

SB0199S05 compared with SB0199S03

~~{deleted text}~~ shows text that was in SB0199S03 but was deleted in SB0199S05.

inserted text shows text that was not in SB0199S03 but was inserted into SB0199S05.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Senator Karen Mayne}~~Representative Eric K. Hutchings proposes the following substitute bill:

LOCAL GOVERNMENT REVISIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill enacts provisions related to local government.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides population classification for a metro township;
- ▶ amends municipal annexation provisions;
- ▶ enacts "Municipal Incorporation," including:
 - general provisions;
 - incorporation provisions of a city;
 - incorporation provisions of a town; and

SB0199S05 compared with SB0199S03

- incorporation provisions of metro townships and unincorporated islands in a county of the first class on and after May 12, 2015;
- ▶ requires a county of the first class to hold a special election on November 3, 2015, for the following ballot propositions:
 - the incorporation of a planning township as a city, town, metro township; and
 - whether unincorporated islands should be annexed by an eligible city or remain unincorporated; ~~{————}~~
- ▶ provides notice and hearing requirements;
- ▶ provides for the incorporation of a metro township after November 3, 2015;
- ▶ provides for the determination of metro township council districts and election of officers;
- ▶ authorizes a ~~{three-member or }~~ five-member council form of government for a metro township;
- ▶ provides the powers and duties of the metro township council chair and council members;
- ▶ repeals and reenacts provisions authorizing a change in form of municipal government;
- ▶ enacts provisions related to the administration of a metro township;
- ▶ authorizes a metro township council to, in certain circumstances, prohibit ~~{fireworks}~~ an ignition source;
- ▶ requires a township located outside of a county of the first class to change its name to "planning ~~{district}~~;

~~{~~ advisory area ~~}~~:

- ▶ requires the withdrawal or dissolution of a planning advisory area that is annexed;
- ▶ prohibits a county other than a county of the first class from adopting certain land use ordinances requiring revegetation or landscaping;
- ▶ amends definitions for local district provisions;
- ▶ enacts provisions related to the levy of a municipal services district property tax;
- ▶ enacts provisions related to a general obligation bond issued by a municipal services district;
- ▶ amends provisions related to a municipal services district board of trustees;

SB0199S05 compared with SB0199S03

- ▶ enacts language requiring the withdrawal of rural real property from a metro township or municipal services district;
- ▶ amends and enacts provisions related to the withdrawal of an area from a local district;
- ▶ enacts provisions related to an audit of a municipal services district;
- ▶ authorizes a metro township to initiate the creation of a school district;
- ▶ authorizes a metro township to levy a 911 charge and impose a sales and use tax; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

This bill provides a coordination clause to reconcile conflicts between this bill and other legislation.

Utah Code Sections Affected:

AMENDS:

10-1-104, as last amended by Laws of Utah 2003, Chapter 292

10-1-114, as last amended by Laws of Utah 2014, Chapter 189

10-2-302, as last amended by Laws of Utah 2009, Chapter 350

10-2-401, as last amended by Laws of Utah 2009, Chapters 92, 205, and 230

10-2-402, as last amended by Laws of Utah 2011, Chapter 234

10-2-403, as last amended by Laws of Utah 2010, Chapter 378

10-2-405, as last amended by Laws of Utah 2009, Chapter 205

10-2-407, as last amended by Laws of Utah 2010, Chapters 90 and 218

10-2-408, as last amended by Laws of Utah 2009, Chapter 205

10-2-411, as last amended by Laws of Utah 2004, Chapters 90 and 202

10-2-413, as last amended by Laws of Utah 2009, Chapter 230

10-2-414, as last amended by Laws of Utah 2009, Chapter 205

10-2-415, as last amended by Laws of Utah 2010, Chapter 90

10-2-416, as last amended by Laws of Utah 2001, Chapter 206

SB0199S05 compared with SB0199S03

10-2-418, as last amended by Laws of Utah 2010, Chapter 90

10-2-425, as last amended by Laws of Utah 2009, Chapter 350

10-3-205.5, as last amended by Laws of Utah 2003, Chapter 292

10-3-1302, as enacted by Laws of Utah 1981, Chapter 57

10-3b-102, as enacted by Laws of Utah 2008, Chapter 19

10-3b-103, as last amended by Laws of Utah 2011, Chapter 209

10-3b-202, as last amended by Laws of Utah 2011, Chapter 209

~~**10-6-106**~~ **10-5-102**, as ~~{last amended}~~ enacted by Laws of Utah ~~{2014, Chapters 176, 253, 377 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 253}~~ 1983, Chapter 34

10-6-103, as enacted by Laws of Utah 1979, Chapter 26

10-6-111, as last amended by Laws of Utah 2010, Chapter 378

15A-5-202.5, as last amended by Laws of Utah 2014, Chapter 243

17-23-17, as last amended by Laws of Utah 2007, Chapter 329

17-23-17.5, as last amended by Laws of Utah 2014, Chapter 189

17-27a-103, as last amended by Laws of Utah 2014, Chapters 136 and 363

17-27a-301, as last amended by Laws of Utah 2014, Chapter 189

17-27a-302, as last amended by Laws of Utah 2012, Chapter 359

17-27a-306, as last amended by Laws of Utah 2010, Chapters 90 and 218

17-27a-505, as last amended by Laws of Utah 2013, Chapter 476

17-34-3, as last amended by Laws of Utah 2013, Chapter 371

17-41-101, as last amended by Laws of Utah 2014, Chapter 65

17B-1-102, as last amended by Laws of Utah 2011, Chapters 107 and 205

17B-1-502, as last amended by Laws of Utah 2014, Chapter 405

17B-1-505, as last amended by Laws of Utah 2011, Chapter 68

17B-1-1002, as last amended by Laws of Utah 2011, Chapter 282

17B-1-1102, as enacted by Laws of Utah 2007, Chapter 329

17B-2a-1102, as enacted by Laws of Utah 2014, Chapter 405

17B-2a-1103, as enacted by Laws of Utah 2014, Chapter 405

17B-2a-1104, as enacted by Laws of Utah 2014, Chapter 405

17B-2a-1106, as enacted by Laws of Utah 2014, Chapter 405

SB0199S05 compared with SB0199S03

17B-2a-1107, as enacted by Laws of Utah 2014, Chapter 405
20A-1-102, as last amended by Laws of Utah 2014, Chapters 17, 31, 231, 362, and 391
20A-1-201.5, as last amended by Laws of Utah 2013, Chapter 320
20A-1-203, as last amended by Laws of Utah 2014, Chapter 158
20A-1-204, as last amended by Laws of Utah 2013, Chapters 295 and 415
20A-11-101, as last amended by Laws of Utah 2014, Chapters 18, 158, and 337
53-2a-208, as renumbered and amended by Laws of Utah 2013, Chapter 295
53-2a-802, as renumbered and amended by Laws of Utah 2013, Chapter 295
53A-2-118, as last amended by Laws of Utah 2010, Chapter 230
53A-2-118.1, as last amended by Laws of Utah 2011, Chapter 300
53A-2-402, as enacted by Laws of Utah 2006, Chapter 339
53B-21-107, as enacted by Laws of Utah 1987, Chapter 167
59-12-203, as renumbered and amended by Laws of Utah 1987, Chapter 5
63I-2-210, as last amended by Laws of Utah 2014, Chapter 405
67-1a-2, as last amended by Laws of Utah 2013, Chapters 182, 219, 278 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 182
69-2-5, as last amended by Laws of Utah 2014, Chapter 320
69-2-5.5, as last amended by Laws of Utah 2014, Chapter 320
69-2-5.6, as last amended by Laws of Utah 2014, Chapter 320
69-2-5.7, as last amended by Laws of Utah 2014, Chapter 320
78A-7-202, as last amended by Laws of Utah 2012, Chapter 205

ENACTS:

10-2-301.5, Utah Code Annotated 1953
10-2a-101, Utah Code Annotated 1953
10-2a-201, Utah Code Annotated 1953
10-2a-301, Utah Code Annotated 1953
10-2a-401, Utah Code Annotated 1953
10-2a-402, Utah Code Annotated 1953
10-2a-403, Utah Code Annotated 1953
10-2a-404, Utah Code Annotated 1953
10-2a-405, Utah Code Annotated 1953

SB0199S05 compared with SB0199S03

10-2a-406, Utah Code Annotated 1953
10-2a-407, Utah Code Annotated 1953
10-2a-408, Utah Code Annotated 1953
10-2a-409, Utah Code Annotated 1953
10-2a-410, Utah Code Annotated 1953
10-2a-411, Utah Code Annotated 1953
10-2a-412, Utah Code Annotated 1953
10-2a-413, Utah Code Annotated 1953
10-2a-414, Utah Code Annotated 1953
10-3b-601, Utah Code Annotated 1953
10-3b-602, Utah Code Annotated 1953
10-3b-603, Utah Code Annotated 1953
10-3b-604, Utah Code Annotated 1953
10-3b-605, Utah Code Annotated 1953
10-3b-606, Utah Code Annotated 1953
10-3b-607, Utah Code Annotated 1953
10-3c-101, Utah Code Annotated 1953
10-3c-102, Utah Code Annotated 1953
10-3c-103, Utah Code Annotated 1953
10-3c-201, Utah Code Annotated 1953
10-3c-202, Utah Code Annotated 1953
10-3c-203, Utah Code Annotated 1953
10-3c-204, Utah Code Annotated 1953
10-3c-205, Utah Code Annotated 1953
17B-2a-1110, Utah Code Annotated 1953
17B-2a-1111, Utah Code Annotated 1953
17B-2a-1112, Utah Code Annotated 1953

REPEALS AND REENACTS:

10-3b-501, as enacted by Laws of Utah 2008, Chapter 19
10-3b-502, as enacted by Laws of Utah 2008, Chapter 19
10-3b-503, as last amended by Laws of Utah 2011, Chapter 209

SB0199S05 compared with SB0199S03

10-3b-504, as enacted by Laws of Utah 2008, Chapter 19

RENUMBERS AND AMENDS:

- 10-2a-102**, (Renumbered from 10-2-101, as last amended by Laws of Utah 2012, Chapter 359)
- 10-2a-103**, (Renumbered from 10-2-102, as last amended by Laws of Utah 2012, Chapter 359)
- 10-2a-104**, (Renumbered from 10-2-118, as enacted by Laws of Utah 1997, Chapter 389)
- 10-2a-105**, (Renumbered from 10-2-130, as enacted by Laws of Utah 2014, Chapter 405)
- 10-2a-202**, (Renumbered from 10-2-103, as last amended by Laws of Utah 2000, Chapter 184)
- 10-2a-203**, (Renumbered from 10-2-104, as last amended by Laws of Utah 2012, Chapter 359)
- 10-2a-204**, (Renumbered from 10-2-105, as last amended by Laws of Utah 2012, Chapter 359)
- 10-2a-205**, (Renumbered from 10-2-106, as last amended by Laws of Utah 2012, Chapter 359)
- 10-2a-206**, (Renumbered from 10-2-107, as last amended by Laws of Utah 2000, Chapter 184)
- 10-2a-207**, (Renumbered from 10-2-108, as last amended by Laws of Utah 2012, Chapter 359)
- 10-2a-208**, (Renumbered from 10-2-109, as last amended by Laws of Utah 2012, Chapter 359)
- 10-2a-209**, (Renumbered from 10-2-110, as last amended by Laws of Utah 1997, Second Special Session, Chapter 3)
- 10-2a-210**, (Renumbered from 10-2-111, as last amended by Laws of Utah 2014, Chapter 158)
- 10-2a-211**, (Renumbered from 10-2-112, as last amended by Laws of Utah 2008, Chapter 19)
- 10-2a-212**, (Renumbered from 10-2-113, as repealed and reenacted by Laws of Utah

SB0199S05 compared with SB0199S03

1997, Chapter 389)

10-2a-213, (Renumbered from 10-2-114, as last amended by Laws of Utah 2010, Chapter 90)

10-2a-214, (Renumbered from 10-2-115, as last amended by Laws of Utah 2009, Chapter 388)

10-2a-215, (Renumbered from 10-2-116, as last amended by Laws of Utah 2012, Chapter 359)

10-2a-216, (Renumbered from 10-2-117, as enacted by Laws of Utah 1997, Chapter 389)

10-2a-217, (Renumbered from 10-2-119, as last amended by Laws of Utah 2009, Chapter 350)

10-2a-218, (Renumbered from 10-2-120, as last amended by Laws of Utah 2009, Chapter 350)

10-2a-219, (Renumbered from 10-2-121, as last amended by Laws of Utah 2009, Chapter 350)

10-2a-220, (Renumbered from 10-2-123, as enacted by Laws of Utah 1997, Chapter 389)

10-2a-221, (Renumbered from 10-2-124, as repealed and reenacted by Laws of Utah 2012, Chapter 359)

10-2a-302, (Renumbered from 10-2-125, as last amended by Laws of Utah 2014, Chapter 189)

10-2a-303, (Renumbered from 10-2-126, as last amended by Laws of Utah 2014, Chapter 189)

10-2a-304, (Renumbered from 10-2-127, as last amended by Laws of Utah 2014, Chapter 158)

10-2a-305, (Renumbered from 10-2-128, as enacted by Laws of Utah 2012, Chapter 359)

10-2a-306, (Renumbered from 10-2-129, as enacted by Laws of Utah 2012, Chapter 359)

REPEALS:

10-2-408.5, as enacted by Laws of Utah 2009, Chapter 205

SB0199S05 compared with SB0199S03

10-3b-505, as enacted by Laws of Utah 2008, Chapter 19

10-3b-506, as enacted by Laws of Utah 2008, Chapter 19

10-3b-507, as enacted by Laws of Utah 2008, Chapter 19

17-27a-307, as last amended by Laws of Utah 2008, Chapter 250

Utah Code Sections Affected by Coordination Clause:

10-2-102.13, Utah Code Annotated 1953

10-2-111, as last amended by Laws of Utah 2014, Chapter 158

10-2-116, as last amended by Laws of Utah 2012, Chapter 359

10-2-127, as last amended by Laws of Utah 2014, Chapter 158

10-2-128.1, Utah Code Annotated 1953

10-2-128.2, Utah Code Annotated 1953

10-2-131, Utah Code Annotated 1953

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

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

10-1-104. Definitions.

As used in this title:

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

(2) "Contiguous" means:

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

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

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

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

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

[and]

(c) in a town, the governing body is the town council[-]; and

SB0199S05 compared with SB0199S03

(d) in a metro township, the governing body is the metro township council.

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

(5) (a) "Municipality" means:

(i) a city of the first class, city of the second class, city of the third class, city of the fourth class, city of the fifth class~~[-or]~~;

(ii) a town, as classified in Section 10-2-301~~[-]~~; or

(iii) a metro township as that term is defined in Section 10-2a-403 unless the term is used in the context of authorizing, governing, or otherwise regulating the provision of municipal services.

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

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

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

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

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

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

Section 2. Section **10-1-114** is amended to read:

10-1-114. Repealer.

Title 10, Chapter 1, General Provisions; Chapter 2, ~~[Incorporation,]~~ Classification, Boundaries, Consolidation, and Dissolution of Municipalities; Chapter 3, Municipal Government; Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; and Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, are repealed, except as provided in Section 10-1-115.

Section 3. Section **10-2-301.5** is enacted to read:

SB0199S05 compared with SB0199S03

CHAPTER 2. CLASSIFICATION, BOUNDARIES, CONSOLIDATION, AND DISSOLUTION OF MUNICIPALITIES

10-2-301.5. Classification of metro townships according to population.

(1) Each metro township, as defined in Section 10-2a-403, shall be classified according to its population, as provided in this section.

(2) A metro township with a population of:

(a) 1,000 or more is a metro township of the first class; and

(b) fewer than 1,000 is a metro township of the second class.

Section 4. Section **10-2-302** is amended to read:

10-2-302. Change of class of municipality.

(1) Each municipality shall retain its classification under Section 10-2-301 until changed as provided in this section or Subsection 67-1a-2(3).

(2) (a) If a municipality's population, as determined by the lieutenant governor under Subsection 67-1a-2(3), indicates that the municipality's population has decreased below the limit for its current class, the legislative body of the municipality may petition the lieutenant governor to prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure.

(b) Notwithstanding Subsection (2)(a), the legislative body of a metro township may not petition under this section to change from a metro township to a city or town.

(3) A municipality's change in class is effective on the date of the lieutenant governor's certificate under Subsection 67-1a-2(3).

Section 5. Section **10-2-401** is amended to read:

10-2-401. Definitions -- Property owner provisions.

(1) As used in this part:

(a) "Affected entity" means:

(i) a county of the first or second class in whose unincorporated area the area proposed for annexation is located;

(ii) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the area proposed for annexation is located, if the area includes residents or commercial or industrial development;

(iii) a local district under Title 17B, Limited Purpose Local Government Entities -

SB0199S05 compared with SB0199S03

Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, whose boundary includes any part of an area proposed for annexation;

(iv) a school district whose boundary includes any part of an area proposed for annexation, if the boundary is proposed to be adjusted as a result of the annexation; and

(v) a municipality whose boundaries are within 1/2 mile of an area proposed for annexation.

(b) "Annexation petition" means a petition under Section 10-2-403 proposing the annexation to a municipality of a contiguous, unincorporated area that is contiguous to the municipality.

(c) "Commission" means a boundary commission established under Section 10-2-409 for the county in which the property that is proposed for annexation is located.

(d) "Expansion area" means the unincorporated area that is identified in an annexation policy plan under Section 10-2-401.5 as the area that the municipality anticipates annexing in the future.

(e) "Feasibility consultant" means a person or firm with expertise in the processes and economics of local government.

(f) "Municipal selection committee" means a committee in each county composed of the mayor of each municipality within that county.

(g) "Planning ~~district~~ advisory area" means the same as that term is defined in Section 17-27a-306.

~~[(g)]~~ (h) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, a municipality, a school district, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision or governmental entity of the state.

~~[(h)]~~ (i) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.

~~[(i)]~~ "~~Township~~" has the same meaning as defined in Section 17-27a-103.]

(j) "Unincorporated peninsula" means an unincorporated area:

(i) that is part of a larger unincorporated area;

(ii) that extends from the rest of the unincorporated area of which it is a part;

SB0199S05 compared with SB0199S03

(iii) that is surrounded by land that is within a municipality, except where the area connects to and extends from the rest of the unincorporated area of which it is a part; and

(iv) whose width, at any point where a straight line may be drawn from a place where it borders a municipality to another place where it borders a municipality, is no more than 25% of the boundary of the area where it borders a municipality.

(k) "Urban development" means:

(i) a housing development with more than 15 residential units and an average density greater than one residential unit per acre; or

(ii) a commercial or industrial development for which cost projections exceed \$750,000 for all phases.

(2) For purposes of this part:

(a) the owner of real property shall be:

(i) except as provided in Subsection (2)(a)(ii), the record title owner according to the records of the county recorder on the date of the filing of the petition or protest; or

(ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and

(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the petition or protest.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or majority of the total private land area within an area to sign a petition or protest:

(a) a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:

SB0199S05 compared with SB0199S03

(i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and

(ii) the person provides documentation accompanying the petition or protest that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.

Section 6. Section **10-2-402** is amended to read:

10-2-402. Annexation -- Limitations.

(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

(b) An unincorporated area may not be annexed to a municipality unless:

(i) it is a contiguous area;

(ii) it is contiguous to the municipality;

(iii) except as provided in Subsection 10-2-418~~[(1)(b)]~~(2)(c), annexation will not leave or create an unincorporated island or unincorporated peninsula; and

(iv) for an area located in a specified county with respect to an annexation that occurs after December 31, 2002, the area is within the proposed annexing municipality's expansion area.

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

(3) (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.

(4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

(5) The legislative body of a specified county may not approve urban development within a municipality's expansion area unless:

SB0199S05 compared with SB0199S03

(a) the county notifies the municipality of the proposed development; and

(b) (i) the municipality consents in writing to the development; or

(ii) (A) within 90 days after the county's notification of the proposed development, the municipality submits to the county a written objection to the county's approval of the proposed development; and

(B) the county responds in writing to the municipality's objections.

(6) (a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation.

(b) Each county legislative body that declines to adopt a resolution approving a proposed annexation described in Subsection (6)(a) shall provide a written explanation of its reasons for declining to approve the proposed annexation.

(7) (a) As used in this Subsection (7), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

(b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

~~[(8) An annexation petition may not be filed if it proposes the annexation of an area that is within a proposed {{}} township {{}} planning district in a petition to establish a {{}} township {{}} planning district under Subsection 17-27a-306(1)(c) that has been certified under Subsection 17-27a-306(1) {{}} (f) {{}} (g)}, until after the canvass of an election on the proposed {{}} township {{}} planning district under Subsection 17-27a-306(1) {{}} (h).]~~ ~~{{}} (i).~~

~~[(9)]~~ (8) (a) A municipality may not annex an unincorporated area located within a

SB0199S05 compared with SB0199S03

project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, without the authority's approval.

(b) (i) Except as provided in Subsection ~~1(9)~~ 1(8)(b)(ii), the Military Installation Development Authority may petition for annexation of a project area and contiguous surrounding land to a municipality as if it was the sole private property owner of the project area and surrounding land, if the area to be annexed is entirely contained within the boundaries of a military installation.

(ii) Before petitioning for annexation under Subsection ~~1(9)~~ 1(8)(b)(i), the Military Installation Development Authority shall provide the military installation with a copy of the petition for annexation. The military installation may object to the petition for annexation within 14 days of receipt of the copy of the annexation petition. If the military installation objects under this Subsection ~~1(9)~~ 1(8)(b)(ii), the Military Installation Development Authority may not petition for the annexation as if it was the sole private property owner.

(iii) If any portion of an area annexed under a petition for annexation filed by a Military Installation Development Authority is located in a specified county:

- (A) the annexation process shall follow the requirements for a specified county; and
- (B) the provisions of Subsection 10-2-402(6) do not apply.

Section 7. Section **10-2-403** is amended to read:

10-2-403. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1) with respect to the proposed annexation of an area located in a county of the first class, the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be

SB0199S05 compared with SB0199S03

annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether or not to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the

SB0199S05 compared with SB0199S03

name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the city recorder or town clerk, as the case may be, of the proposed annexing municipality;

(b) contain the signatures of ~~[(+)]~~, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

~~[(A)]~~ (i) is located within the area proposed for annexation;

~~[(B)]~~ ~~(+)~~ (ii) (A) subject to Subsection (3)(b)~~[(+)]~~~~(B)~~~~(H)~~~~(ii)~~~~(C)~~, covers a majority of the private land area within the area proposed for annexation; ~~[and]~~

(B) covers 100% of rural real property as that term is defined in Section 17B-2a-1107 within the area proposed for annexation; and

~~[(H)]~~ (C) covers 100% of the private land area within the area proposed for annexation,

SB0199S05 compared with SB0199S03

if the area is within~~[-(Aa)]~~ an agriculture protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection Areas~~[-or (Bb)]~~, ~~or~~ ~~{}~~ a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

~~[(C)]~~ ~~(iii)~~ is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation; ~~[or]~~

~~[(ii) if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owner of all the publicly owned real property;]~~

~~[(c) if the petition proposes the annexation of an area located within a {} township {} [planning district](#)], explain that if the annexation petition is granted, the area will also be withdrawn from the {} township;] ~~{ [planning district](#);~~~~

~~[(d)]~~ ~~(c)~~ be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

~~[(e)]~~ ~~(d)~~ if the area proposed to be annexed is located in a county of the first class, contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

- There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.
- If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

~~[(f)]~~ ~~(e)~~ if the petition proposes the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located, be accompanied by a copy of the resolution, required under Subsection 10-2-402(6), of the legislative body of the county in which the area is located; and

SB0199S05 compared with SB0199S03

~~(g)~~ (f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) A petition under Subsection (1) proposing the annexation of an area located in a county of the first class may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section ~~[10-2-103]~~ 10-2a-202 or a petition under Section ~~[10-2-125]~~ 10-2a-302 if:

(a) the request or petition was filed before the filing of the annexation petition; and

(b) the request, a petition under Section ~~[10-2-109]~~ 10-2a-208 based on that request, or a petition under Section ~~[10-2-125]~~ 10-2a-302 is still pending on the date the annexation petition is filed.

(6) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(7) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to ~~[]~~

~~(a) []~~ the clerk of the county in which the area proposed for annexation is located ~~[]~~ and ~~[]~~

~~(b) if any of the area proposed for annexation is within a [] township []~~ planning district.

~~(i) the legislative body of the county in which the [] township []~~ planning district is

SB0199S05 compared with SB0199S03

located; and]

~~[(ii) the chair of the {{}} township {{}} planning district] planning commission.]~~

(8) A property owner who signs an annexation petition proposing to annex an area located in a county of the first class may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 8. Section **10-2-405** is amended to read:

10-2-405. Acceptance or denial of an annexation petition -- Petition certification process -- Modified petition.

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

(A) subject to Subsection (1)(a)(ii), deny a petition filed under Section 10-2-403; or

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

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

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

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

(b) If a municipal legislative body denies a petition under Subsection (1)(a)(i), it shall, within five days after the denial, mail written notice of the denial to:

(i) the contact sponsor; and

(ii) the clerk of the county in which the area proposed for annexation is located~~]; and]~~.

~~[(iii) if any of the area proposed for annexation is within a {{}} township.] {{}} planning district;~~

~~[(A) the legislative body of the county in which the {{}} township {{}} planning district] is located; and]~~

~~[(B) the chair of the planning commission.]~~

(2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i) or is

SB0199S05 compared with SB0199S03

considered to have accepted the petition under Subsection (1)(a)(ii), the city recorder or town clerk, as the case may be, shall, within 30 days after that acceptance:

(a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the area proposed for annexation is located the records the city recorder or town clerk needs to determine whether the petition meets the requirements of Subsections 10-2-403(3), (4), and (5);

(b) with the assistance of the municipal attorney, determine whether the petition meets the requirements of Subsections 10-2-403(3), (4), and (5); and

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

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

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

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

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

(4) Each county assessor, clerk, surveyor, and recorder shall provide copies of records that a city recorder or town clerk requests under Subsection (2)(a).

Section 9. Section **10-2-407** is amended to read:

10-2-407. Protest to annexation petition -- Planning ~~{district}~~ advisory area planning commission recommendation -- Petition requirements -- Disposition of petition

SB0199S05 compared with SB0199S03

if no protest filed.

(1) ~~[(a)]~~ A protest to an annexation petition under Section 10-2-403 may be filed by:

~~[(+)]~~ (a) the legislative body or governing board of an affected entity; ~~[or]~~

(b) the owner of rural real property as defined in Section 17B-2a-1107; or

~~[(+)]~~ (c) for a proposed annexation of an area within a county of the first class, the

owners of private real property that:

~~[(A)]~~ (i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

~~[(B)]~~ (ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

~~[(C)]~~ (iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

~~[(b)(i)]~~ A planning commission of a township located in a county of the first class may recommend to the legislative body of the county in which the township is located that the county legislative body file a protest against a proposed annexation under this part of an area located within the township.]

~~[(ii)(A)]~~ The township planning commission shall communicate each recommendation under Subsection (1)(b)(i) in writing to the county legislative body within 30 days after the city recorder or town clerk's certification of the annexation petition under Subsection 10-2-405(2)(c)(i).]

~~[(B)]~~ At the time the recommendation is communicated to the county legislative body under Subsection (1)(b)(ii)(A), the township planning commission shall mail or deliver a copy of the recommendation to the legislative body of the proposed annexing municipality and to the contact sponsor.].

(2) (a) Each protest under Subsection (1)~~[(a)]~~ shall:

(i) be filed:

(A) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(B) (I) in a county that has already created a commission under Section 10-2-409, with the commission; or

(II) in a county that has not yet created a commission under Section 10-2-409, with the

SB0199S05 compared with SB0199S03

clerk of the county in which the area proposed for annexation is located;

(ii) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(iii) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(iv) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(b) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(c) Each clerk who receives a protest under Subsection (2)(a)(i)(B)(II) shall:

(i) immediately notify the county legislative body of the protest; and

(ii) deliver the protest to the boundary commission within five days after:

(A) receipt of the protest, if the boundary commission has previously been created; or

(B) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

~~[(d) Each protest of a proposed annexation of an area located in a county of the first class under Subsection (1)(a)(ii) shall, in addition to the requirements of Subsections (2)(a) and (b):]~~

~~[(i) indicate the typed or printed name and current residence address of each owner signing the protest; and]~~

~~[(ii) designate one of the signers of the protest as the contact person and state the mailing address of the contact person:]~~

(3) (a) (i) If a protest is filed under this section:

(A) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i)(A), deny the annexation petition; or

(B) if the municipal legislative body does not deny the annexation petition under Subsection (3)(a)(i)(A), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

SB0199S05 compared with SB0199S03

(ii) If a municipal legislative body denies an annexation petition under Subsection (3)(a)(i)(A), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(A) the contact sponsor of the annexation petition;

(B) the commission; and

(C) each entity that filed a protest ~~[; ()]~~ and.

~~[(D) if a protest was filed under Subsection (1)(a)(ii) for a proposed annexation of an area located in a county of the first class, the contact person; and]~~

~~[(E) (D)]~~ if any of the area proposed for annexation is within a ~~{ }~~ township ~~{ }~~ planning district, the legislative body of the county in which the ~~{ }~~ township ~~{ }~~ planning district is located.]

(b) (i) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (3)(b)(ii), approve the petition.

(ii) Before approving an annexation petition under Subsection (3)(b)(i), the municipal legislative body shall:

(A) hold a public hearing; and

(B) at least seven days before the public hearing under Subsection (3)(b)(ii)(A):

(I) (Aa) publish notice of the hearing in a newspaper of general circulation within the municipality and the area proposed for annexation; or

(Bb) if there is no newspaper of general circulation in those areas, post written notices of the hearing in conspicuous places within those areas that are most likely to give notice to residents within those areas; and

(II) publish notice of the hearing on the Utah Public Notice Website created in Section 63F-1-701.

~~[(iii) Within 10 days after approving an annexation under Subsection (3)(b)(i) of an area that is partly or entirely within a { } township { } planning district, the municipal legislative body shall send notice of the approval to the legislative body of the county in which the { } township { } planning district is located.]~~

Section 10. Section **10-2-408** is amended to read:

10-2-408. Denying or approving the annexation petition -- Notice of approval.

(1) ~~{(a)}~~ After receipt of the commission's decision on a protest under Subsection

SB0199S05 compared with SB0199S03

10-2-416(2), a municipal legislative body may:

~~{(b)}(a) {(i)}~~ deny the annexation petition; or

~~{(b)}(b) {(i)}~~ subject to Subsection ~~{(b)}(2)~~, if the commission approves the annexation, approve the annexation petition consistent with the commission's decision.

~~{(b)}(2)~~ A municipal legislative body shall exclude rural real property, as that term is defined in Section 17B-2a-1107, unless the owner of the rural real property gives written consent to include the rural real property.

~~[(2) Within 10 days after approving an annexation under Subsection (1)(b) of an area that is partly or entirely within a { } township { } planning district], the municipal legislative body shall send notice of the approval to the legislative body of the county in which the { } township { } planning district is located.]~~

Section 11. Section **10-2-411** is amended to read:

10-2-411. Disqualification of commission member -- Alternate member.

(1) A member of the boundary commission is disqualified with respect to a protest before the commission if that member owns property:

(a) for a proposed annexation of an area located within a county of the first class:

(i) within the area proposed for annexation in a petition that is the subject of the protest; or

(ii) that is in the unincorporated area within 1/2 mile of the area proposed for annexation in a petition that is the subject of a protest under Subsection 10-2-407(1)[~~(a)(ii)~~](c);
or

(b) for a proposed annexation of an area located in a specified county, within the area proposed for annexation.

(2) If a member is disqualified under Subsection (1), the body that appointed the disqualified member shall appoint an alternate member to serve on the commission for purposes of the protest as to which the member is disqualified.

Section 12. Section **10-2-413** is amended to read:

10-2-413. Feasibility consultant -- Feasibility study -- Modifications to feasibility study.

(1) (a) For a proposed annexation of an area located in a county of the first class, unless a proposed annexing municipality denies an annexation petition under Subsection

SB0199S05 compared with SB0199S03

10-2-407(3)(a)(i)(A) and except as provided in Subsection (1)(b), the commission shall choose and engage a feasibility consultant within 45 days of:

(i) the commission's receipt of a protest under Section 10-2-407, if the commission had been created before the filing of the protest; or

(ii) the commission's creation, if the commission is created after the filing of a protest.

