enacted by Laws of Utah 1977, Chapter 48
- 120 **10-3-1221**, as enacted by Laws of Utah 1977, Chapter 48
- 121 **10-3-1222**, as last amended by Laws of Utah 1993, Chapter 231
- 122 **10-3-1223**, as enacted by Laws of Utah 1977, Chapter 48
- 123 **10-3-1224**, as enacted by Laws of Utah 1977, Chapter 48
- 124 **10-3-1225**, as enacted by Laws of Utah 1977, Chapter 48
- 125 **10-3-1226**, as enacted by Laws of Utah 1977, Chapter 48
- 126 **10-3-1227**, as enacted by Laws of Utah 1977, Chapter 48
- 127 **10-3-1228**, as enacted by Laws of Utah 1977, Chapter 48

128

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

130 Section 1. Section **10-2-112** is amended to read:

131 **10-2-112. Ballot used at the incorporation election.**

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

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

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

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

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

142 Five-member [~~City~~] Council form

143 Six-member [~~City~~] Council form

144 ~~[Council-Mayor]~~ Five-member council-mayor form

145 ~~[Council-Manager form]~~ Seven-member council-mayor form.

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

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

149 If the above incorporation proposal passes, shall members of the city council of (insert

150 the name of the proposed city) be elected by district?

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

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

154 **10-2-114. Determination of number of council members -- Determination of**
155 **election districts -- Hearings and notice.**

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

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

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

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

165 (i) the mayor and approximately half the members of the city council are elected to
166 serve an initial term, of no less than one year, that allows their successors to serve a full
167 four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

168 (ii) the remaining members of the city council are elected to serve an initial term, of no
169 less than one year, that allows their successors to serve a full four-year term that coincides with
170 the schedule established in Subsection 10-3-205(2); and

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

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

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

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

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

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

187 Section 3. Section **10-2-125** is amended to read:

188 **10-2-125. Incorporation of a town.**

189 (1) As used in this section:

190 (a) "Base petition" means a petition under this section proposing the incorporation of a
191 town and signed by the owners of private real property that:

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

193 (ii) covers at least a majority of the total private land area within the area proposed to
194 be incorporated; and

195 (iii) is equal in value to at least 1/3 but not more than 1/2 of the value of all private real
196 property within the area proposed to be incorporated.

197 (b) "Qualifying petition" means a petition under this section proposing the
198 incorporation of a town and signed by the owners of private real property that:

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

200 (ii) covers at least a majority of the total private land area within the area proposed to
201 be incorporated; and

202 (iii) is equal in value to more than 1/2 of the value of all private real property within
203 the area proposed to be incorporated.

204 (2) (a) A contiguous area of a county not within a municipality, with a population of at
205 least 100 but less than 1,000, may incorporate as a town as provided in this section.

206 (b) (i) The population figure under Subsection (2)(a) shall be derived from the most
207 recent official census or census estimate of the United States Bureau of the Census.

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

211 (3) (a) The process to incorporate an area as a town is initiated by filing a petition with

212 the clerk of the county in which the area is located.

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

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

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

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

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

218 area;

219 (ii) state the legal description of the boundaries of the area proposed to be incorporated

220 as a town;

221 (iii) designate up to five signers of the petition as sponsors, one of whom shall be

222 designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;

223 (iv) be accompanied by and circulated with an accurate map or plat, prepared by a

224 licensed surveyor, showing the boundaries of the proposed town; and

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

226 PETITION FOR INCORPORATION OF (insert the proposed name of the proposed

227 town)

228 To the Honorable County Legislative Body of (insert the name of the county in which

229 the proposed town is located) County, Utah:

230 We, the undersigned owners of real property within the area described in this petition,

231 respectfully petition the county legislative body for the area described in this petition to be

232 incorporated as a town. Each of the undersigned affirms that each has personally signed this

233 petition and is an owner of real property within the described area, and that the current

234 residence address of each is correctly written after the signer's name. The area proposed to be

235 incorporated as a town is described as follows: (insert an accurate description of the area

236 proposed to be incorporated).

237 (c) A petition under this section may not describe an area that includes some or all of

238 an area proposed for annexation in an annexation petition under Section 10-2-403 that:

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

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

241 (4) Section 10-2-104 applies to a petition for incorporation as a town in any county,

242 except that the notice under Subsection 10-2-104(1) shall be sent within seven calendar days

243 after the filing of a petition under Subsection (3).

244 (5) (a) (i) The legislative body of each county with which a base petition is filed under
245 this section shall commission and pay for a feasibility study as provided in Section 10-2-103.

246 (ii) If the results of the feasibility study under Subsection (5)(a)(i) meet the
247 requirements of Subsection 10-2-109(3), the county legislative body shall grant the petition.

248 (iii) If the results of the feasibility study under Subsection (5)(a)(i) do not meet the
249 requirements of Subsection 10-2-109(3), the county legislative body may:

250 (A) deny the petition;

251 (B) grant the petition; or

252 (C) with the consent of the petition sponsors, grant the petition, after:

253 (I) imposing conditions to mitigate the fiscal inequities identified in the feasibility
254 study; or

255 (II) altering the boundaries of the area proposed to be incorporated as a town to
256 approximate the boundaries necessary to meet the requirements of Subsection 10-2-109(3).

257 (iv) Each town that incorporates pursuant to a petition granted after the county
258 legislative body imposes conditions under Subsection (5)(a)(iii)(C)(I) shall comply with those
259 conditions.

260 (b) The legislative body of each county of the second, third, fourth, fifth, or sixth class
261 with which a qualifying petition is filed shall grant the petition.

262 (6) (a) Upon the granting of a petition filed under this section, the legislative body of
263 the county in which the proposed town is located shall appoint a mayor and members of the
264 town council from a list of qualified individuals approved by the petition sponsors.

265 (b) The officers appointed under Subsection (6)(a) shall hold office until the next
266 regular municipal election and until their successors are elected and qualified.

267 (7) Each newly incorporated town shall operate under the ~~[six-member]~~ five-member
268 council form of government as ~~[described]~~ defined in Section ~~[10-3-101]~~ 10-3b-102.

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

271 (b) The articles of incorporation shall meet the requirements of Subsection
272 10-2-119(2).

273 (9) A town is incorporated upon the lieutenant governor's issuance of a certificate of

274 entity creation under Section 67-1a-6.5.

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

277 Section 4. Section **10-2-303** is amended to read:

278 **10-2-303. Effect of change in class.**

279 (1) ~~[(a)]~~ If a municipality changes from one class to another:

280 ~~[(i)]~~ (a) all property, property rights, and other rights that belonged to or were vested in
281 the municipality at the time of the change shall belong to and be vested in it after the change;

282 ~~[(ii)]~~ (b) no contract, claim, or right of the municipality or demand or liability against it
283 shall be altered or affected in any way by the change;

284 ~~[(iii)]~~ (c) each ordinance, order, and resolution in force in the municipality when it
285 changes classes shall, to the extent that it is not inconsistent with law, not be affected by the
286 change and shall remain in effect until repealed or amended;

287 ~~[(iv)]~~ (d) the change shall not affect the identity of the municipality;

288 ~~[(v)]~~ (e) each municipal officer in office at the time of the change shall continue as an
289 officer until that officer's term expires and a successor is duly elected and qualified; and

290 ~~[(vi) except as provided in Subsection (1)(b);]~~

291 (f) the municipality maintains after the change in class the same form of government
292 that it had immediately before the change.

293 ~~[(b) (i) If a town operating under a five-member council form of government changes
294 classes to a fifth class city, its form of government shall, upon issuance of the lieutenant
295 governor's certificate under Section 10-2-302, change to a six-member council form.]~~

296 ~~[(ii) As soon as practicable after the change in form of government under Subsection
297 (1)(b)(i), the governing body shall appoint a sixth council member to serve until a successor is
298 elected at the next municipal general election at which the mayor is not subject to election.]~~

299 (2) (a) A change in class does not affect an action at law, prosecution, business, or
300 work of the municipality changing classes, and proceedings shall continue and may be
301 conducted and proceed as if no change in class had occurred.

302 (b) Notwithstanding Subsection (2)(a), if the law applicable to a municipality under the
303 new class provides the municipality a different remedy with respect to a right that it possessed
304 at the time of the change, the remedy shall be cumulative to the remedy applicable before the

305 change in class.

306 Section 5. Section **10-3-301** is amended to read:

307 **10-3-301. Eligibility and residency requirements for elected municipal office.**

308 (1) [~~(a)~~] A person filing a declaration of candidacy for a municipal office shall [~~:(i)~~
309 ~~have been a resident of the municipality in which the person seeks office for at least 365~~
310 ~~consecutive days immediately before the date of the election; and (ii)] meet the [other]
311 requirements of Section 20A-9-203.~~

312 [~~(b) A person living in an area annexed to a municipality meets the residency~~
313 ~~requirement of this subsection if that person resided within the area annexed to the~~
314 ~~municipality for at least 365 consecutive days before the date of the election.]~~

315 [~~(c) For purposes of determining whether a person meets the residency requirement of~~
316 ~~Subsection (1)(a)(i) in a municipality that was incorporated less than 365 days before the~~
317 ~~election, the municipality shall be considered to have been incorporated 365 days before the~~
318 ~~election.]~~

319 (2) Any person elected to municipal office shall be a registered voter in the
320 municipality in which the person was elected.

321 (3) (a) Each elected officer of a municipality shall maintain residency within the
322 boundaries of the municipality during the officer's term of office.

323 (b) If an elected officer of a municipality establishes a principal place of residence as
324 provided in Section 20A-2-105 outside the municipality during the officer's term of office, the
325 office is automatically vacant.

326 (4) If an elected municipal officer is absent from the municipality any time during the
327 officer's term of office for a continuous period of more than 60 days without the consent of the
328 municipal legislative body, the municipal office is automatically vacant.

329 (5) (a) A mayor of a municipality may not also serve as the municipal recorder or
330 treasurer.

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

332 Section 6. Section **10-3-502** is amended to read:

333 **10-3-502. Regular and special council meetings.**

334 [~~In each city of the third, fourth, or fifth class and each town, the governing body shall]~~

335 (1) The council of each municipality shall:

336 (a) by ordinance prescribe the time and place for holding its regular meeting [~~which~~
337 ~~shall be held~~], subject to Subsection (1)(b); and

338 (b) hold a regular meeting at least once each month. [~~If at any time the business of~~
339 ~~such city or town requires a special meeting of the governing body, such meeting may be~~
340 ~~ordered by the mayor or any two members of the governing body. The order shall]~~

341 (2) (a) The mayor of a municipality or two council members may order the convening
342 of a special meeting of the council.

343 (b) Each order convening a special meeting of the council shall:

344 (i) be entered in the minutes of the [~~governing body. The order shall]~~ council; and

345 (ii) provide at least three hours' notice of the special meeting [~~and notice thereof shall~~
346 ~~be served by the~~].

347 (c) The municipal recorder or clerk shall serve notice of the special meeting on each
348 council member who did not sign the order by delivering the notice personally or by leaving it
349 at the member's usual place of abode.

350 (d) The personal appearance by a council member at [~~any specially called~~] a special
351 meeting of the council constitutes a waiver of the notice required [~~in this section~~] under
352 Subsection (2)(c).

353 Section 7. Section 10-3-504 is amended to read:

354 **10-3-504. Quorum defined.**

355 [(1)] The number of council members [~~of the governing body~~] necessary to constitute a
356 quorum is:

357 [~~(a) in a municipality operating under a five-member or six-member city council form~~
358 ~~of government or a five-member council-manager form of government, three or more; or]~~

359 [~~(b) in a seven-member council-manager form of government, four or more.~~]

360 [(2)] ~~The number of members of the legislative body of a municipality operating under~~
361 ~~a council-mayor form of government necessary to constitute a quorum is:]~~

362 [~~(a) for a five-member council-mayor form, three; and]~~

363 [~~(b) for a seven-member council-mayor form, four.~~]

364 (1) in a municipality with a seven-member council, four;

365 (2) in a municipality with a five-member council, three; and

366 (3) in a municipality operating under a six-member council form of government, three,

367 excluding the mayor.

368 Section 8. Section **10-3-507** is amended to read:

369 **10-3-507. Minimum vote required.**

370 (1) ~~[(a)]~~ The minimum number of yes votes required to pass any ordinance or
371 resolution, or to take any action by the ~~[governing body]~~ council, unless otherwise prescribed
372 by law, ~~[shall be]~~ is a majority of ~~[the]~~ all voting members of the ~~[quorum, but may never be~~
373 ~~less than:]~~ council, without considering any vacancy in the council.

374 ~~[(i) for a municipality operating under a five-member or six-member council form of~~
375 ~~government or a five-member council-manager form of government, three; or]~~

376 ~~[(ii) for a municipality operating under a seven-member council-manager form of~~
377 ~~government, four:]~~

378 ~~[(b) The minimum number of yes votes requires to pass an ordinance or resolution or~~
379 ~~to take an action by the legislative body of a municipality operating under a council-mayor~~
380 ~~form of government, unless otherwise prescribed by law, shall be a majority of the members of~~
381 ~~the quorum, but may never be less than:]~~

382 ~~[(i) for a five-member council-mayor form, three; and]~~

383 ~~[(ii) for a seven-member council-mayor form, four:]~~

384 (2) (a) Any ordinance, resolution, or motion of the ~~[governing body]~~ council having
385 fewer favorable votes than required in this section ~~[shall be considered]~~ is defeated and
386 invalid~~[, except].~~

387 (b) Notwithstanding Subsection (2)(a), a council meeting may be adjourned to a
388 specific time by a majority vote of the ~~[governing body]~~ council even though ~~[such]~~ the
389 majority vote is less than that required in this section.