(b) Notwithstanding Subsection (1)(a), the commission may not require a feasibility study with respect to a petition that proposes the annexation of an area that:

(i) is undeveloped; and

(ii) covers an area that is equivalent to less than 5% of the total land mass of all private real property within the municipality.

(2) The commission shall require the feasibility consultant to:

(a) complete a feasibility study on the proposed annexation and submit written results of the study to the commission no later than 75 days after the feasibility consultant is engaged to conduct the study;

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

(c) attend the public hearing under Subsection 10-2-415(1) and present the feasibility study results and respond to questions at that hearing.

(3) (a) Subject to Subsection (4), the feasibility study shall consider:

(i) the population and population density within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(ii) the geography, geology, and topography of and natural boundaries within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(iii) whether the proposed annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;

(iv) whether the proposed annexation will hinder or prevent a future and more logical and beneficial annexation or a future logical and beneficial incorporation;

(v) the fiscal impact of the proposed annexation on the remaining unincorporated area,

SB0199S05 compared with SB0199S03

other municipalities, local districts, special service districts, school districts, and other governmental entities;

(vi) current and five-year projections of demographics and economic base in the area proposed for annexation and surrounding unincorporated area, including household size and income, commercial and industrial development, and public facilities;

(vii) projected growth in the area proposed for annexation and the surrounding unincorporated area during the next five years;

(viii) the present and five-year projections of the cost of governmental services in the area proposed for annexation;

(ix) the present and five-year projected revenue to the proposed annexing municipality from the area proposed for annexation;

(x) the projected impact the annexation will have over the following five years on the amount of taxes that property owners within the area proposed for annexation, the proposed annexing municipality, and the remaining unincorporated county will pay;

(xi) past expansion in terms of population and construction in the area proposed for annexation and the surrounding unincorporated area;

(xii) the extension during the past 10 years of the boundaries of each other municipality near the area proposed for annexation, the willingness of the other municipality to annex the area proposed for annexation, and the probability that another municipality would annex some or all of the area proposed for annexation during the next five years if the annexation did not occur;

(xiii) the history, culture, and social aspects of the area proposed for annexation and surrounding area;

(xiv) the method of providing and the entity that has provided municipal-type services in the past to the area proposed for incorporation and the feasibility of municipal-type services being provided by the proposed annexing municipality; and

(xv) the effect on each school district whose boundaries include part or all of the area proposed for annexation or the proposed annexing municipality.

(b) For purposes of Subsection (3)(a)(ix), the feasibility consultant shall assume ad valorem property tax rates on residential property within the area proposed for annexation at the same level that residential property within the proposed annexing municipality would be

SB0199S05 compared with SB0199S03

without the annexation.

(c) For purposes of Subsection (3)(a)(viii), the feasibility consultant shall assume that the level and quality of governmental services that will be provided to the area proposed for annexation in the future is essentially comparable to the level and quality of governmental services being provided within the proposed annexing municipality at the time of the feasibility study.

(4) (a) Except as provided in Subsection (4)(b), the commission may modify the depth of study of and detail given to the items listed in Subsection (3)(a) by the feasibility consultant in conducting the feasibility study depending upon:

- (i) the size of the area proposed for annexation;
- (ii) the size of the proposed annexing municipality;
- (iii) the extent to which the area proposed for annexation is developed;
- (iv) the degree to which the area proposed for annexation is expected to develop and the type of development expected; and
- (v) the number and type of protests filed against the proposed annexation.

(b) Notwithstanding Subsection (4)(a), the commission may not modify the requirement that the feasibility consultant provide a full and complete analysis of the items listed in Subsections (3)(a)(viii), (ix), and (xv).

(5) If the results of the feasibility study do not meet the requirements of Subsection 10-2-416(3), the feasibility consultant may, as part of the feasibility study, make recommendations as to how the boundaries of the area proposed for annexation may be altered so that the requirements of Subsection 10-2-416(3) may be met.

(6) (a) Except as provided in Subsection (6)(b), the feasibility consultant fees and expenses shall be shared equally by the proposed annexing municipality and each entity or group under Subsection 10-2-407(1) that files a protest.

(b) (i) Except as provided in Subsection (6)(b)(ii), if a protest is filed by property owners under Subsection 10-2-407(1)[~~(a)(ii)~~](c), the county in which the area proposed for annexation shall pay the owners' share of the feasibility consultant's fees and expenses.

(ii) Notwithstanding Subsection (6)(b)(i), if both the county and the property owners file a protest, the county and the proposed annexing municipality shall equally share the property owners' share of the feasibility consultant's fees and expenses.

SB0199S05 compared with SB0199S03

Section 13. Section **10-2-414** is amended to read:

10-2-414. Modified annexation petition -- Supplemental feasibility study.

(1) (a) (i) If the results of the feasibility study with respect to a proposed annexation of an area located in a county of the first class do not meet the requirements of Subsection 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility consultant's submission of the results of the study, file with the city recorder or town clerk of the proposed annexing municipality a modified annexation petition altering the boundaries of the proposed annexation.

(ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the sponsors of the annexation petition shall deliver or mail a copy of the modified annexation petition to the clerk of the county in which the area proposed for annexation is located.

(b) Each modified annexation petition under Subsection (1)(a) shall comply with the requirements of Subsections 10-2-403(3), (4), and (5).

(2) (a) Within 20 days of the city recorder or town clerk's receipt of the modified annexation petition, the city recorder or town clerk, as the case may be, shall follow the same procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and (3)(a) for an original annexation petition.

(b) If the city recorder or town clerk certifies the modified annexation petition under Subsection 10-2-405(2)(c)(i), the city recorder or town clerk, as the case may be, shall send written notice of the certification to:

- (i) the commission;
- (ii) each entity that filed a protest to the annexation petition; and
- (iii) if a protest was filed under Subsection 10-2-407(1)[~~(a)(ii)~~](c), the contact person.

(c) (i) If the modified annexation petition proposes the annexation of an area that includes part or all of a local district, special service district, or school district that was not included in the area proposed for annexation in the original petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the board of the local district, special service district, or school district.

(ii) If the area proposed for annexation in the modified annexation petition is within 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the area proposed for annexation in the original annexation petition, the city recorder or town

SB0199S05 compared with SB0199S03

clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the legislative body of that municipality.

(3) Within 10 days of the commission's receipt of the notice under Subsection (2)(b), the commission shall engage the feasibility consultant that conducted the feasibility study to supplement the feasibility study to take into account the information in the modified annexation petition that was not included in the original annexation petition.

(4) The commission shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the commission no later than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility study.

Section 14. Section **10-2-415** is amended to read:

10-2-415. Public hearing -- Notice.

(1) (a) (i) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days of receipt of the feasibility study or supplemental feasibility study results.

(ii) At the hearing under Subsection (1)(a)(i), the commission shall:

(A) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;

(B) allow those present to ask questions of the feasibility consultant regarding the study results; and

(C) allow those present to speak to the issue of annexation.

(iii) (A) The commission shall:

(I) publish notice of each hearing under Subsection (1)(a)(i):

(Aa) at least once a week for two successive weeks in a newspaper of general circulation within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality; and

(Bb) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks; and

(II) send written notice of the hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a

SB0199S05 compared with SB0199S03

protest, and, if a protest was filed under Subsection 10-2-407(1)[~~(a)(ii)~~](c), the contact person.

(B) In accordance with Subsection (1)(a)(iii)(A)(I)(Aa), if there is no newspaper of general circulation within the areas described in Subsection (1)(a)(iii)(A)(I)(Aa), the commission shall give the notice required under that subsection by posting notices, at least seven days before the hearing, in conspicuous places within those areas that are most likely to give notice of the hearing to the residents of those areas.

(C) The notice under Subsections (1)(a)(iii)(A) and (B) shall include the feasibility study summary under Subsection 10-2-413(2)(b) and shall indicate that a full copy of the study is available for inspection and copying at the office of the commission.

(b) (i) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.

(ii) (A) At least 14 days before the date of each hearing under Subsection (1)(b)(i), the commission chair shall cause notice of the hearing to be published in a newspaper of general circulation within the area proposed for annexation.

(B) Each notice under Subsection (1)(b)(ii)(A) shall:

(I) state the date, time, and place of the hearing;

(II) briefly summarize the nature of the protest; and

(III) state that a copy of the protest is on file at the commission's office.

(iii) The commission may continue a hearing under Subsection (1)(b)(i) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.

(iv) In considering protests, the commission shall consider whether the proposed annexation:

(A) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;

(B) conflicts with the annexation policy plan of another municipality; and

(C) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.

(2) (a) The commission shall record each hearing under this section by electronic means.

SB0199S05 compared with SB0199S03

(b) A transcription of the recording under Subsection (2)(a), the feasibility study, if applicable, information received at the hearing, and the written decision of the commission shall constitute the record of the hearing.

Section 15. Section **10-2-416** is amended to read:

10-2-416. Commission decision -- Time limit -- Limitation on approval of annexation.

(1) Subject to Subsection (3), after the public hearing under Subsection 10-2-415(1) the boundary commission may:

- (a) approve the proposed annexation, either with or without conditions;
- (b) make minor modifications to the proposed annexation and approve it, either with or without conditions; or
- (c) disapprove the proposed annexation.

(2) The commission shall issue a written decision on the proposed annexation within 30 days after the conclusion of the hearing under Section 10-2-415 and shall send a copy of the decision to:

- (a) the legislative body of the county in which the area proposed for annexation is located;
- (b) the legislative body of the proposed annexing municipality;
- (c) the contact person on the annexation petition;
- (d) the contact person of each entity that filed a protest; and
- (e) if a protest was filed under Subsection 10-2-407(1)[(a)(ii)](c) with respect to a proposed annexation of an area located in a county of the first class, the contact person designated in the protest.

(3) Except for an annexation for which a feasibility study may not be required under Subsection 10-2-413(1)(b), the commission may not approve a proposed annexation of an area located within a county of the first class unless the results of the feasibility study under Section 10-2-413 show that the average annual amount under Subsection 10-2-413(3)(a)(ix) does not exceed the average annual amount under Subsection 10-2-413(3)(a)(viii) by more than 5%.

Section 16. Section **10-2-418** is amended to read:

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

SB0199S05 compared with SB0199S03

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

~~(1)~~ (2) (a) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

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

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

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

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

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

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

(iii) (A) the area consists of:

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

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

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

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

(i) in adopting the resolution under Subsection ~~(2)~~ (4)(a)(i), the municipal legislative

SB0199S05 compared with SB0199S03

body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(ii) for an annexation of one or more unincorporated islands under Subsection [~~(1)~~] ~~(2)~~(a)(ii), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection [~~(1)~~] ~~(2)~~(a)(ii)(A) relating to the number of residents.

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

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

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

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

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

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

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(a)(iv)."

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

~~(2)~~ (4) (a) The legislative body of each municipality intending to annex an area under

SB0199S05 compared with SB0199S03

this section shall:

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

(ii) publish notice:

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

(II) if there is no newspaper of general circulation in the areas described in Subsection ~~[(2)]~~ (4)(a)(ii)(A), post at least one notice per 1,000 population in places within those areas that are most likely to give notice to the residents of those areas; and

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

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

(iv) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution under Subsection ~~[(2)]~~ (4)(a)(i).

(b) Each notice under Subsections ~~[(2)]~~ (4)(a)(ii) and (iii) shall:

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

(ii) state the date, time, and place of the public hearing under Subsection ~~[(2)]~~ (4)(a)(iv);

(iii) describe the area proposed for annexation; and

(iv) except for an annexation that meets the property owner consent requirements of Subsection ~~[(3)]~~ (5)(b), state in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing under Subsection ~~[(2)]~~ (4)(a)(iv), written protests to the annexation are filed by the owners of private real property that:

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

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

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

(c) The first publication of the notice required under Subsection ~~[(2)]~~ (4)(a)(ii)(A) shall

SB0199S05 compared with SB0199S03

be within 14 days of the municipal legislative body's adoption of a resolution under Subsection ~~[(2)]~~ (4)(a)(i).

~~[(3)]~~ (5) (a) Upon conclusion of the public hearing under Subsection ~~[(2)]~~ (4)(a)(iv), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the city recorder or town clerk, as the case may be, by the owners of private real property that:

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

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

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

(b) (i) Upon conclusion of the public hearing under Subsection ~~[(2)]~~ (4)(a)(iv), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection ~~[(3)]~~ (5)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection ~~[(3)]~~ (5)(b)(i), the area annexed shall be conclusively presumed to be validly annexed.

~~[(4)]~~ (6) (a) If protests are timely filed that comply with Subsection ~~[(3)]~~ (5), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection ~~[(4)]~~ (6)(a) may not be construed to prohibit the municipal legislative body from excluding from a proposed annexation under Subsection ~~[(1)]~~ (2)(a)(ii) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection ~~[(1)]~~ (2)(b) to annex some or all of the remaining portion of the unincorporated island.

Section 17. Section **10-2-425** is amended to read:

SB0199S05 compared with SB0199S03

10-2-425. Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

(1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404, shall:

(a) within 30 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 30 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) (A) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of annexation or boundary adjustment; and

(Cc) approved final local entity plat; and

(II) a certified copy of the ordinance approving the annexation or boundary adjustment;

or

(B) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (1)(b)(i)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the ordinance approving the annexation or boundary adjustment; and

(II) submit to the recorder of each other county:

SB0199S05 compared with SB0199S03

(Aa) a certified copy of the documents listed in Subsections (1)(b)(i)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the ordinance approving the annexation or boundary adjustment;

(ii) send notice of the annexation or boundary adjustment to each affected entity; and

(iii) in accordance with Section 26-8a-414, file with the Department of Health:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and

(B) a copy of the approved final local entity plat.

(2) If an annexation or boundary adjustment under this part or Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a local district under Section 17B-1-416 or an automatic withdrawal from a local district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the local district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

(3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection (4).

(4) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection (1) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

SB0199S05 compared with SB0199S03

(B) the requirements of Subsection (1) are met before that January 1; and

(b) ~~except~~ subject for an annexation described in to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

(5) ~~An~~ If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404 ~~is completed and takes effect on a date agreed to by~~:

(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and

(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).

~~(5)~~ (6) (a) As used in this Subsection ~~(5)~~ (6):

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

SB0199S05 compared with SB0199S03

Section 18. Section **10-2a-101** is enacted to read:

CHAPTER 2a. MUNICIPAL INCORPORATION

Part 1. General Provisions

10-2a-101. Title.

(1) This chapter is known as "Municipal Incorporation."

(2) This part is known as "General Provisions."

Section 19. Section **10-2a-102**, which is renumbered from Section 10-2-101 is renumbered and amended to read:

~~[10-2-101].~~ 10-2a-102. Definitions.

(1) As used in this part:

(a) "Feasibility consultant" means a person or firm:

(i) with expertise in the processes and economics of local government; and

(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.

(b) "Private," with respect to real property, means taxable property.

(2) For purposes of this part:

(a) the owner of real property shall be the record title owner according to the records of the county recorder on the date of the filing of the request or petition; and

(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the request or petition.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or fraction of the total private land area within an area to sign a request or petition:

(a) a parcel of real property may not be included in the calculation of the required percentage or fraction unless the request or petition is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a request or petition in a representative capacity on behalf of an owner is invalid unless:

SB0199S05 compared with SB0199S03

(i) the person's representative capacity and the name of the owner the person represents are indicated on the request or petition with the person's signature; and

(ii) the person provides documentation accompanying the request or petition that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a request or petition on behalf of a deceased owner.

Section 20. Section **10-2a-103**, which is renumbered from Section 10-2-102 is renumbered and amended to read:

~~[10-2-102].~~ 10-2a-103. Incorporation of a contiguous area.

~~[(1)]~~ A contiguous area of a county not within a municipality may incorporate as a municipality as provided in this ~~[part]~~ chapter.

~~[(2)(a) Incorporation as a city is governed by Sections 10-2-103 through 10-2-124.]~~

~~[(b) Incorporation as a town is governed by Sections 10-2-125 through 10-2-129.]~~

Section 21. Section **10-2a-104**, which is renumbered from Section 10-2-118 is renumbered and amended to read:

~~[10-2-118].~~ 10-2a-104. Elections governed by the Election Code.

Except as otherwise provided in this ~~[part]~~ chapter, each election under this ~~[part]~~ chapter shall be governed by the provisions of Title 20A, Election Code.

Section 22. Section **10-2a-105**, which is renumbered from Section 10-2-130 is renumbered and amended to read:

~~[10-2-130].~~ 10-2a-105. Suspension of township incorporation and annexation procedures on or after January 1, 2014 -- Exceptions.

(1) As used in this section:

(a) "Township incorporation procedure" means the following actions, the subject of which includes an area located in whole or in part in a township:

(i) a request for incorporation described in Section ~~[10-2-103]~~ 10-2a-202;

(ii) a feasibility study described in Section ~~[10-2-106]~~ 10-2a-205;

(iii) a modified request and a supplemental feasibility study described in Section ~~[10-2-107]~~ 10-2a-206; or

(iv) an incorporation petition described in Section ~~[10-2-109]~~ 10-2a-208 that is not certified under Section ~~[10-2-110]~~ 10-2a-109.

SB0199S05 compared with SB0199S03

(b) "Township annexation procedure" means one or more of the following actions, the subject of which includes an area located in whole or in part in a township:

(i) a petition to annex described in Section 10-2-403;

(ii) a feasibility study described in Section 10-2-413;

(iii) a modified annexation petition or supplemental feasibility study described in Section 10-2-414;

(iv) a boundary commission decision described in Section 10-2-416; or

(v) any action described in Section 10-2-418 before the adoption of an ordinance to approve annexation under Subsection 10-2-418~~(3)~~(5)(b).

(2) (a) Except as provided in Subsections (3) and (4):

(i) if a request for incorporation described in Section ~~[10-2-103]~~ 10-2a-202 is filed with the clerk of the county on or after January 1, 2014, a township incorporation procedure that is the subject of or otherwise relates to that request is suspended until November 15, 2015; and

(ii) if a petition to annex described in Section 10-2-403 is filed with the city recorder or town clerk on or after January 1, 2014, a township annexation procedure that is the subject of or otherwise relates to that petition is suspended until November 15, 2015.

(b) (i) If a township incorporation procedure or township annexation procedure is suspended under Subsection (2)(a), any applicable deadline or timeline is suspended before and on November 15, 2015.

(ii) On November 16, 2015, the applicable deadline or timeline described in Subsection (2)(b)(i):

(A) may proceed and the period of time during the suspension does not toll against that deadline or timeline; and

(B) does not start over.

(3) Subsection (2) does not apply to a township annexation procedure that:

(a) includes any land area located in whole or in part in a township that is:

(i) 50 acres or more; and

(ii) primarily owned or controlled by a government entity; or

(b) is the subject of or otherwise relates to a petition to annex that is filed in accordance with Subsection 10-2-403(3) before January 1, 2014.

SB0199S05 compared with SB0199S03

(4) (a) For an incorporation petition suspended in accordance with Subsection (2), the petition sponsors may continue to gather petition signatures and file them with the county clerk as provided in Section [~~10-2-103~~] 10-2a-202.

(b) The county clerk shall process the petition in accordance with Section [~~10-2-105~~] 10-2a-204 and may issue a certification or rejection of the petition as provided in Section [~~10-2-105~~] 10-2a-204.

(c) Notwithstanding any other provision of [~~Chapter 2, Incorporation, Classification, Boundaries, Consolidation, and Dissolution of Municipalities~~] this chapter, any further processing, including a feasibility study, public hearing, or an incorporation election, is suspended until November 15, 2015.

Section 23. Section **10-2a-201** is enacted to read:

Part 2. Incorporation of a City

10-2a-201. Title.

This part is known as "Incorporation of a City."

Section 24. Section **10-2a-202**, which is renumbered from Section 10-2-103 is renumbered and amended to read:

[~~10-2-103~~]. 10-2a-202. Request for feasibility study -- Requirements -- Limitations.

(1) The process to incorporate a contiguous area of a county as a city is initiated by a request for a feasibility study filed with the clerk of the county in which the area is located.

(2) Each request under Subsection (1) shall:

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

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

(ii) covers at least 10% of the total private land area within the area; and

(iii) is equal in value to at least 7% of the value of all private real property within the area;

(b) indicate the typed or printed name and current residence address of each owner signing the request;

(c) describe the contiguous area proposed to be incorporated as a city;

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

SB0199S05 compared with SB0199S03

(e) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing the boundaries of the proposed city; and

(f) request the county legislative body to commission a study to determine the feasibility of incorporating the area as a city.

(3) A request for a feasibility study under this section may not propose for incorporation an area that includes some or all of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection [~~10-2-109~~] 10-2a-208(3) unless:

(a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section [~~10-2-111~~] 10-2a-210; or

(b) the time provided under Subsection [~~10-2-109~~] 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the filing of a petition.

(4) (a) Except as provided in Subsection (4)(b), a request under this section may not propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

- (i) was filed before the filing of the request; and
- (ii) is still pending on the date the request is filed.

(b) Notwithstanding Subsection (4)(a), a request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the request complies with Subsections (2) and (3) with respect to the area proposed for incorporation excluding the proposed annexation area; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to lose its contiguousness.

(c) Except as provided in Section [~~10-2-107~~] 10-2a-206, each request to which Subsection (4)(b) applies shall be considered as not proposing the incorporation of the area proposed for annexation.

SB0199S05 compared with SB0199S03

~~[(5) At the time of filing the request for a feasibility study with the county clerk, the sponsors of the request shall mail or deliver a copy of the request to the chair of the planning commission of each ~~{}~~ township ~~{}~~ planning district in which any part of the area proposed for incorporation is located.]~~

Section 25. Section ~~10-2a-203~~, which is renumbered from Section 10-2-104 is renumbered and amended to read:

~~[10-2-104].~~ **10-2a-203. Notice to owner of property -- Exclusion of property from proposed boundaries.**

(1) As used in this section:

(a) "Assessed value" with respect to property means the value at which the property would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

(b) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.

(c) "Urban" means an area with a residential density of greater than one unit per acre.

(2) Within seven calendar days of the date on which a request under Section ~~[10-2-103]~~ 10-2a-202 is filed, the county clerk shall send written notice of the proposed incorporation to each record owner of real property owning more than:

(a) 1% of the assessed value of all property in the proposed incorporation boundaries;

or

(b) 10% of the total private land area within the proposed incorporation boundaries.

(3) If an owner owns, controls, or manages more than 1% of the assessed value of all property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation boundaries, the owner may exclude all or part of the property owned, controlled, or managed by the owner from the proposed boundaries by filing a Notice of Exclusion with the county legislative body within 15 calendar days of receiving the clerk's notice under Subsection (2).

(4) The county legislative body shall exclude the property identified by an owner in the Notice of Exclusion from the proposed incorporation boundaries unless the county legislative body finds by clear and convincing evidence in the record that:

(a) the exclusion will leave an unincorporated island within the proposed municipality;
and

SB0199S05 compared with SB0199S03

(b) the property to be excluded:

(i) is urban; and

(ii) currently receives from the county a majority of municipal-type services including:

(A) culinary or irrigation water;

(B) sewage collection or treatment;

(C) storm drainage or flood control;

(D) recreational facilities or parks;

(E) electric generation or transportation;

(F) construction or maintenance of local streets and roads;

(G) curb and gutter or sidewalk maintenance;

(H) garbage and refuse collection; and

(I) street lighting.

(5) This section applies only to counties of the first or second class.

(6) If the county legislative body excludes property from the proposed boundaries under Subsection (4), the county legislative body shall, within five days of the exclusion, send written notice of the exclusion to the contact sponsor.

Section 26. Section **10-2a-204**, which is renumbered from Section 10-2-105 is renumbered and amended to read:

~~[10-2-105].~~ **10-2a-204. Processing a request for incorporation -- Certification or rejection by county clerk -- Processing priority -- Limitations -- Planning**
~~{district}~~advisory area planning commission recommendation.

(1) Within 45 days of the filing of a request under Section ~~[10-2-103]~~ 10-2a-202, the county clerk shall:

(a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the request complies with Section ~~[10-2-103]~~ 10-2a-202; and

(b) (i) if the clerk determines that the request complies with Section ~~[10-2-103]~~ 10-2a-202:

(A) certify the request and deliver the certified request to the county legislative body;
and

(B) mail or deliver written notification of the certification to ~~[the~~
~~contact sponsor]~~ the contact sponsor; ~~[and]~~ or

SB0199S05 compared with SB0199S03

~~[(H) the chair of the planning commission of each ({} township ({} planning district) in which any part of the area proposed for incorporation is located; or]~~

(ii) if the clerk determines that the request fails to comply with Section [~~10-2-103~~] 10-2a-202 requirements, reject the request and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) The county clerk shall certify or reject requests under Subsection (1) in the order in which they are filed.

(3) (a) (i) If the county clerk rejects a request under Subsection (1)(b)(ii), the request may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(ii) A signature on a request under Section [~~10-2-103~~] 10-2a-202 may be used toward fulfilling the signature requirement of Subsection [~~10-2-103~~] 10-2a-202(2)(a) for the request as modified under Subsection (3)(a)(i).

(b) If a request is amended and refiled under Subsection (3)(a) after having been rejected by the county clerk under Subsection (1)(b)(ii), it shall be considered as a newly filed request, and its processing priority is determined by the date on which it is refiled.

Section 27. Section **10-2a-205**, which is renumbered from Section 10-2-106 is renumbered and amended to read:

~~[10-2-106].~~ **10-2a-205. Feasibility study -- Feasibility study consultant.**

(1) Within 60 days of receipt of a certified request under Subsection [~~10-2-105~~] 10-2a-204(1)(b)(i), the county legislative body shall engage the feasibility consultant chosen under Subsection (2) to conduct a feasibility study.

(2) The feasibility consultant shall be chosen:

(a) (i) by the contact sponsor of the incorporation petition with the consent of the county; or

(ii) by the county if the designated sponsors state, in writing, that the contact sponsor defers selection of the feasibility consultant to the county; and

(b) in accordance with applicable county procurement procedures.

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

(a) complete the feasibility study and submit the written results to the county legislative body and the contact sponsor no later than 90 days after the feasibility consultant is engaged to

SB0199S05 compared with SB0199S03

conduct the study;

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

(c) attend the public hearings under Subsection [~~10-2-108~~] 10-2a-207(1) and present the feasibility study results and respond to questions from the public at those hearings.

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

(i) population and population density within the area proposed for incorporation and the surrounding area;

(ii) current and five-year projections of demographics and economic base in the proposed city and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the proposed city and in adjacent areas during the next five years;

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of governmental services in the proposed city, including:

(A) culinary water;

(B) secondary water;

(C) sewer;

(D) law enforcement;

(E) fire protection;

(F) roads and public works;

(G) garbage;

(H) weeds; and

(I) government offices;

(v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed city;

(vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation; and

(vii) the fiscal impact on unincorporated areas, other municipalities, local districts, special service districts, and other governmental entities in the county.

SB0199S05 compared with SB0199S03

(b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed city in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed city at the time of the feasibility study.

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

(A) the amount it would cost the proposed city to provide governmental service for the first five years after incorporation; and

(B) the county's present and five-year projected cost of providing governmental service.

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

(5) If the five year projected revenues under Subsection (4)(a)(v) exceed the five year projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(6) If the results of the feasibility study or revised feasibility study do not meet the requirements of Subsection [~~10-2-109~~] 10-2a-208(3), the feasibility consultant shall, as part of the feasibility study or revised feasibility study and if requested by the sponsors of the request, make recommendations as to how the boundaries of the proposed city may be altered so that the requirements of Subsection [~~10-2-109~~] 10-2a-208(3) may be met.

(7) (a) For purposes of this Subsection (7), "pending" means that the process to incorporate an unincorporated area has been initiated by the filing of a request for feasibility study under Section [~~10-2-103~~] 10-2a-202 but that, as of May 8, 2012, a petition under Section [~~10-2-109~~] 10-2a-208 has not yet been filed.

(b) The amendments to Subsection (4) that become effective upon the effective date of this Subsection (7):

(i) apply to each pending proceeding proposing the incorporation of an unincorporated area; and

(ii) do not apply to a municipal incorporation proceeding under this part in which a petition under Section [~~10-2-109~~] 10-2a-208 has been filed.

SB0199S05 compared with SB0199S03

(c) (i) If, in a pending incorporation proceeding, the feasibility consultant has, as of May 8, 2012, already completed the feasibility study, the county legislative body shall, within 20 days after the effective date of this Subsection (7) and except as provided in Subsection (7)(c)(iii), engage the feasibility consultant to revise the feasibility study to take into account the amendments to Subsection (4) that became effective on the effective date of this Subsection (7).

(ii) Except as provided in Subsection (7)(c)(iii), the county legislative body shall require the feasibility consultant to complete the revised feasibility study under Subsection (7)(c)(i) within 20 days after being engaged to do so.

(iii) Notwithstanding Subsections (7)(c)(i) and (ii), a county legislative body is not required to engage the feasibility consultant to revise the feasibility study if, within 15 days after the effective date of this Subsection (7), the request sponsors file with the county clerk a written withdrawal of the request signed by all the request sponsors.

(d) All provisions of this part that set forth the incorporation process following the completion of a feasibility study shall apply with equal force following the completion of a revised feasibility study under this Subsection (7), except that, if a petition under Section [~~10-2-109~~] 10-2a-208 has already been filed based on the feasibility study that is revised under this Subsection (7):

(i) the notice required by Section [~~10-2-108~~] 10-2a-207 for the revised feasibility study shall include a statement informing signers of the petition of their right to withdraw their signatures from the petition and of the process and deadline for withdrawing a signature from the petition;

(ii) a signer of the petition may withdraw the signer's signature by filing with the county clerk a written withdrawal within 30 days after the final notice under Subsection [~~10-2-108~~] 10-2a-207(3) has been given with respect to the revised feasibility study; and

(iii) unless withdrawn, a signature on the petition may be used toward fulfilling the signature requirements under Subsection [~~10-2-109~~] 10-2a-208(2)(a) for a petition based on the revised feasibility study.

Section 28. Section **10-2a-206**, which is renumbered from Section 10-2-107 is renumbered and amended to read:

~~[10-2-107]~~. **10-2a-206**. **Modified request for feasibility study -- Supplemental**

SB0199S05 compared with SB0199S03

feasibility study.

(1) (a) (i) The sponsors of a request may modify the request to alter the boundaries of the proposed city and then refile the request, as modified, with the county clerk if:

(A) the results of the feasibility study do not meet the requirements of Subsection [~~10-2-109~~] 10-2a-208(3); or

(B) (I) the request meets the conditions of Subsection [~~10-2-103~~] 10-2a-202(4)(b);

(II) the annexation petition that proposed the annexation of an area that is part of the area proposed for incorporation has been denied; and

(III) an incorporation petition based on the request has not been filed.

(ii) (A) A modified request under Subsection (1)(a)(i)(A) may not be filed more than 90 days after the feasibility consultant's submission of the results of the study.

(B) A modified request under Subsection (1)(a)(i)(B) may not be filed more than 18 months after the filing of the original request under Section [~~10-2-103~~] 10-2a-202.

(b) (i) Subject to Subsection (1)(b)(ii), each modified request under Subsection (1)(a) shall comply with the requirements of Subsections [~~10-2-103~~] 10-2a-202(2), (3), and (4), ~~and~~ (5).

(ii) Notwithstanding Subsection (1)(b)(i), a signature on a request filed under Section [~~10-2-103~~] 10-2a-202 may be used toward fulfilling the signature requirement of Subsection [~~10-2-103~~] 10-2a-202(2)(a) for the request as modified under Subsection (1)(a), unless the modified request proposes the incorporation of an area that is more than 20% greater or smaller than the area described by the original request in terms of:

(A) private land area; or

(B) value of private real property.

(2) Within 20 days after the county clerk's receipt of the modified request, the county clerk shall follow the same procedure for the modified request as provided under Subsection [~~10-2-105~~] 10-2a-204(1) for an original request.

(3) The timely filing of a modified request under Subsection (1) gives the modified request the same processing priority under Subsection [~~10-2-105~~] 10-2a-204(2) as the original request.

(4) Within 10 days after the county legislative body's receipt of a certified modified request under Subsection (1)(a)(i)(A) or a certified modified request under Subsection

SB0199S05 compared with SB0199S03

(1)(a)(i)(B) that was filed after the completion of a feasibility study on the original request, the county legislative body shall commission the feasibility consultant who conducted the feasibility study to supplement the feasibility study to take into account the information in the modified request that was not included in the original request.

(5) The county legislative body shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the county legislative body and to the contact sponsor no later than 30 days after the feasibility consultant is commissioned to conduct the supplemental feasibility study.

(6) (a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study do not meet the requirements of Subsection [~~10-2-109~~] 10-2a-208(3):

(i) the sponsors may file a further modified request as provided in Subsection (1); and

(ii) Subsections (2), (4), and (5) apply to a further modified request under Subsection (6)(a)(i).

(b) A further modified request under Subsection (6)(a) shall, for purposes of its processing priority, be considered as an original request for a feasibility study under Section [~~10-2-103~~] 10-2a-202.

Section 29. Section **10-2a-207**, which is renumbered from Section 10-2-108 is renumbered and amended to read:

~~[10-2-108]~~. 10-2a-207. Public hearings on feasibility study results -- Notice of hearings.

(1) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection [~~10-2-109~~] 10-2a-208(3), the county legislative body shall, at its next regular meeting after receipt of the results of the feasibility study or supplemental feasibility study, schedule at least two public hearings to be held:

(a) within the following 60 days;

(b) at least seven days apart;

(c) in geographically diverse locations within the proposed city; and

(d) for the purpose of allowing:

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

(ii) the public to become informed about the feasibility study results and to ask questions about those results of the feasibility consultant.

SB0199S05 compared with SB0199S03

(2) At a public hearing described in Subsection (1), the county legislative body shall:

(a) provide a map or plat of the boundary of the proposed city;

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

(c) allow the public to express its views about the proposed incorporation, including its view about the proposed boundary.

(3) (a) (i) The county clerk shall publish notice of the public hearings required under Subsection (1):

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

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

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

(b) (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation within the proposed city, the county clerk shall post at least one notice of the hearings per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the hearings to the residents of the proposed city.

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

(c) The notice under Subsections (3)(a) and (b) shall include the feasibility study summary under Subsection [~~10-2-106~~] 10-2a-205(3)(b) and shall indicate that a full copy of the study is available for inspection and copying at the office of the county clerk.

Section 30. Section **10-2a-208**, which is renumbered from Section 10-2-109 is renumbered and amended to read:

~~[10-2-109]~~. **10-2a-208. Incorporation petition -- Requirements and form.**

(1) At any time within one year of the completion of the public hearings required under Subsection [~~10-2-108~~] 10-2a-207(1), a petition for incorporation of the area proposed to be incorporated as a city may be filed in the office of the clerk of the county in which the area is located.

(2) Each petition under Subsection (1) shall:

(a) be signed by:

(i) 10% of all registered voters within the area proposed to be incorporated as a city,

SB0199S05 compared with SB0199S03

according to the official voter registration list maintained by the county on the date the petition is filed; and

(ii) 10% of all registered voters within, subject to Subsection (5), 90% of the voting precincts within the area proposed to be incorporated as a city, according to the official voter registration list maintained by the county on the date the petition is filed;

(b) indicate the typed or printed name and current residence address of each owner signing the petition;

(c) describe the area proposed to be incorporated as a city, as described in the feasibility study request or modified request that meets the requirements of Subsection (3);

(d) state the proposed name for the proposed city;

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

(f) state that the signers of the petition appoint the sponsors, if the incorporation measure passes, to represent the signers in the process of:

(i) selecting the number of commission or council members the new city will have; and

(ii) drawing district boundaries for the election of commission or council members, if the voters decide to elect commission or council members by district;

(g) be accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed city; and

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

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

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

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

SB0199S05 compared with SB0199S03

the area proposed to be incorporated).

(3) A petition for incorporation of a city under Subsection (1) may not be filed unless the results of the feasibility study or supplemental feasibility study show that the average annual amount of revenue under Subsection [~~10-2-106~~] 10-2a-205(4)(a)(v) does not exceed the average annual amount of cost under Subsection [~~10-2-106~~] 10-2a-205(4)(a)(iv) by more than 5%.

(4) A signature on a request under Section [~~10-2-103~~] 10-2a-202 or a modified request under Section [~~10-2-107~~] 10-2a-206 may be used toward fulfilling the signature requirement of Subsection (2)(a):

(a) if the request under Section [~~10-2-103~~] 10-2a-202 or modified request under Section [~~10-2-107~~] 10-2a-206 notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a petition for incorporation under this section; and

(b) unless the signer files with the county clerk a written withdrawal of the signature before the petition under this section is filed with the clerk.

(5) (a) A signature does not qualify as a signature to meet the requirement described in Subsection (2)(a)(ii) if the signature is gathered from a voting precinct that:

- (i) is not located entirely within the boundaries of the proposed city; or
- (ii) includes less than 50 registered voters.

(b) A voting precinct that is not located entirely within the boundaries of the proposed city does not qualify as a voting precinct to meet the precinct requirements of Subsection (2)(a)(ii).

Section 31. Section **10-2a-209**, which is renumbered from Section 10-2-110 is renumbered and amended to read:

~~[10-2-110].~~ **10-2a-209. Processing of petition by county clerk -- Certification or rejection -- Processing priority.**

(1) Within 45 days of the filing of a petition under Section [~~10-2-109~~] 10-2a-208, the county clerk shall:

(a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition meets the requirements of Section [~~10-2-109~~] 10-2a-208; and

SB0199S05 compared with SB0199S03

(b) (i) if the clerk determines that the petition meets those requirements, certify the petition, deliver it to the county legislative body, and notify in writing the contact sponsor of the certification; or

(ii) if the clerk determines that the petition fails to meet any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) (a) If the county clerk rejects a petition under Subsection (1)(b)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(b) A modified petition under Subsection (2)(a) may be filed at any time until 30 days after the county clerk notifies the contact sponsor under Subsection (1)(b)(ii), even though the modified petition is filed after the expiration of the deadline provided in Subsection [~~10-2-109~~] 10-2a-208(1).

(c) A signature on an incorporation petition under Section [~~10-2-109~~] 10-2a-208 may be used toward fulfilling the signature requirement of Subsection [~~10-2-109~~] 10-2a-208(2)(a) for the petition as modified under Subsection (2)(a).

(3) (a) Within 20 days of the county clerk's receipt of a modified petition under Subsection (2)(a), the county clerk shall follow the same procedure for the modified petition as provided under Subsection (1) for an original petition.

(b) If a county clerk rejects a modified petition under Subsection (1)(b)(ii), no further modification of that petition may be filed.

Section 32. Section **10-2a-210**, which is renumbered from Section 10-2-111 is renumbered and amended to read:

~~[10-2-111].~~ **10-2a-210. Incorporation election.**

(1) (a) Upon receipt of a certified petition under Subsection [~~10-2-110~~] 10-2a-209(1)(b)(i) or a certified modified petition under Subsection [~~10-2-110~~] 10-2a-209(3), the county legislative body shall determine and set an election date for the incorporation election that is:

(i) (A) on a general election date under Section 20A-1-201; or

(B) on a local special election date under Section 20A-1-203; and

(ii) at least 65 days after the day that the legislative body receives the certified petition.

SB0199S05 compared with SB0199S03

(b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed city, the person may not vote on the proposed incorporation.

(2) (a) The county clerk shall publish notice of the election:

(i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a city;

(iii) a statement of the date and time of the election and the location of polling places;

and

(iv) the feasibility study summary under Subsection [~~10-2-106~~] 10-2a-205(3)(b) and a statement that a full copy of the study is available for inspection and copying at the office of the county clerk.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the election to the voters of the proposed city.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1).

(3) If a majority of those casting votes within the area boundaries of the proposed city vote to incorporate as a city, the area shall incorporate.

Section 33. Section **10-2a-211**, which is renumbered from Section 10-2-112 is renumbered and amended to read:

~~[10-2-112]~~. **10-2a-211**. **Ballot used at the incorporation election.**

(1) The ballot at the incorporation election under Subsection [~~10-2-111~~] 10-2a-210(1) shall pose the incorporation question substantially as follows:

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

SB0199S05 compared with SB0199S03

the city of (insert the proposed name of the proposed city)?

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

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

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

Five-member council form

Six-member council form

Five-member council-mayor form

Seven-member council-mayor form.

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

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

If the above incorporation proposal passes, shall members of the city council of (insert the name of the proposed city) be elected by district?

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

Section 34. Section **10-2a-212**, which is renumbered from Section 10-2-113 is renumbered and amended to read:

~~[10-2-113].~~ 10-2a-212. Notification to lieutenant governor of incorporation election results.

Within 10 days of the canvass of the incorporation election, the county clerk shall send written notice to the lieutenant governor of:

(1) the results of the election; and

(2) if the incorporation measure passes:

(a) the name of the city; and

(b) the class of the city as provided under Section 10-2-301.

Section 35. Section **10-2a-213**, which is renumbered from Section 10-2-114 is renumbered and amended to read:

~~[10-2-114].~~ 10-2a-213. Determination of number of council members --

SB0199S05 compared with SB0199S03

Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of the canvass of the election under Section [~~10-2-111~~] 10-2a-210:

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

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

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

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

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

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

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

(b) (i) The petition sponsors shall publish notice of the public hearing under Subsection (2)(a):

(A) in a newspaper of general circulation within the future city at least once a week for two successive weeks before the hearing; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the hearing.

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

(c) (i) In accordance with Subsection (2)(b)(i)(A), if there is no newspaper of general circulation within the future city, the petition sponsors shall post at least one notice of the

SB0199S05 compared with SB0199S03

hearing per 1,000 population in conspicuous places within the future city that are most likely to give notice of the hearing to the residents of the future city.

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

Section 36. Section **10-2a-214**, which is renumbered from Section 10-2-115 is renumbered and amended to read:

~~[10-2-115]~~. **10-2a-214. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for city office.**

(1) (a) Within 20 days of the county legislative body's receipt of the information under Subsection ~~[10-2-114]~~ 10-2a-213(1)(d), the county clerk shall publish, in accordance with Subsection (1)(b), notice containing:

(i) the number of commission or council members to be elected for the new city;

(ii) if some or all of the commission or council members are to be elected by district, a description of the boundaries of those districts as designated by the petition sponsors under Subsection ~~[10-2-114]~~ 10-2a-213(1)(b);

(iii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for mayor or city commission or council; and

(iv) information about the length of the initial term of each of the city officers, as determined by the petition sponsors under Subsection ~~[10-2-114]~~ 10-2a-213(1)(c).

(b) The notice under Subsection (1)(a) shall be published:

(i) in a newspaper of general circulation within the future city at least once a week for two successive weeks; and

(ii) in accordance with Section 45-1-101 for two weeks.

(c) (i) In accordance with Subsection (1)(b)(i), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future city that are most likely to give notice to the residents of the future city.

(ii) The notice under Subsection (1)(c)(i) shall contain the information required under Subsection (1)(a).

(iii) The petition sponsors shall post the notices under Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2).

SB0199S05 compared with SB0199S03

(2) Notwithstanding Subsection 20A-9-203(2)(a), each person seeking to become a candidate for mayor or city commission or council of a city incorporating under this part shall, within 45 days of the incorporation election under Section [~~10-2-111~~] 10-2a-210, file a declaration of candidacy with the clerk of the county in which the future city is located.

Section 37. Section **10-2a-215**, which is renumbered from Section 10-2-116 is renumbered and amended to read:

~~[10-2-116]~~. **10-2a-215**. **Election of officers of new city.**

(1) For the election of city officers, the county legislative body shall:

(a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election; and

(b) hold a final election.

(2) Each election under Subsection (1) shall be:

(a) appropriate to the form of government chosen by the voters at the incorporation election;

(b) consistent with the voters' decision about whether to elect commission or council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

(c) consistent with the sponsors' determination of the number of commission or council members to be elected and the length of their initial term.

(3) (a) Subject to Subsection (3)(b), the primary election under Subsection (1)(a) shall be held at the earliest of the next:

(i) regular general election under Section 20A-1-201;

(ii) municipal primary election under Section 20A-9-404;

(iii) municipal general election under Section 20A-1-202; or

(iv) special election under Section 20A-1-204.

(b) Notwithstanding Subsection (3)(a), the primary election under Subsection (1)(a) may not be held until 75 days after the incorporation election under Section [~~10-2-111~~] 10-2a-210.

(4) The final election under Subsection (1)(b) shall be held at the next special election date under Section 20A-1-204:

(a) after the primary election; or

SB0199S05 compared with SB0199S03

(b) if there is no primary election, more than 75 days after the incorporation election under Section [~~10-2-111~~] 10-2a-210.

(5) (a) (i) The county clerk shall publish notice of an election under this section:

(A) at least once a week for two successive weeks in a newspaper of general circulation within the future city; and

(B) in accordance with Section 45-1-101 for two weeks.

(ii) The later notice under Subsection (5)(a)(i) shall be at least one day but no more than seven days before the election.

(b) (i) In accordance with Subsection (5)(a)(i)(A), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future city that are most likely to give notice of the election to the voters.

(ii) The county clerk shall post the notices under Subsection (5)(b)(i) at least seven days before each election under Subsection (1).

(6) Until the city is incorporated, the county clerk is the election officer for all purposes in an election of officers of the city approved at an incorporation election.

Section 38. Section **10-2a-216**, which is renumbered from Section 10-2-117 is renumbered and amended to read:

~~[10-2-117]~~. **10-2a-216**. **Notification to lieutenant governor of election of city officers.**

Within 10 days of the canvass of the final election of city officers under Section [~~10-2-116~~] 10-2a-215, the county clerk shall send written notice to the lieutenant governor of the name and position of each officer elected and the term for which each has been elected.

Section 39. Section **10-2a-217**, which is renumbered from Section 10-2-119 is renumbered and amended to read:

~~[10-2-119]~~. **10-2a-217**. **Filing of notice and approved final local entity plat with lieutenant governor -- Effective date of incorporation -- Necessity of recording documents and effect of not recording.**

(1) The mayor-elect of the future city shall:

(a) within 30 days after the canvass of the final election of city officers under Section [~~10-2-116~~] 10-2a-215, file with the lieutenant governor:

SB0199S05 compared with SB0199S03

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5:

(i) if the city is located within the boundary of a single county, submit to the recorder of that county the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; or

(ii) if the city is located within the boundaries of more than a single county, submit the original of the documents listed in Subsections (1)(b)(i)(A), (B), and (C) to one of those counties and a certified copy of those documents to each other county.

(2) (a) The incorporation is effective upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5.

(b) Notwithstanding any other provision of law, a city is conclusively presumed to be lawfully incorporated and existing if, for two years following the city's incorporation:

(i) (A) the city has levied and collected a property tax; or

(B) for a city incorporated on or after July 1, 1998, the city has imposed a sales and use tax; and

(ii) no challenge to the existence or incorporation of the city has been filed in the district court for the county in which the city is located.

(3) (a) The effective date of an incorporation for purposes of assessing property within the new city is governed by Section 59-2-305.5.

(b) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated city may not:

(i) levy or collect a property tax on property within the city;

(ii) levy or collect an assessment on property within the city; or

(iii) charge or collect a fee for service provided to property within the city.

Section 40. Section **10-2a-218**, which is renumbered from Section 10-2-120 is renumbered and amended to read:

SB0199S05 compared with SB0199S03

~~[10-2-120].~~ 10-2a-218. Powers of officers-elect.

(1) Upon the canvass of the final election of city officers under Section ~~[10-2-116]~~ 10-2a-215 and until the future city becomes legally incorporated, the officers of the future city may:

- (a) prepare and adopt, under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, a proposed budget and compilation of ordinances;
- (b) negotiate and make personnel contracts and hirings;
- (c) negotiate and make service contracts;
- (d) negotiate and make contracts to purchase equipment, materials, and supplies;
- (e) borrow funds from the county in which the future city is located under Subsection ~~[10-2-121]~~ 10-2a-219(3);
- (f) borrow funds for startup expenses of the future city;
- (g) issue tax anticipation notes in the name of the future city; and
- (h) make appointments to the city's planning commission.

(2) The city's legislative body shall review and ratify each contract made by the officers-elect under Subsection (1) within 30 days after the effective date of incorporation under Section ~~[10-2-119]~~ 10-2a-217.

Section 41. Section **10-2a-219**, which is renumbered from Section 10-2-121 is renumbered and amended to read:

~~[10-2-121].~~ 10-2a-219. Division of municipal-type services revenues -- County may provide startup funds.

(1) The county in which an area incorporating under this part is located shall, until the date of the city's incorporation under Section ~~[10-2-119]~~ 10-2a-217, continue:

- (a) to levy and collect ad valorem property tax and other revenues from or pertaining to the future city; and
- (b) except as otherwise agreed by the county and the officers-elect of the city, to provide the same services to the future city as the county provided before the commencement of the incorporation proceedings.

(2) (a) The legislative body of the county in which a newly incorporated city is located shall share pro rata with the new city, based on the date of incorporation, the taxes and service charges or fees levied and collected by the county under Section 17-34-3 during the year of the

SB0199S05 compared with SB0199S03

new city's incorporation if and to the extent that the new city provides, by itself or by contract, the same services for which the county levied and collected the taxes and service charges or fees.

(b) (i) The legislative body of a county in which a city incorporated after January 1, 2004, is located may share with the new city taxes and service charges or fees that were levied and collected by the county under Section 17-34-3:

(A) before the year of the new city's incorporation;

(B) from the previously unincorporated area that, because of the city's incorporation, is located within the boundaries of the newly incorporated city; and

(C) for the purpose of providing services to the area that before the new city's incorporation was unincorporated.

(ii) A county legislative body may share taxes and service charges or fees under Subsection (2)(b)(i) by a direct appropriation of funds or by a credit or offset against amounts due under a contract for municipal-type services provided by the county to the new city.

(3) (a) The legislative body of a county in which an area incorporating under this part is located may appropriate county funds to:

(i) before incorporation but after the canvass of the final election of city officers under Section [~~10-2-116~~] 10-2a-215, the officers-elect of the future city to pay startup expenses of the future city; or

(ii) after incorporation, the new city.

(b) Funds appropriated under Subsection (3)(a) may be distributed in the form of a grant, a loan, or as an advance against future distributions under Subsection (2).

Section 42. Section **10-2a-220**, which is renumbered from Section 10-2-123 is renumbered and amended to read:

~~[10-2-123]~~. **10-2a-220. Costs of incorporation.**

(1) Subject to Subsection (2), all costs of the incorporation proceeding, including request certification, feasibility study, petition certification, publication of notices, public hearings, and elections, shall be paid by the county in which the proposed city is located.

(2) If incorporation occurs, the new municipality shall reimburse the county for the costs of the notices and hearing under Section [~~10-2-114~~] 10-2a-213, the notices and elections under Section [~~10-2-116~~] 10-2a-215, and all other incorporation activities occurring after the

SB0199S05 compared with SB0199S03

elections under Section [~~10-2-116~~] 10-2a-215.

Section 43. Section **10-2a-221**, which is renumbered from Section 10-2-124 is renumbered and amended to read:

~~[10-2-124].~~ **10-2a-221**. **Incorporation petition or feasibility study before May 8, 2012.**

(1) A party with a petition in process as of January 1, 2012, and not yet filed for final certification with the county clerk in accordance with Section [~~10-2-110~~] 10-2a-209 as of May 8, 2012, shall comply with the provisions of this chapter as enacted on May 8, 2012, except as provided in Subsection (3).

(2) A party described in Subsection (1) may use a signature on a petition in process as of May 8, 2012, to fulfill the requirements of this chapter enacted on May 8, 2012.

(3) If on or before May 8, 2012, a feasibility study has been completed for a party described in Subsection (1):

- (a) the completed feasibility study shall fulfill the requirements of this section; and
- (b) the party is not required to request a new feasibility study.

Section 44. Section **10-2a-301** is enacted to read:

Part 3. Incorporation of a Town

10-2a-301. **Title.**

This part is known as "Incorporation of a Town."

Section 45. Section **10-2a-302**, which is renumbered from Section 10-2-125 is renumbered and amended to read:

~~[10-2-125].~~ **10-2a-302**. **Incorporation of a town -- Petition.**

(1) As used in this section:

(a) "Assessed value," with respect to agricultural land, means the value at which the land would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

~~[(e)]~~ (b) "Feasibility consultant" means a person or firm:

(i) with expertise in the processes and economics of local government; and

(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.

~~[(b)]~~ (c) "Financial feasibility study" means a study described in Subsection (7).

SB0199S05 compared with SB0199S03

(d) "Municipal service" means a publicly provided service that is not provided on a countywide basis.

(e) "Nonurban" means having a residential density of less than one unit per acre.

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

(ii) An area within a county of the first class is not contiguous for purposes of Subsection (2)(a)(i) if:

(A) the area includes a strip of land that connects geographically separate areas; and

(B) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.

(b) The population figure under Subsection (2)(a) shall be determined:

(i) as of the date the incorporation petition is filed; and

(ii) by the Utah Population Estimates Committee within 20 days after the county clerk's certification under Subsection (6) of a petition filed under Subsection (4).

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

(b) A petition under Subsection (3)(a) shall:

(i) be signed by:

(A) the owners of private real property that:

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

(II) is equal in assessed value to more than 1/5 of the assessed value of all private real property within the area; and

(B) 1/5 of all registered voters within the area proposed to be incorporated as a town, according to the official voter registration list maintained by the county on the date the petition is filed;

(ii) designate as sponsors at least five of the property owners who have signed the petition, one of whom shall be designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;

(iii) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed town; and

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

SB0199S05 compared with SB0199S03

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

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

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

(c) A petition under this Subsection (3) may not describe an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

- (i) was filed before the filing of the petition; and
- (ii) is still pending on the date the petition is filed.

(d) A petition may not be filed under this section if the private real property owned by the petition sponsors, designated under Subsection (3)(b)(ii), cumulatively exceeds 40% of the total private land area within the area proposed to be incorporated as a town.

(e) A signer of a petition under this Subsection (3) may withdraw or, after withdrawn, reinstate the signer's signature on the petition:

- (i) at any time until the county clerk certifies the petition under Subsection (5); and
- (ii) by filing a signed, written withdrawal or reinstatement with the county clerk.

(4) (a) If a petition is filed under Subsection (3)(a) proposing to incorporate as a town an area located within a county of the first class, the county clerk shall deliver written notice of the proposed incorporation:

- (i) to each owner of private real property owning more than 1% of the assessed value of all private real property within the area proposed to be incorporated as a town; and
- (ii) within seven calendar days after the date on which the petition is filed.

(b) A private real property owner described in Subsection (4)(a)(i) may exclude all or

SB0199S05 compared with SB0199S03

part of the owner's property from the area proposed to be incorporated as a town by filing a notice of exclusion:

- (i) with the county clerk; and
- (ii) within 10 calendar days after receiving the clerk's notice under Subsection (4)(a).

(c) The county legislative body shall exclude from the area proposed to be incorporated as a town the property identified in the notice of exclusion under Subsection (4)(b) if:

- (i) the property:
 - (A) is nonurban; and
 - (B) does not and will not require a municipal service; and
- (ii) exclusion will not leave an unincorporated island within the proposed town.
- (d) If the county legislative body excludes property from the area proposed to be

incorporated as a town, the county legislative body shall send written notice of the exclusion to the contact sponsor within five days after the exclusion.

(5) No later than 20 days after the filing of a petition under Subsection (3), the county clerk shall:

(a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3); and

(b) (i) if the clerk determines that the petition complies with those requirements:

(A) certify the petition and deliver the certified petition to the county legislative body;

and

(B) mail or deliver written notification of the certification to:

(I) the contact sponsor; and

~~[(H) if applicable, the chair of the planning commission of each ~~{}~~ township ~~{}~~ planning district]~~ in which any part of the area proposed for incorporation is located; and ~~]~~

~~[(H)]~~ (II) the Utah Population Estimates Committee; or

(ii) if the clerk determines that the petition fails to comply with any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(6) (a) (i) A petition that is rejected under Subsection (5)(b)(ii) may be amended to correct a deficiency for which it was rejected and then refiled with the county clerk.

SB0199S05 compared with SB0199S03

(ii) A valid signature on a petition filed under Subsection (3)(a) may be used toward fulfilling the signature requirement of Subsection (3)(b) for the same petition that is amended under Subsection (6)(a)(i) and then refiled with the county clerk.

(b) If a petition is amended and refiled under Subsection (6)(a)(i) after having been rejected by the county clerk under Subsection (5)(b)(ii):

(i) the amended petition shall be considered as a newly filed petition; and

(ii) the amended petition's processing priority is determined by the date on which it is refiled.

(7) (a) (i) The legislative body of a county with which a petition is filed under Subsection (4) and certified under Subsection (6) shall commission and pay for a financial feasibility study.

(ii) The feasibility consultant shall be chosen:

(A) (I) by the contact sponsor of the incorporation petition, as described in Subsection (3)(b)(ii), with the consent of the county; or

(II) by the county if the contact sponsor states, in writing, that the sponsor defers selection of the feasibility consultant to the county; and

(B) in accordance with applicable county procurement procedure.

(iii) The county legislative body shall require the feasibility consultant to complete the financial feasibility study and submit written results of the study to the county legislative body no later than 30 days after the feasibility consultant is engaged to conduct the financial feasibility study.

(b) The financial feasibility study shall consider the:

(i) population and population density within the area proposed for incorporation and the surrounding area;

(ii) current and five-year projections of demographics and economic base in the proposed town and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the proposed town and in adjacent areas during the next five years;

(iv) subject to Subsection (7)(c), the present and five-year projections of the cost, including overhead, of governmental services in the proposed town, including:

SB0199S05 compared with SB0199S03

- (A) culinary water;
- (B) secondary water;
- (C) sewer;
- (D) law enforcement;
- (E) fire protection;
- (F) roads and public works;
- (G) garbage;
- (H) weeds; and
- (I) government offices;

(v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed town; and

(vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation.

(c) (i) For purposes of Subsection (7)(b)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed town in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed town at the time of the feasibility study.

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

(A) the amount it would cost the proposed town to provide governmental service for the first five years after incorporation; and

(B) the county's present and five-year projected cost of providing governmental service.

(iii) The costs calculated under Subsection (7)(b)(iv), shall take into account inflation and anticipated growth.

(d) If the five year projected revenues under Subsection (7)(b)(v) exceed the five-year projected costs under Subsection (7)(b)(iv) by more than 10%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(e) The county legislative body shall approve a certified petition proposing the

SB0199S05 compared with SB0199S03

incorporation of a town and hold a public hearing as provided in Section [~~10-2-126~~] 10-2a-303.

Section 46. Section **10-2a-303**, which is renumbered from Section 10-2-126 is renumbered and amended to read:

~~[10-2-126]~~. 10-2a-303. Incorporation of a town -- Public hearing on feasibility.

(1) If, in accordance with Section [~~10-2-125~~] 10-2a-302, the county clerk certifies a petition for incorporation or an amended petition for incorporation, the county legislative body shall, at its next regular meeting after completion of the feasibility study, schedule a public hearing to:

(a) be held no later than 60 days after the day on which the feasibility study is completed; and

(b) consider, in accordance with Subsection (3)(b), the feasibility of incorporation for the proposed town.

(2) The county legislative body shall give notice of the public hearing on the proposed incorporation by:

(a) posting notice of the public hearing on the county's Internet website, if the county has an Internet website;

(b) (i) publishing notice of the public hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the proposed town; or

(ii) if there is no newspaper of general circulation within the proposed town, posting notice of the public hearing in at least five conspicuous public places within the proposed town; and

(c) publishing notice of the public hearing on the Utah Public Notice Website created in Section 63F-1-701.

(3) At the public hearing scheduled in accordance with Subsection (1), the county legislative body shall:

(a) (i) provide a copy of the feasibility study; and

(ii) present the results of the feasibility study to the public; and

(b) allow the public to:

(i) review the map or plat of the boundary of the proposed town;

(ii) ask questions and become informed about the proposed incorporation; and

(iii) express its views about the proposed incorporation, including their views about the

SB0199S05 compared with SB0199S03

boundary of the area proposed to be incorporated.

(4) A county may not hold an election on the incorporation of a town in accordance with Section ~~[10-2-127]~~ 10-2a-304 if the results of the feasibility study show that the five-year projected revenues under Subsection ~~[10-2-125]~~ 10-2a-302(7)(b)(v) exceed the five-year projected costs under Subsection ~~[10-2-125]~~ 10-2a-302(7)(b)(iv) by more than 10%.

Section 47. Section **10-2a-304**, which is renumbered from Section 10-2-127 is renumbered and amended to read:

~~[10-2-127]~~. **10-2a-304. Incorporation of a town -- Election to incorporate -- Ballot form.**

(1) (a) Upon receipt of a certified petition [~~under Subsection 10-2-110(1)(b)(i)] or a certified [~~modified~~] amended petition under [~~Subsection 10-2-110(3)] Section 10-2a-302, the county legislative body shall determine and set an election date for the incorporation election that is:~~~~

(i) (A) on a general election date under Section 20A-1-201; or

(B) on a local special election date under Section 20A-1-203; and

(ii) at least 65 days after the day that the legislative body receives the certified petition.

(b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed town, the person may not vote on the proposed incorporation.

(2) (a) The county clerk shall publish notice of the election:

(i) in a newspaper of general circulation, within the area proposed to be incorporated, at least once a week for three successive weeks; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a town;

(iii) a statement of the date and time of the election and the location of polling places;

and

(iv) the county Internet website address, if applicable, and the address of the county office where the feasibility study is available for review.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least

SB0199S05 compared with SB0199S03

one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed town, the county clerk shall post at least one notice of the election per 100 population in conspicuous places within the proposed town that are most likely to give notice of the election to the voters of the proposed town.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1)(a).

(3) The ballot at the incorporation election shall pose the incorporation question substantially as follows:

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

(4) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (3).

(5) If a majority of those casting votes within the area boundaries of the proposed town vote to incorporate as a town, the area shall incorporate.

Section 48. Section **10-2a-305**, which is renumbered from Section 10-2-128 is renumbered and amended to read:

~~10-2-128~~. 10-2a-305. Form of government -- Election of officers of new town.

(1) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(2) (a) The county legislative body of the county in which a newly incorporated town is located shall hold an election for town officers at the next special election after the regular general election in which the town incorporation is approved.

(b) The officers elected at an election described in Subsection (2)(a) shall take office at noon on the first Monday in January next following the special election described in Subsection (2)(a).

Section 49. Section **10-2a-306**, which is renumbered from Section 10-2-129 is renumbered and amended to read:

~~10-2-129~~. 10-2a-306. Notice to lieutenant governor -- Effective date of incorporation -- Effect of recording documents.

(1) The mayor-elect of the future town shall:

SB0199S05 compared with SB0199S03

(a) within 30 days after the canvass of the election of town officers under Section ~~[10-2-128]~~ 10-2a-305, file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5:

(i) if the town is located within the boundary of a single county, submit to the recorder of that county the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; or

(ii) if the town is located within the boundaries of more than a single county, submit the original of the documents listed in Subsections (1)(b)(i)(A), (B), and (C) to one of those counties and a certified copy of those documents to each other county.

(2) (a) A new town is incorporated:

(i) on December 31 of the year in which the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, if the election of town officers under Section ~~[10-2-128]~~ 10-2a-305 is held on a regular general or municipal general election date; or

(ii) on the last day of the month during which the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, if the election of town officers under Section ~~[10-2-128]~~ 10-2a-305 is held on any other date.

(b) (i) The effective date of an incorporation for purposes of assessing property within the new town is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated town may not:

(A) levy or collect a property tax on property within the town;

(B) levy or collect an assessment on property within the town; or

(C) charge or collect a fee for service provided to property within the town.

Section 50. Section **10-2a-401** is enacted to read:

Part 4. Incorporation of Metro Townships and Unincorporated

SB0199S05 compared with SB0199S03

Islands in a County of the First Class on and after May 12, 2015

10-2a-401. Title.

This part is known as "Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015."

Section 51. Section **10-2a-402** is enacted to read:

10-2a-402. Application.

(1) The provisions of this part:

(a) apply to the following located in a county of the first class:

(i) a planning township established before May 12, 2015; and

(ii) subject to Subsection (2), an unincorporated island located in a county of the first class on or after May 12, 2015, and before November 4, 2015; and

(b) do not apply to a planning ~~district~~ advisory area, as defined in Section 17-27a-103, or any other unincorporated area located outside of a county of the first class.

(2) (a) The provisions of Part 2, Incorporation of a City, and Part 3, Incorporation of a Town, apply to an unincorporated area described in Subsection (1) for an incorporation as a city after November 3, 2015.