390 (3) A majority of the council members ~~[of the governing body]~~, regardless of number,
391 may fill any vacancy in the ~~[governing body]~~ council.

392 Section 9. Section **10-3-820** is amended to read:

393 **10-3-820. Cities of the first and second class.**

394 In cities of the first and second class, the mayor and each ~~[commissioner]~~ council
395 member shall give a penal bond, with approved corporate surety, in the amount of not less than
396 \$10,000 and the auditor shall give a penal bond with approved corporate surety in the sum of
397 not less than \$20,000 conditioned for the faithful performance of the duties of their offices and

398 payment of all monies received by them according to law and the ordinances of the city.

399 Section 10. Section **10-3-902** is amended to read:

400 **10-3-902. City engineer required to be licensed.**

401 [~~In cities of the first and second class the board of commissioners shall appoint a~~
402 ~~qualified person to each of the offices of recorder, treasurer, engineer and attorney, and may~~
403 ~~create any other office that may be deemed necessary for the government of the city, and~~
404 ~~regulate and prescribe the powers, duties and compensation of all officers of the city, except as~~
405 ~~otherwise provided by law. The]~~

406 Each person [sø] appointed as city engineer shall be a registered professional engineer
407 under Title 58, Chapter 22[. The board of commissioners may appoint all officers and agents as
408 may be provided for by law or ordinances, and fill all vacancies occurring therein].

409 Professional Engineers and Professional Land Surveyors Licensing Act.

409a **§→ Section 11. Section 10-3-916 is amended to read:**

409b **10-3-916. Appointment of recorder and treasurer in a city of third, fourth, or fifth**
409c **class or a town -- Vacancies in office.**

409d **(1) In each city of the third, fourth, or fifth class and in each town, on or before the**
409e **first Monday in February following a municipal election, the mayor, with the advice and**
409f **consent of the city council, shall appoint a qualified person to each of the offices of city**
409g **recorder and treasurer.**

409h **(2) The city recorder is ex officio the city auditor and shall perform the duties of that**
409i **office.**

409j **(3) (a) The mayor, with the advice and consent of the council, may also appoint and fill**
409k **vacancies in all offices provided for by law or ordinance.**

409l [~~(4) All appointed officers shall continue in office until their successors are appointed and~~
409m ~~qualified.]~~

409n **(b) Each person appointed under this section shall be appointed solely on the basis of**
409o **the person's abilities, integrity, and prior experience relating to the duties of the office.**

409p **(4) (a) The mayor in a city of the third, four, or fifth class or a town may remove any**
409q **officer appointed under this section.**

409r **(b) If a mayor removes a person under Subsection (4)(a), the position from which the**
409s **person was removed shall remain vacant until another person is appointed, as provided in this**
409t **section.** ←§

410 Section **§→ [H] 12 ←§** . Section **10-3-1106** is amended to read:

411 **10-3-1106. Discharge, suspension without pay, or involuntary transfer -- Appeals**

412 -- Board -- Procedure.

413 (1) An employee to which Section 10-3-1105 applies may not be discharged, suspended
414 without pay, or involuntarily transferred to a position with less remuneration:

415 (a) because of the employee's politics or religious belief; or

416 (b) incident to, or through changes, either in the elective officers, governing body, or
417 heads of departments.

418 (2) (a) If an employee is discharged, suspended for more than two days without pay, or
419 involuntarily transferred from one position to another with less remuneration for any reason,
420 the employee may, subject to Subsection (2)(b), appeal the discharge, suspension without pay,
421 or involuntary transfer to a board to be known as the appeal board, established under
422 Subsection (7).

423 (b) If the municipality provides an internal grievance procedure, the employee shall
424 exhaust the employee's rights under that grievance procedure before appealing to the board.

425 (3) (a) Each appeal under Subsection (2) shall be taken by filing written notice of the
426 appeal with the municipal recorder within ten days after:

427 (i) if the municipality provides an internal grievance procedure, the employee receives
428 notice of the final disposition of the municipality's internal grievance procedure; or

429 (ii) if the municipality does not provide an internal grievance procedure, the discharge,
430 suspension, or involuntary transfer.

431 (b) (i) Upon the filing of an appeal under Subsection (3)(a), the municipal recorder
432 shall forthwith refer a copy of the appeal to the appeal board.

433 (ii) Upon receipt of the referral from the municipal recorder, the appeal board shall
434 forthwith commence its investigation, take and receive evidence, and fully hear and determine
435 the matter which relates to the cause for the discharge, suspension, or transfer.

436 (4) An employee who is the subject of the discharge, suspension, or transfer may:

437 (a) appear in person and be represented by counsel;

438 (b) have a public hearing;

439 (c) confront the witness whose testimony is to be considered; and

440 (d) examine the evidence to be considered by the appeal board.

441 (5) (a) (i) Each decision of the appeal board shall be by secret ballot, and shall be
442 certified to the recorder within 15 days from the date the matter is referred to it, except as
443 provided in Subsection (5)(a)(ii).

444 (ii) For good cause, the board may extend the 15-day period under Subsection (5)(a)(i)
445 to a maximum of 60 days, if the employee and municipality both consent.

446 (b) If it finds in favor of the employee, the board shall provide that the employee shall
447 receive:

448 (i) the employee's salary for the period of time during which the employee is
449 discharged or suspended without pay; or

450 (ii) any deficiency in salary for the period during which the employee was transferred
451 to a position of less remuneration.

452 (6) (a) A final action or order of the appeal board may be appealed to the Court of
453 Appeals by filing with that court a notice of appeal.

454 (b) Each notice of appeal under Subsection (6)(a) shall be filed within 30 days after the
455 issuance of the final action or order of the appeal board.

456 (c) The Court of Appeals' review shall be on the record of the appeal board and for the
457 purpose of determining if the appeal board abused its discretion or exceeded its authority.

458 (7) (a) The method and manner of choosing the members of the appeal board, the
459 number of members, the designation of their terms of office, and the procedure for conducting

460 an appeal and the standard of review shall be prescribed by the governing body of each
461 municipality by ordinance.

462 (b) For a municipality operating under a form of government other than a
463 council-mayor form under [~~Part 12, Optional Forms of Municipal Government Act~~] ~~§~~→ [~~Subsection~~
464 ~~10-36-103(3)~~] **Chapter 3b, Part 2, Council-Mayor Form of Municipal Government** ←~~§~~ , an
464a ordinance adopted under Subsection (7)(a) may provide that the governing
465 body of the municipality shall serve as the appeal board.

466 Section ~~§~~→ [12] **13** ←~~§~~ . Section **10-3b-101** is enacted to read:

467 **CHAPTER 3a. (RESERVED)**

468 **CHAPTER 3b. FORMS OF MUNICIPAL GOVERNMENT**

469 **Part 1. General Provisions**

470 **10-3b-101. Title.**

471 This chapter is known as "Forms of Municipal Government."

472 Section ~~§~~→ [13] **14** ←~~§~~ . Section **10-3b-102** is enacted to read:

473 **10-3b-102. Definitions.**

474 As used in this chapter:

475 (1) "Council-mayor form of government" means the form of municipal government
476 that:

477 (a) (i) is provided for in Laws of Utah 1977, Chapter 48;

478 (ii) may not be adopted without voter approval; and

479 (iii) consists of two separate, independent, and equal branches of municipal
480 government; and

481 (b) on and after May 5, 2008, is described in Part 2, Council-Mayor Form of Municipal
482 Government.

483 (2) "Five-member council form of government" means the form of municipal
484 government described in Part 4, Five-Member Council Form of Municipal Government.

485 (3) "Six-member council form of government" means the form of municipal
486 government described in Part 3, Six-Member Council Form of Municipal Government.

487 Section ~~§~~→ [14] **15** ←~~§~~ . Section **10-3b-103** is enacted to read:

488 **10-3b-103. Forms of municipal government -- Form of government for towns --**
489 **Former council-manager form.**

490 (1) A municipality operating on May 4, 2008 under the council-mayor form of

491 government:

492 (a) shall, on and after May 5, 2008:

493 (i) operate under a council-mayor form of government, as defined in Section

494 10-3b-102 ~~§~~ → [] and ← ~~§~~

495 (ii) be subject to:

496 (A) this part;

497 (B) Part 2, Council-Mayor Form of Municipal Government;

498 (C) Part 5, Changing to Another Form of Municipal Government; and

499 (D) except as provided in Subsection (1)(b), other applicable provisions of this title;

500 and

501 (b) is not subject to:

502 (i) Part 3, Six-Member Council Form of Municipal Government; or

503 (ii) Part 4, Five-Member Council Form of Municipal Government.

504 (2) A municipality operating on May 4, 2008 under a form of government known under

505 the law then in effect as the six-member council form:

506 (a) shall, on and after May 5, 2008 and whether or not the council has adopted an

507 ordinance appointing a manager for the municipality:

508 (i) operate under a six-member council form of government, as defined in Section

509 10-3b-102;

510 (ii) be subject to:

511 (A) this part;

512 (B) Part 3, Six-Member Form of Municipal Government;

513 (C) Part 5, Changing to Another Form of Municipal Government; and

514 (D) except as provided in Subsection (2)(b), other applicable provisions of this title;

515 and

516 (b) is not subject to:

517 (i) Part 2, Council-Mayor Form of Municipal Government; or

518 (ii) Part 4, Five-Member Council Form of Municipal Government.

519 (3) A municipality operating on May 4, 2008 under a form of government known under

520 the law then in effect as the five-member council form:

521 (a) shall, on and after May 5, 2008:

522 (i) operate under a five-member council form of government, as defined in Section
523 10-3b-102;

524 (ii) be subject to:

525 (A) this part:

526 (B) Part ~~5~~ [3] 4 ~~5~~, Five-Member Council Form of Municipal Government;

527 (C) Part 5, Changing to Another Form of Municipal Government; and

528 (D) except as provided in Subsection (3)(b), other applicable provisions of this title;

529 and

530 (b) is not subject to:

531 (i) Part 2, Council-Mayor Form of Municipal Government; or

532 (ii) Part 3, Six-Member Council Form of Municipal Government.

533 (4) Subject to Subsection (5), each municipality incorporated on or after the effective

534 date of this section shall operate under:

535 (a) the council-mayor form of government, with a five-member council;

536 (b) the council-mayor form of government, with a seven-member council;

537 (c) the six-member council form of government; or

538 (d) the five-member council form of government.

539 (5) Each town shall operate under a five-member council form of government unless:

540 (a) before May 5, 2008, the town has changed to another form of municipal

541 government; or

542 (b) on or after May 5, 2008, the town changes its form of government as provided in

543 Part 5, Changing to Another Form of Municipal Government.

544 (6) (a) As used in this Subsection (6), "council-manager form of government" means

545 the form of municipal government:

546 (i) provided for in Laws of Utah 1977, Chapter 48;

547 (ii) that cannot be adopted without voter approval; and

548 (iii) that provides for an appointed manager with duties and responsibilities established

549 in Laws of Utah 1977, Chapter 48.

550 (b) A municipality operating on May 4, 2008 under the council-manager form of

551 government:

552 (i) shall:

553 (A) continue to operate, on and after May 5, 2008, under the council-manager form of
554 government according to the applicable provisions of Laws of Utah 1977, Chapter 48; and

555 (B) be subject to:

556 (I) this Subsection (6) and other applicable provisions of this part;

557 (II) Part 5, Changing to Another Form of Municipal Government; and

558 (III) except as provided in Subsection (6)(b)(ii), other applicable provisions of this
559 title; and

560 (ii) is not subject to:

561 (A) Part 2, Council-Mayor Form of Municipal Government;

562 (B) Part 3, Six-Member Council form of Municipal Government; or

563 (C) Part 4, Five-Member Council Form of Municipal Government.

564 (7) Nothing in this section may be construed to prevent or limit a municipality
565 operating under any form of municipal government from changing to another form of
566 government as provided in Part 5, Changing to Another Form of Municipal Government.

567 Section 15. Section **10-3b-104** is enacted to read:

568 **10-3b-104. Powers and duties of mayor.**

569 (1) Except as provided in Subsection (2), the mayor in a municipality operating under a
570 six-member council form of government or a five-member council form of government:

571 (a) is the chief executive officer of the municipality to whom all employees of the
572 municipality report;

573 (b) shall:

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

575 (ii) ensure that all applicable statutes and municipal ordinances and resolutions are
576 faithfully executed and observed;

577 (iii) if the mayor remits a fine or forfeiture under Subsection (1)(c)(ii), report the
578 remittance to the council at the council's next meeting after the remittance;

579 (iv) perform all duties prescribed by statute or municipal ordinance or resolution;

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

581 (vi) report to the council any release granted under Subsection (1)(c)(iv); and

582 (c) may:

583 (i) recommend for council consideration any measure that the mayor considers to be in

584 the best interests of the municipality;
585 (ii) remit fines and forfeitures;
586 (iii) if necessary, call on residents of the municipality over the age of 21 years to assist
587 in enforcing the laws of the state and ordinances of the municipality;
588 (iv) release a person imprisoned for a violation of a municipal ordinance;
589 (v) with the council's advice and consent, assign or appoint a member of the council to
590 administer one or more departments of the municipality; and
591 (vi) at any reasonable time, examine and inspect the official books, papers, records, or
592 documents of:
593 (A) the municipality; or
594 (B) any officer, employee, or agency of the municipality.
595 (2) The powers and duties in Subsection (1) are subject to:
596 (a) municipal ordinances in effect on May 4, 2008 modifying the powers and duties of
597 the mayor; and
598 (b) the council's authority to limit or expand the mayor's powers and duties under:
599 (i) Subsection 10-3b-303(2)(a), for a municipality operating under the six-member
600 form of government; and
601 (ii) Subsection 10-3b-403(2)(a), for a municipality operating under the five-member
602 form of government.
603 Section 16. Section **10-3b-105** is enacted to read:
604 **10-3b-105. Municipal council.**
605 In a municipality operating under a six-member council form of government or a
606 five-member council form of government, the council:
607 (1) is the legislative body of the municipality and exercises the legislative powers and
608 performs the legislative duties and functions of the municipality; and
609 (2) may:
610 (a) adopt rules and regulations, not inconsistent with statute, for the efficient
611 administration, organization, operation, conduct, and business of the municipality;
612 (b) prescribe by resolution additional duties, powers, and responsibilities for any
613 elected or appointed municipal official, unless prohibited by statute;
614 (c) require by ordinance that any or all appointed officers reside in the municipality;

615 (d) create any office that the council considers necessary for the government of the
616 municipality;

617 (e) provide for filling a vacancy in an elective or appointive office;

618 (f) take any action allowed under Section 10-8-84; and

619 (g) perform any function specifically provided for by statute or necessarily implied by
620 law.

621 Section 17. Section **10-3b-201** is enacted to read:

622 **Part 2. Council-Mayor Form of Municipal Government**

623 **10-3b-201. Separate branches of government under a council-mayor form of**
624 **government.**

625 The powers of municipal government in a municipality operating under the
626 council-mayor form of government are vested in two separate, independent, and equal branches
627 of municipal government consisting of:

628 (1) a council composed of five or seven members; and

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

632 Section 18. Section **10-3b-202** is enacted to read:

633 **10-3b-202. Mayor in council-mayor form of government.**

634 (1) The mayor in a municipality operating under the council-mayor form of
635 government:

636 (a) is the chief executive and administrative officer of the municipality;

637 (b) exercises the executive and administrative powers and performs or supervises the
638 performance of the executive and administrative duties and functions of the municipality;

639 (c) shall:

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

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

642 (iii) appoint, with the council's advice and consent, a qualified person for each of the
643 following positions:

644 (A) subject to Subsection (3), chief administrative officer, if required under the
645 resolution or petition under Subsection 10-3b-503(1)(a) that proposed the change to a

646 council-mayor form of government;
647 (B) recorder;
648 (C) treasurer;
649 (D) engineer; and
650 (E) attorney;
651 (iv) provide to the council, at intervals provided by ordinance, a written report to the
652 council setting forth:
653 (A) the amount of budget appropriations;
654 (B) total disbursements from the appropriations;
655 (C) the amount of indebtedness incurred or contracted against each appropriation,
656 including disbursements and indebtedness incurred and not paid; and
657 (D) the percentage of the appropriations encumbered;
658 (v) report to the council the condition and needs of the municipality;
659 (vi) report to the council any release granted under Subsection (1)(d)(xiii);
660 (vii) if the mayor remits a fine or forfeiture under Subsection (1)(d)(xi), report the
661 remittance to the council at the council's next meeting after the remittance;
662 (viii) perform each other duty:
663 (A) prescribed by statute; or
664 (B) required by a municipal ordinance that is not inconsistent with statute;
665 (d) may:
666 (i) subject to budget constraints:
667 (A) appoint:
668 (I) a chief administrative officer; and
669 (II) one or more deputies or administrative assistants to the mayor; and
670 (B) (I) create any other administrative office that the mayor considers necessary for
671 good government of the municipality; and
672 (II) appoint a person to the office;
673 (ii) with the council's advice and consent and except as otherwise specifically limited
674 by statute, appoint:
675 (A) each department head of the municipality;
676 (B) each statutory officer of the municipality; and

677 (C) each member of a statutory commission, board, or committee of the municipality;
678 (iii) dismiss any person appointed by the mayor;
679 (iv) as provided in Section 10-3b-204, veto an ordinance, tax levy, or appropriation
680 passed by the council;
681 (v) exercise control of and supervise each executive or administrative department,
682 division, or office of the municipality;
683 (vi) within the general provisions of statute and ordinance, regulate and prescribe the
684 powers and duties of each other executive or administrative officer or employee of the
685 municipality;
686 (vii) attend each council meeting, take part in council meeting discussions, and freely
687 give advice to the council;
688 (viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill
689 in all other respects the requirements of, as the case may be:
690 (A) Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; or
691 (B) Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, as the case may be;
692 (ix) execute an agreement on behalf of the municipality, or delegate, by written
693 executive order, the authority to execute an agreement on behalf of the municipality:
694 (A) if the obligation under the agreement is within certified budget appropriations; and
695 (B) subject to Section 10-6-138;
696 (x) at any reasonable time, examine and inspect the official books, papers, records, or
697 documents of:
698 (A) the municipality; or
699 (B) any officer, employee, or agent of the municipality;
700 (xi) remit fines and forfeitures;
701 (xii) if necessary, call on residents of the municipality over the age of 21 years to assist
702 in enforcing the laws of the state and ordinances of the municipality; and
703 (xiii) release a person imprisoned for a violation of a municipal ordinance; and
704 (e) may not vote on any matter before the council.
705 (2) (a) The first mayor elected under a newly established mayor-council form of
706 government shall, within six months after taking office, draft and submit to the council a
707 proposed ordinance;

708 (i) providing for the division of the municipality's administrative service into
709 departments, divisions, and bureaus; and
710 (ii) defining the functions and duties of each department, division, and bureau.
711 (b) Before the council adopts an ordinance on the municipality's administrative service,
712 the mayor may establish temporary rules and regulations to ensure efficiency and effectiveness
713 in the divisions of the municipal government.

714 (3) Each person appointed as chief administrative officer under Subsection
715 (1)(c)(iii)(A) shall be appointed on the basis of:

716 (a) the person's ability and prior experience in the field of public administration; and
717 (b) any other qualification prescribed by ordinance.

718 Section 19. Section **10-3b-203** is enacted to read:

719 **10-3b-203. Council in a council-mayor form of government.**

720 (1) The council in a municipality operating under a council-mayor form of government:

721 (a) shall:

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

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

724 and

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

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

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

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

729 (b) may:

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

731 (A) dividing the municipality's administrative service into departments, divisions, and
732 bureaus; and

733 (B) defining the functions and duties of each department, division, and bureau;

734 (ii) adopt an ordinance:

735 (A) creating, consolidating, or abolishing departments, divisions, and bureaus; and

736 (B) defining or altering the functions and duties of each department, division, and
737 bureau;

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

739 subordinate of the mayor;

740 (iv) (A) notwithstanding Subsection (1)(c), appoint a committee of council members or
 741 citizens to conduct an investigation into:

742 (I) an officer, department, or agency of the municipality; or

743 (II) any other matter relating to the welfare of the municipality; and

744 (B) delegate to an appointed committee powers of inquiry that the council considers
 745 necessary; ~~§~~ → [and] ← ~~§~~

746 (v) make and enforce any additional rule or regulation for the government of the
 747 council, the preservation of order, and the transaction of the council's business that the council
 748 considers necessary; and

749 (vi) take any action allowed under Section 10-8-84; and

750 (c) may not:

751 (i) direct or request, other than in writing, the appointment of a person to or the
 752 removal of a person from an executive municipal office;

753 (ii) interfere in any way with an executive officer's performance of the officer's duties;

754 or

755 (iii) publicly or privately give orders to a subordinate of the mayor.

756 (2) A member of a council in a municipality operating under the council-mayor form of
 757 government may not have any other compensated employment with the municipality.

758 Section 20. Section **10-3b-204** is enacted to read:

759 **10-3b-204. Presenting council action to mayor -- Veto -- Reconsideration -- When**
 760 **ordinance, tax levy, or appropriation takes effect.**

761 (1) The council in each municipality operating under a council-mayor form of
 762 municipal government shall present to the mayor each ordinance, tax levy, and appropriation
 763 passed by the council.

764 (2) (a) The mayor in a municipality operating under a council-mayor form of municipal
 765 government may veto an ordinance or tax levy or all or any part of an appropriation passed by
 766 the council.

767 (b) If a mayor vetoes an ordinance or tax levy or all or any part of an appropriation, the
 768 mayor shall return the ordinance, tax levy, or appropriation to the council within 15 days after
 769 the council presents the ordinance, tax levy, or appropriation to the mayor, with a statement

770 explaining the mayor's objections.

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

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

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

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

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

781 Section 21. Section **10-3b-205** is enacted to read:

782 **10-3b-205. Rules and regulations by municipal officers.**

783 A municipal officer in a municipality operating under a council-mayor form of
784 government may prescribe rules and regulations, not inconsistent with statute, municipal
785 ordinance, or the merit plan.

786 Section 22. Section **10-3b-301** is enacted to read:

787 **Part 3. Six-Member Council Form of Municipal Government**

788 **10-3b-301. Municipal government powers vested in a six-member council.**

789 The powers of municipal government in a municipality operating under the six-member
790 council form of government are vested in a council consisting of six members, one of which is
791 a mayor.

792 Section 23. Section **10-3b-302** is enacted to read:

793 **10-3b-302. Mayor in six-member council form of government -- Mayor pro**
794 **tempore.**

795 (1) The mayor in a municipality operating under a six-member council form of
796 municipal government:

797 (a) is, except as provided in Subsection (1)(b), a nonvoting member of the council;

798 (b) votes as a voting member of the council:

799 (i) on each matter for which there is a tie vote of the other council members present at a
800 council meeting; or

- 801 (ii) when the council is voting on:
 802 (A) whether to appoint or dismiss a municipal manager; or
 803 (B) an ordinance that enlarges or restricts the mayor's powers, duties, or functions;
 804 (c) is the chair of the council and presides at all council meetings;
 805 (d) exercises ceremonial functions for the municipality;
 806 (e) may not veto an ordinance, tax levy, or appropriation passed by the council;
 807 (f) except as modified by ordinance under Subsection 10-3b-303(2), has the powers
 808 and duties described in Section 10-3b-104; and
 809 (g) may, within budget constraints, appoint one or more administrative assistants to the
 810 mayor.
- 811 (2) (a) If the mayor is absent or unable ~~§~~→ [or-refuses] ←~~§~~ to act, the council may elect a
 812 member of the council as mayor pro tempore, to:
 813 (i) preside at a council meeting; and
 814 (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and
 815 functions of mayor.
- 816 (b) The municipal clerk or recorder shall enter in the minutes of the council meeting
 817 the election of a council member as mayor pro tempore under Subsection (2)(a).
- 818 Section 24. Section **10-3b-303** is enacted to read:
- 819 **10-3b-303. Council in six-member council form of government.**
- 820 The council in a municipality operating under a six-member council form of
 821 government:
- 822 (1) exercises any executive or administrative power and performs or supervises the
 823 performance of any executive or administrative duty or function that:
 824 (a) has not been given to the mayor under Section 10-3b-104; or
 825 (b) has been given to the mayor under Section 10-3b-104 but is removed from the
 826 mayor under Subsection (2)(a)(i);
- 827 (2) may:
- 828 (a) subject to ~~§~~→ [Subsection] Subsections ←~~§~~ 10-3b-302(1)(b)(ii)(B) ~~§~~→ and
 828a **10-3b-501(2) ←~~§~~**, adopt an ordinance:
 829 (i) removing from the mayor any power, duty, or function of the mayor under Section
 830 10-3b-104; ~~§~~→ or ←~~§~~
 831 (ii) reinstating to the mayor any power, duty, or function previously removed under

832 Subsection (2)(a)(i): ~~§~~→ [and
833 ~~(iii)] (b) adopt an ordinance~~ ←~~§~~ delegating to the mayor any executive or administrative
833a power, duty, or function
834 that the council has under Subsection (1):
835 ~~§~~→ [~~(b)] (c)~~ ←~~§~~ subject to Subsection 10-3b-302(1)(b)(ii)(A):
836 (i) appoint a manager to perform executive and administrative duties or functions that
837 the council by ordinance delegates to the manager, subject to Subsection (3); and
838 (ii) dismiss a manager appointed under Subsection (2)(b)(i); and
839 ~~§~~→ [~~(c)] (d)~~ ←~~§~~ assign any or all council members, including the mayor, to supervise one or
839a more
840 administrative departments of the municipality; and
841 (3) may not remove from the mayor or delegate to a manager appointed by the council:
842 (a) any of the mayor's legislative or judicial powers or ceremonial functions;
843 (b) the mayor's position as chair of the council; or
844 (c) any ex officio position that the mayor holds.
845 Section 25. Section **10-3b-401** is enacted to read:
846 **Part 4. Five-Member Council Form of Municipal Government**
847 **10-3b-401. Municipal government powers vested in a five-member council.**
848 The powers of municipal government in a municipality operating under the
849 five-member council form of municipal government are vested in a council consisting of five
850 members, one of which is a mayor.
851 Section 26. Section **10-3b-402** is enacted to read:
852 **10-3b-402. Mayor in a five-member council form of government.**
853 (1) The mayor in a municipality operating under a five-member council form of
854 municipal government:
855 (a) is a regular and voting member of the council;
856 (b) is the chair of the council and presides at all council meetings;
857 (c) exercises ceremonial functions for the municipality;
858 (d) may not veto any ordinance, tax levy, or appropriation passed by the council; and
859 (e) except as modified by ordinance under Subsection 10-3b-403(2), has the powers
860 and duties described in Section 10-3b-104.
861 (2) (a) If the mayor is absent or unable ~~§~~→ [~~or refuses]~~ ←~~§~~ to act, the council may elect a
862 member of the council as mayor pro tempore, to:

863 (i) preside at a council meeting; and

864 (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and
865 functions of mayor.