(b) The provisions of Section 10-2a-410 apply to an unincorporated area described in Subsection (1) for an incorporation as a metro township after November 3, 2015.

(c) The provisions of Chapter 2, Part 4, Annexation:

(i) do not apply to an unincorporated island for purposes of annexation before November 4, 2015, unless:

(A) otherwise indicated; or

(B) before July 1, 2015, an annexation petition is filed in accordance with Section 10-2-403 or an intent to annex resolution is adopted in accordance with Subsection 10-2-418(2)(a)(i); and

(ii) apply to an unincorporated island that is not annexed at an election under this part for purposes of annexation on or after November 4, 2015.

Section 52. Section **10-2a-403** is enacted to read:

10-2a-403. Definitions.

As used in this section:

(1) "Ballot proposition" means the same as that term is defined in Section 20A-1-102.

SB0199S05 compared with SB0199S03

(2) "Eligible city" means a city whose legislative body adopts a resolution agreeing to annex an unincorporated island.

(3) "Local special election" means the same as that term is defined in Section 20A-1-102.

(4) "Municipal services district" means a district created in accordance with Title 11, Chapter 2a, Part 11, Municipal Services District Act.

(5) (a) "Metro township" means, except as provided in Subsection (5)(b), a planning township that is incorporated in accordance with this part.

(b) "Metro township" does not include a township as that term is used in the context of identifying a geographic area in common surveyor practice.

(6) (a) "Planning township" means an area located in a county of the first class that is established as a township as defined in and established in accordance with law before the enactment of this bill.

(b) "Planning township" does not include rural real property unless the owner of the rural real property provides written consent in accordance with Section 10-2a-405.

(7) (a) "Unincorporated island" means an unincorporated area that is completely surrounded by one or more municipalities.

(b) "Unincorporated island" does not include a planning township.

Section 53. Section **10-2a-404** is enacted to read:

10-2a-404. Election.

(1) (a) Notwithstanding Section 20A-1-203, a county of the first class shall hold a local special election on November 3, 2015, on the following ballot propositions:

(i) for registered voters residing within a planning township:

(A) whether the planning township shall be incorporated as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district; and

(ii) for registered voters residing within an unincorporated island, whether the island should maintain its unincorporated status or be annexed into an eligible city.

(b) (i) A metro township incorporated under this part shall be governed by the five-member council ~~for the three-member council, depending on the metro township~~

SB0199S05 compared with SB0199S03

population and } in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government.

(ii) A city or town incorporated under this part shall be governed by the five-member council form of government as defined in Section 10-3b-102.

(2) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of a planning township or an unincorporated island, the person may not vote on the proposed incorporation or annexation.

(3) The county clerk shall publish notice of the election:

(a) in a newspaper of general circulation within the planning township or unincorporated island at least once a week for three successive weeks; and

(b) in accordance with Section 45-1-101 for three weeks.

(4) The notice required by Subsection (3) shall contain:

(a) for residents of a planning township:

(i) a statement that the voters will vote:

(A) to incorporate as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district;

(ii) if applicable under Subsection 10-2a-405(5), a map showing the alteration to the planning township boundaries that would be effective upon incorporation;

(iii) a statement that if the residents of the planning township elect to incorporate:

(A) as a metro township, the metro township shall be governed by a **five-member** metro township council ~~and the number of council members appropriate to that metro township~~ in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government; or

(B) as a city or town, the city or town shall be governed by the five-member council form of government as defined in Section 10-3b-102; and

(iv) a statement of the date and time of the election and the location of polling places;

(b) for residents of an unincorporated island:

(i) a statement that the voters will vote either to be annexed into an eligible city or maintain unincorporated status; and

SB0199S05 compared with SB0199S03

(ii) a statement of the eligible city, as determined by the county legislative body in accordance with Section 10-2a-405, the unincorporated island may elect to be annexed by; and

(c) a statement of the date and time of the election and the location of polling places.

(5) The last publication of notice required under Subsection (3) shall occur at least one day but no more than seven days before the election.

(6) (a) In accordance with Subsection (3)(a), if there is no newspaper of general circulation within the proposed metro township or unincorporated island, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the planning township or unincorporated island that are most likely to give notice of the election to the voters of the proposed incorporation or annexation.

(b) The clerk shall post the notices under Subsection (6)(a) at least seven days before the election under Subsection (1).

(7) (a) In a planning township, if a majority of those casting votes within the planning township vote to:

(i) incorporate as a city or town, the planning township shall incorporate as a city or town, respectively; or

(ii) incorporate as a metro township, the planning township shall incorporate as a metro township.

(b) If a majority of those casting votes within the planning township vote to incorporate as a metro township, and a majority of those casting votes vote to include the metro township in a municipal services district and limit the metro township's municipal powers, the metro township shall be included in a municipal services district and have limited municipal powers.

(c) In an unincorporated island, if a majority of those casting a vote within the selected unincorporated island vote to:

(i) be annexed by the eligible city, the area ~~is~~ shall be annexed by the eligible city; or

(ii) remain an unincorporated area, the area shall remain unincorporated.

(8) The county shall, in consultation with interested parties, prepare and provide information on an annexation or incorporation subject to this part and an election held in accordance with this section.

Section 54. Section **10-2a-405** is enacted to read:

10-2a-405. Duties of county legislative body -- Public hearing -- Notice -- Other

SB0199S05 compared with SB0199S03

election and incorporation issues -- Rural real property excluded.

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

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

(b) hold a public hearing; and

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

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

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

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

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

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

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

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

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

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

(c) (i) If, under Subsection (3)(a)(ii), there is no newspaper of general circulation

SB0199S05 compared with SB0199S03

within an unincorporated island, an eligible city, or a planning township, the county clerk shall post at least one notice of the hearing per 1,000 population in conspicuous places within the selected unincorporated island, eligible city, or planning township, as applicable, that are most likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or planning township.

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

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

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

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

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

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

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

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

(e) The county clerk shall publish a map described in Subsection (3)(c)(iii) on the county website.

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

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

(b) A change to a planning township boundary under this Subsection (5) is effective

SB0199S05 compared with SB0199S03

only upon the vote of the residents of the planning township at an election under Section 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the boundaries of the planning township before the election.

(c) The county legislative body:

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

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

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

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

(6) (a) As used in this Subsection (6), "rural real property" means an area:

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

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

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

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

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

(c) The following rural real property is subject to an owner's written consent under Subsection (6)(b):

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

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

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

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

SB0199S05 compared with SB0199S03

(A) an agricultural protection area;

(B) an industrial protection area; or

(C) a mining protection area.

Section 55. Section **10-2a-406** is enacted to read:

10-2a-406. Ballot used at metro township incorporation election.

(1) The ballot at the election to incorporate a planning township as a metro township or as a city or town, respectively, shall pose:

(a) the incorporation question substantially as follows:

"Shall [insert name of planning township] be incorporated as a metro township [insert the proposed name of the proposed metro township, which is the formal name of the planning township with the words "metro township" immediately after the formal name] or as the [insert the appropriate designation of city or town based on population classification] of [insert the proposed name of the proposed city or town, respectively, which is the formal name of the planning township with, if the area qualifies as a city under the population classifications, the word "city" immediately after the formal name or if the area qualifies as a town under the population classification, the words "town of" immediately preceding the formal name]?"; and

(b) the question, if a metro township is incorporated, of whether a metro township shall be a metro township with limited municipal powers that is included in a municipal services district substantially as follows:

"If the majority of voters voting in this election vote to incorporate as a metro township, shall the metro township be a metro township with limited municipal powers that is included in a municipal services district?".

(2) The ballot shall provide a space for the voter to indicate:

(a) either the metro township or the city or town, respectively, as described in Subsection (1)(a); and

(b) whether the metro township shall be a metro township with limited municipal powers that is included in a municipal services district.

Section 56. Section **10-2a-407** is enacted to read:

10-2a-407. Ballot used at unincorporated island annexation election.

(1) The ballot at the election to either annex an unincorporated island into an eligible city or to remain an unincorporated island shall pose the question substantially as follows:

SB0199S05 compared with SB0199S03

"Shall [insert description of the unincorporated island or part of an island identified in the resolution adopted under Section 10-2a-405] be annexed by [insert name of eligible city identified in the resolution adopted under Section 10-2a-405] or remain unincorporated?".

(2) The ballot shall provide:

(a) a map of the selected unincorporated island and the eligible city; and

(b) a space for the voter to indicate either to annex into the eligible city or to remain an unincorporated area as described in Subsection (1).

Section 57. Section **10-2a-408** is enacted to read:

10-2a-408. Notification to lieutenant governor of incorporation election results.

Within 10 days of the canvass of the incorporation and annexation election, the county clerk shall send written notice to the lieutenant governor of:

(1) the results of the election;

(2) for a planning township:

(a) if the incorporation of a planning township as a metro township passes:

(i) the name of the metro township; and

(ii) the class of the metro township as provided under Section 10-2-301.5; and

(b) if the incorporation of a planning township as a city or town passes:

(i) the name of the city or town; and

(ii) if the incorporated area is a city, the class of the city as defined in Section

10-2-301; and

(3) for an unincorporated island, whether the unincorporated island or a portion of the island ~~is~~ shall be annexed into an eligible city.

Section 58. Section **10-2a-409** is enacted to read:

10-2a-409. Unincorporated island annexation -- Notice and recording-- Applicable provisions.

(1) If the annexation of an unincorporated island into an eligible city passes, the legislative body of the eligible city shall comply with Section 10-2-425.

(2) The following provisions apply to an annexation under this part:

(a) Section 10-2-420;

(b) Section 10-2-421;

(c) Section 10-2-422;

SB0199S05 compared with SB0199S03

(d) Section 10-2-426; and

(e) Section 10-2-428.

Section 59. Section **10-2a-410** is enacted to read:

10-2a-410. Incorporation of metro townships after November 3, 2015.

(1) (a) An area located in a county of the first class that is unincorporated after the results of the election held in accordance with Section 10-2a-404 may, after November 3, 2015, incorporate as a metro township in accordance with this section.

(b) An unincorporated area other than an area described in Subsection (1)(a) may not incorporate as a metro township under this section.

(2) A metro township may not be established unless the area to be included within the proposed metro township:

(a) is unincorporated;

(b) is contiguous; and

(c) (i) contains:

(A) at least 20% but not more than 80% of the total private land area in the unincorporated county or the total value of locally assessed taxable property in the unincorporated county; or

(B) at least 5% of the total population of the unincorporated county, but no less than 300 residents; or

(ii) has been declared by the United States Census Bureau as a census designated place.

(3) (a) The process to establish a metro township is initiated by the filing of a petition with the clerk of the county in which the proposed metro township is located.

(b) A petition to establish a metro township may not be filed if it proposes the establishment of a metro township that includes an area within a proposed metro township in a petition that has previously been certified under Subsection (9)(a)(i), until after the canvass of an election on the proposed metro township under Subsection (11).

(4) A petition under Subsection (3) to establish a metro township shall:

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

(i) is located within the proposed metro township;

(ii) covers at least 10% of the total private land area within the proposed metro township; and

SB0199S05 compared with SB0199S03

(iii) is equal in value to at least 10% of the value of all private real property within the proposed metro township;

(b) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be established as a metro township;

(c) indicate the typed or printed name and current residence address of each owner signing the petition;

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

(e) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(f) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to establish a metro township.

(5) Subsection 10-2a-102(3) applies to a petition to establish a metro township to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Part 2, Incorporation of a City.

(6) Within seven days after the filing of a petition under Subsection (3) proposing the establishment of a metro township, the county clerk shall provide notice of the filing of the petition to:

(a) each owner of real property owning more than 1% of the assessed value of all real property within the proposed metro township; and

(b) each owner of real property owning more than 850 acres of real property within the proposed metro township.

(7) A property owner may exclude all or part of the property owner's property from a proposed metro township:

(a) if:

(i) (A) the property owner owns more than 1% of the assessed value of all property within the proposed township, the property is nonurban, and the property does not or will not require municipal provision of municipal-type services or the property owner owns more than 850 acres of real property within the proposed metro township; and

SB0199S05 compared with SB0199S03

(B) exclusion of the property will not leave within the metro township an island of property that is not part of the metro township; or

(ii) the property owner owns rural real property as that term is defined in Section 17B-2a-1107; and

(b) by filing a notice of exclusion within 10 days after receiving the clerk's notice under Subsection (6).

(8) (a) The county legislative body shall exclude from the proposed metro township the property identified in a notice of exclusion timely filed under Subsection (7)(b) if the property meets the applicable requirements of Subsection (7)(a).

(b) If the county legislative body excludes property from a proposed metro township under Subsection (8)(a), the county legislative body shall, within five days after the exclusion, send written notice of its action to the contact sponsor.

(9) (a) Within 45 days after the filing of a petition under Subsection (3), the county clerk shall:

(i) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (4); and

(ii) if the clerk determines that the petition:

(A) complies with the requirements of Subsection (4), certify the petition, deliver the certified petition to the county legislative body, and mail or deliver written notification of the certification to the contact sponsor; or

(B) fails to comply with any of the requirements of Subsection (4), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(b) If the county clerk rejects a petition under Subsection (9)(a)(ii)(B), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(10) (a) Within 90 days after a petition to establish a metro township is certified, the county legislative body shall hold a public hearing on the proposal to establish a metro township.

(b) A public hearing under Subsection (10)(a) shall be:

(i) within the boundary of the proposed metro township; or

(ii) if holding a public hearing in that area is not practicable, as close to that area as

SB0199S05 compared with SB0199S03

practicable.

(c) At least one week before holding a public hearing under Subsection (10)(a), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:

(i) at least once in a newspaper of general circulation in the county; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701.

(11) (a) Following the public hearing under Subsection (10)(b), the county legislative body shall arrange for the proposal to establish a metro township to be submitted to voters residing within the proposed metro township at the next regular general election that is more than 90 days after the public hearing.

(b) For the election required under Subsection (11)(a), the county and county clerk shall, except as provided in Subsection (11)(c), follow the provisions of Section 10-2a-404 that govern an election by residents of a planning ~~district~~ advisory area to incorporate as a metro township as if the area described in Subsection (1) was the planning ~~district~~ advisory area, but excluding any action or information that includes a requirement applicable to the option of incorporating as a city or town under Section 10-2a-404 or the question on a ballot under Section 10-2a-406.

(c) Notwithstanding Subsection 10-2a-404(1)(a), the election shall be held on a date that complies with Subsection (11)(a).

(12) The provisions of Section 10-2a-411 govern the election of metro township officers.

Section 60. Section **10-2a-411** is enacted to read:

10-2a-411. Determination of metro township districts -- Determination of metro township or city initial officer terms -- Adoption of proposed districts.

(1) If a metro township is incorporated in accordance with an election held under Section 10-2a-404 or 10-2a-410 ~~meets, according to the most recent population estimates by the Utah Population Estimates Committee, the population requirements for:~~

~~(a) a five-member governing body as described in Section 10-3b-501};~~

~~(~~fi~~)a~~ each of the five metro township council members shall be elected by district;
and

~~(~~fi~~)b~~ the boundaries of the five council districts for election and the terms of office

SB0199S05 compared with SB0199S03

shall be designated and determined in accordance with this section ~~{, or}~~.

~~{ (b) a three-member governing body as described in Section 10-3b-501, the three metro township council members shall be elected at large for terms as designated and determined in accordance with this section.~~

† (2) (a) If a town is incorporated at an election held in accordance with Section 10-2a-404, the five council members shall be elected at large for terms as designated and determined in accordance with this section.

(b) If a city is incorporated at an election held in accordance with Section 10-2a-404:

(i) (A) the four members of the council district who are not the mayor shall be elected by district; and

(B) the boundaries of the four council districts for election and the term of office shall be designated and determined in accordance with this section; and

(ii) the mayor shall be elected at large for a term designated and determined in accordance with this section.

(3) (a) No later than 90 days after the election day on which the metro township, city, or town is successfully incorporated under this part, the legislative body of the county in which the metro township is located shall adopt by resolution:

(i) subject to Subsection (3)(b), for each incorporated metro township, city, or town, the council terms for a length of time in accordance with this section; and

(ii) (A) for a metro township ~~{ of the first class, if applicable }~~, the boundaries of the five council districts; and

(B) for a city, the boundaries of the four council districts.

(b) (i) For each metro township, city, or town, the county legislative body shall set the initial terms of the members of the metro township council, city council, or town council so that:

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

(B) the remaining members of the council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the

SB0199S05 compared with SB0199S03

schedule established in Subsection 10-3-205(2).

(ii) For a metro township ~~of the first class~~, the county legislative body shall divide the metro township into five council districts that comply with Section 10-3-205.5.

(iii) For a city, the county legislative body shall divide the city into four council districts that comply with Section 10-3-205.5.

(4) (a) Within 20 days of the county legislative body's adoption of a resolution under Subsection (3), the county clerk shall publish, in accordance with Subsection (4)(b), notice containing:

(i) if applicable, a description of the boundaries of the metro township council or city council districts as designated in the resolution;

(ii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for metro township council, city council, town council, or city mayor, respectively; and

(iii) information about the length of the initial term of city mayor or each of the metro township, city, or town council offices, as described in the resolution.

(b) The notice under Subsection (4)(a) shall be published:

(i) in a newspaper of general circulation within the metro township, city, or town at least once a week for two successive weeks; and

(ii) in accordance with Section 45-1-101 for two weeks.

(c) (i) In accordance with Subsection (4)(b)(i), if there is no newspaper of general circulation within the future metro township, city, or town, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice to the residents of the future metro township, city, or town.

(ii) The notice under Subsection (4)(c)(i) shall contain the information required under Subsection (4)(a).

(iii) The county clerk shall post the notices under Subsection (4)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (4)(d).

(d) A person seeking to become a candidate for metro township, city, or town council or city mayor shall, in accordance with Section 20A-9-202, file a declaration of candidacy with the clerk of the county in which the metro township, city, or town is located for an election

SB0199S05 compared with SB0199S03

described in Section 10-2a-412.

Section 61. Section **10-2a-412** is enacted to read:

10-2a-412. Election of officers of new city, town, or metro township.

(1) For the election of the initial office holders of a metro township, city, or town, respectively, incorporated under Section 10-2a-404, the county legislative body shall:

(a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election at the next regular primary election, as described in Section 20A-1-201.5, following the November 3, 2015, election to incorporate; and

(b) hold a final election at the next regular general election date following the election to incorporate.

(2) An election under Subsection (1) for the officers of:

(a) a metro township shall be consistent with the number of council members ~~based~~ based on the population of the metro township as described in Subsection 10-2a-404(1)(b)(i); and

(b) a city or town shall be consistent with the number of council members, including the city mayor as a member of a city council, described in Subsection 10-2a-404(1)(b)(ii).

(3) (a) (i) The county clerk shall publish notice of an election under this section:

(A) at least once a week for two successive weeks in a newspaper of general circulation within the future metro township, city, or town; and

(B) in accordance with Section 45-1-101 for two weeks.

(ii) The later notice under Subsection (3)(a)(i) shall be at least one day but no more than seven days before the election.

(b) (i) In accordance with Subsection (3)(a)(i)(A), if there is no newspaper of general circulation within the future metro township, city, or town, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice of the election to the voters.

(ii) The county clerk shall post the notices under Subsection (3)(b)(i) at least seven days before each election under Subsection (1).

(4) (a) Until the metro township, city, or town is incorporated, the county clerk is the election officer for all purposes in an election of officers of the metro township, city, or town.

(b) The county clerk is responsible to ensure that:

(i) if applicable, the primary election described in Subsection (1)(a) is held on the date

SB0199S05 compared with SB0199S03

described in Subsection (1)(a):

(ii) the final election described in Subsection (1)(b) is held on the date described in Subsection (1)(b); and

(iii) the ballot for each election includes each office that is required to be included for officials in the metro township, city, or town, and the length of term of each office.

(5) The officers elected at an election described in Subsection (1)(b) shall take office at noon on the first Monday in January next following the election.

Section 62. Section **10-2a-413** is enacted to read:

10-2a-413. Notification to lieutenant governor of election of officers.

Within 10 days of the canvass of final election of metro township, city, or town officers under Section 10-2a-412, the county clerk shall send written notice to the lieutenant governor of the name and position of each officer elected and the term for which each has been elected.

Section 63. Section **10-2a-414** is enacted to read:

10-2a-414. Incorporation under this part subject to other provisions.

(1) An incorporation of a metro township, city, or town under this part is subject to the following provisions to the same extent as the incorporation of a city under Part 2.

Incorporation of a City:

(a) Section 10-2a-217;

(b) Section 10-2a-219; and

(c) Section 10-2a-220.

(2) An incorporation of a city or town under this part is subject to Section 10-2a-218 to the same extent as the incorporation of a city or town under Part 2, Incorporation of a City.

Section 64. Section **10-3-205.5** is amended to read:

10-3-205.5. At-large election of officers -- Election of commissioners or council members.

(1) Except as provided in [~~Subsection (2)~~] Subsection (2), (3), or (4), the officers of each city shall be elected in an at-large election held at the time and in the manner provided for electing municipal officers.

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

SB0199S05 compared with SB0199S03

elected by district.

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

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

(3) (a) The municipal council members of a metro township, as defined in Section 10-2a-403, are elected:

(i) by district in accordance with Subsection 10-2a-411(1)(a)(i); or

(ii) at large in accordance with Subsection 10-2a-411(1)(b).

(b) The council districts in a metro township shall comply with the requirements of Subsections (2)(b)(i) and (ii).

(4) (a) For a city incorporated in accordance with Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015:

(i) the council members are elected by district in accordance with Section 10-2a-411; and

(ii) the mayor is elected at large in accordance with Section 10-2a-411.

(b) The council districts in a city described in Subsection (4)(a) shall comply with the requirements of Subsections (2)(b)(i) and (ii).

Section 65. Section **10-3-1302** is amended to read:

10-3-1302. Purpose.

(1) The purposes of this part are to establish standards of conduct for municipal officers and employees and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.

(2) In a metro township, as defined in Section 10-2a-403, the provisions of this part may not be applied to an appointed officer as that term is defined in Section 17-16a-3 or a county employee who is required by law to provide services to the metro township.

Section 66. Section **10-3b-102** is amended to read:

10-3b-102. Definitions.

As used in this chapter:

SB0199S05 compared with SB0199S03

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

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

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

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

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

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

(3) "Metro township" means the same as that term is defined in Section 10-2a-403.

(4) "Metro township council form of government" means the form of metro township government described in Part 5, Metro Township Council Form of Municipal Government.

~~(3)~~ (5) "Six-member council form of government" means the form of municipal government described in Part 3, Six-Member Council Form of Municipal Government.

Section 67. Section **10-3b-103** is amended to read:

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

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

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

(i) operate under a council-mayor form of government, as defined in Section 10-3b-102; and

(ii) be subject to:

(A) this part;

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

(C) Part ~~5~~ 6, Changing to Another Form of Municipal Government; and

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

and

(b) is not subject to:

(i) Part 3, Six-member Council Form of Municipal Government; ~~or~~

SB0199S05 compared with SB0199S03

(ii) Part 4, Five-member Council Form of Municipal Government~~[-]; or~~

(iii) Part 5, Metro Township Council Form of Municipal Government.

(2) A municipality operating on May 4, 2008 under a form of government known under the law then in effect as the six-member council form:

(a) shall, on and after May 5, 2008, and whether or not the council has adopted an ordinance appointing a manager for the municipality:

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

(ii) be subject to:

(A) this part;

(B) Part 3, Six-member Council Form of Municipal Government;

(C) Part ~~[5]~~ 6, Changing to Another Form of Municipal Government; and

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

and

(b) is not subject to:

(i) Part 2, Council-mayor Form of Municipal Government; ~~[or]~~

(ii) Part 4, Five-member Council Form of Municipal Government~~[-]; or~~

(iii) Part 5, Metro Township Council Form of Municipal Government.

(3) A municipality operating on May 4, 2008, under a form of government known under the law then in effect as the five-member council form:

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

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

(ii) be subject to:

(A) this part;

(B) Part 4, Five-member Council Form of Municipal Government;

(C) Part ~~[5]~~ 6, Changing to Another Form of Municipal Government; and

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

and

(b) is not subject to:

(i) Part 2, Council-mayor Form of Municipal Government; ~~[or]~~

SB0199S05 compared with SB0199S03

(ii) Part 3, Six-member Council Form of Municipal Government[-]; or

(iii) Part 5, Metro Township Council Form of Municipal Government.

(4) Subject to Subsection (5), each municipality other than a metro township incorporated on or after May 5, 2008, shall operate under:

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

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

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

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

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

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

(b) on or after May 5, 2008, the town changes its form of government as provided in Part [5] 6, Changing to Another Form of Municipal Government.

(6) Each metro township:

(a) shall operate under a metro township council form of government;

(b) is subject to:

(i) this part;

(ii) Part 5, Metro Township Council Form of Municipal Government; and

(iii) except as provided in Subsection (6)(c), other applicable provisions of this title;

and

(c) is not subject to:

(i) Part 2, Council-mayor Form of Municipal Government;

(ii) Part 3, Six-member Council Form of Municipal Government; or

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

~~[(6)]~~ (7) (a) As used in this Subsection [~~(6)]~~ (7), "council-manager form of government" means the form of municipal government:

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

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

(iii) that provides for, subject to Subsections [~~(7)]~~ (8) and [~~(8)]~~ (9), an appointed manager with duties and responsibilities established in Laws of Utah 1977, Chapter 48.

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

SB0199S05 compared with SB0199S03

government:

(i) shall:

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

(B) be subject to:

(I) this Subsection [~~(6)~~] (7) and other applicable provisions of this part;

(II) Part [5] 6, Changing to Another Form of Municipal Government; and

(III) except as provided in Subsection [~~(6)~~] (7)(b)(ii), other applicable provisions of this title; and

(ii) is not subject to:

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

(B) Part 3, Six-member Council Form of Municipal Government; [~~or~~]

(C) Part 4, Five-member Council Form of Municipal Government[~~]; or~~

(D) Part 5, Metro Township Council Form of Municipal Government.

[~~(7)~~] (8) (a) As used in this Subsection [~~(7)~~] (8), "interim vacancy period" means the period of time that:

(i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member's term.

(b) (i) The council may not appoint a manager during an interim vacancy period.

(ii) Notwithstanding Subsection [~~(7)~~] (8)(b)(i):

(A) the council may appoint an interim manager during an interim vacancy period; and

(B) the interim manager's term shall expire once a new manager is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection [~~(7)~~] (8)(b) does not apply if all the council members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the council for the following term.

[~~(8)~~] (9) A council that appoints a manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager.

SB0199S05 compared with SB0199S03

~~[(9)]~~ (10) Nothing in this section may be construed to prevent or limit a municipality operating under any form of municipal government from changing to another form of government as provided in Part ~~[5]~~ 6, Changing to Another Form of Municipal Government.

Section 68. Section **10-3b-202** is amended to read:

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

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

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

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

(c) shall:

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

(ii) execute the policies adopted by the council;

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

(A) subject to Subsection (3), chief administrative officer, if required under the resolution or petition under Subsection ~~[10-3b-503]~~ 10-3b-603(1)(a) that proposed the change to a council-mayor form of government;

(B) recorder;

(C) treasurer;

(D) engineer; and

(E) attorney;

(iv) provide to the council, at intervals provided by ordinance, a written report to the council setting forth:

(A) the amount of budget appropriations;

(B) total disbursements from the appropriations;

(C) the amount of indebtedness incurred or contracted against each appropriation, including disbursements and indebtedness incurred and not paid; and

(D) the percentage of the appropriations encumbered;

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

(vi) report to the council any release granted under Subsection (1)(d)(xiii);

SB0199S05 compared with SB0199S03

(vii) if the mayor remits a fine or forfeiture under Subsection (1)(d)(xi), report the remittance to the council at the council's next meeting after the remittance;

(viii) perform each other duty:

(A) prescribed by statute; or

(B) required by a municipal ordinance that is not inconsistent with statute;

(d) may:

(i) subject to budget constraints:

(A) appoint:

(I) subject to Subsections (3)(b) and (4), a chief administrative officer; and

(II) one or more deputies or administrative assistants to the mayor; and

(B) (I) create any other administrative office that the mayor considers necessary for good government of the municipality; and

(II) appoint a person to the office;

(ii) with the council's advice and consent and except as otherwise specifically limited by statute, appoint:

(A) each department head of the municipality;

(B) each statutory officer of the municipality; and

(C) each member of a statutory commission, board, or committee of the municipality;

(iii) dismiss any person appointed by the mayor;

(iv) as provided in Section 10-3b-204, veto an ordinance, tax levy, or appropriation passed by the council;

(v) exercise control of and supervise each executive or administrative department, division, or office of the municipality;

(vi) within the general provisions of statute and ordinance, regulate and prescribe the powers and duties of each other executive or administrative officer or employee of the municipality;

(vii) attend each council meeting, take part in council meeting discussions, and freely give advice to the council;

(viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill in all other respects the requirements of, as the case may be:

(A) Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; or

SB0199S05 compared with SB0199S03

(B) Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;

(ix) execute an agreement on behalf of the municipality, or delegate, by written executive order, the authority to execute an agreement on behalf of the municipality:

(A) if the obligation under the agreement is within certified budget appropriations; and

(B) subject to Section 10-6-138;

(x) at any reasonable time, examine and inspect the official books, papers, records, or documents of:

(A) the municipality; or

(B) any officer, employee, or agent of the municipality;

(xi) remit fines and forfeitures;

(xii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality; and

(xiii) release a person imprisoned for a violation of a municipal ordinance; and

(e) may not vote on any matter before the council.

(2) (a) The first mayor elected under a newly established mayor-council form of government shall, within six months after taking office, draft and submit to the council a proposed ordinance:

(i) providing for the division of the municipality's administrative service into departments, divisions, and bureaus; and

(ii) defining the functions and duties of each department, division, and bureau.

(b) Before the council adopts an ordinance on the municipality's administrative service, the mayor may establish temporary rules and regulations to ensure efficiency and effectiveness in the divisions of the municipal government.

(3) (a) As used in this Subsection (3), "interim vacancy period" means the period of time that:

(i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a mayor; and

(ii) ends on the day on which the mayor-elect begins the mayor's term.

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

(i) the person's ability and prior experience in the field of public administration; and

SB0199S05 compared with SB0199S03

(ii) any other qualification prescribed by ordinance.

(c) (i) The mayor may not appoint a chief administrative officer during an interim vacancy period.

(ii) Notwithstanding Subsection (3)(c)(i):

(A) the mayor may appoint an interim chief administrative officer during an interim vacancy period; and

(B) the interim chief administrative officer's term shall expire once a new chief administrative officer is appointed by the new mayor after the interim vacancy period has ended.

(d) Subsection (3)(c) does not apply if the mayor who holds office on the day of the municipal general election is re-elected to the mayor's office for the following term.

(4) A mayor who appoints a chief administrative officer in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the chief administrative officer.

Section 69. Section **10-3b-501** is repealed and reenacted to read:

Part 5. Metro Township Council Form of Municipal Government

10-3b-501. Metro township government powers vested in a five-member council.

~~{(1)}~~ The powers of municipal government in a metro township, as defined in Section 10-2a-403, are vested in a council consisting of ~~{three or}~~ five members, one of which is the chair.

~~{~~ (2) Based on the most recent population data available from the Utah Population Estimates Committee and the classifications in Section 10-2-301.5, a metro township:

~~_____~~ (a) of the second class has a council consisting of three members elected at large; and

~~_____~~ (b) of the first class has a council consisting of five members elected by district.

~~‡~~ Section 70. Section **10-3b-502** is repealed and reenacted to read:

10-3b-502. Governance of metro townships that are not in a municipal services district.

For a metro township in which the voters at an election held in accordance with Section 10-2a-404 do not choose a metro township with limited municipal powers that is included in a municipal services district:

(1) (a) the council ~~{, regardless of whether the council has five or three members under~~

SB0199S05 compared with SB0199S03

Section 10-3b-501:

(i) has the same powers, authority, and duties as a council described in Section 10-3b-403; and

(ii) is not subject to Section 10-3b-504; and

(b) the chair:

(i) has the same powers, authority, and duties as a mayor described in Section 10-3b-402; and

(ii) is not subject to Section 10-3b-503.

Section 71. Section **10-3b-503** is repealed and reenacted to read:

10-3b-503. Chair in a metro township included in a municipal services district.