866 (b) The municipal clerk or recorder shall enter in the minutes of the council meeting
867 the election of a council member as mayor pro tempore under Subsection (2)(a).

868 Section 27. Section **10-3b-403** is enacted to read:

869 **10-3b-403. Council in a five-member council form of government.**

870 The council in a municipality operating under a five-member council form of municipal
871 government:

872 (1) exercises any executive or administrative power and performs or supervises the
873 performance of any executive or administrative duty or function that:

874 (a) has not been given to the mayor under Section 10-3b-104; or

875 (b) has been given to the mayor under Section 10-3b-104 but is removed from the
876 mayor under Subsection (2)(a)(i);

877 (2) may:

878 (a) subject to ~~§~~→ [Subsection] Subsections ~~←~~§ 10-3b-403(3) ~~§~~→ and 10-3b-501(2) ~~←~~§ .
878a adopt an ordinance:

879 (i) removing from the mayor any power, duty, or function of the mayor under Section
880 10-3b-104; ~~§~~→ or ~~←~~§

881 (ii) reinstating to the mayor any power, duty, or function previously removed under
882 Subsection (2)(a)(i); ~~§~~→ [and

883 ———(iii)] (b) adopt an ordinance ~~←~~§ delegating to the mayor any executive or administrative
883a power, duty, or function
884 that the council has under Subsection (1);

885 ~~§~~→ [(b)] (c) ~~←~~§ appoint a manager to perform executive and administrative duties or
885a functions that

886 the council by ordinance delegates to the manager, subject to Subsection (3); ~~§~~→ [and] ~~←~~§

887 ~~§~~→ [(c)] (d) ~~←~~§ dismiss a manager appointed under Subsection (2) ~~§~~→ [(a)] (c) ~~←~~§ ; and

888 ~~§~~→ [(d)] (e) ~~←~~§ assign any or all council members, including the mayor, to supervise one or
888a more

889 administrative departments of the municipality; and

890 (3) may not remove from the mayor or delegate to a manager appointed by the council:

891 (a) any of the mayor's legislative or judicial powers or ceremonial functions;

892 (b) the mayor's position as chair of the council; or

893 (c) any ex officio position that the mayor holds.

894 Section 28. Section **10-3b-501** is enacted to read:

895 **Part 5. Changing to Another Form of Municipal Government**

896 **10-3b-501. Authority to change to another form of municipal government.**

897 **§→ (1) ←§** As provided in this part, a municipality may change from the form of

897a government under

898 which it operates to:

899 **§→ [(1)] (a) ←§** the council-mayor form of government with a five-member council;

900 **§→ [(2)] (b) ←§** the council-mayor form of government with a seven-member council;

901 **§→ [(3)] (c) ←§** the six-member council form of government; or

902 **§→ [(4)] (d) ←§** the five-member council form of government.

902a **§→ (2)(a) A removal of a power, duty, or function of a mayor under a six-member council**

902b **form of government or five-member council form of government is a change in the form of**

902c **municipal government requiring the approval of voters of the municipality, as provided in this**

902d **part.**

902e **(b) The reinstatement of a previously removed power, duty, or function of a mayor**

902f **under a six-member council form of government or a five-member council form of government**

902g **is a change in the form of municipal government requiring the approval of voters of the**

902h **municipality, as provided in this part. ←§**

903 Section 29. Section **10-3b-502** is enacted to read:

904 **10-3b-502. Voter approval required for a change in the form of government.**

905 A municipality may not change its form of government under this part unless voters of

906 the municipality approve the change at an election held for that purpose.

907 Section 30. Section **10-3b-503** is enacted to read:

908 **10-3b-503. Resolution or petition proposing a change in the form of government**

909 **(1) The process to change the form of government under which a municipality operates**

910 **is initiated by:**

911 **(a) the council's adoption of a resolution proposing a change; or**

912 **(b) the filing of a petition, as provided in Title 20A, Chapter 7, Part 5, Local Initiatives**

913 **- Procedures, proposing a change.**

914 **(2) Within 45 days after the adoption of a resolution under Subsection (1)(a) or the**

915 **declaring ~~§→ of ←§~~ a petition filed under Subsection (1)(b) as sufficient under Section 20A-7-507, the**

916 **council shall hold at least two public hearings on the proposed change.**

917 **(3) (a) Except as provided in Subsection (3)(b), the council shall hold an election on**

918 **the proposed change in the form of government ~~§→ [no less than 90 days but within 12 months]~~ at**

918a **the next municipal general election or regular general election that is more than 75 days ←§**

919 **after, as the case may be:**

920 **(i) a resolution under Subsection (1)(a) is adopted; or**

921 **(ii) a petition filed under Subsection (1)(b) is declared sufficient under Section**

922 **~~§→ [20a-7-507]~~ 20A-7-507 ←§ .**

923 **(b) Notwithstanding Subsection (3)(a), an election on a proposed change in the form of**

924 **government may not be held if:**

925 (i) in the case of a proposed change initiated by the council's adoption of a resolution
 926 under Subsection (1)(a), the council rescinds the resolution within 60 days after adopting it; or

927 (ii) in the case of a proposed change initiated by a petition under Subsection (1)(b),
 928 enough signatures are withdrawn from the petition within 60 days after the petition is declared
 929 sufficient under Section 20A-7-507 that the petition is no longer sufficient.

930 (4) Each resolution adopted under Subsection (1)(a) or petition filed under Subsection
 931 (1)(b) shall:

932 (a) state the method of election and initial terms of council members; and

933 (b) specify the boundaries of districts substantially equal in population, if some or all
 934 council members are to be elected by district.

935 (5) A resolution under Subsection (1)(a) or petition under Subsection (1)(b) proposing
 936 a change to a council-mayor form of government may require that, if the change is adopted, the
 937 mayor appoint, with the council's advice and consent, a chief administrative officer, to exercise
 938 the administrative powers and perform the duties that the mayor prescribes.

939 Section 31. Section **10-3b-504** is enacted to read:

940 **10-3b-504. Limitations on adoption of a resolution and filing of a petition.**

941 A resolution may not be adopted under Subsection 10-3b-503(1)(a)(i) and a petition
 942 may not be filed under Subsection 10-3b-503(1) ~~§→ (a)(ii)~~ (b) ←§ within:

943 (1) two years after an election at which voters reject a proposal to change the
 944 municipality's form of government, if the resolution or petition proposes changing to the same
 945 form of government that voters rejected at the election; or

946 (2) four years after the effective date of a change in the form of municipal government.

947 Section 32. Section **10-3b-505** is enacted to read:

948 **10-3b-505. Ballot form.**

949 The ballot at an election on a proposal to change the municipality's form of government
 950 shall:

951 (1) state the ballot question substantially as follows: "Shall (state the municipality's
 952 name), Utah change its form of government to the (state "council-mayor form, with a
 953 five-member council," "council-mayor form, with a seven-member council," "six-member
 954 council form," or "five-member council form," as applicable)?"; and

955 (2) provide a space or method for the voter to vote "yes" or "no."

956 Section 33. Section **10-3b-506** is enacted to read:

957 **10-3b-506. Election of officers after a change in the form of government.**

958 (1) If voters approve a proposal to change the municipality's form of government at an
959 election held as provided in this part, an election of officers under the new form of government
960 shall be held on the municipal general election date following the election at which voters
961 approve the proposal.

962 (2) If a municipality changes its form of government under this part resulting in the
963 elimination of an elected official's position, the municipality shall continue to pay that official
964 at the same rate until the date on which the official's term would have expired, unless under the
965 new form of government the official holds municipal office for which the official is regularly
966 compensated.

967 (3) A council member whose term has not expired at the time the municipality changes
968 its form of government under this part may, at the council member's option, continue to serve
969 as a council member under the new form of government for the remainder of the member's
970 term.

971 (4) The term of the mayor and each council member is four years or until a successor is
972 qualified, except that approximately half of the initial council members, chosen by lot, shall
973 serve a term of two years or until a successor is qualified.

974 Section 34. Section **10-3b-507** is enacted to read:

975 **10-3b-507. Effective date of change in the form of government.**

976 A change in the form of government under this chapter takes effect at noon on the first
977 Monday of January next following the election of officers under Section 10-3b-506.

978 Section 35. Section **10-6-151** is amended to read:

979 **10-6-151. Independent audits required.**

980 Independent audits of all cities are required ~~§~~→ [;] ←~~§~~ to be performed in conformity with Title
981 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
982 Other Local Entities Act. [~~In the case of a city organized under Title 10, Chapter 3, Part 12,~~
983 ~~Optional Forms of Municipal Government Act, the council shall appoint an independent~~
984 ~~auditor for the purpose of complying with the requirements of this section and of Title 51,~~
985 ~~Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and~~
986 ~~Other Local Entities Act.]~~

987 Section 36. Section **10-9a-103** is amended to read:

988 **10-9a-103. Definitions.**

989 As used in this chapter:

990 (1) "Affected entity" means a county, municipality, local district, special service
991 district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, school district,
992 interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
993 specified public utility, a property owner, a property owners association, or the Utah
994 Department of Transportation, if:

995 (a) the entity's services or facilities are likely to require expansion or significant
996 modification because of an intended use of land;

997 (b) the entity has filed with the municipality a copy of the entity's general or long-range
998 plan; or

999 (c) the entity has filed with the municipality a request for notice during the same
1000 calendar year and before the municipality provides notice to an affected entity in compliance
1001 with a requirement imposed under this chapter.

1002 (2) "Appeal authority" means the person, board, commission, agency, or other body
1003 designated by ordinance to decide an appeal of a decision of a land use application or a
1004 variance.

1005 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
1006 residential property if the sign is designed or intended to direct attention to a business, product,
1007 or service that is not sold, offered, or existing on the property where the sign is located.

1008 (4) "Charter school" includes:

1009 (a) an operating charter school;

1010 (b) a charter school applicant that has its application approved by a chartering entity in
1011 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

1012 (c) an entity who is working on behalf of a charter school or approved charter applicant
1013 to develop or construct a charter school building.

1014 ~~[(5) "Chief executive officer" means the:]~~

1015 ~~[(a) mayor in municipalities operating under all forms of municipal government except~~
1016 ~~the council-manager form; or]~~

1017 ~~[(b) city manager in municipalities operating under the council-manager form of~~

1018 ~~municipal government.]~~

1019 (6) "Conditional use" means a land use that, because of its unique characteristics or
1020 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
1021 compatible in some areas or may be compatible only if certain conditions are required that
1022 mitigate or eliminate the detrimental impacts.

1023 (7) "Constitutional taking" means a governmental action that results in a taking of
1024 private property so that compensation to the owner of the property is required by the:

1025 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

1026 (b) Utah Constitution Article I, Section 22.

1027 (8) "Culinary water authority" means the department, agency, or public entity with
1028 responsibility to review and approve the feasibility of the culinary water system and sources for
1029 the subject property.

1030 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
1031 or more of a person's major life activities, including a person having a record of such an
1032 impairment or being regarded as having such an impairment.

1033 (b) "Disability" does not include current illegal use of, or addiction to, any federally
1034 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
1035 802.

1036 (10) "Elderly person" means a person who is 60 years old or older, who desires or
1037 needs to live with other elderly persons in a group setting, but who is capable of living
1038 independently.

1039 (11) "Fire authority" means the department, agency, or public entity with responsibility
1040 to review and approve the feasibility of fire protection and suppression services for the subject
1041 property.

1042 (12) "General plan" means a document that a municipality adopts that sets forth general
1043 guidelines for proposed future development of the land within the municipality.

1044 (13) "Identical plans" means building plans submitted to a municipality that are
1045 substantially identical to building plans that were previously submitted to and reviewed and
1046 approved by the municipality and describe a building that is:

1047 (a) located on land zoned the same as the land on which the building described in the
1048 previously approved plans is located; and

1049 (b) subject to the same geological and meteorological conditions and the same law as
1050 the building described in the previously approved plans.

1051 (14) "Land use application" means an application required by a municipality's land use
1052 ordinance.

1053 (15) "Land use authority" means a person, board, commission, agency, or other body
1054 designated by the local legislative body to act upon a land use application.

1055 (16) "Land use ordinance" means a planning, zoning, development, or subdivision
1056 ordinance of the municipality, but does not include the general plan.

1057 (17) "Land use permit" means a permit issued by a land use authority.

1058 (18) "Legislative body" means the municipal council.

1059 (19) "Local district" means an entity under Title 17B, Limited Purpose Local
1060 Government Entities - Local Districts, and any other governmental or quasi-governmental
1061 entity that is not a county, municipality, school district, or unit of the state.

1062 (20) "Lot line adjustment" means the relocation of the property boundary line in a
1063 subdivision between two adjoining lots with the consent of the owners of record.

1064 (21) "Moderate income housing" means housing occupied or reserved for occupancy
1065 by households with a gross household income equal to or less than 80% of the median gross
1066 income for households of the same size in the county in which the city is located.

1067 (22) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
1068 spent and expenses incurred in:

1069 (a) verifying that building plans are identical plans; and

1070 (b) reviewing and approving those minor aspects of identical plans that differ from the
1071 previously reviewed and approved building plans.

1072 (23) "Noncomplying structure" means a structure that:

1073 (a) legally existed before its current land use designation; and

1074 (b) because of one or more subsequent land use ordinance changes, does not conform
1075 to the setback, height restrictions, or other regulations, excluding those regulations, which
1076 govern the use of land.

1077 (24) "Nonconforming use" means a use of land that:

1078 (a) legally existed before its current land use designation;

1079 (b) has been maintained continuously since the time the land use ordinance governing

1080 the land changed; and

1081 (c) because of one or more subsequent land use ordinance changes, does not conform
1082 to the regulations that now govern the use of the land.

1083 (25) "Official map" means a map drawn by municipal authorities and recorded in a
1084 county recorder's office that:

1085 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
1086 highways and other transportation facilities;

1087 (b) provides a basis for restricting development in designated rights-of-way or between
1088 designated setbacks to allow the government authorities time to purchase or otherwise reserve
1089 the land; and

1090 (c) has been adopted as an element of the municipality's general plan.

1091 (26) "Person" means an individual, corporation, partnership, organization, association,
1092 trust, governmental agency, or any other legal entity.

1093 (27) "Plan for moderate income housing" means a written document adopted by a city
1094 legislative body that includes:

1095 (a) an estimate of the existing supply of moderate income housing located within the
1096 city;

1097 (b) an estimate of the need for moderate income housing in the city for the next five
1098 years as revised biennially;

1099 (c) a survey of total residential land use;

1100 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
1101 income housing; and

1102 (e) a description of the city's program to encourage an adequate supply of moderate
1103 income housing.

1104 (28) "Plat" means a map or other graphical representation of lands being laid out and
1105 prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

1106 (29) "Public hearing" means a hearing at which members of the public are provided a
1107 reasonable opportunity to comment on the subject of the hearing.

1108 (30) "Public meeting" means a meeting that is required to be open to the public under
1109 Title 52, Chapter 4, Open and Public Meetings Act.

1110 (31) "Record of survey map" means a map of a survey of land prepared in accordance

1111 with Section 17-23-17.

1112 **§→ [(32)] (31) ←§** "Receiving zone" means an area of a municipality that the municipality's land use
 1113 authority designates as an area in which an owner of land may receive transferrable
 1114 development rights.

1115 **§→ [(33)] (32) ←§** "Residential facility for elderly persons" means a single-family or multiple-family
 1116 dwelling unit that meets the requirements of Section 10-9a-516, but does not include a health
 1117 care facility as defined by Section 26-21-2.

1118 **§→ [(34)] (33) ←§** "Residential facility for persons with a disability" means a residence:

1119 (a) in which more than one person with a disability resides; and

1120 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
 1121 Chapter 2, Licensure of Programs and Facilities; or

1122 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
 1123 Health Care Facility Licensing and Inspection Act.

1124 **§→ [(35)] (34) ←§** "Sanitary sewer authority" means the department, agency, or public entity with
 1125 responsibility to review and approve the feasibility of sanitary sewer services or onsite
 1126 wastewater systems.

1127 **§→ [(36)] (35) ←§** "Sending zone" means an area of a municipality that the municipality's land use
 1128 authority designates as an area from which an owner of land may transfer transferrable
 1129 development rights to an owner of land in a receiving zone.

1130 **§→ [(37)] (36) ←§** "Specified public utility" means an electrical corporation, gas corporation, or
 1131 telephone corporation, as those terms are defined in Section 54-2-1.

1132 **§→ [(38)] (37) ←§** "Street" means a public right-of-way, including a highway, avenue, boulevard,
 1133 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
 1134 way.

1135 **§→ [(39)] (38) ←§** (a) "Subdivision" means any land that is divided, resubdivided or
 1135a proposed to be

1136 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
 1137 purpose, whether immediate or future, for offer, sale, lease, or development either on the
 1138 installment plan or upon any and all other plans, terms, and conditions.

1139 (b) "Subdivision" includes:

1140 (i) the division or development of land whether by deed, metes and bounds description,
 1141 devise and testacy, map, plat, or other recorded instrument; and

1142 (ii) except as provided in Subsection ~~§~~ [(39)] (38) ~~←~~§ (c), divisions of land for
 1142a residential and
 1143 nonresidential uses, including land used or to be used for commercial, agricultural, and
 1144 industrial purposes.

1145 (c) "Subdivision" does not include:

1146 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
 1147 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
 1148 neither the resulting combined parcel nor the parcel remaining from the division or partition
 1149 violates an applicable land use ordinance;

1150 (ii) a recorded agreement between owners of adjoining unsubdivided properties
 1151 adjusting their mutual boundary if:

1152 (A) no new lot is created; and
 1153 (B) the adjustment does not violate applicable land use ordinances;

1154 (iii) a recorded document, executed by the owner of record:

1155 (A) revising the legal description of more than one contiguous unsubdivided parcel of
 1156 property into one legal description encompassing all such parcels of property; or
 1157 (B) joining a subdivided parcel of property to another parcel of property that has not
 1158 been subdivided, if the joinder does not violate applicable land use ordinances; or

1159 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting
 1160 their mutual boundary if:

1161 (A) no new dwelling lot or housing unit will result from the adjustment; and
 1162 (B) the adjustment will not violate any applicable land use ordinance.

1163 (d) The joining of a subdivided parcel of property to another parcel of property that has
 1164 not been subdivided does not constitute a subdivision under this Subsection ~~§~~ [(39)] (38) ~~←~~§ as to the
 1165 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
 1166 subdivision ordinance.

1167 ~~§~~ [(40)] (39) ~~←~~§ "Transferrable development right" means the entitlement to develop land
 1167a within a
 1168 sending zone that would vest according to the municipality's existing land use ordinances on
 1169 the date that a completed land use application is filed seeking the approval of development
 1170 activity on the land.

1171 ~~§~~ [(41)] (40) ~~←~~§ "Unincorporated" means the area outside of the incorporated area of a
 1171a city or
 1172 town.

1173 (42) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
1174 land use zones, overlays, or districts.

1175 Section 37. Section **20A-1-102** is amended to read:

1176 **20A-1-102. Definitions.**

1177 As used in this title:

1178 (1) "Active voter" means a registered voter who has not been classified as an inactive
1179 voter by the county clerk.

1180 (2) "Automatic tabulating equipment" means apparatus that automatically examines
1181 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

1182 (3) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon
1183 which a voter records his votes and includes ballot sheets, paper ballots, electronic ballots, and
1184 secrecy envelopes.

1185 (4) "Ballot sheet":

1186 (a) means a ballot that:

1187 (i) consists of paper or a card where the voter's votes are marked or recorded; and

1188 (ii) can be counted using automatic tabulating equipment; and

1189 (b) includes punch card ballots, and other ballots that are machine-countable.

1190 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that
1191 contain the names of offices and candidates and statements of ballot propositions to be voted
1192 on and which are used in conjunction with ballot sheets that do not display that information.

1193 (6) "Ballot proposition" means opinion questions specifically authorized by the
1194 Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions
1195 that are submitted to the voters for their approval or rejection.

1196 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
1197 20A-4-306 to canvass election returns.

1198 (8) "Bond election" means an election held for the purpose of approving or rejecting
1199 the proposed issuance of bonds by a government entity.

1200 (9) "Book voter registration form" means voter registration forms contained in a bound
1201 book that are used by election officers and registration agents to register persons to vote.

1202 (10) "By-mail voter registration form" means a voter registration form designed to be
1203 completed by the voter and mailed to the election officer.

- 1204 (11) "Canvass" means the review of election returns and the official declaration of
1205 election results by the board of canvassers.
- 1206 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
1207 the canvass.
- 1208 (13) "Convention" means the political party convention at which party officers and
1209 delegates are selected.
- 1210 (14) "Counting center" means one or more locations selected by the election officer in
1211 charge of the election for the automatic counting of ballots.
- 1212 (15) "Counting judge" means a poll worker designated to count the ballots during
1213 election day.
- 1214 (16) "Counting poll watcher" means a person selected as provided in Section
1215 20A-3-201 to witness the counting of ballots.
- 1216 (17) "Counting room" means a suitable and convenient private place or room,
1217 immediately adjoining the place where the election is being held, for use by the poll workers
1218 and counting judges to count ballots during election day.
- 1219 (18) "County executive" has the meaning as provided in Subsection 68-3-12(2).
- 1220 (19) "County legislative body" has the meaning as provided in Subsection 68-3-12(2).
- 1221 (20) "County officers" means those county officers that are required by law to be
1222 elected.
- 1223 (21) "Election" means a regular general election, a municipal general election, a
1224 statewide special election, a local special election, a regular primary election, a municipal
1225 primary election, and a local district election.
- 1226 (22) "Election Assistance Commission" means the commission established by Public
1227 Law 107-252, the Help America Vote Act of 2002.
- 1228 (23) "Election cycle" means the period beginning on the first day persons are eligible to
1229 file declarations of candidacy and ending when the canvass is completed.
- 1230 (24) "Election judge" means a poll worker that is assigned to:
- 1231 (a) preside over other poll workers at a polling place;
- 1232 (b) act as the presiding election judge; or
- 1233 (c) serve as a canvassing judge, counting judge, or receiving judge.
- 1234 (25) "Election officer" means:

- 1235 (a) the lieutenant governor, for all statewide ballots;
- 1236 (b) the county clerk or clerks for all county ballots and for certain ballots and elections
1237 as provided in Section 20A-5-400.5;
- 1238 (c) the municipal clerk for all municipal ballots and for certain ballots and elections as
1239 provided in Section 20A-5-400.5;
- 1240 (d) the local district clerk or chief executive officer for certain ballots and elections as
1241 provided in Section 20A-5-400.5; and
- 1242 (e) the business administrator or superintendent of a school district for certain ballots
1243 or elections as provided in Section 20A-5-400.5.
- 1244 (26) "Election official" means any election officer, election judge, or poll worker.
- 1245 (27) "Election results" means, for bond elections, the count of those votes cast for and
1246 against the bond proposition plus any or all of the election returns that the board of canvassers
1247 may request.
- 1248 (28) "Election returns" includes the pollbook, all affidavits of registration, the military
1249 and overseas absentee voter registration and voting certificates, one of the tally sheets, any
1250 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
1251 spoiled ballots, the ballot disposition form, and the total votes cast form.
- 1252 (29) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
1253 device or other voting device that records and stores ballot information by electronic means.
- 1254 (30) (a) "Electronic voting device" means a voting device that uses electronic ballots.
- 1255 (b) "Electronic voting device" includes a direct recording electronic voting device.
- 1256 (31) "Inactive voter" means a registered voter who has been sent the notice required by
1257 Section 20A-2-306 and who has failed to respond to that notice.
- 1258 (32) "Inspecting poll watcher" means a person selected as provided in this title to
1259 witness the receipt and safe deposit of voted and counted ballots.
- 1260 (33) "Judicial office" means the office filled by any judicial officer.
- 1261 (34) "Judicial officer" means any justice or judge of a court of record or any county
1262 court judge.
- 1263 (35) "Local district" means a local government entity under Title 17B, Limited Purpose
1264 Local Government Entities - Local Districts, and includes a special service district under Title
1265 17A, Chapter 2, Part 13, Utah Special Service District Act.

1266 (36) "Local district officers" means those local district officers that are required by law
1267 to be elected.

1268 (37) "Local election" means a regular municipal election, a local special election, a
1269 local district election, and a bond election.

1270 (38) "Local political subdivision" means a county, a municipality, a local district, or a
1271 local school district.

1272 (39) "Local special election" means a special election called by the governing body of a
1273 local political subdivision in which all registered voters of the local political subdivision may
1274 vote.

1275 (40) "Municipal executive" means:

1276 ~~[(a) the city council or town council in the traditional management arrangement~~
1277 ~~established by Title 10, Chapter 3, Part 1, Governing Body;]~~

1278 ~~[(b)]~~ (a) the mayor in the council-mayor ~~[optional]~~ form of government defined in
1279 Section ~~[10-3-101]~~ 10-3b-102; and

1280 ~~[(c)]~~ (b) the ~~[manager]~~ mayor in the council-manager ~~[optional]~~ form of government
1281 defined in ~~[Section 10-3-101]~~ Subsection 10-3b-103(6).