(1) The chair in a metro township that is included in a municipal services district:

(a) is a regular and voting member of the council;

(b) is elected by the members of the council from among the council members;

(c) is the chair of the council and presides at all council meetings;

(d) exercises ceremonial functions for the municipality;

(e) may not veto any ordinance, resolution, tax levy passed, or any other action taken by the council;

(f) represents the metro township on the board of a municipal services district; and

(g) has other powers and duties described in this section and otherwise authorized by law except as modified by ordinance under Subsection 10-3b-504(2).

(2) Except as provided in Subsection (3), the chair in a metro township that is included in a municipal services district:

(a) shall:

(i) keep the peace and enforce the laws of the metro township;

(ii) ensure that all applicable statutes and metro township ordinances and resolutions are faithfully executed and observed;

(iii) if the chair remits a fine or forfeiture under Subsection (2)(g)(ii), report the remittance to the council at the council's next meeting after the remittance;

(iv) perform all duties prescribed by statute or metro township ordinance or resolution;

(v) report to the council the condition and needs of the metro township;

(vi) report to the council any release granted under Subsection (2)(g)(iv); and

SB0199S05 compared with SB0199S03

(b) may:

(i) recommend for council consideration any measure that the chair considers to be in the best interests of the municipality;

(ii) remit fines and forfeitures;

(iii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality;

(iv) release a person imprisoned for a violation of a municipal ordinance;

(v) with the council's advice and consent appoint a person to fill a municipal office or a vacancy on a commission or committee of the municipality; and

(vi) at any reasonable time, examine and inspect the official books, papers, records, or documents of:

(A) the municipality; or

(B) any officer, employee, or agency of the municipality.

(3) The powers and duties in Subsection (1) are subject to the council's authority to limit or expand the chair's powers and duties under Section 10-3b-504(2).

(4) (a) If the chair is absent, unable, or refuses to act, the council may elect a member of the council as chair pro tempore, to:

(i) preside at a council meeting; and

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

(b) In accordance with Section 10-3c-203, the county clerk of the county in which the metro township is located shall enter in the minutes of the council meeting the election of a council member as chair under Subsection (1)(b) or chair pro tempore under Subsection (4)(a).

Section 72. Section **10-3b-504** is repealed and reenacted to read:

10-3b-504. Council in a metro township that is included in a municipal services district.

(1) The council in a metro township that is included in a municipal services district:

(a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative power, duty, or function that has not been given to the chair under Section 10-3b-503 unless the council removes that power, duty, or function from the chair in accordance with Subsection (2);

SB0199S05 compared with SB0199S03

(b) may:

(i) subject to Subsections (1)(c) and (2), adopt an ordinance:

(A) removing from the chair any power, duty, or function of the chair; and

(B) reinstating to the chair any power, duty, or function previously removed under

Subsection (1)(b)(i)(A); and

(ii) adopt an ordinance delegating to the chair any executive or administrative power, duty, or function that the council has under Subsection (1)(a); and

(c) may not remove from the chair or delegate:

(i) any of the chair's legislative or judicial powers or ceremonial functions;

(ii) the chair's position as chair of the council; or

(iii) any ex officio position that the chair holds.

(2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the chair a power, duty, or function provided for in Section 10-3b-503 requires the affirmative vote of:

(a) the chair and a majority of all other council members; or

(b) all council members except the chair.

(3) The metro township council of a metro township that is included in a municipal services district:

(a) shall:

(i) by ordinance, provide for the manner in which a subdivision is approved, disapproved, or otherwise regulated;

(ii) review municipal administration, and, subject to Subsection (5), pass ordinances;

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

(iv) elect one of its members to be chair of the metro township and the chair of the council;

(b) may:

(i) (A) notwithstanding Subsection (3)(c), appoint a committee of council members or citizens to conduct an investigation into an officer, department, or agency of the municipality, or any other matter relating to the welfare of the municipality; and

(B) delegate to an appointed committee powers of inquiry that the council considers necessary;

SB0199S05 compared with SB0199S03

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

(iii) subject to the limitations provided in Subsection (5), take any action allowed under Section 10-8-84 that is reasonably related to the safety, health, morals, and welfare of the metro township inhabitants; and

(c) may not:

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

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

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

(4) A member of a metro township council as described in this section may not have any other compensated employment with the metro township.

(5) The council of a metro township that is included in a municipal services district may not adopt an ordinance or resolution that authorizes, provides, or otherwise governs a municipal service, as defined in Section 17B-2a-1102, that is provided by a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act.

Section 73. Section **10-3b-601** is enacted to read:

Part 6. Changing to Another Form of Municipal Government

10-3b-601. Authority to change to another form of municipal government.

(1) As provided in this part, a municipality may change from the form of government under which it operates to:

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

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

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

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

(2) (a) A metro township that changes from the metro township council form of government to a form described in Subsection (1):

(i) is no longer a metro township; and

(ii) subject to Subsection (2)(b), is a city or town and operates as and has the authority

SB0199S05 compared with SB0199S03

of a city or town.

(b) If a metro township with a population that qualifies as a town in accordance with Section 10-2-301 changes the metro township's form of government in accordance with this part, the metro township may only change to the five-member council form of government.

(3) A municipality other than a metro township may not operate under the metro township council form of government.

Section 74. Section **10-3b-602** is enacted to read:

10-3b-602. Voter approval required for a change in the form of government.

A municipality may not change its form of government under this part unless voters of the municipality approve the change at an election held for that purpose.

Section 75. Section **10-3b-603** is enacted to read:

10-3b-603. Resolution or petition proposing a change in the form of government.

(1) The process to change the form of government under which a municipality operates is initiated by:

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

(b) the filing of a petition, as provided in Title 20A, Chapter 7, Part 5, Local Initiatives - Procedures, proposing a change.

(2) Within 45 days after the adoption of a resolution under Subsection (1)(a) or the declaring of a petition filed under Subsection (1)(b) as sufficient under Section 20A-7-507, the council shall hold at least two public hearings on the proposed change.

(3) (a) Except as provided in Subsection (3)(b), the council shall hold an election on the proposed change in the form of government at the next municipal general election or regular general election that is more than 75 days after, as the case may be:

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

(ii) a petition filed under Subsection (1)(b) is declared sufficient under Section 20A-7-507.

(b) Notwithstanding Subsection (3)(a), an election on a proposed change in the form of government may not be held if:

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

(ii) in the case of a proposed change initiated by a petition under Subsection (1)(b),

SB0199S05 compared with SB0199S03

enough signatures are withdrawn from the petition within 60 days after the petition is declared sufficient under Section 20A-7-507 that the petition is no longer sufficient.

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

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

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

(5) A resolution under Subsection (1)(a) or petition under Subsection (1)(b) proposing a change to a council-mayor form of government may require that, if the change is adopted, the mayor appoint, with the council's advice and consent and subject to Section 10-3b-202, a chief administrative officer, to exercise the administrative powers and perform the duties that the mayor prescribes.

Section 76. Section **10-3b-604** is enacted to read:

10-3b-604. Limitations on adoption of a resolution and filing of a petition.

A resolution may not be adopted under Subsection 10-3b-603(1)(a) and a petition may not be filed under Subsection 10-3b-603(1)(b) within:

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

(2) four years after the effective date of a change in the form of municipal government or an incorporation as a municipality.

Section 77. Section **10-3b-605** is enacted to read:

10-3b-605. Ballot form.

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

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

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

Section 78. Section **10-3b-606** is enacted to read:

SB0199S05 compared with SB0199S03

10-3b-606. Election of officers after a change in the form of government.

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

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

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

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

Section 79. Section **10-3b-607** is enacted to read:

10-3b-607. Effective date of change in the form of government.

A change in the form of government under this chapter takes effect at noon on the first Monday of January next following the election of officers under Section 10-3b-606.

Section 80. Section **10-3c-101** is enacted to read:

CHAPTER 3c. ADMINISTRATION OF METRO TOWNSHIPS

Part 1. General Provisions

10-3c-101. Title.

(1) This chapter is known as "Administration of Metro Townships."

(2) This part is known as "General Provisions."

Section 81. Section **10-3c-102** is enacted to read:

10-3c-102. Definitions.

As used in this chapter:

(1) "Municipal services district" means a local district created in accordance with Title

SB0199S05 compared with SB0199S03

17B, Chapter 2a, Part 11, Municipal Services District Act.

(2) "Metro township" means a metro township incorporated in accordance with Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015.

Section 82. Section **10-3c-103** is enacted to read:

10-3c-103. Status and powers.

A metro township:

(1) is:

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

(b) a quasi-municipal corporation; and

(c) a political subdivision of the state; and

(2) may sue and be sued.

Section 83. Section **10-3c-201** is enacted to read:

Part 2. Administration of Metro Township

10-3c-201. Title.

This part is known as "Administration of Metro Township."

Section 84. Section **10-3c-202** is enacted to read:

10-3c-202. Budget.

A metro township is subject to and shall comply with Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

Section 85. Section **10-3c-203** is enacted to read:

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

~~{ (1) Unless otherwise provided, a metro township may not hire an executive director or other municipal manager or employ staff or otherwise contract for personnel services except for a contract for personnel services with a municipal services district.~~

{ ~~(2)~~ (1) (a) The following officials elected or appointed, or persons employed by, the county in which a municipality township is located shall, for the purposes of interpreting and complying with applicable law, fulfill the responsibilities and hold the following metro township offices or positions:

(i) the county treasurer shall fulfill the duties and hold the powers of treasurer for the

SB0199S05 compared with SB0199S03

metro township:

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

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

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

(v) the district attorney shall provide legal counsel to the metro township; and

(vi) subject to Subsection (~~f2~~1)(b), the county auditor shall fulfill the duties and hold the powers of auditor for the metro township.

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

(ii) Notwithstanding Subsection (~~f2~~1)(b), in a metro township, services described in Sections 17-19a-203, 17-19a-204, and 17-19a-205, and services other than those described in Subsection (~~f2~~1)(b)(i) that are provided by a municipal auditor in accordance with this title that are required by law, shall be performed by county staff other than the county auditor.

(~~f3~~2) (a) Nothing in Subsection (~~f2~~1) may be construed to relieve an official described in Subsections (~~f2~~1)(a)(i) through (iv) of a duty to either the county or metro township or a duty to fulfill that official's position as required by law.

(b) Notwithstanding Subsection (~~f3~~2)(a), an official or the official's deputy or other person described in Subsections (~~f2~~1)(a)(i) through (iv):

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

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

(iii) is not subject to:

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

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

SB0199S05 compared with SB0199S03

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

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

~~{ (b) The metro township may not employ staff to support a planning commission or appeal authority.~~

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

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

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

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

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

Section 86. Section **10-3c-204** is enacted to read:

10-3c-204. Taxing authority limited.

(1) A metro township may not impose:

(a) a municipal energy sales and use tax as described in Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

(b) a municipal telecommunication's license tax as described in Chapter 1, Part 4, Municipal Telecommunications License Tax.

(2) (a) If the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers, or a metro township subsequently joins a municipal services district, the metro township may not levy or impose a tax unless the Legislature expressly provides that the metro township may levy or impose the tax.

(b) Subsection (2)(a) does not apply if a municipal services district is dissolved.

Section 87. Section **10-3c-205** is enacted to read:

10-3c-205. Fees.

SB0199S05 compared with SB0199S03

(1) A metro township may impose a fine, fee, or charge.

(2) For a metro township of which the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers, or if a metro township subsequently joins a municipal services district, the municipal services district of which a metro township is a part shall, upon request by the metro township, collect on behalf of the metro township all fines, fees, charges, levies, and other payments imposed by the metro township.

Section 88. Section 10-5-102 is amended to read:

10-5-102. Applicability.

This chapter shall apply to all ~~{ towns:~~

~~10-6-103. Applicability to all cities.~~

~~This chapter shall apply to all cities, including charter cities.~~

~~Section 88};~~

(1) towns[-]; and

(2) metro townships of the second class to the same extent as a town.

Section 89. Section ~~{10-6-106}~~ 10-6-103 is amended to read:

~~{10-6-106}~~ **10-6-103. Definitions.**

~~As used in this chapter:~~

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

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

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

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

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

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

SB0199S05 compared with SB0199S03

~~government, the chair of the metro township council in a metro township, or the person designated by the charter in a charter city.~~

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

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

~~—— (8) "City" means:~~

~~—— (a) a city; or~~

~~—— (b) for purposes of this chapter, a metro township as defined in Section 10-2a-403.~~

~~—— [(8)] (9) "City general fund" means the general fund used by a city.~~

~~—— [(9)] (10) "Current period" means the fiscal period in which a budget is prepared and adopted, i.e., the fiscal period next preceding the budget period.~~

~~—— [(10)] (11) "Department" means any functional unit within a fund that carries on a specific activity, such as a fire or police department within a city general fund.~~

~~—— [(11)] (12) "Encumbrance system" means a method of budgetary control in which part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account at their time of origin. Such obligations cease to be encumbrances when paid or when the actual liability is entered on the city's books of account.~~

~~—— [(12)] (13) "Enterprise fund" means a fund as defined by the Governmental Accounting Standards Board that is used by a municipality to report an activity for which a fee is charged to users for goods or services.~~

~~—— [(13)] (14) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget period in each fund for which a budget is being prepared.~~

~~—— [(14)] (15) "Financial officer" means the mayor in the council-mayor optional form of government or the city official as authorized by Section 10-6-158.~~

~~—— [(15)] (16) "Fiscal period" means the annual or biennial period for accounting for fiscal operations in each city.~~

~~—— [(16)] (17) "Fund" is as defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.~~

~~—— [(17)] (18) "Fund balance," "retained earnings," and "deficit" have the meanings~~

SB0199S05 compared with SB0199S03

~~commonly accorded such terms under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities:~~

~~——— [(18)] (19) "General fund" is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor:~~

~~——— [(19)] (20) "Governing body" means a city council, or city commission, as the case may be, but the authority to make any appointment to any position created by this chapter is vested in the mayor in the council-mayor optional form of government:~~

~~——— [(20)] (21) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment:~~

~~——— [(21)] (22) "Last completed fiscal period" means the fiscal period next preceding the current period:~~

~~——— [(22)] (23) (a) "Public funds" means any money or payment collected or received by an officer or employee of the city acting in an official capacity and includes money or payment to the officer or employee for services or goods provided by the city, or the officer or employee while acting within the scope of employment or duty:~~

~~——— (b) "Public funds" does not include money or payments collected or received by an officer or employee of a city for charitable purposes if the mayor or city council has consented to the officer's or employee's participation in soliciting contributions for a charity:~~

~~——— [(23)] (24) "Special fund" means any fund other than the city general fund:~~

~~——— [(24)] (25) "Utility" means a utility owned by a city, in whole or in part, that provides electricity, gas, water, or sewer, or any combination of them:~~

~~——— [(25)] (26) "Warrant" means an order drawn upon the city treasurer, in the absence of sufficient money in the city's depository, by an authorized officer of a city for the purpose of paying a specified amount out of the city treasury to the person named or to the bearer as money becomes available:~~

~~——— Section 89} Applicability.~~

~~This chapter shall apply to all:~~

~~(1) cities, including charter cities[-]; and~~

~~(2) metro townships of the first class to the same extent as a city.~~

SB0199S05 compared with SB0199S03

Section 90. Section 10-6-111 is amended to read:

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

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

(b) The tentative budget of each fund shall set forth in tabular form:

(i) the actual revenues and expenditures in the last completed fiscal period;

(ii) the budget estimates for the current fiscal period;

(iii) the actual revenues and expenditures for a period of 6 to 21 months, as appropriate, of the current fiscal period;

(iv) the estimated total revenues and expenditures for the current fiscal period;

(v) the budget officer's estimates of revenues and expenditures for the budget period, computed as provided in Subsection (1)(c); and

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

(c) (i) In making estimates of revenues and expenditures under Subsection (1)(b)(v), the budget officer shall estimate:

(A) on the basis of demonstrated need, the expenditures for the budget period, after:

(I) hearing each department head; and

(II) reviewing the budget requests and estimates of the department heads; and

(B) (I) the amount of revenue available to serve the needs of each fund;

(II) the portion of revenue to be derived from all sources other than general property taxes; and

(III) the portion of revenue that shall be derived from general property taxes.

(ii) The budget officer may revise any department's estimate under Subsection (1)(c)(i)(A)(II) that the officer considers advisable for the purpose of presenting the budget to the governing body.

SB0199S05 compared with SB0199S03

(iii) From the estimate made under Subsection (1)(c)(i)(B)(III), the budget officer shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy upon the latest taxable value.

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

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

(3) Each tentative budget shall be reviewed, considered, and tentatively adopted by the governing body in any regular meeting or special meeting called for the purpose and may be amended or revised in such manner as is considered advisable prior to public hearings, except that no appropriation required for debt retirement and interest or reduction of any existing deficits pursuant to Section 10-6-117, or otherwise required by law or ordinance, may be reduced below the minimums so required.

(4) (a) If the municipality is acting pursuant to Section [~~10-2-120~~] 10-2a-218, the tentative budget shall:

(i) be submitted to the governing body-elect as soon as practicable; and

(ii) cover each fund for which a budget is required from the date of incorporation to the end of the fiscal year.

(b) The governing body shall substantially comply with all other provisions of this chapter, and the budget shall be passed upon incorporation.

Section ~~90~~91. Section **15A-5-202.5** is amended to read:

15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.

(1) For IFC, Chapter 3, General Requirements:

SB0199S05 compared with SB0199S03

(a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six and replace it with: "the Utah Administrative Code, R652-122-200, Minimum Standards for Wildland Fire Ordinance".

(b) IFC, Chapter 3, Section 308.1.2, Throwing or Placing Sources of Ignition, is deleted and rewritten as follows: "No person shall throw or place, or cause to be thrown or placed, a lighted match, cigar, cigarette, matches, lighters, or other flaming or glowing substance or object on any surface or article where it can cause an unwanted fire."

(c) IFC, Chapter 3, Section 310.8, Hazardous and Environmental Conditions, is deleted and rewritten as follows: "When the fire code official determines that hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may occur:

1. If the hazardous environmental conditions exist in a municipality, the legislative body of the municipality may prohibit the ignition or use of an ignition source in mountainous, brush-covered, or forest-covered areas or the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose.

2. Except as provided in paragraph 3, if the hazardous environmental conditions exist in an unincorporated area, the state forester may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1 that are within the unincorporated area, after consulting with the county fire code official who has jurisdiction over that area.

3. If the hazardous environmental conditions exist in a metro township created under [~~Section 17-27a-306 that is in a county of the first class, the county~~] Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, the metro township legislative body may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1 that are within the township."

(d) IFC, Chapter 3, Section 311.1.1, Abandoned Premises, is amended as follows: On line 10 delete the words "International Property Maintenance Code and the".

(e) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete the word "shall" and replace it with the word "may".

(f) IFC, Chapter 3, Section 315.2.1, Ceiling Clearance, is amended to add the

SB0199S05 compared with SB0199S03

following: "Exception: Where storage is not directly below the sprinkler heads, storage is allowed to be placed to the ceiling on wall-mounted shelves that are protected by fire sprinkler heads in occupancies meeting classification as light or ordinary hazard."

(2) IFC, Chapter 4, Emergency Planning and Preparedness:

(a) IFC, Chapter 4, Section 404.2, Where required, Subsection 8, is amended as follows: After the word "buildings" add "to include sororities and fraternity houses".

(b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

(i) "e. Secondary schools in Group E occupancies shall have an emergency evacuation drill for fire conducted at least every two months, to a total of four emergency evacuation drills during the nine-month school year. The first emergency evacuation drill for fire shall be conducted within 10 school days after the beginning of classes, and the third emergency evacuation drill for fire shall be conducted 10 school days after the beginning of the next calendar year. The second and fourth emergency evacuation drills may be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence."

(ii) "f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the monthly required emergency evacuation drill can be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. The routine emergency evacuation drill for fire must be conducted at least every other evacuation drill."

(iii) "g. A-3 occupancies in academic buildings of institutions of higher learning are required to have one emergency evacuation drill per year, provided the following conditions are met:

(A) The building has a fire alarm system in accordance with Section 907.2.

(B) The rooms classified as assembly shall have fire safety floor plans as required in Section 404.3.2(4) posted.

(C) The building is not classified a high-rise building.

(D) The building does not contain hazardous materials over the allowable quantities by code."

Section ~~91~~92. Section 17-23-17 is amended to read:

17-23-17. Map of boundary survey -- Procedure for filing -- Contents -- Marking of monuments -- Record of corner changes -- Penalties.

SB0199S05 compared with SB0199S03

(1) As used in this section [~~,"land]~~:

(a) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(b) (i) "Township" means a term used in the context of identifying a geographic area in common surveyor practice.

(ii) "Township" does not mean a metro township as that term is defined in Section 10-2a-403.

(2) (a) (i) Each land surveyor making a boundary survey of lands within this state to establish or reestablish a boundary line or to obtain data for constructing a map or plat showing a boundary line shall file a map of the survey that meets the requirements of this section with the county surveyor or designated office within 90 days of the establishment or reestablishment of a boundary.

(ii) A land surveyor who fails to file a map of the survey as required by Subsection (2)(a)(i) is guilty of a class C misdemeanor.

(iii) Each failure to file a map of the survey as required by Subsection (2)(a)(i) is a separate violation.

(b) The county surveyor or designated office shall file and index the map of the survey.

(c) The map shall be a public record in the office of the county surveyor or designated office.

(3) This type of map shall show:

(a) the location of survey by quarter section and township and range;

(b) the date of survey;

(c) the scale of drawing and north point;

(d) the distance and course of all lines traced or established, giving the basis of bearing and the distance and course to two or more section corners or quarter corners, including township and range, or to identified monuments within a recorded subdivision;

(e) all measured bearings, angles, and distances separately indicated from those of record;

(f) a written boundary description of property surveyed;

(g) all monuments set and their relation to older monuments found;

SB0199S05 compared with SB0199S03

(h) a detailed description of monuments found and monuments set, indicated separately;

- (i) the surveyor's seal or stamp; and
- (j) the surveyor's business name and address.

(4) (a) The map shall contain a written narrative that explains and identifies:

- (i) the purpose of the survey;
- (ii) the basis on which the lines were established; and
- (iii) the found monuments and deed elements that controlled the established or

reestablished lines.

(b) If the narrative is a separate document, it shall contain:

- (i) the location of the survey by quarter section and by township and range;
- (ii) the date of the survey;
- (iii) the surveyor's stamp or seal; and
- (iv) the surveyor's business name and address.

(c) The map and narrative shall be referenced to each other if they are separate documents.

(5) The map and narrative shall be created on material of a permanent nature on stable base reproducible material in the sizes required by the county surveyor.

(6) (a) Any monument set by a licensed professional land surveyor to mark or reference a point on a property or land line shall be durably and visibly marked or tagged with the registered business name or the letters "L.S." followed by the registration number of the surveyor in charge.

(b) If the monument is set by a licensed land surveyor who is a public officer, it shall be marked with the official title of the office.

(7) (a) If, in the performance of a survey, a surveyor finds or makes any changes to the section corner or quarter-section corner, or their accessories, the surveyor shall complete and submit to the county surveyor or designated office a record of the changes made.

(b) The record shall be submitted within 45 days of the corner visits and shall include the surveyor's seal, business name, and address.

(8) The Utah State Board of Engineers and Land Surveyors Examiners may revoke the license of any land surveyor who fails to comply with the requirements of this section,

SB0199S05 compared with SB0199S03

according to the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act.

(9) Each federal or state agency, board, or commission, local district, special service district, or municipal corporation that makes a boundary survey of lands within this state shall comply with this section.

Section ~~92~~93. Section **17-23-17.5** is amended to read:

17-23-17.5. Corner perpetuation and filing -- Definitions -- Establishment of corner file -- Preservation of map records -- Filing fees -- Exemptions.

(1) As used in this section:

(a) "Accessory to a corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(b) "Corner," unless otherwise qualified, means a property corner, a property controlling corner, a public land survey corner, or any combination of these.

(c) "Geographic coordinates" means mathematical values that designate a position on the earth relative to a given reference system. Coordinates shall be established pursuant to Title 57, Chapter 10, Utah Coordinate System.

(d) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(e) "Monument" means an accessory that is presumed to occupy the exact position of a corner.

(f) "Property controlling corner" means a public land survey corner or any property corner which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.

(g) "Property corner" means a geographic point of known geographic coordinates on the surface of the earth, and is on, a part of, and controls a property line.

(h) "Public land survey corner" means any corner actually established and monumented in an original survey or resurvey used as a basis of legal descriptions for issuing a patent for the land to a private person from the United States government.

SB0199S05 compared with SB0199S03

(i) "Reference monument" means a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded and which serves to witness the corner.

(j) (i) "Township" means a term used in the context of identifying a geographic area in common surveyor practice.

(ii) "Township" does not mean a metro township as that term is defined in Section 10-2a-403.

(2) (a) Any land surveyor making a boundary survey of lands within this state and utilizing a corner shall, within 90 days, complete, sign, and file with the county surveyor of the county where the corner is situated, a written record to be known as a corner file for every public land survey corner and accessory to the corner which is used as control in any survey by the surveyor, unless the corner and its accessories are already a matter of record in the county.

(b) Where reasonably possible, the corner file shall include the geographic coordinates of the corner.

(c) A surveyor may file a corner record as to any property corner, reference monument, or accessory to a corner.

(d) Corner records may be filed concerning corners used before the effective date of this section.

(3) The county surveyor of the county containing the corners shall have on record as part of the official files maps of each township within the county, the bearings and lengths of the connecting lines to government corners, and government corners looked for and not found.

(4) The county surveyor shall make these records available for public inspection at the county facilities during normal business hours.

(5) Filing fees for corner records shall be established by the county legislative body consistent with existing fees for similar services. All corners, monuments, and their accessories used prior to the effective date of this section shall be accepted and filed with the county surveyor without requiring the payment of the fees.

(6) When a corner record of a public land survey corner is required to be filed under the provisions of this section and the monument needs to be reconstructed or rehabilitated, the land surveyor shall contact the county surveyor in accordance with Section 17-23-14.

(7) A corner record may not be filed unless it is signed by a land surveyor.

SB0199S05 compared with SB0199S03

(8) All filings relative to official cadastral surveys of the Bureau of Land Management of the United States of America performed by authorized personnel shall be exempt from filing fees.

Section ~~93~~94. Section **17-27a-103** is amended to read:

17-27a-103. Definitions.

As used in this chapter:

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

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

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

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

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

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

(4) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

SB0199S05 compared with SB0199S03

(5) "Chief executive officer" means the person or body that exercises the executive powers of the county.

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

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

- (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- (b) Utah Constitution Article I, Section 22.

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

(9) "Development activity" means:

- (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
- (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
- (c) any change in the use of land that creates additional demand and need for public facilities.

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

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

(11) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

SB0199S05 compared with SB0199S03

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (11)(a)(i);

and

(B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

(ii) a therapeutic school.

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

(13) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(14) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(15) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the unincorporated land within the county.

(16) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

SB0199S05 compared with SB0199S03

- (f) unstable soil;
- (g) a rock fall; or
- (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.

(17) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(18) "Identical plans" means building plans submitted to a county that:

- (a) are clearly marked as "identical plans";
- (b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and
- (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and
 - (iv) does not require any additional engineering or analysis.

(19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(20) "Improvement completion assurance" means a surety bond, letter of credit, cash, or other security required by a county to guaranty the proper completion of landscaping or infrastructure that the land use authority has required as a condition precedent to:

- (a) recording a subdivision plat; or
- (b) beginning development activity.

(21) "Improvement warranty" means an applicant's unconditional warranty that the accepted landscaping or infrastructure:

- (a) complies with the county's written standards for design, materials, and

SB0199S05 compared with SB0199S03

workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(22) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(23) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(24) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(25) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(26) "Land use application" means an application required by a county's land use ordinance.

(27) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

SB0199S05 compared with SB0199S03

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(28) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the county, but does not include the general plan.

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

(30) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

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

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

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

(34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

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

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

(35) "Noncomplying structure" means a structure that:

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

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

(36) "Nonconforming use" means a use of land that:

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

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

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

SB0199S05 compared with SB0199S03

(37) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

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

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

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

(38) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

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

(40) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

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

(c) a survey of total residential land use;

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

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

(41) "Planning ~~district~~ advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning ~~district~~ advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

SB0199S05 compared with SB0199S03

~~[(41)]~~ (42) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

~~[(42)]~~ (43) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

~~[(43)]~~ (44) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

~~[(44)]~~ (45) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(45)]~~ (46) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(46)]~~ (47) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

~~[(47)]~~ (48) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

~~[(48)]~~ (49) "Residential facility for persons with a disability" means a residence:

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

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

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

~~[(49)]~~ (50) "Rules of order and procedure" means a set of rules that govern and

SB0199S05 compared with SB0199S03

prescribe in a public meeting:

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

~~[(50)]~~ (51) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

~~[(51)]~~ (52) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

~~[(52)]~~ (53) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

~~[(53)]~~ (54) "Specified public agency" means:

- (a) the state;
- (b) a school district; or
- (c) a charter school.

~~[(54)]~~ (55) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(55)]~~ (56) "State" includes any department, division, or agency of the state.

~~[(56)]~~ (57) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

~~[(57)]~~ (58) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

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

(ii) except as provided in Subsection ~~[(57)]~~ (58)(c), divisions of land for residential and

SB0199S05 compared with SB0199S03

nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

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

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

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

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

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

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection [~~(57)~~] (58) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

SB0199S05 compared with SB0199S03

~~[(58)]~~ (59) "Suspect soil" means soil that has:

- (a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;
- (b) bedrock units with high shrink or swell susceptibility; or
- (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

~~[(59)]~~ (60) "Therapeutic school" means a residential group living facility:

- (a) for four or more individuals who are not related to:
 - (i) the owner of the facility; or
 - (ii) the primary service provider of the facility;
- (b) that serves students who have a history of failing to function:
 - (i) at home;
 - (ii) in a public school; or
 - (iii) in a nonresidential private school; and
- (c) that offers:
 - (i) room and board; and
 - (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

~~[(60)] "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.]~~

(61) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(62) "Unincorporated" means the area outside of the incorporated area of a municipality.

SB0199S05 compared with SB0199S03

(63) "Water interest" means any right to the beneficial use of water, including:

- (a) each of the rights listed in Section 73-1-11; and
- (b) an ownership interest in the right to the beneficial use of water represented by:
 - (i) a contract; or
 - (ii) a share in a water company, as defined in Section 73-3-3.5.

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

Section ~~94~~95. Section **17-27a-301** is amended to read:

17-27a-301. Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Planning ~~district~~advisory area planning commission -- Compensation.

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a [~~township~~] planning ~~district~~advisory area.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

- (i) municipalities; and
- (ii) [~~townships~~] planning ~~districts~~advisory areas with their own planning commissions.

(2) (a) The ordinance shall define:

- (i) the number and terms of the members and, if the county chooses, alternate members;
- (ii) the mode of appointment;
- (iii) the procedures for filling vacancies and removal from office;
- (iv) the authority of the planning commission;
- (v) subject to Subsection (2)(b), the rules of order and procedure for use by the planning commission in a public meeting; and
- (vi) other details relating to the organization and procedures of the planning commission.

(b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

SB0199S05 compared with SB0199S03

(3) (a) (i) If the county establishes a [township] planning ~~{district}~~ advisory area planning commission, the county legislative body shall enact an ordinance that defines:

(A) appointment procedures;

(B) procedures for filling vacancies and removing members from office;

(C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the [township] planning ~~{district}~~ advisory area planning commission in a public meeting; and

(D) details relating to the organization and procedures of each [township] planning ~~{district}~~ advisory area planning commission.

(ii) Subsection (3)(a)(i)(C) does not affect the [township] planning ~~{district}~~ advisory area planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) The planning commission for each [township] planning ~~{district}~~ advisory area shall consist of seven members who ~~[, except as provided in Subsection (4),]~~ shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed ~~[or, as provided in Subsection (4),]~~ elected] and qualified.

(ii) Notwithstanding the provisions of Subsection (3)(c)(i) ~~[and except as provided in Subsection (4),]~~ members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

(d) (i) ~~[Except as provided in Subsection (3)(d)(ii), each]~~ Each member of a [township] planning ~~{district}~~ advisory area planning commission shall be a registered voter residing within the [township] planning ~~{district}~~ advisory area.

~~[(ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) may be an appointed member who is a registered voter~~

SB0199S05 compared with SB0199S03

~~residing outside the township if that member:]~~

~~[(F) is an owner of real property located within the township; and]~~

~~[(H) resides within the county in which the township is located.]~~

~~[(B) (F) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township planning commission from a list of three persons submitted by the county legislative body.]~~

~~[(H) If the township planning commission has not notified the county legislative body of its choice under Subsection (3)(d)(ii)(B)(F) within 60 days of the township planning commission's receipt of the list, the county legislative body may appoint one of the three persons on the list or a registered voter residing within the township as a member of the township planning commission.]~~

~~[(4) (a) The legislative body of each county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) is located shall on or before January 1, 2012, enact an ordinance that provides for the election of at least three members of the planning commission of that township:]~~

~~[(b) (i) Beginning with the 2012 general election, the election of planning commission members under Subsection (4)(a) shall coincide with the election of other county officers during even-numbered years:]~~

~~[(ii) Approximately half the elected planning commission members shall be elected every four years during elections held on even-numbered years, and the remaining elected members shall be elected every four years on alternating even-numbered years:]~~

~~[(c) If no person files a declaration of candidacy in accordance with Section 20A-9-202 for an open township planning commission member position:]~~

~~[(i) the position may be appointed in accordance with Subsection (3)(b); and]~~

~~[(ii) a person appointed under Subsection (4)(c)(i) may not serve for a period of time that exceeds the elected term for which there was no candidate:]~~

~~[(5) (a) A legislative body described in Subsection (4)(a) shall on or before January 1, 2012, enact an ordinance that:]~~

~~[(i) designates the seats to be elected; and]~~

~~[(ii) subject to Subsection (6)(b), appoints a member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, as a member of the~~

SB0199S05 compared with SB0199S03

~~planning commission of the reconstituted or reinstated township.]~~

~~[(b) A member appointed under Subsection (5)(a) is considered an elected member.]~~

~~[(6)(a) Except as provided in Subsection (6)(b), the term of each member appointed under Subsection (5)(a) shall continue until the time that the member's term as an elected member of the former township planning and zoning board would have expired.]~~

~~[(b)(i) Notwithstanding Subsection (6)(a), the county legislative body may adjust the terms of the members appointed under Subsection (5)(a) so that the terms of those members coincide with the schedule under Subsection (4)(b) for elected members.]~~

~~[(ii) Subject to Subsection (6)(b)(iii), the legislative body of a county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) is located may enact an ordinance allowing each appointed member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, to continue to hold office as a member of the planning commission of the reconstituted or reinstated township until the time that the member's term as a member of the former township's planning and zoning board would have expired.]~~

~~[(iii) If a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) has more than one appointed member who resides outside the township, the legislative body of the county in which that township is located shall, within 15 days of the effective date of this Subsection (6)(b)(iii), dismiss all but one of the appointed members who reside outside the township, and a new member shall be appointed under Subsection (3)(b) to fill the position of each dismissed member.]~~

~~[(7)(a) Except as provided in Subsection (7)(b), upon]~~

~~(ii) Subsection (3)(d)(i) does not apply to a member described in Subsection (4)(a) if that member was, prior to May 12, 2015, authorized to reside outside of the planning ~~{district}~~ advisory area.~~

(4)(a) A member of a planning commission who was elected to and served on a planning commission on May 12, 2015, shall serve out the term to which the member was elected.

(b) Upon the expiration of an elected term described in Subsection (4)(a), the vacant seat shall be filled by appointment in accordance with this section.

SB0199S05 compared with SB0199S03

(5) Upon the appointment [~~or election~~] of all members of a [township] planning ~~{district}~~advisory area planning commission, each [township] planning ~~{district}~~advisory area planning commission under this section shall begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that previously had been under the jurisdiction of the countywide planning commission or [township] planning ~~{district}~~advisory area planning and zoning board.

~~[(b) Notwithstanding Subsection (7)(a), if the members of a former township planning and zoning board continue to hold office as members of the planning commission of the township planning district under an ordinance enacted under Subsection (5)(a), the township planning commission shall immediately begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that had previously been under the jurisdiction of the township planning and zoning board.]~~

~~[(8)]~~ (6) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.

Section ~~{95}~~96. Section **17-27a-302** is amended to read:

17-27a-302. Planning commission powers and duties.

~~[(1)]~~ Each countywide or [township] planning ~~{district}~~advisory area planning commission shall, with respect to the unincorporated area of the county[;] or the [township] planning ~~{district}~~advisory area, make a recommendation to the county legislative body for:

- ~~[(a)]~~ (1) a general plan and amendments to the general plan;
- ~~[(b)]~~ (2) land use ordinances, zoning maps, official maps, and amendments;
- ~~[(c)]~~ (3) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;
- ~~[(d)]~~ (4) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and
- ~~[(e)]~~ (5) application processes that:
 - ~~[(i)]~~ (a) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
 - ~~[(ii)]~~ (b) shall protect the right of each:

SB0199S05 compared with SB0199S03

~~[(A)]~~ (i) applicant and third party to require formal consideration of any application by a land use authority;

~~[(B)]~~ (ii) applicant, adversely affected party, or county officer or employee to appeal a land use authority's decision to a separate appeal authority; and

~~[(C)]~~ (iii) participant to be heard in each public hearing on a contested application.

~~[(2) The planning commission of a township under this part may recommend to the legislative body of the county in which the township is located that the legislative body file a protest to a proposed annexation of an area located within the township, as provided in Subsection 10-2-407(1)(b).]~~

Section ~~{96}~~97. Section **17-27a-306** is amended to read:

17-27a-306. Planning ~~{district}~~ advisory areas.

(1) (a) A [township] planning ~~{district}~~ advisory area may be established in a county other than a county of the first class as provided in this Subsection (1).

(b) A [township] planning ~~{district}~~ advisory area may not be established unless the area to be included within the proposed [township] planning ~~{district}~~ advisory area:

(i) is unincorporated;

(ii) is contiguous; and

(iii) (A) contains:

(I) at least 20% but not more than 80% of:

(Aa) the total private land area in the unincorporated county; or

(Bb) the total value of locally assessed taxable property in the unincorporated county;

or

(II) (Aa) in a county of the [~~first,~~] second[~~;~~] or third class, at least 5% of the total population of the unincorporated county, but not less than 300 residents; or

(Bb) in a county of the fourth, fifth, or sixth class, at least 25% of the total population of the unincorporated county; or

(B) has been declared by the United States Census Bureau as a census designated place.

(c) (i) The process to establish a [township] planning ~~{district}~~ advisory area is initiated by the filing of a petition with the clerk of the county in which the proposed [township] planning ~~{district}~~ advisory area is located.

SB0199S05 compared with SB0199S03

(ii) A petition to establish a [township] planning {district} advisory area may not be filed if it proposes the establishment of a [township] planning {district} advisory area that includes an area within a proposed [township] planning {district} advisory area in a petition that has previously been certified under Subsection (1)(g), until after the canvass of an election on the proposed [township] planning {district} advisory area under Subsection (1)(j).

(d) A petition under Subsection (1)(c) to establish a [township] planning {district} advisory area shall:

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

(A) is located within the proposed [township] planning {district} advisory area;

(B) covers at least 10% of the total private land area within the proposed [township] planning {district} advisory area; and

(C) is equal in value to at least 10% of the value of all private real property within the proposed [township] planning {district} advisory area;

(ii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be established as a [township] planning {district} advisory area;

(iii) indicate the typed or printed name and current residence address of each owner signing the petition;

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

(v) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to establish a [township] planning {district} advisory area.

(e) Subsection [~~10-2-101~~] 10-2a-102(3) applies to a petition to establish a [township] planning {district} advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter [~~2, Part 1,~~] 2a, Municipal Incorporation.

(f) (i) Within seven days after the filing of a petition under Subsection (1)(c) proposing the establishment of a [township] planning {district} advisory area in a county of the [~~first or~~] second class, the county clerk shall provide notice of the filing of the petition to:

SB0199S05 compared with SB0199S03

(A) each owner of real property owning more than 1% of the assessed value of all real property within the proposed [township] ~~planning~~ planning {district} advisory area; and

(B) each owner of real property owning more than 850 acres of real property within the proposed [township] ~~planning~~ planning {district} advisory area.

(ii) A property owner may exclude all or part of the property owner's property from a proposed [township] ~~planning~~ planning {district} advisory area in a county of the [~~first or~~] second class:

(A) if:

(I) (Aa) (Ii) the property owner owns more than 1% of the assessed value of all property within the proposed [township] ~~planning~~ planning {district} advisory area;

(IIii) the property is nonurban; and

(IIIiii) the property does not or will not require municipal provision of municipal-type services; or

(Bb) the property owner owns more than 850 acres of real property within the proposed [township] ~~planning~~ planning {district} advisory area; and

(II) exclusion of the property will not leave within the [township] ~~planning~~ planning {district} advisory area an island of property that is not part of the [township] ~~planning~~ planning {district} advisory area; and

(B) by filing a notice of exclusion within 10 days after receiving the clerk's notice under Subsection (1)(f)(i).

(iii) (A) The county legislative body shall exclude from the proposed [township] ~~planning~~ planning {district} advisory area the property identified in a notice of exclusion timely filed under Subsection (1)(f)(ii)(B) if the property meets the applicable requirements of Subsection (1)(f)(ii)(A).

(B) If the county legislative body excludes property from a proposed [township] ~~planning~~ planning {district} advisory area under Subsection (1)(f)(iii), the county legislative body shall, within five days after the exclusion, send written notice of its action to the contact sponsor.

(g) (i) Within 45 days after the filing of a petition under Subsection (1)(c), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (1)(d); and

SB0199S05 compared with SB0199S03

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (1)(d):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (1)(d), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (1)(g)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(h) (i) Within 90 days after a petition to establish a [township] planning ~~district~~ advisory area is certified, the county legislative body shall hold a public hearing on the proposal to establish a [township] planning ~~district~~ advisory area.

(ii) A public hearing under Subsection (1)(h)(i) shall be:

(A) within the boundary of the proposed [township] planning ~~district~~ advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) At least one week before holding a public hearing under Subsection (1)(h)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:

(A) at least once in a newspaper of general circulation in the county; and

(B) on the Utah Public Notice Website created in Section 63F-1-701.

(i) Following the public hearing under Subsection (1)(h)(i), the county legislative body shall arrange for the proposal to establish a [township] planning ~~district~~ advisory area to be submitted to voters residing within the proposed [township] planning ~~district~~ advisory area at the next regular general election that is more than 90 days after the public hearing.

(j) A [township] planning ~~district~~ advisory area is established at the time of the canvass of the results of an election under Subsection (1)(i) if the canvass indicates that a majority of voters voting on the proposal to establish a [township] planning ~~district~~ advisory

SB0199S05 compared with SB0199S03

area voted in favor of the proposal.

~~[(k) (i) A township that was dissolved under Laws of Utah 1997, Chapter 389, is reinstated as a township under this part with the same boundaries and name as before the dissolution, if the former township consisted of a single, contiguous land area.]~~

~~[(ii) Notwithstanding Subsection (1)(k)(i), a county legislative body may enact an ordinance establishing as a township under this part a former township that was dissolved under Laws of Utah 1997, Chapter 389, even though the former township does not qualify to be reinstated under Subsection (1)(k)(i).]~~

~~[(iii) A township reinstated under Subsection (1)(k)(i) or established under Subsection (1)(k)(ii) is subject to the provisions of this part.]~~

~~[(l) A township established under this section on or after May 5, 1997, may use the word "township" in its name.]~~

(k) An area that is an established township before May 12, 2015, in a county other than a county of the first class:

(i) is, as of May 12, 2015, a planning ~~{district}~~ advisory area; and

(ii) (A) shall change its name, if applicable, to no longer include the word "township";

and

(B) may use the word "planning ~~{district}~~ advisory area" in its name.

(2) The county legislative body may:

(a) assign to the countywide planning commission the duties established in this part that would have been assumed by a [township] planning ~~{district}~~ advisory area planning commission designated under Subsection (2)(b); or

(b) designate and appoint a planning commission for the [township] planning ~~{district}~~ advisory area.

(3) (a) An area within the boundary of a [township] planning ~~{district}~~ advisory area may be withdrawn from the [township] planning ~~{district}~~ advisory area as provided in this Subsection (3) or in accordance with Subsection (5)(a).

(b) The process to withdraw an area from a [township] planning ~~{district}~~ advisory area is initiated by the filing of a petition with the clerk of the county in which the [township] planning ~~{district}~~ advisory area is located.

(c) A petition under Subsection (3)(b) shall:

SB0199S05 compared with SB0199S03

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

(A) is located within the area proposed to be withdrawn from the [township] planning ~~{district}~~ advisory area;

(B) covers at least 50% of the total private land area within the area proposed to be withdrawn from the [township] planning ~~{district}~~ advisory area; and

(C) is equal in value to at least 33% of the value of all private real property within the area proposed to be withdrawn from the [township] planning ~~{district}~~ advisory area;

(ii) state the reason or reasons for the proposed withdrawal;

(iii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be withdrawn from the [township] planning ~~{district}~~ advisory area;

(iv) indicate the typed or printed name and current residence address of each owner signing the petition;

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

(vi) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vii) request the county legislative body to withdraw the area from the [township] planning ~~{district}~~ advisory area.

(d) Subsection [~~10-2-101~~] 10-2a-102(3) applies to a petition to withdraw an area from a [township] planning ~~{district}~~ advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter [~~2, Part 1,~~] 2a, Municipal Incorporation.

(e) (i) Within 45 days after the filing of a petition under Subsection (3)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (3)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body;

SB0199S05 compared with SB0199S03

and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (3)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (3)(e)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(f) (i) Within 60 days after a petition to withdraw an area from a [township] planning ~~district~~ advisory area is certified, the county legislative body shall hold a public hearing on the proposal to withdraw the area from the [township] planning ~~district~~ advisory area.

(ii) A public hearing under Subsection (3)(f)(i) shall be held:

(A) within the area proposed to be withdrawn from the [township] planning ~~district~~ advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (3)(f)(i), the county legislative body shall:

(A) publish notice of the petition and the time, date, and place of the public hearing:

(I) at least once a week for three consecutive weeks in a newspaper of general circulation in the [township] planning ~~district~~ advisory area; and

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

(B) mail a notice of the petition and the time, date, and place of the public hearing to each owner of private real property within the area proposed to be withdrawn.

(g) (i) Within 45 days after the public hearing under Subsection (3)(f)(i), the county legislative body shall make a written decision on the proposal to withdraw the area from the [township] planning ~~district~~ advisory area.

(ii) In making its decision as to whether to withdraw the area from the [township] planning ~~district~~ advisory area, the county legislative body shall consider:

(A) whether the withdrawal would leave the remaining [township] planning

SB0199S05 compared with SB0199S03

~~{district}~~advisory area in a situation where the future incorporation of an area within the [township] planning ~~{district}~~advisory area or the annexation of an area within the [township] planning ~~{district}~~advisory area to an adjoining municipality would be economically or practically not feasible;

(B) if the withdrawal is a precursor to the incorporation or annexation of the withdrawn area:

(I) whether the proposed subsequent incorporation or withdrawal:

(Aa) will leave or create an unincorporated island or peninsula; or

(Bb) will leave the county with an area within its unincorporated area for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years; and

(II) whether the municipality to be created or the municipality into which the withdrawn area is expected to annex would be or is capable, in a cost effective manner, of providing service to the withdrawn area that the county will no longer provide due to the incorporation or annexation;

(C) the effects of a withdrawal on adjoining property owners, existing or projected county streets or other public improvements, law enforcement, and zoning and other municipal services provided by the county; and

(D) whether justice and equity favor the withdrawal.

(h) Upon the written decision of the county legislative body approving the withdrawal of an area from a [township] planning ~~{district}~~advisory area, the area is withdrawn from the [township] planning ~~{district}~~advisory area and the [township] planning ~~{district}~~advisory area continues as a [township] planning ~~{district}~~advisory area with a boundary that excludes the withdrawn area.

(4) (a) A [township] planning ~~{district}~~advisory area may be dissolved as provided in this Subsection (4).

(b) The process to dissolve a [township] planning ~~{district}~~advisory area is initiated by the filing of a petition with the clerk of the county in which the [township] planning ~~{district}~~advisory area is located.

(c) A petition under Subsection (4)(b) shall:

(i) be signed by registered voters within the [township] planning ~~{district}~~advisory

SB0199S05 compared with SB0199S03

area equal in number to at least 25% of all votes cast by voters within the [township] planning
~~{district}~~ advisory area at the last congressional election;

(ii) state the reason or reasons for the proposed dissolution;

(iii) indicate the typed or printed name and current residence address of each person signing the petition;

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

(v) authorize the petition sponsors to act on behalf of all persons signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to dissolve the [township] planning ~~{district}~~ advisory area.

(d) (i) Within 45 days after the filing of a petition under Subsection (4)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (4)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (4)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (4)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (4)(d)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(e) (i) Within 60 days after a petition to dissolve the [township] planning
~~{district}~~ advisory area is certified, the county legislative body shall hold a public hearing on

SB0199S05 compared with SB0199S03

the proposal to dissolve the [township] planning ~~district~~ advisory area.

(ii) A public hearing under Subsection (4)(e)(i) shall be held:

(A) within the boundary of the [township] planning ~~district~~ advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (4)(e)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:

(A) at least once a week for three consecutive weeks in a newspaper of general circulation in the [township] planning ~~district~~ advisory area; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for three consecutive weeks immediately before the public hearing.

(f) Following the public hearing under Subsection (4)(e)(i), the county legislative body shall arrange for the proposal to dissolve the [township] planning ~~district~~ advisory area to be submitted to voters residing within the [township] planning ~~district~~ advisory area at the next regular general election that is more than 90 days after the public hearing.

(g) A [township] planning ~~district~~ advisory area is dissolved at the time of the canvass of the results of an election under Subsection (4)(f) if the canvass indicates that a majority of voters voting on the proposal to dissolve the [township] planning ~~district~~ advisory area voted in favor of the proposal.

(5) (a) If a portion of an area located within a planning advisory area is annexed by a municipality or incorporates, that portion is withdrawn from the planning advisory area.

(b) If a planning advisory area in whole is annexed by a municipality or incorporates, the planning advisory area is dissolved.

Section ~~97~~ 98. Section **17-27a-505** is amended to read:

17-27a-505. Zoning districts.

(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.

(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.

SB0199S05 compared with SB0199S03

(c) A county may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:

- (i) protect life; and
- (ii) prevent:
 - (A) the substantial loss of real property; or
 - (B) substantial damage to real property.

(d) A county of the second, third, fourth, fifth, or sixth class may not adopt a land use ordinance requiring a property owner to revegetate or landscape a single family dwelling disturbance area unless the property is located in a flood zone or geologic hazard except as required in Title 19, Chapter 5, Water Quality Act, to comply with federal law related to water pollution.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zone, but the regulations in one zone may differ from those in other zones.

(3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a county decision.

Section ~~98~~99. Section **17-34-3** is amended to read:

17-34-3. Taxes or service charges.

(1) (a) If a county furnishes the municipal-type services and functions described in Section 17-34-1 to areas of the county outside the limits of incorporated cities or towns, the entire cost of the services or functions so furnished shall be defrayed from funds that the county has derived from:

(i) taxes that the county may lawfully levy or impose outside the limits of incorporated towns or cities;

(ii) service charges or fees the county may impose upon the persons benefited in any way by the services or functions; or

(iii) a combination of these sources.

(b) As the taxes or service charges or fees are levied and collected, they shall be placed

SB0199S05 compared with SB0199S03

in a special revenue fund of the county and shall be disbursed only for the rendering of the services or functions established in Section 17-34-1 within the unincorporated areas of the county or as provided in Subsection [~~10-2-121~~] 10-2a-219(2).

(2) (a) For the purpose of levying taxes, service charges, or fees provided in this section, the county legislative body may establish a district or districts in the unincorporated areas of the county.

(b) A district established by a county as provided in Subsection (2)(a) may be reorganized as a local district in accordance with the procedures set forth in Sections 17D-1-601, 17D-1-603, and 17D-1-604.

(3) Nothing contained in this chapter may be construed to authorize counties to impose or levy taxes not otherwise allowed by law.

(4) Notwithstanding any other provision of this chapter, a county providing fire, paramedic, and police protection services in a designated recreational area, as provided in Subsection 17-34-1(5), may fund those services from the county general fund with revenues derived from both inside and outside the limits of cities and towns, and the funding of those services is not limited to unincorporated area revenues.

Section ~~99~~100. Section **17-41-101** is amended to read:

17-41-101. Definitions.

As used in this chapter:

(1) "Advisory board" means:

(a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201; and

(b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201.

(2) (a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.

(b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

(3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

SB0199S05 compared with SB0199S03

(4) "Applicable legislative body" means:

(a) with respect to a proposed agriculture protection area or industrial protection area:

(i) the legislative body of the county in which the land proposed to be included in an agriculture protection area or industrial protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in an agriculture protection area or industrial protection area is located; and

(b) with respect to an existing agriculture protection area or industrial protection area:

(i) the legislative body of the county in which the agriculture protection area or industrial protection area is located, if the agriculture protection area or industrial protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the agriculture protection area or industrial protection area is located.

(5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(6) "Crops, livestock, and livestock products" includes:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock as defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(7) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(8) "Industrial protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(9) "Mine operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and

SB0199S05 compared with SB0199S03

related parent company, that, as of January 1, 2009:

(a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

(b) has produced commercial quantities of a mineral deposit from the mining use.

(10) "Mineral deposit" has the same meaning as defined in Section 40-8-4, but excludes:

(a) building stone, decorative rock, and landscaping rock; and

(b) consolidated rock that:

(i) is not associated with another deposit of minerals;

(ii) is or may be extracted from land; and

(iii) is put to uses similar to the uses of sand, gravel, and other aggregates.

(11) "Mining protection area" means land where a vested mining use occurs, including each surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls.

(12) "Mining use":

(a) means:

(i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection (12)(a)(i) that have been, are being, or will be conducted; and

(b) includes, whether conducted on-site or off-site:

(i) any sampling, staking, surveying, exploration, or development activity;

(ii) any drilling, blasting, excavating, or tunneling;

(iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(iv) any removal, transportation, extraction, beneficiation, or processing of ore;

(v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

(vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

SB0199S05 compared with SB0199S03

- (vii) a mining activity that is identified in a work plan or permitting document;
 - (viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;
 - (ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;
 - (x) the construction of a storage, factory, processing, or maintenance facility; and
 - (xi) any activity described in Subsection 40-8-4(14)(a).
- (13) (a) "Municipal" means of or relating to a city or town.
- (b) "Municipality" means a city or town.
- (14) "New land" means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether or not that land or mineral estate is included in the mine operator's large mine permit.
- (15) "Off-site" has the same meaning as provided in Section 40-8-4.
- (16) "On-site" has the same meaning as provided in Section 40-8-4.
- (17) "Planning commission" means:
- (a) a countywide planning commission if the land proposed to be included in the agriculture protection area or industrial protection area is within the unincorporated part of the county and not within a [township] planning ~~district~~ advisory area;
 - (b) a [township] planning ~~district~~ advisory area planning commission if the land proposed to be included in the agriculture protection area or industrial protection area is within a [township] planning ~~district~~ advisory area; or
 - (c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area or industrial protection area is within a city or town.
- (18) "Political subdivision" means a county, city, town, school district, local district, or special service district.
- (19) "Proposal sponsors" means the owners of land in agricultural production or industrial use who are sponsoring the proposal for creating an agriculture protection area or industrial protection area, respectively.

SB0199S05 compared with SB0199S03

(20) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(21) "Unincorporated" means not within a city or town.

(22) "Vested mining use" means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

Section 101. Section 17B-1-102 is amended to read:

17B-1-102. Definitions.

As used in this title:

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

(2) "Basic local district":

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

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

(3) "Bond" means:

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

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

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

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

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

(5) "Drainage district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that

SB0199S05 compared with SB0199S03

was created and operated as a drainage district under the law in effect before April 30, 2007.

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

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

(8) "General obligation bond":

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

(i) levied:

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

(B) on taxable property within the district; and

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

and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

(a) to guarantee the proper completion of an improvement;

(b) that is required before a local district may provide a service requested by a service applicant; and

(c) that is offered to a local district to induce the local district before construction of an improvement begins to:

(i) provide the requested service; or

(ii) commit to provide the requested service.

(10) "Improvement assurance warranty" means a promise that the materials and

SB0199S05 compared with SB0199S03

workmanship of an improvement:

- (a) comply with standards adopted by a local district; and
- (b) will not fail in any material respect within an agreed warranty period.

(11) "Improvement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.

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

(13) "Local district" means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers set forth in:

- (a) this chapter; or
- (b) (i) this chapter; and
- (ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;
- (B) Chapter 2a, Part 2, Drainage District Act;
- (C) Chapter 2a, Part 3, Fire Protection District Act;
- (D) Chapter 2a, Part 4, Improvement District Act;
- (E) Chapter 2a, Part 5, Irrigation District Act;
- (F) Chapter 2a, Part 6, Metropolitan Water District Act;
- (G) Chapter 2a, Part 7, Mosquito Abatement District Act;
- (H) Chapter 2a, Part 8, Public Transit District Act;
- (I) Chapter 2a, Part 9, Service Area Act; ~~or~~
- (J) Chapter 2a, Part 10, Water Conservancy District Act~~[-]; or~~
- (K) Chapter 2a, Part 11, Municipal Services District Act.

(14) "Metropolitan water district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.

(15) "Mosquito abatement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District

SB0199S05 compared with SB0199S03

Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.

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

(17) "Municipality" means a city or town.

(18) "Municipal services district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.

~~[(18)]~~ (19) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.

~~[(19)]~~ (20) "Political subdivision" means a county, city, town, local district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

~~[(20)]~~ (21) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.

~~[(21)]~~ (22) "Public entity" means:

- (a) the United States or an agency of the United States;
- (b) the state or an agency of the state;
- (c) a political subdivision of the state or an agency of a political subdivision of the state;
- (d) another state or an agency of that state; or
- (e) a political subdivision of another state or an agency of that political subdivision.

~~[(22)]~~ (23) "Public transit district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.

~~[(23)]~~ (24) "Revenue bond":

- (a) means a bond payable from designated taxes or other revenues other than the local district's ad valorem property taxes; and
- (b) does not include:

SB0199S05 compared with SB0199S03

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

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

~~[(24)]~~ [(25)] "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

~~[(25)]~~ [(26)] "Service applicant" means a person who requests that a local district provide a service that the local district is authorized to provide.

~~[(26)]~~ [(27)] "Service area" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.

~~[(27)]~~ [(28)] "Short-term bond" means a bond that is required to be repaid during the fiscal year in which the bond is issued.

~~[(28)]~~ [(29)] "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

~~[(29)]~~ [(30)] "Special assessment bond" means a bond payable from special assessments.

~~[(30)]~~ [(31)] "Specialized local district" means a local district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, ~~or~~ a water conservancy district, or a municipal services district.

~~[(31)]~~ [(32)] "Taxable value" means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

~~[(32)]~~ [(33)] "Tax and revenue anticipation bond" means a bond:

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

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

SB0199S05 compared with SB0199S03

~~[(33)]~~ (34) "Unincorporated" means not included within a municipality.

~~[(34)]~~ (35) "Water conservancy district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the law in effect before April 30, 2007.

~~[(35)]~~ (36) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a local district.

Section ~~[(100)]~~ 102. Section **17B-1-502** is amended to read:

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

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

(b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local district within a municipality because of a municipal incorporation under Title 10, Chapter ~~[2, Part 1,]~~ 2a, Municipal Incorporation, or a municipal annexation or boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process of withdrawing that area from the local district.

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

(i) the local district provides:

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

(B) law enforcement service;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and

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

(b) The effective date of a withdrawal under this Subsection (2) is governed by

SB0199S05 compared with SB0199S03

Subsection 17B-1-512(2)(b).

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

(i) the local district provides:

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

(B) law enforcement service; or

(C) municipal services, as defined in Section 17B-2a-1102;

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

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

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

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

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

~~[(B)]~~ (C) delivers a copy of the resolution to the board of trustees of the local district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-1-512(2)(a).

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

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

(A) fire protection, paramedic, and emergency services; [~~or~~]

(B) law enforcement service; [~~and~~] or

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

(ii) an election for the creation of the local district was not required under Subsection 17B-1-214(3)(d) or (g).

(d) An area within the boundaries of a local district that is incorporated as a metro

SB0199S05 compared with SB0199S03

township and for which the residents of the metro township at an election to incorporate chose to be included in a municipal services district is not subject to the provisions of this Subsection (3).

Section ~~{101}~~103. Section **17B-1-505** is amended to read:

17B-1-505. Withdrawal of municipality in certain districts providing fire protection, paramedic, and emergency services or law enforcement service.

(1) (a) The process to withdraw an area from a local district may be initiated by a resolution adopted by the legislative body of a municipality, subject to Subsection (1)(b), that is entirely within the boundaries of a local district:

(i) that provides:

(A) fire protection, paramedic, and emergency services; ~~[or]~~

(B) law enforcement service; ~~[and]~~ or

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

(ii) in the creation of which an election was not required because of Subsection 17B-1-214(3)(d) or (g).

(b) A municipal legislative body of a municipality that is within a municipal services district established under Chapter 2a, Part 11, Municipal Services District Act, may not adopt a resolution under Subsection (1)(a) to withdraw from the municipal services district unless the municipality has conducted a feasibility study in accordance with Section 17B-2a-1110.

~~[(b)]~~ (c) Within 10 days after adopting a resolution under Subsection (1)(a), the municipal legislative body shall submit to the board of trustees of the local district written notice of the adoption of the resolution, accompanied by a copy of the resolution.

(2) If a resolution is adopted under Subsection (1)(a), the municipal legislative body shall hold an election at the next municipal general election that is more than 60 days after adoption of the resolution on the question of whether the municipality should withdraw from the local district.

(3) If a majority of those voting on the question of withdrawal at an election held under Subsection (2) vote in favor of withdrawal, the municipality shall be withdrawn from the local district.

(4) (a) Within 10 days after the canvass of an election at which a withdrawal under this section is submitted to voters, the municipal legislative body shall send written notice to the

SB0199S05 compared with SB0199S03

board of the local district from which the municipality is proposed to withdraw.

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

(i) state the results of the withdrawal election; and

(ii) if the withdrawal was approved by voters, be accompanied by a map or legal description of the area to be withdrawn, adequate for purposes of the county assessor and recorder.

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

Section ~~{102}~~104. Section **17B-1-1002** is amended to read:

17B-1-1002. Limit on local district property tax levy -- Exclusions.

(1) The rate at which a local district levies a property tax for district operation and maintenance expenses on the taxable value of taxable property within the district may not exceed:

(a) .0008, for a basic local district;

(b) .0004, for a cemetery maintenance district;

(c) .0004, for a drainage district;

(d) .0008, for a fire protection district;

(e) .0008, for an improvement district;

(f) .0005, for a metropolitan water district;

(g) .0004, for a mosquito abatement district;

(h) .0004, for a public transit district;

(i) (i) .0023, for a service area that:

(A) is located in a county of the first or second class; and

(B) (I) provides fire protection, paramedic, and emergency services; or

(II) subject to Subsection (3), provides law enforcement services; or

(ii) .0014, for each other service area; ~~[or]~~

(j) the rates provided in Section 17B-2a-1006, for a water conservancy district~~[-];~~ or

(k) .~~{0023}~~0008 for a municipal services district.

(2) Property taxes levied by a local district are excluded from the limit applicable to that district under Subsection (1) if the taxes are:

(a) levied under Section 17B-1-1103 by a local district, other than a water conservancy

SB0199S05 compared with SB0199S03

district, to pay principal of and interest on general obligation bonds issued by the district;

(b) levied to pay debt and interest owed to the United States; or

(c) levied to pay assessments or other amounts due to a water users association or other public cooperative or private entity from which the district procures water.

(3) A service area described in Subsection (1)(i)(i)(B)(II) may not collect a tax described in Subsection (1)(i)(i) if a municipality or a county having a right to appoint a member to the board of trustees of the service area under Subsection 17B-2a-905(2) assesses on or after November 30 in the year in which the tax is first collected and each subsequent year that the tax is collected:

(a) a generally assessed fee imposed under Section 17B-1-643 for law enforcement services; or

(b) any other generally assessed fee for law enforcement services.

Section ~~103~~105. Section **17B-1-1102** is amended to read:

17B-1-1102. General obligation bonds.

(1) Except as provided in Subsection (3), if a district intends to issue general obligation bonds, the district shall first obtain the approval of district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) General obligation bonds shall be secured by a pledge of the full faith and credit of the district, subject, for a water conservancy district, to the property tax levy limits of Section 17B-2a-1006.