1282 (41) "Municipal general election" means the election held in municipalities and local
1283 districts on the first Tuesday after the first Monday in November of each odd-numbered year
1284 for the purposes established in Section 20A-1-202.

1285 (42) "Municipal legislative body" means ~~[(a)]~~ the ~~[city]~~ council of the city or town
1286 ~~[council]~~ in ~~[the traditional management arrangement established by Title 10, Chapter 3, Part 1,~~
1287 ~~Governing Body;]~~ any form of municipal government.

1288 ~~[(b) the municipal council in the council-mayor optional form of government defined~~
1289 ~~in Section 10-3-101; and]~~

1290 ~~[(c) the municipal council in the council-manager optional form of government defined~~
1291 ~~in Section 10-3-101;]~~

1292 (43) "Municipal officers" means those municipal officers that are required by law to be
1293 elected.

1294 (44) "Municipal primary election" means an election held to nominate candidates for
1295 municipal office.

1296 (45) "Official ballot" means the ballots distributed by the election officer to the poll

1297 workers to be given to voters to record their votes.

1298 (46) "Official endorsement" means:

1299 (a) the information on the ballot that identifies:

1300 (i) the ballot as an official ballot;

1301 (ii) the date of the election; and

1302 (iii) the facsimile signature of the election officer; and

1303 (b) the information on the ballot stub that identifies:

1304 (i) the poll worker's initials; and

1305 (ii) the ballot number.

1306 (47) "Official register" means the official record furnished to election officials by the

1307 election officer that contains the information required by Section 20A-5-401.

1308 (48) "Paper ballot" means a paper that contains:

1309 (a) the names of offices and candidates and statements of ballot propositions to be
1310 voted on; and

1311 (b) spaces for the voter to record his vote for each office and for or against each ballot
1312 proposition.

1313 (49) "Political party" means an organization of registered voters that has qualified to
1314 participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party
1315 Formation and Procedures.

1316 (50) (a) "Poll worker" means a person assigned by an election official to assist with an
1317 election, voting, or counting votes.

1318 (b) "Poll worker" includes election judges.

1319 (c) "Poll worker" does not include a watcher.

1320 (51) "Pollbook" means a record of the names of voters in the order that they appear to
1321 cast votes.

1322 (52) "Polling place" means the building where voting is conducted.

1323 (53) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
1324 in which the voter marks his choice.

1325 (54) "Provisional ballot" means a ballot voted provisionally by a person:

1326 (a) whose name is not listed on the official register at the polling place;

1327 (b) whose legal right to vote is challenged as provided in this title; or

1328 (c) whose identity was not sufficiently established by a poll worker.

1329 (55) "Provisional ballot envelope" means an envelope printed in the form required by
1330 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
1331 verify a person's legal right to vote.

1332 (56) "Primary convention" means the political party conventions at which nominees for
1333 the regular primary election are selected.

1334 (57) "Protective counter" means a separate counter, which cannot be reset, that is built
1335 into a voting machine and records the total number of movements of the operating lever.

1336 (58) "Qualify" or "qualified" means to take the oath of office and begin performing the
1337 duties of the position for which the person was elected.

1338 (59) "Receiving judge" means the poll worker that checks the voter's name in the
1339 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
1340 after the voter has voted.

1341 (60) "Registration form" means a book voter registration form and a by-mail voter
1342 registration form.

1343 (61) "Regular ballot" means a ballot that is not a provisional ballot.

1344 (62) "Regular general election" means the election held throughout the state on the first
1345 Tuesday after the first Monday in November of each even-numbered year for the purposes
1346 established in Section 20A-1-201.

1347 (63) "Regular primary election" means the election on the fourth Tuesday of June of
1348 each even-numbered year, at which candidates of political parties and nonpolitical groups are
1349 voted for nomination.

1350 (64) "Resident" means a person who resides within a specific voting precinct in Utah.

1351 (65) "Sample ballot" means a mock ballot similar in form to the official ballot printed
1352 and distributed as provided in Section 20A-5-405.

1353 (66) "Scratch vote" means to mark or punch the straight party ticket and then mark or
1354 punch the ballot for one or more candidates who are members of different political parties.

1355 (67) "Secrecy envelope" means the envelope given to a voter along with the ballot into
1356 which the voter places the ballot after he has voted it in order to preserve the secrecy of the
1357 voter's vote.

1358 (68) "Special election" means an election held as authorized by Section 20A-1-204.

- 1359 (69) "Spoiled ballot" means each ballot that:
- 1360 (a) is spoiled by the voter;
- 1361 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- 1362 (c) lacks the official endorsement.
- 1363 (70) "Statewide special election" means a special election called by the governor or the
- 1364 Legislature in which all registered voters in Utah may vote.
- 1365 (71) "Stub" means the detachable part of each ballot.
- 1366 (72) "Substitute ballots" means replacement ballots provided by an election officer to
- 1367 the poll workers when the official ballots are lost or stolen.
- 1368 (73) "Ticket" means each list of candidates for each political party or for each group of
- 1369 petitioners.
- 1370 (74) "Transfer case" means the sealed box used to transport voted ballots to the
- 1371 counting center.
- 1372 (75) "Vacancy" means the absence of a person to serve in any position created by
- 1373 statute, whether that absence occurs because of death, disability, disqualification, resignation,
- 1374 or other cause.
- 1375 (76) "Valid voter identification" means:
- 1376 (a) a form of identification that bears the name and photograph of the voter which may
- 1377 include:
- 1378 (i) a currently valid Utah driver license;
- 1379 (ii) a currently valid identification card that is issued by:
- 1380 (A) the state;
- 1381 (B) a local government within the state; or
- 1382 (C) a branch, department, or agency of the United States;
- 1383 (iii) an identification card that is issued by an employer for an employee;
- 1384 (iv) a currently valid identification card that is issued by a college, university, technical
- 1385 school, or professional school that is located within the state;
- 1386 (v) a currently valid Utah permit to carry a concealed weapon;
- 1387 (vi) a currently valid United States passport; or
- 1388 (vii) a valid tribal identification card; or
- 1389 (b) two forms of identification that bear the name of the voter and provide evidence

1390 that the voter resides in the voting precinct, which may include:
1391 (i) a voter identification card;
1392 (ii) a current utility bill or a legible copy thereof;
1393 (iii) a bank or other financial account statement, or a legible copy thereof;
1394 (iv) a certified birth certificate;
1395 (v) a valid Social Security card;
1396 (vi) a check issued by the state or the federal government or a legible copy thereof;
1397 (vii) a paycheck from the voter's employer, or a legible copy thereof;
1398 (viii) a currently valid Utah hunting or fishing license;
1399 (ix) a currently valid United States military identification card;
1400 (x) certified naturalization documentation;
1401 (xi) a currently valid license issued by an authorized agency of the United States;
1402 (xii) a certified copy of court records showing the voter's adoption or name change;
1403 (xiii) a Bureau of Indian Affairs card;
1404 (xiv) a tribal treaty card;
1405 (xv) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card; or
1406 (xvi) a form of identification listed in Subsection (76)(a) that does not contain a
1407 photograph, but establishes the name of the voter and provides evidence that the voter resides
1408 in the voting precinct.

1409 (77) "Valid write-in candidate" means a candidate who has qualified as a write-in
1410 candidate by following the procedures and requirements of this title.

1411 (78) "Voter" means a person who meets the requirements for voting in an election,
1412 meets the requirements of election registration, is registered to vote, and is listed in the official
1413 register book.

1414 (79) "Voter registration deadline" means the registration deadline provided in Section
1415 20A-2-102.5.

1416 (80) "Voting area" means the area within six feet of the voting booths, voting
1417 machines, and ballot box.

1418 (81) "Voting booth" means:

1419 (a) the space or compartment within a polling place that is provided for the preparation
1420 of ballots, including the voting machine enclosure or curtain; or

- 1421 (b) a voting device that is free standing.
- 1422 (82) "Voting device" means:
- 1423 (a) an apparatus in which ballot sheets are used in connection with a punch device for
- 1424 piercing the ballots by the voter;
- 1425 (b) a device for marking the ballots with ink or another substance;
- 1426 (c) an electronic voting device or other device used to make selections and cast a ballot
- 1427 electronically, or any component thereof;
- 1428 (d) an automated voting system under Section 20A-5-302; or
- 1429 (e) any other method for recording votes on ballots so that the ballot may be tabulated
- 1430 by means of automatic tabulating equipment.
- 1431 (83) "Voting machine" means a machine designed for the sole purpose of recording
- 1432 and tabulating votes cast by voters at an election.
- 1433 (84) "Voting poll watcher" means a person appointed as provided in this title to
- 1434 witness the distribution of ballots and the voting process.
- 1435 (85) "Voting precinct" means the smallest voting unit established as provided by law
- 1436 within which qualified voters vote at one polling place.
- 1437 (86) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting
- 1438 poll watcher, and a testing watcher.
- 1439 (87) "Western States Presidential Primary" means the election established in Title 20A,
- 1440 Chapter 9, Part 8.
- 1441 (88) "Write-in ballot" means a ballot containing any write-in votes.
- 1442 (89) "Write-in vote" means a vote cast for a person whose name is not printed on the
- 1443 ballot according to the procedures established in this title.
- 1444 Section 38. Section **20A-1-506** is amended to read:
- 1445 **§→ [20A-1-506. ~~Judicial vacancies -- Courts not of record.~~**
- 1446 **—— (1) As used in this section:**
- 1447 **—— (a) "Appointing authority" means:**
- 1448 **—— (i) for a county:**
- 1449 **—— [(i)] (A) ~~the chair of the county commission in [counties] a county having the county~~**
- 1450 **~~commission form of county government; and~~**
- 1451 **—— [(ii)] (B) ~~the county executive in [counties] a county having the county]~~ ←§**

1452 ~~§→ [executive-council form of government; and~~
1453 ~~——— [(iii) the chair] (ii) for a city, or town, the mayor of the city [council] or town [council~~
1454 ~~in municipalities having:];~~
1455 ~~——— [(A) the traditional management arrangement established by Title 10, Chapter 3, Part 1,~~
1456 ~~Governing Body; and]~~
1457 ~~——— [(B) the council-manager optional form of government defined in Section 10-3-101;~~
1458 ~~and]~~
1459 ~~——— [(iv) the mayor, in the council-mayor optional form of government defined in Section~~
1460 ~~10-3-101;]~~
1461 ~~——— (b) "Local legislative body" means:~~
1462 ~~——— (i) the county commission or county council; and~~
1463 ~~——— (ii) the [city] council of the city or town [council].~~
1464 ~~——— (2) (a) If a vacancy occurs in the office of a municipal justice court judge before the~~
1465 ~~completion of his term of office, the appointing authority may:~~
1466 ~~——— (i) fill the vacancy by appointment for the unexpired term by following the procedures~~
1467 ~~and requirements for appointments in Section 78-5-134; or~~
1468 ~~——— (ii) contract with a justice court judge of the county, an adjacent county, or another~~
1469 ~~municipality within those counties for judicial services.~~
1470 ~~——— (b) When the appointing authority chooses to contract under Subsection (2)(a)(ii), it~~
1471 ~~shall ensure that the contract is for the same term as the term of office of the judge whose~~
1472 ~~services are replaced by the contract.~~
1473 ~~——— (c) The appointing authority shall notify the Office of the State Court Administrator in~~
1474 ~~writing of the appointment, resignation, or the contractual agreement for services of a judge~~
1475 ~~under this section within 30 days after filling the vacancy.~~
1476 ~~——— (3) (a) If a vacancy occurs in the office of a county justice court judge before the~~
1477 ~~completion of that judge's term of office, the appointing authority may fill the vacancy by~~
1478 ~~appointment for the unexpired term by following the procedures and requirements for~~
1479 ~~appointments in Section 78-5-134.~~
1480 ~~——— (b) The appointing authority shall notify the Office of the State Court Administrator in~~
1481 ~~writing of any appointment of a county justice court judge under this section within 30 days~~
1482 ~~after the appointment is made.] ←§~~

1483 ~~§→ [(4) (a) When a vacancy occurs in the office of a justice court judge, the appointing~~
 1484 ~~authority shall:~~

1485 ~~—— (i) advertise the vacancy and solicit applications for the vacancy;~~

1486 ~~—— (ii) appoint the best qualified candidate to office based solely upon fitness for office;~~

1487 ~~—— (iii) comply with the procedures and requirements of Title 52, Chapter 3, prohibiting~~
 1488 ~~employment of relatives in making appointments to fill the vacancy; and~~

1489 ~~—— (iv) submit the name of the appointee to the local legislative body.~~

1490 ~~—— (b) If the local legislative body does not confirm the appointment within 30 days of~~
 1491 ~~submission, the appointing authority may either appoint another of the applicants or reopen the~~
 1492 ~~vacancy by advertisement and solicitations of applications.]~~

1492a **20A-1-506. Judicial vacancies -- Courts not of record.**

1492b **(1) As used in this section:**

1492c **(a) "Appointing authority" means:**

1492d **(i) for a county:**

1492e **(i) (A) the chair of the county commission in ~~{-counties-}~~ a county**

1492f **having the county commission or expanded county commission form of county government;**

1492g **and**

1492h **[(ii)] (B) the county executive in ~~{-counties-}~~ a county having the county**

1492i **executive-council form of government; and**

1492j **[(iii) the chair] (ii) for a city or town, the mayor of the city ~~{-council-}~~ or**

1492k **town ~~{-council in municipalities having:-}~~ and**

1492l **~~{-(A) the traditional management arrangement established by Title 10, Chapter 3,~~**

1492m **~~Part 1, Governing Body; and-}~~**

1492n **~~{-(B) the council-manager optional form of government defined in Section 10-3-101,-~~**

1492o **~~and-}~~**

1492p **~~{-(iv) the mayor, in the council-mayor optional form of government defined in Section~~**

1492q **~~10-3-101;-}~~**

1492r **(b) "Local legislative body" means:**

1492s **(i) for a county, the county commission or county council; and**

1492t **(ii) for a city or town the ~~{-city-}~~ council of the city or town ~~{-council-}~~ .**

1492u **(2) (a) If a vacancy occurs in the office of a municipal justice court judge before the**
 1492v **completion of his term of office, the appointing authority may:**

1492w **(i) fill the vacancy by appointment for the unexpired term by following the procedures**
 1492x **and requirements for appointments in Section 78A-7-202; or**

1492y **(ii) contract with a justice court judge of the county, an adjacent county, or ←§**

1492z **§→ another municipality within those counties for judicial services.**

1492aa (b) When the appointing authority chooses to contract under Subsection (2)(a)(ii), it
1492ab shall ensure that the contract is for the same term as the term of office of the judge whose
1492ac services are replaced by the contract.

1492ad (c) The appointing authority shall notify the Office of the State Court Administrator in
1492ae writing of the appointment, resignation, or the contractual agreement for services of a judge
1492af under this section within 30 days after filling the vacancy.

1492ag (3) (a) If a vacancy occurs in the office of a county justice court judge before the
1492ah completion of that judge's term of office, the appointing authority may fill the vacancy by
1492ai appointment for the unexpired term by following the procedures and requirements for
1492aj appointments in Section 78A-7-202.

1492ak (b) The appointing authority shall notify the Office of the State Court Administrator in
1492al writing of any appointment of a county justice court judge under this section within 30 days
1492am after the appointment is made.

1492an (4) (a) When a vacancy occurs in the office of a justice court judge, the appointing
1492ao authority shall:

1492ap (i) advertise the vacancy and solicit applications for the vacancy;

1492aq (ii) appoint the best qualified candidate to office based solely upon fitness for office;

1492ar (iii) comply with the procedures and requirements of Title 52, Chapter 3, prohibiting
1492as employment of relatives in making appointments to fill the vacancy; and

1492at (iv) submit the name of the appointee to the local legislative body.

1492au (b) If the local legislative body does not confirm the appointment within 30 days of
1492av submission, the appointing authority may either appoint another of the applicants or reopen
1492aw the vacancy by advertisement and solicitations of applications. ←§

1493 Section 39. Section **20A-1-510** is amended to read:

1494 **20A-1-510. Midterm vacancies in municipal offices.**

1495 (1) (a) Except as otherwise provided in Subsection (2), if any vacancy occurs in the
1496 office of municipal executive or member of a municipal legislative body, the municipal
1497 legislative body shall appoint a registered voter in the municipality who meets the
1498 qualifications for office established in Section 10-3-301 to fill the unexpired term of the office
1499 vacated until the January following the next municipal election.

1500 (b) Before acting to fill the vacancy, the municipal legislative body shall:

1501 (i) give public notice of the vacancy at least two weeks before the municipal legislative
1502 body meets to fill the vacancy; and

1503 (ii) identify, in the notice:

1504 (A) the date, time, and place of the meeting where the vacancy will be filled; and

1505 (B) the person to whom a person interested in being appointed to fill the vacancy may
1506 submit his name for consideration and any deadline for submitting it.

1507 (c) (i) If, for any reason, the municipal legislative body does not fill the vacancy within
1508 30 days after the vacancy occurs, the municipal legislative body shall vote upon the names that
1509 have been submitted.

1510 (ii) The two persons having the highest number of votes of the municipal legislative
1511 body shall appear before the municipal legislative body and the municipal legislative body shall
1512 vote again.

1513 (iii) If neither candidate receives a majority vote of the municipal legislative body at

1514 that time, the vacancy shall be filled by lot in the presence of the municipal legislative body.

1515 (2) (a) A vacancy in the office of municipal executive or member of a municipal
1516 legislative body shall be filled by an interim appointment, followed by an election to fill a
1517 two-year term, if:

1518 (i) the vacancy occurs, or a letter of resignation is received, by the municipal executive
1519 at least 14 days before the deadline for filing for election in an odd-numbered year; and

1520 (ii) two years of the vacated term will remain after the first Monday of January
1521 following the next municipal election.

1522 (b) In appointing an interim replacement, the municipal legislative body shall comply
1523 with the notice requirements of this section.

1524 (3) A member of a municipal legislative body may not participate in any part of the
1525 process established in this section to fill a vacancy if that member is being considered for
1526 appointment to fill the vacancy.

1527 (4) (a) In a municipality operating under the council-mayor form of government, as
1528 defined in Section 10-3b-102:

1529 (i) the council may appoint a person to fill a vacancy in the office of mayor before the
1530 effective date of the mayor's resignation by making the effective date of the appointment the
1531 same as the effective date of the mayor's resignation; and

1532 (ii) if a vacancy in the office of mayor occurs before the effective date of an
1533 appointment under Subsection (1) or (2) to fill the vacancy, the council chair shall serve as
1534 acting mayor during the time between the creation of the vacancy and the effective date of the
1535 appointment to fill the vacancy.

1536 (b) While serving as acting mayor under Subsection (4)(a)(ii), the council chair
1537 continues to:

1538 (i) act as a council member; and

1539 (ii) vote at council meetings.

1540 Section 40. Section **20A-9-203** is amended to read:

1541 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

1542 (1) (a) (i) A person may become a candidate for any municipal office if:

1543 (A) the person is a registered voter; and[-]

1544 [(+)] (B) (I) the person has resided within the municipality in which that person seeks to

1545 hold elective office for the 12 consecutive months immediately before the date of the election;
1546 or

1547 ~~[(ii)]~~ (II) if the territory in which the person resides was annexed into the municipality,
1548 the person has resided within the annexed territory or the municipality ~~[for 12 months:]~~ the 12
1549 consecutive months immediately before the date of the election.

1550 (ii) For purposes of determining whether a person meets the residency requirement of
1551 Subsection (1)(a)(i)(B)(I) in a municipality that was incorporated less than 12 months before
1552 the election, the municipality shall be considered to have been incorporated 12 months before
1553 the date of the election.

1554 (b) In addition to the requirements of Subsection (1)(a), ~~[candidates]~~ each candidate for
1555 a municipal council position ~~[under the council-mayor or council-manager alternative forms of~~
1556 ~~municipal government]~~ shall, if elected from ~~[districts, be residents]~~ a district, be a resident of
1557 the council district from which ~~[they are]~~ elected.

1558 (c) In accordance with Utah Constitution Article IV, Section 6, any mentally
1559 incompetent person, any person convicted of a felony, or any person convicted of treason or a
1560 crime against the elective franchise may not hold office in this state until the right to hold
1561 elective office is restored under Section 20A-2-101.5.

1562 (2) (a) Except as provided in Subsection (2)(b) or (2)(c), each person seeking to
1563 become a candidate for a municipal office shall:

1564 (i) file a declaration of candidacy, in person with the city recorder or town clerk, during
1565 office hours and not later than 5 p.m. between July 1 and July 15 of any odd numbered year;
1566 and

1567 (ii) pay the filing fee, if one is required by municipal ordinance.

1568 (b) (i) As used in this Subsection (2)(b), "registered voters" means the number of
1569 persons registered to vote in the municipality on the January 1 of the municipal election year.

1570 (ii) A third, fourth, or fifth class city that used the convention system to nominate
1571 candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the
1572 process contained in this Subsection (2)(b) in the last municipal election or a town that used the
1573 convention system to nominate candidates in the last municipal election as authorized by
1574 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last
1575 municipal election may, by ordinance, require, in lieu of the convention system, that candidates

1576 for municipal office file a nominating petition signed by a percentage of registered voters at the
1577 same time that the candidate files a declaration of candidacy.

1578 (iii) The ordinance shall specify the number of signatures that the candidate must
1579 obtain on the nominating petition in order to become a candidate for municipal office under
1580 this Subsection (2), but that number may not exceed 5% of registered voters.

1581 (c) Any resident of a municipality may nominate a candidate for a municipal office by:

1582 (i) filing a nomination petition with the city recorder or town clerk during office hours,
1583 but not later than 5 p.m., between July 1 and July 15 of any odd-numbered year; and

1584 (ii) paying the filing fee, if one is required by municipal ordinance.

1585 (d) When July 15 is a Saturday, Sunday, or holiday, the filing time shall be extended
1586 until 5 p.m. on the following regular business day.

1587 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination
1588 petition, the filing officer shall:

1589 (i) read to the prospective candidate or person filing the petition the constitutional and
1590 statutory qualification requirements for the office that the candidate is seeking; and

1591 (ii) require the candidate or person filing the petition to state whether or not the
1592 candidate meets those requirements.

1593 (b) If the prospective candidate does not meet the qualification requirements for the
1594 office, the filing officer may not accept the declaration of candidacy or nomination petition.

1595 (c) If it appears that the prospective candidate meets the requirements of candidacy, the
1596 filing officer shall:

1597 (i) inform the candidate that the candidate's name will appear on the ballot as it is
1598 written on the declaration of candidacy;

1599 (ii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide
1600 Electronic Voter Information Website Program and inform the candidate of the submission
1601 deadline under Subsection 20A-7-801(4)(a);

1602 (iii) provide the candidate with a copy of the pledge of fair campaign practices
1603 described under Section 20A-9-206 and inform the candidate that:

1604 (A) signing the pledge is voluntary; and

1605 (B) signed pledges shall be filed with the filing officer; and

1606 (iv) accept the declaration of candidacy or nomination petition.

1607 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing
1608 officer shall:

1609 (i) accept the candidate's pledge; and

1610 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
1611 candidate's pledge to the chair of the county or state political party of which the candidate is a
1612 member.

1613 (4) The declaration of candidacy shall substantially comply with the following form:

1614 "I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____,
1615 County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a
1616 registered voter; and that I am a candidate for the office of ____ (stating the term). I request
1617 that my name be printed upon the applicable official ballots. (Signed) _____

1618 Subscribed and sworn to (or affirmed) before me by ____ on this
1619 _____(month\day\year).

1620 (Signed) _____ (Clerk or other officer qualified to administer oath)"

1621 (5) (a) In all first and second class cities, and in third, fourth, or fifth class cities that
1622 have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not
1623 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated
1624 for municipal office by submitting a petition signed by:

1625 (i) 25 residents of the municipality who are at least 18 years old; or

1626 (ii) 20% of the residents of the municipality who are at least 18 years old.

1627 (b) (i) The petition shall substantially conform to the following form:

1628 "NOMINATION PETITION

1629 The undersigned residents of (name of municipality) being 18 years old or older
1630 nominate (name of nominee) to the office of ____ for the (two or four-year term, whichever is
1631 applicable)."

1632 (ii) The remainder of the petition shall contain lines and columns for the signatures of
1633 persons signing the petition and their addresses and telephone numbers.

1634 (6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized
1635 by Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection
1636 (2)(b), any registered voter may be nominated for municipal office by submitting a petition
1637 signed by the same percentage of registered voters in the municipality as required by the

1638 ordinance passed under authority of Subsection (2)(b).

1639 (b) (i) The petition shall substantially conform to the following form:

1640 "NOMINATION PETITION

1641 The undersigned residents of (name of municipality) being 18 years old or older
1642 nominate (name of nominee) to the office of (name of office) for the (two or four-year term,
1643 whichever is applicable)."

1644 (ii) The remainder of the petition shall contain lines and columns for the signatures of
1645 persons signing the petition and their addresses and telephone numbers.

1646 (7) If the declaration of candidacy or nomination petition fails to state whether the
1647 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
1648 the four-year term.

1649 (8) (a) The clerk shall verify with the county clerk that all candidates are registered
1650 voters.

1651 (b) Any candidate who is not registered to vote is disqualified and the clerk may not
1652 print the candidate's name on the ballot.

1653 (9) Immediately after expiration of the period for filing a declaration of candidacy, the
1654 clerk shall:

1655 (a) cause the names of the candidates as they will appear on the ballot to be published
1656 in at least two successive publications of a newspaper with general circulation in the
1657 municipality; and

1658 (b) notify the lieutenant governor of the names of the candidates as they will appear on
1659 the ballot.

1660 (10) A declaration of candidacy or nomination petition filed under this section may not
1661 be amended after the expiration of the period for filing a declaration of candidacy.

1662 (11) (a) A declaration of candidacy or nomination petition filed under this section is
1663 valid unless a written objection is filed with the clerk within five days after the last day for
1664 filing.

1665 (b) If an objection is made, the clerk shall:

1666 (i) mail or personally deliver notice of the objection to the affected candidate
1667 immediately; and

1668 (ii) decide any objection within 48 hours after it is filed.