(3) A district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.

(4) (a) A local district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the district, as determined under Subsection 11-14-301(3)(b), by a number that is:

(i) .05, for a basic local district;

(ii) .004, for a cemetery maintenance district;

(iii) .002, for a drainage district;

SB0199S05 compared with SB0199S03

- (iv) .004, for a fire protection district;
- (v) .024, for an improvement district;
- (vi) .1, for an irrigation district;
- (vii) .1, for a metropolitan water district;
- (viii) .0004, for a mosquito abatement district;
- (ix) .03, for a public transit district; ~~[or]~~
- (x) .12, for a service area~~[-];~~ or
- (xi) ~~.0023~~.05 for a municipal services district.

(b) Bonds or other obligations of a local district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).

(5) A district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution, Article XIV, Section 4.

(6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a local district that participates in the agreement creating the administrative or legal entity.

Section ~~104~~106. Section **17B-2a-1102** is amended to read:

17B-2a-1102. Definitions.

As used in this part~~[-,"municipal"]~~:

(1) "Municipal services" means~~[-(1)]~~ one or more of the services identified in Section 17-34-1 ~~[or]~~, 17-36-3~~[-and]~~, or 17B-1-202.

~~[(2) any other municipal-type service provided in the district that is in the interest of the district.]~~

(2) "Metro township" means:

(a) a metro township for which the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district; or

(b) a metro township that subsequently joins a municipal services district.

Section ~~105~~107. Section **17B-2a-1103** is amended to read:

17B-2a-1103. Limited to counties of the first class -- Provisions applicable to municipal services districts.

(1) (a) ~~[A]~~ Except as provided in Subsection (1)(b) and Section 17B-2a-1110, a municipal services district may be created only in unincorporated areas in a county of the first

SB0199S05 compared with SB0199S03

class.

(b) [~~Notwithstanding Subsection (1)(a) and subject~~] Subject to Subsection (1)(c), after the initial creation of a municipal services district, an area may be annexed into the municipal services district in accordance with Chapter 1, Part 4, Annexation, whether that area is unincorporated or incorporated.

(c) An area annexed under Subsection (1)(b) may not be located outside of the originating county of the first class.

(2) Each municipal services district is governed by the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(3) This part applies only to a municipal services district.

(4) A municipal services district is not subject to the provisions of any other part of this chapter.

(5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provisions in this part govern.

Section ~~{106}~~108. Section **17B-2a-1104** is amended to read:

17B-2a-1104. Additional municipal services district powers.

In addition to the powers conferred on a municipal services district under Section 17B-1-103, a municipal services district may:

(1) notwithstanding Subsection 17B-1-202(3), provide [~~one or multiple~~] no more than six municipal services; and

(2) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district.

Section ~~{107}~~109. Section **17B-2a-1106** is amended to read:

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

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

(2) (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, and, except as provided in Subsection (3), if a municipal services district is created in a county of the first class with the

SB0199S05 compared with SB0199S03

county executive-council form of government, the initial governance of the municipal services district is as follows:

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

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

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

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

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

(A) Title 17, Counties; and

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

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

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

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

(A) Title 17, Counties; and

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

~~[(3) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality and the area is not withdrawn from the district in accordance with Section 17B-1-502, or an area within a municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103:]~~

~~[(a) the district's board of trustees shall include a member of that municipality's governing body; and]~~

~~[(b) the member described in Subsection (3)(a) shall be:]~~

~~[(i) designated by the municipality; and]~~

~~[(ii) a member with powers and duties of other board of trustees members as described]~~

SB0199S05 compared with SB0199S03

~~in Subsection (2)(b):]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(4)] (6) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.~~

SB0199S05 compared with SB0199S03

~~[(5)]~~ (7) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(b) A resolution adopted under Subsection ~~[(5)]~~ (7)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(c).

Section ~~{108}~~110. Section **17B-2a-1107** is amended to read:

17B-2a-1107. Exclusion of rural real property.

(1) As used in this section, "rural real property" means an area:

- (a) zoned primarily for manufacturing, commercial, or agricultural purposes; and
- (b) that does not include residential units with a density greater than one unit per acre.

(2) Unless an owner gives written consent, rural real property may not be included in a municipal services district if the rural real property:

(a) consists of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels;

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

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

(d) is located in whole or in part in one of the following as defined in Section 17-41-101:

- (i) an agricultural protection area;
- (ii) a mining protection area; or
- (iii) an industrial protection area.

(3) (a) Subject to Subsection (3)(b), an owner of rural real property may withdraw consent to inclusion in a municipal services district at any time.

(b) An owner may withdraw consent by submitting a written and signed request to the municipal services district board of trustees that:

- (i) identifies and describes the rural real property to be withdrawn; and
- (ii) requests that the rural real property be withdrawn.

(c) (i) No later than 30 days after the day on which the municipal services district board

SB0199S05 compared with SB0199S03

of trustees receives a request that complies with Subsection (3)(b), the board shall adopt a resolution withdrawing the rural real property as identified and described in the request.

(ii) The rural real property is withdrawn from and no longer in the jurisdiction of the municipal services district upon adoption of the resolution.

Section ~~{109}~~111. Section **17B-2a-1110** is enacted to read:

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

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

(b) If a municipality engages a feasibility consultant to conduct a feasibility study under Section (2)(a), the 180 days described in Subsection 17B-1-502(3)(a)(iii)(A) is tolled from the day that the municipality engages the feasibility consultant to the day on which the municipality holds the final public hearing under Subsection (5).

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

(b) The feasibility consultant shall be chosen:

(i) by the municipal legislative body; and

(ii) in accordance with applicable municipal procurement procedures.

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

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

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

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

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

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

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

SB0199S05 compared with SB0199S03

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

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

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

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

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

(b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of municipal services to be provided to the withdrawing municipality in the future that fairly and reasonably approximate the level and quality of municipal services being provided to the withdrawing municipality at the time of the feasibility study.

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

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

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

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

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

(a) within the following 60 days; and

(b) for the purpose of allowing:

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

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

SB0199S05 compared with SB0199S03

feasibility consultant.

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

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

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

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

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

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

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

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

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

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

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

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

SB0199S05 compared with SB0199S03

(4)(a)(iv) by more than 5%.

Section ~~{110}~~112. Section **17B-2a-1111** is enacted to read:

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

If a municipality after the 180-day period described in Subsection 17B-1-502(3)(a)(iii)(A) changes form of government in accordance with Title 10, Chapter 2b, Part 6, Changing to Another Form of Municipal Government, the municipality under the new form of government may withdraw from a municipal services district only in accordance with the provisions of Section 17B-1-505.

Section ~~{111}~~113. Section **17B-2a-1112** is enacted to read:

17B-2a-1112. Audit.

The board of trustees shall provide a copy of an accounting report, as defined in Section 51-2a-102, to each political subdivision that is provided municipal services by the municipal services district that is filed with the state auditor on behalf of the municipal services district in accordance with Section 51-2a-203.

Section ~~{112}~~114. Section **20A-1-102** is amended to read:

20A-1-102. Definitions.

As used in this title:

- (1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.
- (2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.
- (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.
 - (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.
- (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:
 - (a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and
 - (b) are used in conjunction with ballot sheets that do not display that information.
- (5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

SB0199S05 compared with SB0199S03

- (a) an opinion question specifically authorized by the Legislature;
 - (b) a constitutional amendment;
 - (c) an initiative;
 - (d) a referendum;
 - (e) a bond proposition;
 - (f) a judicial retention question;
 - (g) an incorporation of a city or town; or
 - (h) any other ballot question specifically authorized by the Legislature.
- (6) "Ballot sheet":
- (a) means a ballot that:
 - (i) consists of paper or a card where the voter's votes are marked or recorded; and
 - (ii) can be counted using automatic tabulating equipment; and
 - (b) includes punch card ballots and other ballots that are machine-countable.
- (7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.
- (8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.
- (9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.
- (10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.
- (11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.
- (12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.
- (13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.
- (14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.
- (15) "Contracting election officer" means an election officer who enters into a contract

SB0199S05 compared with SB0199S03

or interlocal agreement with a provider election officer.

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

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

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

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

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

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

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

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

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

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

(25) "Election Assistance Commission" means the commission established by Public

SB0199S05 compared with SB0199S03

Law 107-252, the Help America Vote Act of 2002.

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

(27) "Election judge" means a poll worker that is assigned to:

- (a) preside over other poll workers at a polling place;
- (b) act as the presiding election judge; or
- (c) serve as a canvassing judge, counting judge, or receiving judge.

(28) "Election officer" means:

- (a) the lieutenant governor, for all statewide ballots and elections;
- (b) the county clerk for:
 - (i) a county ballot and election; and
 - (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

- (i) a municipal ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

- (i) a local district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

- (i) a school district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) "Election official" means any election officer, election judge, or poll worker.

(30) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

SB0199S05 compared with SB0199S03

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

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(35) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

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

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

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

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

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

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

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

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

SB0199S05 compared with SB0199S03

vote.

(44) "Municipal executive" means:

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

[~~or~~]

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103~~[(6)]~~[(7)]; or

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

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

(46) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government[-]; or

(b) the council of a metro township.

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

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

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

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

(51) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

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

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

(i) the poll worker's initials; and

(ii) the ballot number.

(52) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

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

SB0199S05 compared with SB0199S03

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

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

(54) "Pilot project" means the election day voter registration pilot project created in Section 20A-4-108.

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

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

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

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

(b) "Poll worker" includes election judges.

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

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

(60) "Primary convention" means the political party conventions held during the year of the regular general election.

(61) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

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

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

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

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

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

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

SB0199S05 compared with SB0199S03

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

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

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

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

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

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

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

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

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

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

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

(75) "Special election" means an election held as authorized by Section 20A-1-203.

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

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

(77) "Statewide special election" means a special election called by the governor or the

SB0199S05 compared with SB0199S03

Legislature in which all registered voters in Utah may vote.

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

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

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

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

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

(83) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (83)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

SB0199S05 compared with SB0199S03

- (ii) a bank or other financial account statement, or a legible copy thereof;
 - (iii) a certified birth certificate;
 - (iv) a valid Social Security card;
 - (v) a check issued by the state or the federal government or a legible copy thereof;
 - (vi) a paycheck from the voter's employer, or a legible copy thereof;
 - (vii) a currently valid Utah hunting or fishing license;
 - (viii) certified naturalization documentation;
 - (ix) a currently valid license issued by an authorized agency of the United States;
 - (x) a certified copy of court records showing the voter's adoption or name change;
 - (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
 - (xii) a currently valid identification card issued by:
 - (A) a local government within the state;
 - (B) an employer for an employee; or
 - (C) a college, university, technical school, or professional school located within the state; or
 - (xiii) a current Utah vehicle registration.
- (84) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.
- (85) "Voter" means a person who:
- (a) meets the requirements for voting in an election;
 - (b) meets the requirements of election registration;
 - (c) is registered to vote; and
 - (d) is listed in the official register book.
- (86) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.
- (87) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.
- (88) "Voting booth" means:
- (a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or
 - (b) a voting device that is free standing.

SB0199S05 compared with SB0199S03

(89) "Voting device" means:

- (a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;
- (b) a device for marking the ballots with ink or another substance;
- (c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;
- (d) an automated voting system under Section 20A-5-302; or
- (e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

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

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

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

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

(94) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

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

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

Section ~~{H3}~~115. Section **20A-1-201.5** is amended to read:

20A-1-201.5. Primary election dates.

(1) A regular primary election shall be held throughout the state on the fourth Tuesday of June of each even numbered year as provided in Section 20A-9-403, to nominate persons for:

- (a) national, state, school board, and county offices[-]; and
- (b) offices for a metro township, city, or town incorporated under Section 10-2a-404.

(2) A municipal primary election shall be held, if necessary, on the second Tuesday following the first Monday in August before the regular municipal election to nominate persons

SB0199S05 compared with SB0199S03

for municipal offices.

(3) If the Legislature makes an appropriation for a Western States Presidential Primary election, the Western States Presidential Primary election shall be held throughout the state on the first Tuesday in February in the year in which a presidential election will be held.

Section ~~{114}~~116. Section **20A-1-203** is amended to read:

20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted local levy authorized by Section 53A-16-110 or 53A-17a-133;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether or not Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote to elect members to school district boards for a new school district and a

SB0199S05 compared with SB0199S03

remaining school district, as defined in Section 53A-2-117, following the creation of a new school district under Section 53A-2-118.1;

(viii) an election of town officers of a newly incorporated town under Section ~~[10-2-128]~~ 10-2a-305;

(ix) an election of officers for a new city under Section ~~[10-2-116]~~ 10-2a-215;

(x) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

(xi) a vote to create a new county under Section 17-3-1;

(xii) a vote on the creation of a study committee under Sections 17-52-202 and 17-52-203.5;

(xiii) a vote on a special property tax under Section 53A-16-110;

(xiv) a vote on the incorporation of a city in accordance with Section ~~[10-2-111]~~ 10-2a-210; ~~[or]~~

(xv) a vote on the incorporation of a town in accordance with Section ~~[10-2-127.]~~ 10-2a-304; or

(xvi) a vote on incorporation or annexation as described in Section 10-2a-404.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section ~~{115}~~ 117. Section **20A-1-204** is amended to read:

20A-1-204. Date of special election -- Legal effect.

(1) (a) Except as provided by Subsection (1)(d), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local

SB0199S05 compared with SB0199S03

special election under Section 20A-1-203 shall schedule the special election to be held on:

- (i) the fourth Tuesday in June;
- (ii) the first Tuesday after the first Monday in November; or
- (iii) for an election of town officers of a newly incorporated town under Section

~~[10-2-128]~~ 10-2a-305, on any date that complies with the requirements of that subsection.

(b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 may not schedule a special election to be held on any other date.

(c) (i) Notwithstanding the requirements of Subsection (1)(b) or (1)(d), the legislative body of a local political subdivision may call a local special election on a date other than those specified in this section if the legislative body:

(A) determines and declares that there is a disaster, as defined in Section 53-2a-102, requiring that a special election be held on a date other than the ones authorized in statute;

(B) identifies specifically the nature of the disaster, as defined in Section 53-2a-102, and the reasons for holding the special election on that other date; and

(C) votes unanimously to hold the special election on that other date.

(ii) The legislative body of a local political subdivision may not call a local special election for the date established in Chapter 9, Part 8, Western States Presidential Primary, for Utah's Western States Presidential Primary.

(d) The legislative body of a local political subdivision may only call a special election for a ballot proposition related to a bond, debt, leeway, levy, or tax on the first Tuesday after the first Monday in November.

(e) Nothing in this section prohibits:

(i) the governor or Legislature from submitting a matter to the voters at the regular general election if authorized by law; or

(ii) a local government from submitting a matter to the voters at the regular municipal election if authorized by law.

(2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a special election within a county on the same day as:

- (i) another special election;
- (ii) a regular general election; or

SB0199S05 compared with SB0199S03

(iii) a municipal general election.

(b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

(i) polling places;

(ii) ballots;

(iii) election officials; and

(iv) other administrative and procedural matters connected with the election.

Section ~~116~~118. Section **20A-11-101** is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Agent of a reporting entity" means:

(a) a person acting on behalf of a reporting entity at the direction of the reporting entity;

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates,

SB0199S05 compared with SB0199S03

officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist;

or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.

(7) "Coordinated with" means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate's or political party's prior knowledge, if the candidate or political

SB0199S05 compared with SB0199S03

party does not object;

- (b) by agreement with the candidate or political party;
- (c) in coordination with the candidate or political party; or
- (d) using official logos, slogans, and similar elements belonging to a candidate or

political party.

(8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

- (i) the purpose of expressly advocating for political purposes; or
- (ii) the purpose of expressly advocating the approval or the defeat of any ballot

proposition.

(b) "Corporation" does not mean:

- (i) a business organization's political action committee or political issues committee; or
- (ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

SB0199S05 compared with SB0199S03

(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

SB0199S05 compared with SB0199S03

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter [~~2, Part 1,~~] 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city [~~or~~], town, or metro township.

(21) "Incorporation election" means the election authorized by Section [~~10-2-111 or 10-2-127~~] 10-2a-210, 10-2a-304, or 10-2a-404.

(22) "Incorporation petition" means a petition authorized by Section [~~10-2-109~~] 10-2a-208 or [10-2-125] 10-2a-302.

(23) "Individual" means a natural person.

(24) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant

SB0199S05 compared with SB0199S03

whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(29) "Officeholder" means a person who holds a public office.

(30) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(31) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(32) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(33) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(34) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

SB0199S05 compared with SB0199S03

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(35) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (35)(a), where the person:

(i) has already been paid, with money or other consideration;

(ii) expects to be paid in the future, with money or other consideration; or

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(36) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(37) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

SB0199S05 compared with SB0199S03

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account; or

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee.

(38) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(39) (a) "Political issues expenditure" means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

SB0199S05 compared with SB0199S03

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(40) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal or county office at any caucus, political convention, or election.

(41) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(42) "Primary election" means any regular primary election held under the election laws.

SB0199S05 compared with SB0199S03

~~[(45)]~~ (43) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

~~[(43)]~~ (44) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

~~[(44)]~~ (45) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(46) "Receipts" means contributions and public service assistance.

(47) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(48) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant

SB0199S05 compared with SB0199S03

Governor.

(49) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(50) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(51) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(52) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(53) "School board office" means the office of state school board.

(54) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(55) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

SB0199S05 compared with SB0199S03

(56) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(57) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(58) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section ~~{117}~~119. Section **53-2a-208** is amended to read:

53-2a-208. Local emergency -- Declarations.

(1) (a) A local emergency may be declared by proclamation of the chief executive officer of a municipality or county.

(b) A local emergency shall not be continued or renewed for a period in excess of 30 days except by or with the consent of the governing body of the municipality or county.

(c) Any order or proclamation declaring, continuing, or terminating a local emergency shall be filed promptly with the office of the clerk of the affected municipality or county.

(2) A declaration of a local emergency:

(a) constitutes an official recognition that a disaster situation exists within the affected municipality or county;

(b) provides a legal basis for requesting and obtaining mutual aid or disaster assistance from other political subdivisions or from the state or federal government;

(c) activates the response and recovery aspects of any and all applicable local disaster emergency plans; and

(d) authorizes the furnishing of aid and assistance in relation to the proclamation.

(3) A local emergency proclamation issued under this section shall state:

(a) the nature of the local emergency;

(b) the area or areas that are affected or threatened; and

(c) the conditions which caused the emergency.

(4) The emergency declaration process within the state shall be as follows:

(a) a city, town, ~~{}~~or~~{}~~ metro township ~~{, or planning district}~~ shall declare to the

SB0199S05 compared with SB0199S03

county;

(b) a county shall declare to the state;

(c) the state shall declare to the federal government; and

(d) a tribe, as defined in Section 23-13-12.5, shall declare as determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sec. 5121 et seq.

(5) Nothing in this part affects:

(a) the governor's authority to declare a state of emergency under Section 53-2a-206; or

(b) the duties, requests, reimbursements, or other actions taken by a political subdivision participating in the state-wide mutual aid system pursuant to Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

Section ~~{118}~~120. Section **53-2a-802** is amended to read:

53-2a-802. Definitions.

(1) (a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Technology Services, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the State Board of Regents, the Utah Housing Corporation, the Workers' Compensation Fund, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

SB0199S05 compared with SB0199S03

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

(8) "Political subdivision" includes counties, cities, towns, metro townships, ~~{~~planning districts, } districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section 121. Section 53A-2-118 is amended to read:

53A-2-118. Creation of new school district -- Initiation of process -- Procedures to be followed.

(1) A new school district may be created from one or more existing school districts, as provided in this section.

(2) (a) The process to create a new school district may be initiated:

(i) through a citizens' initiative petition;

(ii) at the request of the board of the existing district or districts to be affected by the creation of the new district; or

SB0199S05 compared with SB0199S03

(iii) at the request of a city or metro township within the boundaries of the school district or at the request of interlocal agreement participants, pursuant to Section 53A-2-118.1.

(b) (i) Each petition submitted under Subsection (2)(a)(i) shall be signed by qualified electors residing within the geographical boundaries of the proposed new school district equal in number to at least 15% of the number of electors in the area who voted for the office of governor at the last regular general election.

(ii) Each request or petition submitted under Subsection (2)(a) shall:

(A) be filed with the clerk of each county in which any part of the proposed new school district is located;

(B) indicate the typed or printed name and current residence address of each governing board member making a request, or registered voter signing a petition, as the case may be;

(C) describe the proposed new school district boundaries; and

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

(c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the petition by filing a written withdrawal or reinstatement with the county clerk.

(d) The process under Subsection (2)(a)(i) may only be initiated once during any four-year period.

(e) A new district may not be formed pursuant to Subsection (2)(a) if the student population of the proposed new district is less than 3,000 or the existing district's student population would be less than 3,000 because of the creation of the new school district.

(f) Within 45 days after the filing of a petition under Subsection (2)(a)(i) or five business days after the filing of a request under Subsection (2)(a)(ii) or (iii), the clerk of each county with which a request or petition is filed shall:

(i) determine whether the request or petition complies with Subsections (2)(a), (b), (d), and (e), as applicable; and

(ii) (A) if the county clerk determines that the request or petition complies with the applicable requirements:

(I) certify the request or petition and deliver the certified request or petition to the

SB0199S05 compared with SB0199S03

county legislative body; and

(II) mail or deliver written notification of the certification to the contact sponsor; or

(B) if the county clerk determines that the request or petition fails to comply with any of the applicable requirements, reject the request or petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(g) If the county clerk fails to certify or reject a request or petition within the time specified in Subsection (2)(f), the request or petition shall be considered to be certified.

(h) (i) If the county clerk rejects a request or petition, the request or petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(ii) Subsection (2)(d) does not apply to a request or petition that is amended and refiled after having been rejected by a county clerk.

(i) If a county legislative body receives a request from a school board under Subsection (2)(a)(ii) or a petition under Subsection (2)(a)(i) which is certified by the county clerk on or before December 1:

(i) the county legislative body shall appoint an ad hoc advisory committee, as provided by Subsection (3), on or before January 1;

(ii) the ad hoc advisory committee shall submit its report and recommendations to the county legislative body, as provided by Subsection (3), on or before July 1; and

(iii) if the legislative body of each county with which a request or petition is filed approves a proposal to create a new district, the proposal shall be submitted to the respective county clerk to be voted on by the electors of each existing district at the regular general or municipal general election held in November.

(3) (a) The legislative body of each county with which a request or petition is filed shall appoint an ad hoc advisory committee to review and make recommendations on a request for the creation of a new school district submitted under Subsection (2)(a)(i) or (ii).

(b) The advisory committee shall:

(i) seek input from:

(A) those requesting the creation of the new school district;

(B) the school board and school personnel of each existing school district;

(C) those citizens residing within the geographical boundaries of each existing school district;

SB0199S05 compared with SB0199S03

- (D) the State Board of Education; and
- (E) other interested parties;
- (ii) review data and gather information on at least:
 - (A) the financial viability of the proposed new school district;
 - (B) the proposal's financial impact on each existing school district;
 - (C) the exact placement of school district boundaries; and
 - (D) the positive and negative effects of creating a new school district and whether the positive effects outweigh the negative if a new school district were to be created; and
- (iii) make a report to the county legislative body in a public meeting on the committee's activities, together with a recommendation on whether to create a new school district.
- (4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):
 - (a) The county legislative body shall provide for a 45-day public comment period on the report and recommendation to begin on the day the report is given under Subsection (3)(b)(iii).
 - (b) Within 14 days after the end of the comment period, the legislative body of each county with which a request or petition is filed shall vote on the creation of the proposed new school district.
 - (c) The proposal is approved if a majority of the members of the legislative body of each county with which a request or petition is filed votes in favor of the proposal.
 - (d) If the proposal is approved, the legislative body of each county with which a request or petition is filed shall submit the proposal to the county clerk to be voted on:
 - (i) by the legal voters of each existing school district;
 - (ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and
 - (iii) at the next regular general election or municipal general election, whichever is first.
 - (e) Creation of the new school district shall occur if a majority of the electors within both the proposed school district and each remaining school district voting on the proposal vote in favor of the creation of the new district.
 - (f) Each county legislative body shall comply with the requirements of Section 53A-2-101.5.

SB0199S05 compared with SB0199S03

(g) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.

(5) (a) If a proposal submitted under Subsection (2)(a)(iii) is certified under Subsection (2)(f) or (g), the legislative body of each county in which part of the proposed new school district is located shall submit the proposal to the respective clerk of each county to be voted on:

(i) by the legal voters residing within the proposed new school district boundaries;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(b) (i) If a majority of the legal voters within the proposed new school district boundaries voting on the proposal at an election under Subsection (5)(a) vote in favor of the creation of the new district:

(A) each county legislative body shall comply with the requirements of Section 53A-2-101.5; and

(B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the new district is created.

(ii) Notwithstanding the creation of a new district as provided in Subsection (5)(b)(i)(B):

(A) a new school district may not begin to provide educational services to the area within the new district until July 1 of the second calendar year following the school board general election date described in Subsection 53A-2-118.1(3)(a)(i);

(B) a remaining district may not begin to provide educational services to the area within the remaining district until the time specified in Subsection (5)(b)(ii)(A); and

(C) each existing district shall continue, until the time specified in Subsection (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing district.

Section ~~419~~122. Section **53A-2-118.1** is amended to read:

53A-2-118.1. Proposal initiated by a city, metro township, or interlocal agreement

SB0199S05 compared with SB0199S03

participants to create a school district -- Boundaries -- Election of local school board members -- Allocation of assets and liabilities -- Startup costs -- Transfer of title.

(1) (a) After conducting a feasibility study, a city or metro township with a population of at least 50,000, as determined by the lieutenant governor using the process described in Subsection 67-1a-2(3), may by majority vote of the legislative body, submit for voter approval a measure to create a new school district with boundaries contiguous with that city's or metro township's boundaries, in accordance with Section 53A-2-118.

(b) (i) The determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study under Subsection (1)(a) is within the exclusive discretion of the city's or metro township's legislative body.

(ii) An inadequacy of a feasibility study under Subsection (1)(a) may not be the basis of a legal action or other challenge to:

- (A) an election for voter approval of the creation of a new school district; or
- (B) the creation of the new school district.

(2) (a) By majority vote of the legislative body, a city or metro township of any class, a town, or a county, may, together with one or more other cities, metro townships, towns, or the county enter into an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose of submitting for voter approval a measure to create a new school district.

(b) (i) In accordance with Section 53A-2-118, interlocal agreement participants under Subsection (2)(a) may submit a proposal for voter approval if:

(A) the interlocal agreement participants conduct a feasibility study prior to submitting the proposal to the county;

(B) the combined population within the proposed new school district boundaries is at least 50,000;

(C) the new school district boundaries:

(I) are contiguous;

(II) do not completely surround or otherwise completely geographically isolate a portion of an existing school district that is not part of the proposed new school district from the remaining part of that existing school district, except as provided in Subsection (2)(d)(iii);

(III) include the entire boundaries of each participant city, metro township, or town,

SB0199S05 compared with SB0199S03

except as provided in Subsection (2)(d)(ii); and

(IV) subject to Subsection (2)(b)(ii), do not cross county lines; and

(D) the combined population within the proposed new school district of interlocal agreement participants that have entered into an interlocal agreement proposing to create a new school district is at least 80% of the total population of the proposed new school district.

(ii) The determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study under Subsection (2)(b)(i)(A), including whether to conduct a new feasibility study or revise a previous feasibility study due to a change in the proposed new school district boundaries, is within the exclusive discretion of the legislative bodies of the interlocal agreement participants that enter into an interlocal agreement to submit for voter approval a measure to create a new school district.

(iii) An inadequacy of a feasibility study under Subsection (2)(b)(i)(A) may not be the basis of a legal action or other challenge to:

(A) an election for voter approval of the creation of a new school district; or

(B) the creation of the new school district.

(iv) For purposes of determining whether the boundaries of a proposed new school district cross county lines under Subsection (2)(b)(i)(C)(IV):

(A) a municipality located in more than one county and entirely within the boundaries of a single school district is considered to be entirely within the same county as other participants in an interlocal agreement under Subsection (2)(a) if more of the municipality's land area and population is located in that same county than outside the county; and

(B) a municipality located in more than one county that participates in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries on the basis of the exception stated in Subsection (2)(d)(ii)(B) may not be considered to cross county lines.

(c) (i) A county may only participate in an interlocal agreement under this Subsection (2) for the unincorporated areas of the county.

(ii) Boundaries of a new school district created under this section may include:

(A) a portion of one or more existing school districts; and

(B) a portion of the unincorporated area of a county, including a portion of a ~~township~~ [planning district](#).

SB0199S05 compared with SB0199S03

(d) (i) As used in this Subsection (2)(d):

(A) "Isolated area" means an area that:

(I) is entirely within the boundaries of a municipality that, except for that area, is entirely within a school district different than the school district in which the area is located; and

(II) would, because of the creation of a new school district from the existing district in which the area is located, become completely geographically isolated.

(B) "Municipality's school district" means the school district that includes all of the municipality in which the isolated area is located except the isolated area.

(ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries if:

(A) the portion of the municipality proposed to be included in the new school district would, if not included, become an isolated area upon the creation of the new school district; or

(B) (I) the portion of the municipality proposed to be included in the new school district is within the boundaries of the same school district that includes the other interlocal agreement participants; and

(II) the portion of the municipality proposed to be excluded from the new school district is within the boundaries of a school district other than the school district that includes the other interlocal agreement participants.

(iii) (A) Notwithstanding Subsection (2)(b)(i)(C)(II), a proposal to create a new school district may be submitted for voter approval pursuant to an interlocal agreement under Subsection (2)(a), even though the new school district boundaries would create an isolated area, if:

(I) the potential isolated area is contiguous to one or more of the interlocal agreement participants;

(II) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to create a new school district that includes the potential isolated area; and

(III) 90 days after a request under Subsection (2)(d)(iii)(A)(II) is submitted, the

SB0199S05 compared with SB0199S03

municipality has not entered into an interlocal agreement as requested in the request.

(B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold one or more public hearings to allow input from the public and affected school districts regarding whether or not the municipality should enter into an interlocal agreement with respect to the potential isolated area.

(C) (I) This Subsection (2)(d)(iii)(C) applies if:

(Aa) a new school district is created under this section after a measure is submitted to voters based on the authority of Subsection (2)(d)(iii)(A); and

(Bb) the creation of the new school district results in an isolated area.

(II) The isolated area shall, on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), become part of the municipality's school district.

(III) Unless the isolated area is the only remaining part of the existing district, the process described in Subsection (4) shall be modified to:

(Aa) include a third transition team, appointed by the local school board of the municipality's school district, to represent that school district; and

(Bb) require allocation of the existing district's assets and liabilities among the new district, the remaining district, and the municipality's school district.

(IV) The existing district shall continue to provide educational services to the isolated area until July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i).

(3) (a) If a proposal under this section is approved by voters:

(i) an election shall be held at the next regular general election to elect:

(A) members to the local school board of the existing school district whose terms are expiring;

(B) all members to the local school board of the new school district; and

(C) all members to the local school board of the remaining district;

(ii) the assets and liabilities of the existing school district shall be divided between the remaining school district and the new school district as provided in Subsection (5) and Section 53A-2-121;

(iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and

SB0199S05 compared with SB0199S03

53A-2-122;

(iv) (A) an individual residing within the boundaries of a new school district at the time the new school district is created may, for six school years after the creation of the new school district, elect to enroll in a secondary school located outside the boundaries of the new school district if:

(I) the individual resides within the boundaries of that secondary school as of the day before the new school district is created; and

(II) the individual would have been eligible to enroll in that secondary school had the new school district not been created; and

(B) the school district in which the secondary school is located shall provide educational services, including, if provided before the creation of the new school district, busing, to each individual making an election under Subsection (3)(a)(iv)(A) for each school year for which the individual makes the election; and

(v) within one year after the new district begins providing educational services, the superintendent of each remaining district affected and the superintendent of the new district shall meet, together with the Superintendent of Public Instruction, to determine if further boundary changes should be proposed in accordance with Section 53A-2-104.

(b) (i) The terms of the initial members of the local school board of the new district and remaining district shall be staggered and adjusted by the county legislative body so that approximately half of the local school board is elected every two years.

(ii) The term of a member of the existing local school board, including a member elected under Subsection (3)(a)(i)(A), terminates on July 1 of the second year after the local school board general election date described in Subsection (3)(a)(i), regardless of when the term would otherwise have terminated.