1669 (c) If the clerk sustains the objection, the candidate may correct the problem by
 1670 amending the declaration or petition within three days after the objection is sustained or by
 1671 filing a new declaration within three days after the objection is sustained.

1672 (d) (i) The clerk's decision upon objections to form is final.

1673 (ii) The clerk's decision upon substantive matters is reviewable by a district court if
 1674 prompt application is made to the district court.

1675 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
 1676 of its discretion, agrees to review the lower court decision.

1677 (12) Any person who filed a declaration of candidacy and was nominated, and any
 1678 person who was nominated by a nomination petition, may, any time up to 23 days before the
 1679 election, withdraw the nomination by filing a written affidavit with the clerk.

1680 Section 41. ~~§~~→ [Section ~~78-5-134~~] 78A-7-202 ~~←§~~ is amended to read:

1681 ~~§~~→ [78-5-134. ~~Justice court judges to be appointed -- Procedure -- Report to Judicial~~
 1682 ~~Council -- Retention election -- Vacancy.~~

1683 ~~—— (1) As used in this section:~~

1684 ~~—— (a) "Appointing authority" means:~~

1685 ~~—— (i) for a county:~~

1686 ~~—— [(i) (A) the chair of the county commission in [counties] a county having the county~~
 1687 ~~commission form of county government; and~~

1688 ~~—— [(ii) (B) the county executive in [counties] a county having the county~~
 1689 ~~executive-council form of government;~~

1690 ~~—— [(iii) the chair] (ii) for a city or town, the mayor of the city [council] or town [council~~
 1691 ~~in municipalities having the traditional management arrangement established by Title 10,~~
 1692 ~~Chapter 3, Part 1, Governing Body;];~~

1693 ~~—— [(iv) the city manager, in the council-manager optional form of government defined in~~
 1694 ~~Section 10-3-101; and]~~

1695 ~~—— [(v) the mayor, in the council-mayor optional form of government defined in Section~~
 1696 ~~10-3-101.]~~

1697 ~~—— (b) "Local legislative body" means:~~

1698 ~~—— (i) the county commission or county council; and~~

1699 ~~—— (ii) the [city] council of the city or town [council];] ←§~~

1700 ~~§→ [(2) Justice court judges shall be appointed by the appointing authority and confirmed~~
1701 ~~by a majority vote of the local legislative body.~~

1702 ~~—— (3) (a) After a newly appointed justice court judge has been confirmed, the local~~
1703 ~~legislative body shall report the confirmed judge's name to the Judicial Council.~~

1704 ~~—— (b) The Judicial Council shall certify the judge as qualified to hold office upon~~
1705 ~~successful completion of the orientation program and upon the written opinion of the county or~~
1706 ~~municipal attorney that the judge meets the statutory qualifications for office.~~

1707 ~~—— (c) A justice court judge may not perform judicial duties until certified by the Judicial~~
1708 ~~Council.~~

1709 ~~—— (4) Upon the expiration of a county justice court judge's term of office the judge shall~~
1710 ~~be subject to an unopposed retention election in accordance with the procedures set forth in~~
1711 ~~Section 20A-12-201.~~

1712 ~~—— (5) Upon the expiration of a municipal justice court judge's term of office a municipal~~
1713 ~~justice court judge shall be reappointed absent a showing of good cause by the appointing~~
1714 ~~authority.~~

1715 ~~—— (a) If an appointing authority asserts good cause to not reappoint a municipal justice~~
1716 ~~court judge, at the request of the judge, the good cause shall be presented at a formal hearing of~~
1717 ~~the local legislative body.~~

1718 ~~—— (b) The local legislative body shall determine by majority vote whether good cause~~
1719 ~~exists not to reappoint the municipal justice court judge.~~

1720 ~~—— (c) The decision of the local legislative body is not subject to appeal.~~

1721 ~~—— (d) In determining whether good cause exists to not reappoint a municipal justice court~~
1722 ~~judge, the appointing authority and local legislative body shall consider:~~

1723 ~~—— (i) whether or not the judge has been certified as meeting the evaluation criteria for~~
1724 ~~judicial performance established by the Judicial Council; and~~

1725 ~~—— (ii) any other factors considered relevant by the appointing authority.~~

1726 ~~—— (6) Before reappointment or retention election, each justice court judge shall be~~
1727 ~~evaluated in accordance with the performance evaluation program established in Subsection~~
1728 ~~78-3-21(4).~~

1729 ~~—— (7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of~~
1730 ~~justice court judge, the appointing authority may contract with a justice court judge in the] ←§~~

- 1731 **§→ [county or an adjacent county to serve as justice court judge.**
- 1732 ~~————(b) The contract shall be for the duration of the justice court judge's term of office.~~
- 1733 ~~————(8) Vacancies in the office of justice court judge shall be filled as provided in Section~~
- 1734 ~~20A-1-506.]~~
- 1734a **78A-7-202. Justice court judges to be appointed -- Procedure -- Report to Judicial Council --**
- 1734b **Retention election -- Vacancy.**
- 1734c (1) As used in this section:
- 1734d (a) "Appointing authority" means:
- 1734e = (i) for a county:
- 1734f ~~{(i)}~~ (A) the chair of the county commission in ~~{counties}~~ a county
- 1734g **having the county commission or expanded county commission form of county**
- 1734h **government; and**
- 1734i **(B) the county executive in ~~{counties}~~ a county having the county**
- 1734j **executive-council form of government; and**
- 1734k ~~{(iii) the chair}~~ (ii) for a city or town, the mayor of the city ~~{council}~~ or
- 1734l **town ~~{council in municipalities having the traditional management arrangement established~~**
- 1734m **~~by Title 10, Chapter 3, Part 1, Governing Body;}~~ .**
- 1734n ~~{(iv) the city manager, in the council-manager optional form of government defined~~
- 1734o **~~in Section 10-3-101; and }~~**
- 1734p ~~{(v) the mayor, in the council-mayor optional form of government defined in Section~~
- 1734q **~~10-3-101.}~~**
- 1734r (b) "Local legislative body" means:
- 1734s (i) for a county, the county commission or county council; and
- 1734t (ii) for a city or town, the ~~{city}~~ council of the city or town ~~{council}~~ .
- 1734u (2) Justice court judges shall be appointed by the appointing authority and confirmed
- 1734v **by a majority vote of the local legislative body.**
- 1734w (3) (a) After a newly appointed justice court judge has been confirmed, the local
- 1734x **legislative body shall report the confirmed judge's name to the Judicial Council.**
- 1734y (b) The Judicial Council shall certify the judge as qualified to hold office upon
- 1734z **successful completion of the orientation program and upon the written opinion of the county**
- 1734aa **or municipal attorney that the judge meets the statutory qualifications for office.**
- 1734ab (c) A justice court judge may not perform judicial duties until certified by the Judicial
- 1734ac **Council.**
- 1734ad (4) Upon the expiration of a county justice court judge's term of ~~←~~§

1734ae **§→ office the judge shall**

1734af **be subject to an unopposed retention election in accordance with the procedures set forth in**
1734ag **Section 20A-12-201.**

1734ah **(5) Upon the expiration of a municipal justice court judge's term of office a municipal**
1734ai **justice court judge shall be reappointed absent a showing of good cause by the appointing**
1734aj **authority.**

1734ak **(a) If an appointing authority asserts good cause to not reappoint a municipal justice**
1734al **court judge, at the request of the judge, the good cause shall be presented at a formal hearing**
1734am **of the local legislative body.**

1734an **(b) The local legislative body shall determine by majority vote whether good cause**
1734ao **exists not to reappoint the municipal justice court judge.**

1734ap **(c) The decision of the local legislative body is not subject to appeal.**

1734aq **(d) In determining whether good cause exists to not reappoint a municipal justice court**
1734ar **judge, the appointing authority and local legislative body shall consider:**

1734as **(i) whether or not the judge has been certified as meeting the evaluation criteria for**
1734at **judicial performance established by the Judicial Council; and**

1734au **(ii) any other factors considered relevant by the appointing authority.**

1734av **(6) Before reappointment or retention election, each justice court judge shall be**
1734aw **evaluated in accordance with the performance evaluation program established in Subsection**
1734ax **78A-2-104(5).**

1734ay **(7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of**
1734az **justice court judge, the appointing authority may contract with a justice court judge in the**
1734ba **county or an adjacent county to serve as justice court judge.**

1734bb **(b) The contract shall be for the duration of the justice court judge's term of office.**

1734bc **(8) Vacancies in the office of justice court judge shall be filled as provided in Section**
1734bd **20A-1-506. ←§**

1735 **Section 42. Repealer.**

1736 **This bill repeals:**

1737 **Section 10-3-101, Governing body -- Legislative and executive powers.**

1738 **Section 10-3-102, Governing body -- Other functions.**

1739 **Section 10-3-106, Governing body in towns.**

1740 **Section 10-3-206, Election of officers in towns operating under a five-member**
1741 **council form of government.**

1742 **Section 10-3-207, Determining two and four year terms.**

- 1743 Section 10-3-403, Mayor as presiding officer -- Mayor pro tempore.
- 1744 Section 10-3-404, No veto.
- 1745 Section 10-3-501, Meetings in cities of the first and second class.
- 1746 Section 10-3-503, Quorum necessary to do business.
- 1747 Section 10-3-802, Designation of department head in cities of the first class.
- 1748 Section 10-3-804, Change in names, functions and superintendents of departments.
- 1749 Section 10-3-806, Designation of department head in cities of the second class.
- 1750 Section 10-3-807, Commissioners may administer two departments -- Change in
- 1751 names, functions and superintendents.
- 1752 Section 10-3-808, Administration vested in mayor.
- 1753 Section 10-3-809, Powers of mayors in a city of third, fourth, or fifth class or a
- 1754 town.
- 1755 Section 10-3-810, Additional powers and duties of elected officials in a city of the
- 1756 third, fourth, or fifth class or a town.
- 1757 Section 10-3-811, Members of the governing body may be appointed to
- 1758 administration in a city of the third, fourth, or fifth class or a town.
- 1759 Section 10-3-812, Change of duties in a city of the third, fourth, or fifth class or a
- 1760 town.
- 1761 Section 10-3-813, General administrative powers of all municipalities.

- 1762 Section 10-3-814, Personnel assigned to one or more departments.
- 1763 Section 10-3-815, Rules and regulations for administration of municipality.
- 1764 Section 10-3-816, Appointed officers -- Residency requirement authorized.
- 1765 Section 10-3-817, Elected executives to appoint their deputies.
- 1766 Section 10-3-830, Appointment of city or town manager.
- 1767 Section 10-3-901, Creating offices -- Filling vacancies.
- 1768 Section 10-3-1201, Citation of act.
- 1769 Section 10-3-1202, Legislative finding.
- 1770 Section 10-3-1203, Election requirements and procedure for organization under
- 1771 **different form of government.**
- 1772 Section 10-3-1204, Application of act.
- 1773 Section 10-3-1205, Rights, powers, and duties of municipality operating under
- 1774 **optional form.**
- 1775 Section 10-3-1206, Limitation on changing form of government.
- 1776 Section 10-3-1207, Disapproval of optional form by voters -- Limitation on
- 1777 **resubmission.**
- 1778 Section 10-3-1208, Election of officers -- When new government operative --
- 1779 **Compensation of officials without position in new government.**
- 1780 Section 10-3-1210, Functions of the council.
- 1781 Section 10-3-1211, Council members -- Qualifications -- Terms of office.
- 1782 Section 10-3-1212, Meetings of council -- Access to records.
- 1783 Section 10-3-1213, Chairmen of councils -- Power to call witnesses and administer
- 1784 **oath -- Quorum -- Voting procedure.**
- 1785 Section 10-3-1214, Ordinance adoption under council-mayor form -- Powers of
- 1786 **mayor.**
- 1787 Section 10-3-1215, Rules and regulations for government of council.
- 1788 Section 10-3-1216, Council members elected from districts -- Boundary --
- 1789 **Adjustments.**
- 1790 Section 10-3-1217, Limitations on actions and authority of council members --
- 1791 **Investigatory committees.**
- 1792 Section 10-3-1218, Vacancy in council.

- 1793 Section **10-3-1219, Council-mayor form -- Powers and duties of mayor.**
- 1794 Section **10-3-1219.5, Council-mayor form -- Ordinances on transfer of municipal**
- 1795 **property and regulation of subdivisions or annexations.**
- 1796 Section **10-3-1220, Council-mayor form -- Appointment of chief administrative**
- 1797 **officer.**
- 1798 Section **10-3-1221, Municipal administrative code in council-mayor form.**
- 1799 Section **10-3-1222, Council-mayor form -- Vacancy in office of mayor.**
- 1800 Section **10-3-1223, Council-manager form -- Election and powers and duties of**
- 1801 **mayor.**
- 1802 Section **10-3-1224, Council-manager form -- Appointment of municipal manager.**
- 1803 Section **10-3-1225, Manager -- Removal from office.**
- 1804 Section **10-3-1226, Manager -- Powers and duties.**
- 1805 Section **10-3-1227, Municipal administrative code in council-manager form.**
- 1806 Section **10-3-1228, Manager -- Working time and compensation.**

S.B. 20 2nd Sub. (Salmon) - Municipal Government Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