(iii) Notwithstanding the existence of a local school board for the new district and a local school board for the remaining district under Subsection (3)(a)(i), the local school board of the existing district shall continue, until the time specified in Subsection 53A-2-118(5)(b)(ii)(A), to function and exercise authority as a local school board to the extent necessary to continue to provide educational services to the entire existing district.

(iv) A person may simultaneously serve as or be elected to be a member of the local school board of an existing district and a member of the local school board of:

SB0199S05 compared with SB0199S03

- (A) a new district; or
- (B) a remaining district.

(4) (a) Within 45 days after the canvass date for the election at which voters approve the creation of a new district:

(i) a transition team to represent the remaining district shall be appointed by the members of the existing local school board who reside within the area of the remaining district, in consultation with:

- (A) the legislative bodies of all municipalities in the area of the remaining district; and
- (B) the legislative body of the county in which the remaining district is located, if the

remaining district includes one or more unincorporated areas of the county; and

(ii) another transition team to represent the new district shall be appointed by:

(A) for a new district located entirely within the boundaries of a single city or metro township, the legislative body of that city or metro township; or

(B) for each other new district, the legislative bodies of all interlocal agreement participants.

(b) The local school board of the existing school district shall, within 60 days after the canvass date for the election at which voters approve the creation of a new district:

(i) prepare an inventory of the existing district's:

- (A) assets, both tangible and intangible, real and personal; and
- (B) liabilities; and

(ii) deliver a copy of the inventory to each of the transition teams.

(c) The transition teams appointed under Subsection (4)(a) shall:

(i) determine the allocation of the existing district's assets and, except for indebtedness under Section 53A-2-121, liabilities between the remaining district and the new district in accordance with Subsection (5);

(ii) prepare a written report detailing how the existing district's assets and, except for indebtedness under Section 53A-2-121, liabilities are to be allocated; and

(iii) deliver a copy of the written report to:

- (A) the local school board of the existing district;
- (B) the local school board of the remaining district; and
- (C) the local school board of the new district.

SB0199S05 compared with SB0199S03

(d) The transition teams shall determine the allocation under Subsection (4)(c)(i) and deliver the report required under Subsection (4)(c)(ii) before August 1 of the year following the election at which voters approve the creation of a new district, unless that deadline is extended by the mutual agreement of:

(i) the local school board of the existing district; and

(ii) (A) the legislative body of the city or metro township in which the new district is located, for a new district located entirely within a single city or metro township; or

(B) the legislative bodies of all interlocal agreement participants, for each other new district.

(e) (i) All costs and expenses of the transition team that represents a remaining district shall be borne by the remaining district.

(ii) All costs and expenses of the transition team that represents a new district shall initially be borne by:

(A) the city or metro township whose legislative body appoints the transition team, if the transition team is appointed by the legislative body of a single city or single metro township; or

(B) the interlocal agreement participants, if the transition team is appointed by the legislative bodies of interlocal agreement participants.

(iii) The new district may, to a maximum of \$500,000, reimburse the city metro township, or interlocal agreement participants for:

(A) transition team costs and expenses; and

(B) startup costs and expenses incurred by the city metro township, or interlocal agreement participants on behalf of the new district.

(5) (a) As used in this Subsection (5):

(i) "Associated property" means furniture, equipment, or supplies located in or specifically associated with a physical asset.

(ii) (A) "Discretionary asset or liability" means, except as provided in Subsection (5)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Discretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

SB0199S05 compared with SB0199S03

(iii) (A) "Nondiscretionary asset or liability" means, except as provided in Subsection (5)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Nondiscretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iv) "Physical asset" means a building, land, or water right together with revenue derived from the lease or use of the building, land, or water right.

(b) Except as provided in Subsection (5)(c), the transition teams appointed under Subsection (4)(a) shall allocate all assets and liabilities the existing district owns on the allocation date, both tangible and intangible, real and personal, to the new district and remaining district as follows:

(i) a physical asset and associated property shall be allocated to the school district in which the physical asset is located;

(ii) a discretionary asset or liability shall be allocated between the new district and remaining district in proportion to the student populations of the school districts;

(iii) a nondiscretionary asset shall be allocated to the school district where the project, school, student, or employee to which the nondiscretionary asset is tied will be located;

(iv) vehicles used for pupil transportation shall be allocated:

(A) according to the transportation needs of schools, as measured by the number and assortment of vehicles used to serve transportation routes serving schools within the new district and remaining district; and

(B) in a manner that gives each school district a fleet of vehicles for pupil transportation that is equivalent in terms of age, condition, and variety of carrying capacities; and

(v) other vehicles shall be allocated:

(A) in proportion to the student populations of the school districts; and

(B) in a manner that gives each district a fleet of vehicles that is similar in terms of age, condition, and carrying capacities.

(c) By mutual agreement, the transition teams may allocate an asset or liability in a manner different than the allocation method specified in Subsection (5)(b).

(6) (a) As used in this Subsection (6):

SB0199S05 compared with SB0199S03

(i) "New district startup costs" means:

(A) costs and expenses incurred by a new district in order to prepare to begin providing educational services on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i); and

(B) the costs and expenses of the transition team that represents the new district.

(ii) "Remaining district startup costs" means:

(A) costs and expenses incurred by a remaining district in order to:

(I) make necessary adjustments to deal with the impacts resulting from the creation of the new district; and

(II) prepare to provide educational services within the remaining district once the new district begins providing educational services within the new district; and

(B) the costs and expenses of the transition team that represents the remaining district.

(b) (i) By January 1 of the year following the local school board general election date described in Subsection (3)(a)(i), the existing district shall make half of the undistributed reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the remaining district and the new district, as provided in this Subsection (6).

(ii) The existing district may make additional funds available for the use of the remaining district and the new district beyond the amount specified in Subsection (6)(b)(i) through an interlocal agreement.

(c) The existing district shall make the money under Subsection (6)(b) available to the remaining district and the new district proportionately based on student population.

(d) The money made available under Subsection (6)(b) may be accessed and spent by:

(i) for the remaining district, the local school board of the remaining district; and

(ii) for the new district, the local school board of the new district.

(e) (i) The remaining district may use its portion of the money made available under Subsection (6)(b) to pay for remaining district startup costs.

(ii) The new district may use its portion of the money made available under Subsection (6)(b) to pay for new district startup costs.

(7) (a) The existing district shall transfer title or, if applicable, partial title of property to the new school district in accordance with the allocation of property by the transition teams, as stated in the report under Subsection (4)(c)(ii).

SB0199S05 compared with SB0199S03

(b) The existing district shall complete each transfer of title or, if applicable, partial title to real property and vehicles by July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), except as that date is changed by the mutual agreement of:

- (i) the local school board of the existing district;
- (ii) the local school board of the remaining district; and
- (iii) the local school board of the new district.

(c) The existing district shall complete the transfer of all property not included in Subsection (7)(b) by November 1 of the second calendar year after the local school board general election date described in Subsection (3)(a)(i).

(8) Except as provided in Subsections (6) and (7), after the creation election date an existing school district may not transfer or agree to transfer title to district property without the prior consent of:

- (a) the legislative body of the city or metro township in which the new district is located, for a new district located entirely within a single city or metro township; or
- (b) the legislative bodies of all interlocal agreement participants, for each other new district.

(9) This section does not apply to the creation of a new district initiated through a citizens' initiative petition or at the request of a local school board under Section 53A-2-118.

Section ~~{120}~~123. Section 53A-2-402 is amended to read:

53A-2-402. Definitions.

As used in this part:

(1) "Eligible entity" means:

- (a) a city or town with a population density of 3,000 or more people per square mile; or
- (b) a county whose unincorporated area includes a qualifying [~~township~~] planning

~~{district}~~advisory area.

(2) "Purchase price" means the greater of:

(a) an amount that is the average of:

(i) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the eligible entity; and

(ii) the appraised value of the surplus property, based on the predominant zone in the

SB0199S05 compared with SB0199S03

surrounding area, as indicated in an appraisal obtained by the school district; and

(b) the amount the school district paid to acquire the surplus property.

(3) "Qualifying [township] planning ~~district~~ advisory area" means a [township] planning ~~district~~ advisory area under Section 17-27a-306 that has a population density of 3,000 or more people per square mile within the boundaries of the [township] planning ~~district~~ advisory area.

(4) "Surplus property" means land owned by a school district that:

(a) was purchased with taxpayer money;

(b) is located within a city or town that is an eligible entity or within a qualifying [township] planning ~~district~~ advisory area;

(c) consists of one contiguous tract at least three acres in size; and

(d) has been declared by the school district to be surplus.

Section ~~{121}~~ 124. Section **53B-21-107** is amended to read:

53B-21-107. Investment in bonds by private and public entities -- Approval as collateral security.

(1) Any bank, savings and loan association, trust, or insurance company organized under the laws of this state or federal law may invest its capital and surplus in bonds issued under this chapter.

(2) The officers having charge of a sinking fund or any county, city, metro township, town, [township] ~~{ planning district }~~, or school district may invest the sinking fund in bonds issued under this chapter.

(3) The bonds shall also be approved as collateral security for the deposit of any public funds and for the investment of trust funds.

Section ~~{122}~~ 125. Section **59-12-203** is amended to read:

59-12-203. County, city, town, or metro township may levy tax -- Contracts pursuant to Interlocal Cooperation Act.

~~[Any]~~ (1) A county, city, ~~[or] town, or metro township may ~~[levy]~~ impose a sales and use tax under this part. ~~[Any]~~~~

(2) If a metro township imposes a tax under this part, the metro township is subject to the same requirements a city is required to meet under this part.

(3) (a) Except as provided in Subsection (3)(b) and notwithstanding any other

SB0199S05 compared with SB0199S03

provision of this part, if a metro township imposes a tax under this part, the State Tax Commission shall distribute the revenues collected from the tax to the metro township.

(b) The State Tax Commission shall transfer the revenues collected within a metro township under this part to a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act, if the metro township:

(i) provides written notice to the State Tax Commission requesting the transfer; and

(ii) designates the municipal services district to which the metro township requests the State Tax Commission to transfer the revenues.

(4) A county, city, [or] town [~~which elects to levy such~~], or metro township that imposes a sales and use tax under this part may:

(a) enter into agreements authorized by Title 11, Chapter 13, [~~the~~] Interlocal Cooperation Act[~~;~~]; and [~~may~~]

(b) use any or all of the [~~revenues derived from the imposition of such~~] revenue collected from the tax for the mutual benefit of local governments [~~which~~] that elect to contract with one another pursuant to [~~the~~] Title 11, Chapter 13, Interlocal Cooperation Act.

Section ~~{123}~~126. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

(1) Section [~~10-2-130~~] 10-2a-105 is repealed July 1, 2016.

(2) Subsection 10-9a-305(2) is repealed July 1, 2013.

Section ~~{124}~~127. Section 67-1a-2 is amended to read:

67-1a-2. Duties enumerated.

(1) The lieutenant governor shall:

(a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:

(i) as the head of any one department, if so qualified, with the consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;

(ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;

(iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;

SB0199S05 compared with SB0199S03

(iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;

(v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and

(vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;

(b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;

(c) serve as the chief election officer of the state as required by Subsection (2);

(d) keep custody of the Great Seal of Utah;

(e) keep a register of, and attest, the official acts of the governor;

(f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2) (a) As the chief election officer, the lieutenant governor shall:

(i) exercise general supervisory authority over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

(iii) assist county clerks in unifying the election ballot;

(iv) (A) prepare election information for the public as required by statute and as determined appropriate by the lieutenant governor; and

(B) make the information under Subsection (2)(a)(iv)(A) available to the public and to news media on the Internet and in other forms as required by statute or as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section

SB0199S05 compared with SB0199S03

20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of those persons who have received the highest number of votes for any office;

(ix) ensure that all voting equipment purchased by the state complies with the requirements of Subsection 20A-5-302(2) and Sections 20A-5-402.5 and 20A-5-402.7;

(x) conduct the study described in Section 67-1a-14;

(xi) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

(C) the transmittal or voting of an absentee ballot or military-overseas ballot;

(D) the counting of an absentee ballot or military-overseas ballot; or

(E) the canvassing of election returns; and

(xii) perform other election duties as provided in Title 20A, Election Code.

(b) As chief election officer, the lieutenant governor may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.

(3) (a) The lieutenant governor shall:

(i) (A) determine a new city's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter [~~2, Part 1, Incorporation;~~] 2a, Part 2, Incorporation of a City, based on the city's population using the population estimate from the Utah Population Estimates Committee; and

(B) (I) prepare a certificate indicating the class in which the new city belongs based on the city's population; and

(II) within 10 days after preparing the certificate, deliver a copy of the certificate to the city's legislative body;

(ii) (A) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information from:

SB0199S05 compared with SB0199S03

(I) each official census or census estimate of the United States Bureau of the Census;
or

(II) the population estimate from the Utah Population Estimates Committee, if the population of a municipality is not available from the United States Bureau of the Census; and

(B) (I) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

(II) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body; ~~and~~

(iii) (A) determine a new metro township's classification under Section 10-2-301.5 upon the metro township's incorporation under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, based on the metro township's population using the population estimates from the Utah Population Estimates Committee; and

(B) prepare a certificate indicating the class in which the new metro township belongs based on the metro township's population and, within 10 days after preparing the certificate, deliver a copy of the certificate to the metro township's legislative body; and

~~[(iii)]~~ (iv) monitor the population of each municipality using population information from:

(A) each official census or census estimate of the United States Bureau of the Census;
or

(B) the population estimate from the Utah Population Estimates Committee, if the population of a municipality is not available from the United States Bureau of the Census.

(b) If the applicable population figure under Subsection (3)(a)(ii) or ~~[(iii)]~~ (iv) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:

(i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

(c) (i) If the applicable population figure under Subsection (3)(a)(ii) or ~~[(iii)]~~ (iv) indicates that a municipality's population has decreased below the population for its current

SB0199S05 compared with SB0199S03

class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.

(ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:

(A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

Section ~~{125}~~128. Section **69-2-5** is amended to read:

69-2-5. Funding for 911 emergency service -- Administrative charge.

(1) In providing funding of 911 emergency service, any public agency establishing a 911 emergency service may:

(a) seek assistance from the federal or state government, to the extent constitutionally permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or indirectly;

(b) seek funds appropriated by local governmental taxing authorities for the funding of public safety agencies; and

(c) seek gifts, donations, or grants from individuals, corporations, or other private entities.

(2) For purposes of providing funding of 911 emergency service, special service districts may raise funds as provided in Section 17D-1-105 and may borrow money and incur indebtedness as provided in Section 17D-1-103.

(3) (a) (i) Except as provided in Subsection (3)(b) and subject to the other provisions of this Subsection (3), a county, city, ~~[or] town,~~ or metro township within which 911 emergency service is provided may levy a monthly 911 emergency services charge on:

~~[(+)]~~ (A) each local exchange service switched access line within the boundaries of the county, city, ~~[or] town,~~ or metro township;

~~[(+)]~~ (B) each revenue producing radio communications access line with a billing address within the boundaries of the county, city, ~~[or] town,~~ or metro township; and

~~[(+)]~~ (C) any other service, including voice over Internet protocol, provided to a user

SB0199S05 compared with SB0199S03

within the boundaries of the county, city, ~~or~~ town, or metro township that allows the user to make calls to and receive calls from the public switched telecommunications network, including commercial mobile radio service networks.

(ii) If a metro township levies a charge under this chapter, the metro township is subject to the same requirements a city is required to meet under this chapter.

(iii) Except as provided in Subsection (3)(a)(iv) and notwithstanding any other provision of this chapter, if a metro township levies a charge described in Subsection (3)(a)(i) under this chapter, the State Tax Commission shall distribute the revenue collected from the charge to the metro township.

(iv) The State Tax Commission shall transfer the revenues collected within a metro township under this chapter to a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act, if the metro township:

(A) provides written notice to the State Tax Commission requesting the transfer; and

(B) designates the municipal services district to which the metro township requests the State Tax Commission to transfer the revenues.

(b) Notwithstanding Subsection (3)(a), an access line provided for public coin telecommunications service is exempt from 911 emergency service charges.

(c) The amount of the charge levied under this section may not exceed:

(i) 61 cents per month for each local exchange service switched access line;

(ii) 61 cents per month for each radio communications access line; and

(iii) 61 cents per month for each service under Subsection (3)(a)(iii).

(d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as provided in Section 59-12-102 or 59-12-215:

(A) "mobile telecommunications service";

(B) "place of primary use";

(C) "service address"; and

(D) "telecommunications service."

(ii) An access line described in Subsection (3)(a) is considered to be within the boundaries of a county, city, or town if the telecommunications services provided over the access line are located within the county, city, or town:

(A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax

SB0199S05 compared with SB0199S03

Act; and

(B) determined in accordance with Section 59-12-215.

(iii) The rate imposed on an access line under this section shall be determined in accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county, city, or town in which is located:

(A) for a telecommunications service, the purchaser's service address; or

(B) for mobile telecommunications service, the purchaser's place of primary use.

(iv) The rate imposed on an access line under this section shall be the lower of:

(A) the rate imposed by the county, city, or town in which the access line is located under Subsection (3)(d)(ii); or

(B) the rate imposed by the county, city, or town in which it is located:

(I) for telecommunications service, the purchaser's service address; or

(II) for mobile telecommunications service, the purchaser's place of primary use.

(e) (i) A county, city, or town shall notify the Public Service Commission of the intent to levy the charge under this Subsection (3) at least 30 days before the effective date of the charge being levied.

(ii) For purposes of this Subsection (3)(e):

(A) "Annexation" means an annexation to:

(I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

(II) a county under Title 17, Chapter 2, County Consolidations and Annexations.

(B) "Annexing area" means an area that is annexed into a county, city, or town.

(iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if a county, city, or town enacts or repeals a charge or changes the amount of the charge under this section, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.

(B) The notice described in Subsection (3)(e)(iii)(A) shall state:

(I) that the county, city, or town will enact or repeal a charge or change the amount of the charge under this section;

SB0199S05 compared with SB0199S03

(II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);
(III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and
(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if the annexation will result in the enactment, repeal, or a change in the amount of a charge imposed under this section for an annexing area, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that annexes the annexing area.

(B) The notice described in Subsection (3)(e)(iv)(A) shall state:

(I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an enactment, repeal, or a change in the charge being imposed under this section for the annexing area;

(II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);

(III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

SB0199S05 compared with SB0199S03

(C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(f) Subject to Subsection (3)(g), a 911 emergency services charge levied under this section shall:

(i) be billed and collected by the person that provides the:

(A) local exchange service switched access line services; or

(B) radio communications access line services; and

(ii) except for costs retained under Subsection (3)(h), remitted to the State Tax Commission.

(g) A 911 emergency services charge on a mobile telecommunications service may be levied, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(h) The person that bills and collects the charges levied under Subsection (3)(f) may:

(i) bill the charge imposed by this section in combination with the charge levied under Section 69-2-5.6 as one line item charge; and

(ii) retain an amount not to exceed 1.5% of the levy collected under this section as reimbursement for the cost of billing, collecting, and remitting the levy.

(i) The State Tax Commission shall collect, enforce, and administer the charge imposed under this Subsection (3) using the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:

(i) Title 59, Chapter 1, General Taxation Policies; and

SB0199S05 compared with SB0199S03

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(A) Section 59-12-104;

(B) Section 59-12-104.1;

(C) Section 59-12-104.2;

(D) Section 59-12-104.6;

(E) Section 59-12-107.1; and

(F) Section 59-12-123.

(j) The State Tax Commission shall transmit money collected under this Subsection (3) monthly by electronic funds transfer to the county, city, or town that imposes the charge.

(k) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(l) A charge a person pays under this section shall be paid using a form prescribed by the State Tax Commission.

(m) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

(n) A charge under this section is subject to Section 69-2-5.8.

(4) (a) Any money received by a public agency for the provision of 911 emergency service shall be deposited in a special emergency telecommunications service fund.

(b) (i) Except as provided in Subsection (5)(b), the money in the 911 emergency service fund shall be expended by the public agency to pay the costs of:

(A) establishing, installing, maintaining, and operating a 911 emergency service

SB0199S05 compared with SB0199S03

system;

(B) receiving and processing emergency communications from the 911 system or other communications or requests for emergency services;

(C) integrating a 911 emergency service system into an established public safety dispatch center, including contracting with the providers of local exchange service, radio communications service, and vendors of appropriate terminal equipment as necessary to implement the 911 emergency services; or

(D) indirect costs associated with the maintaining and operating of a 911 emergency services system.

(ii) Revenues derived for the funding of 911 emergency service may be used by the public agency for personnel costs associated with receiving and processing communications and deploying emergency response resources when the system is integrated with any public safety dispatch system.

(c) Any unexpended money in the 911 emergency service fund at the end of a fiscal year does not lapse, and must be carried forward to be used for the purposes described in this section.

(5) (a) Revenue received by a local entity from an increase in the levy imposed under Subsection (3) after the 2004 Annual General Session:

(i) may be used by the public safety answering point for the purposes under Subsection (4)(b); and

(ii) shall be deposited into the special 911 emergency service fund described in Subsection (4)(a).

(b) Revenue received by a local entity from disbursements from the Utah 911 Committee under Section 63H-7-306:

(i) shall be deposited into the special 911 emergency service fund under Subsection (4)(a); and

(ii) shall only be used for that portion of the costs related to the development and operation of wireless and land-based enhanced 911 emergency telecommunications service and the implementation of 911 services as provided in Subsection (5)(c).

(c) The costs allowed under Subsection (5)(b)(ii) include the public safety answering point's costs for:

SB0199S05 compared with SB0199S03

(i) acquisition, upgrade, modification, maintenance, and operation of public service answering point equipment capable of receiving 911 information;

(ii) database development, operation, and maintenance; and

(iii) personnel costs associated with establishing, installing, maintaining, and operating wireless 911 services, including training emergency service personnel regarding receipt and use of 911 wireless service information and educating consumers regarding the appropriate and responsible use of 911 wireless service.

(6) A local entity that increases the levy it imposes under Subsection (3)(c) after the 2004 Annual General Session shall increase the levy to the maximum amount permitted by Subsection (3)(c).

Section ~~{126}~~129. Section **69-2-5.5** is amended to read:

69-2-5.5. Emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account -- Administrative charge.

(1) Subject to Subsection (7), there is imposed an emergency services telecommunications charge of 6 cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to an emergency services telecommunications charge levied by a county, city, ~~[or]~~ town, or metro township under Section 69-2-5.

(2) (a) Subject to Subsection (7), an emergency services telecommunications charge imposed under this section shall be billed and collected by the person that provides:

(i) local exchange service switched access line services; or

(ii) radio communications access line services.

(b) A person that pays an emergency services telecommunications charge under this section shall pay the emergency services telecommunications charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day

SB0199S05 compared with SB0199S03

of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) An emergency services telecommunications charge imposed under this section shall be deposited into the Computer Aided Dispatch Restricted Account created in Section 63H-7-310.

(3) Emergency services telecommunications charges remitted to the State Tax Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by the State Tax Commission.

(4) (a) The State Tax Commission shall administer, collect, and enforce the charge imposed under Subsection (1) according to the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

- (i) Title 59, Chapter 1, General Taxation Policies; and
- (ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:
 - (A) Section 59-12-104;
 - (B) Section 59-12-104.1;
 - (C) Section 59-12-104.2;
 - (D) Section 59-12-104.6;
 - (E) Section 59-12-107.1; and
 - (F) Section 59-12-123.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission may make rules to administer, collect, and enforce the emergency services telecommunications charges imposed under this section.

(c) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from an emergency services telecommunications charge under this section.

(d) A charge under this section is subject to Section 69-2-5.8.

(5) A provider of local exchange service switched access line services or radio communications access line services who fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) An emergency services telecommunications charge under this section on a mobile telecommunications service may be imposed, billed, and collected only to the extent permitted

SB0199S05 compared with SB0199S03

by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section ~~{127}~~130. Section 69-2-5.6 is amended to read:

69-2-5.6. 911 services charge to fund unified statewide 911 emergency service -- Administrative charge.

(1) Subject to Subsection 69-2-5(3)(g), there is imposed a unified statewide 911 emergency service charge of 9 cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to a 911 emergency services charge levied by a county, city, ~~[or]~~ town, or metro township under Section 69-2-5.

(2) (a) A 911 emergency services charge imposed under this section shall be:

(i) subject to Subsection 69-2-5(3)(g); and

(ii) billed and collected by the person that provides:

(A) local exchange service switched access line services;

(B) radio communications access line services; or

(C) service described in Subsection 69-2-5(3)(a)~~[(iii)]~~(i)(C).

(b) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) A charge imposed under this section shall be deposited into the Unified Statewide 911 Emergency Service Account created by Section 63H-7-304.

(3) The person that bills and collects the charges levied by this section pursuant to Subsections (2)(b) and (c) may:

(a) bill the charge imposed by this section in combination with the charge levied under

SB0199S05 compared with SB0199S03

Section 69-2-5 as one line item charge; and

(b) retain an amount not to exceed 1.5% of the charges collected under this section as reimbursement for the cost of billing, collecting, and remitting the levy.

(4) The State Tax Commission shall collect, enforce, and administer the charges imposed under Subsection (1) using the same procedures used in the administration, collection, and enforcement of the emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account under Section 63H-7-310.

(5) Notwithstanding Section 63H-7-304, the State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

(6) A charge under this section is subject to Section 69-2-5.8.

(7) This section sunsets in accordance with Section 63I-1-269.

Section ~~{128}~~131. Section **69-2-5.7** is amended to read:

69-2-5.7. Prepaid wireless telecommunications charge to fund 911 service --

Administrative charge.

(1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a transaction.

(b) "Prepaid wireless 911 service charge" means the charge that is required to be collected by a seller from a consumer in the amount established under Subsection (2).

(c) (i) "Prepaid wireless telecommunications service" means a wireless telecommunications service that:

(A) is paid for in advance;

(B) is sold in predetermined units of time or dollars that decline with use in a known amount or provides unlimited use of the service for a fixed amount or time; and

(C) allows a caller to access 911 emergency service.

(ii) "Prepaid wireless telecommunications service" does not include a wireless telecommunications service that is billed:

(A) to a customer on a recurring basis; and

(B) in a manner that includes the emergency services telecommunications charges, described in Sections 69-2-5, 69-2-5.5, and 69-2-5.6, for each radio communication access line

SB0199S05 compared with SB0199S03

assigned to the customer.

(d) "Seller" means a person that sells prepaid wireless telecommunications service to a consumer.

(e) "Transaction" means each purchase of prepaid wireless telecommunications service from a seller.

(f) "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. Sec. 20.3, as amended.

(2) There is imposed a prepaid wireless 911 service charge of 1.9% of the sales price per transaction.

(3) The prepaid wireless 911 service charge shall be collected by the seller from the consumer for each transaction occurring in this state.

(4) The prepaid wireless 911 service charge shall be separately stated on an invoice, receipt, or similar document that is provided by the seller to the consumer.

(5) For purposes of Subsection (3), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(6) When prepaid wireless telecommunications service is sold with one or more other products or services for a single non-itemized price, then the percentage specified in Section (2) shall apply to the entire non-itemized price.

(7) A seller may retain 3% of prepaid wireless 911 service charges that are collected by the seller from consumers as reimbursement for the cost of billing, collecting, and remitting the charge.

(8) Prepaid wireless 911 service charges collected by a seller, except as retained under Subsection (7), shall be remitted to the State Tax Commission at the same time as the seller remits to the State Tax Commission money collected by the person under Title 59, Chapter 12, Sales and Use Tax Act.

(9) The State Tax Commission:

(a) shall collect, enforce, and administer the charge imposed under this section using the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

SB0199S05 compared with SB0199S03

- (A) Section 59-12-104;
- (B) Section 59-12-104.1;
- (C) Section 59-12-104.2;
- (D) Section 59-12-107.1; and
- (E) Section 59-12-123;

(b) may retain up to 1.5% of the prepaid wireless 911 service charge revenue collected under Subsection (9)(a) as reimbursement for administering this section;

(c) shall distribute the prepaid wireless 911 service charge revenue, except as retained under Subsection (9)(b), as follows:

(i) 80.3% of the revenue shall be distributed to each county, city, ~~[or] town, or metro township~~ in the same percentages and in the same manner as the entities receive money to fund 911 emergency telecommunications services under Section 69-2-5;

(ii) 7.9% of the revenue shall be distributed to fund the Computer Aided Dispatch Restricted Account created in Section 63H-7-310; and

(iii) 11.8% of the revenue shall be distributed to fund the unified statewide 911 emergency service as in Section 69-2-5.6; and

(d) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer, collect, and enforce the charges imposed under this section.

(10) A charge under this section is subject to Section 69-2-5.8.

Section ~~{129}~~132. Section **78A-7-202** is amended to read:

78A-7-202. Justice court judges to be appointed -- Procedure.

(1) As used in this section:

(a) "Local government executive" means:

(i) for a county:

(A) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;

(B) the county executive in a county operating under the county executive-council form of county government; and

(C) the county manager in a county operating under the council-manager form of county government; ~~[and]~~

(ii) for a city or town:

SB0199S05 compared with SB0199S03

(A) the mayor of the city or town; or

(B) the city manager, in the council-manager form of government described in Subsection 10-3b-103[~~(6)~~](7); and

(iii) for a metro township, the chair of the metro township council.

(b) "Local legislative body" means:

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

(ii) for a city or town, the council of the city or town.

(2) There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position. The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.

(a) Membership of the justice court nominating commission shall be as follows:

(i) one member appointed by:

(A) the county commission if the county has a county commission form of government; or

(B) the county executive if the county has an executive-council form of government;

(ii) one member appointed by the municipalities in the counties as follows:

(A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or

(B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality and the chairs of each metro township in the county;

(iii) one member appointed by the county bar association; and

(iv) two members appointed by the governing authority of the jurisdiction where the judicial office is located.

(b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be appointed by the regional bar association. If no regional bar association exists, the state bar association shall make the appointment.

(c) Members appointed under Subsections (2)(a)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.

(d) The nominating commission shall submit at least two names to the appointing

SB0199S05 compared with SB0199S03

authority of the jurisdiction expected to be served by the judge. The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

(e) The state court administrator shall provide staff to the commission. The Judicial Council shall establish rules and procedures for the conduct of the commission.

(3) Judicial vacancies shall be advertised in a newspaper of general circulation, through the Utah State Bar, and other appropriate means.

(4) Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.

(5) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council. Upon completion of the orientation program, the Judicial Council shall certify the justice court judge as qualified to hold office.

(6) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council. A justice court judge may not perform judicial duties until certified by the Judicial Council.

Section ~~{130}~~133. **Repealer.**

This bill repeals:

Section **10-2-408.5, Annexation of an area within a township -- Withdrawing the area from the township.**

Section **10-3b-505, Ballot form.**

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

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

Section **17-27a-307, Certain township planning and zoning board dissolved.**

Section ~~{131}~~134. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the language "this bill" in Subsection 10-2a-403(6)(a) to the bill's designated chapter and section number in the Laws of Utah.

Section ~~{132}~~135. **Coordinating S.B. 199 with H.B. 97 -- Technical renumbering -- Changing cross references.**

If this S.B. 199 and H.B. 97, Election of Officials of New Municipality, both pass, it is

SB0199S05 compared with SB0199S03

the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication:

(1) renumber Section 10-2-128.1 enacted in H.B. 97 to Section 10-2a-305.1, and change any internal references to that section;

(2) renumber Section 10-2-128.2 enacted in H.B. 97 to Section 10-2a-305.2, and change any internal references to that section;

(3) change cross references in H.B. 97 from:

(a) Section 10-2-116 to Section 10-2a-215;

(b) Section 10-2-127 to Section 10-2a-304; and

(c) Section 10-2-128.2 to Section 10-2a-305.2;

(4) change any internal cross reference affected by the renumbering.

Section ~~{133}~~ **136**. **Coordinating S.B. 199 with H.B. 245 -- Technical renumbering -- Changing cross references.**

If this S.B. 199 and H.B. 245, Incorporation Process for Cities and Towns, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication:

(1) renumber Section 10-2-102.13 enacted in H.B. 245 to Section 10-2a-106, and change any internal references to that section;

(2) renumber Section 10-2-131 enacted in H.B. 245 to Section 10-2a-307, and change any internal references to that section;

(3) change cross references in H.B. 245 from Section 10-2-111 to Section 10-2a-210;
and

(4) renumber all internal cross references affected by the renumbering.