

SB0150S01 compared with SB0150

~~text~~ shows text that was in SB0150 but was deleted in SB0150S01.

inserted text shows text that was not in SB0150 but was inserted into SB0150S01.

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Senator Karen Mayne proposes the following substitute bill:

METRO TOWNSHIP AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to metro townships.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of a municipality in various sections to include a metro township;
- ▶ addresses the annexation or incorporation of certain areas;
- ▶ provides for continuity of county process when a metro township is incorporated;
- ▶ modifies the staff that a county provides to a metro township;
- ▶ amends provisions related to certain local districts; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

SB0150S01 compared with SB0150

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- ~~{ 10-1-402, as last amended by Laws of Utah 2008, Chapter 384~~
- ~~10-2-418, as last amended by Laws of Utah 2015, Chapter 352~~
- { 10-2a-405, as enacted by Laws of Utah 2015, Chapter 352
- 10-3c-103, as enacted by Laws of Utah 2015, Chapter 352
- 10-3c-203, as enacted by Laws of Utah 2015, Chapter 352
- 11-14-102, as last amended by Laws of Utah 2008, Chapter 360
- 11-17-2, as last amended by Laws of Utah 2013, Chapter 345
- 11-39-101, as last amended by Laws of Utah 2012, Chapter 347
- 11-41-102, as last amended by Laws of Utah 2008, Chapters 286 and 384
- ~~{ 13-14-102, as last amended by Laws of Utah 2015, Chapter 268~~
- { 17B-1-102, as last amended by Laws of Utah 2015, Chapter 352
- 17B-1-502, as last amended by Laws of Utah 2015, Chapter 352
- 17B-1-1308, as last amended by Laws of Utah 2009, Chapter 350
- ~~{ 17B-2a-1007, as last amended by Laws of Utah 2015, Chapter 258~~
- { 17B-2a-1106, as last amended by Laws of Utah 2015, Chapter 352
- 17B-2a-1110, as enacted by Laws of Utah 2015, Chapter 352
- 17B-2a-1111, as enacted by Laws of Utah 2015, Chapter 352
- 20A-1-102, as last amended by Laws of Utah 2015, Chapters 296, 352, and 392
- 20A-5-301, as last amended by Laws of Utah 2007, Chapter 256
- 20A-6-401, as last amended by Laws of Utah 2012, Chapter 68
- 20A-6-402, as last amended by Laws of Utah 2014, Chapter 169
- 20A-7-101, as last amended by Laws of Utah 2014, Chapters 364 and 396
- 20A-7-501, as last amended by Laws of Utah 2011, Chapter 17
- 32B-1-102, as last amended by Laws of Utah 2013, Chapter 349
- 32B-1-202, as enacted by Laws of Utah 2010, Chapter 276
- 32B-2-402, as last amended by Laws of Utah 2014, Chapter 119

SB0150S01 compared with SB0150

32B-4-202, as enacted by Laws of Utah 2010, Chapter 276

32B-5-403, as enacted by Laws of Utah 2010, Chapter 276

52-1-1, Utah Code Annotated 1953

63G-6a-103, as last amended by Laws of Utah 2015, Chapters 218 and 464

63I-1-220, as last amended by Laws of Utah 2014, Chapter 231

ENACTS:

10-2a-414, Utah Code Annotated 1953

52-1-5.1, Utah Code Annotated 1953

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

Section 1. Section ~~{10-1-402}~~10-2a-405 is amended to read:

~~{~~ ~~10-1-402.~~ **Definitions:**

~~As used in this part:~~

~~(1) "Commission" means the State Tax Commission:~~

~~(2) (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.~~

~~(b) For purposes of this section and Section 10-1-407, "customer" means:~~

~~(i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or~~

~~(ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.~~

~~(c) "Customer" does not include a reseller:~~

~~(i) of telecommunications service; or~~

~~(ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.~~

~~(3) (a) "End user" means the person who uses a telecommunications service.~~

~~(b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.~~

~~(4) (a) "Gross receipts from telecommunications service" means the revenue that a~~

SB0150S01 compared with SB0150

~~telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:~~

~~—— (i) a tax, fee, or charge:~~

~~—— (A) imposed by a governmental entity;~~

~~—— (B) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and~~

~~—— (C) imposed only on a telecommunications provider;~~

~~—— (ii) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or~~

~~—— (iii) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.~~

~~—— (b) "Gross receipts from telecommunications service" includes a charge necessary to complete a sale of a telecommunications service.~~

~~—— (5) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.~~

~~—— (6) "Municipality" means [a city or town] the same as that term is defined in Section 10-1-104.~~

~~—— (7) "Place of primary use":~~

~~—— (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:~~

~~—— (i) the residential street address of the customer; or~~

~~—— (ii) the primary business street address of the customer; or~~

~~—— (b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.~~

~~—— (8) Notwithstanding where a call is billed or paid, "service address" means:~~

~~—— (a) if the location described in this Subsection (8)(a) is known, the location of the telecommunications equipment:~~

~~—— (i) to which a call is charged; and~~

~~—— (ii) from which the call originates or terminates;~~

~~—— (b) if the location described in Subsection (8)(a) is not known but the location~~

SB0150S01 compared with SB0150

~~described in this Subsection (8)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:~~

~~—— (i) the telecommunications system of the telecommunications provider; or~~

~~—— (ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or~~

~~—— (c) if the locations described in Subsection (8)(a) or (b) are not known, the location of a customer's place of primary use.~~

~~—— (9) (a) Subject to Subsections (9)(b) and (9)(c), "telecommunications provider" means a person that:~~

~~—— (i) owns, controls, operates, or manages a telecommunications service; or~~

~~—— (ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or resale to any person of the telecommunications service.~~

~~—— (b) A person described in Subsection (9)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:~~

~~—— (i) that person; or~~

~~—— (ii) the telecommunications service that the person owns, controls, operates, or manages.~~

~~—— (c) "Telecommunications provider" does not include an aggregator as defined in Section 54-8b-2.~~

~~—— (10) "Telecommunications service" means:~~

~~—— (a) telecommunications service, as defined in Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;~~

~~—— (b) mobile telecommunications service, as defined in Section 59-12-102:~~

~~—— (i) that originates and terminates within the boundaries of one state; and~~

~~—— (ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or~~

~~—— (c) an ancillary service as defined in Section 59-12-102.~~

~~—— (11) (a) Except as provided in Subsection (11)(b), "telecommunications tax or fee" means any of the following imposed by a municipality on a telecommunications provider:~~

~~—— (i) a tax;~~

SB0150S01 compared with SB0150

- ~~_____ (ii) a license;~~
- ~~_____ (iii) a fee;~~
- ~~_____ (iv) a license fee;~~
- ~~_____ (v) a license tax;~~
- ~~_____ (vi) a franchise fee; or~~
- ~~_____ (vii) a charge similar to a tax, license, or fee described in Subsections (11)(a)(i) through (vi);~~

~~_____ (b) "Telecommunications tax or fee" does not include:~~

- ~~_____ (i) the municipal telecommunications license tax authorized by this part; or~~
- ~~_____ (ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and Taxation, that is imposed:~~

~~_____ (A) on telecommunications providers; and~~

~~_____ (B) on persons who are not telecommunications providers.~~

~~_____ Section 2. Section 10-2-418 is amended to read:~~

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

~~_____ (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.~~

~~_____ (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;~~

SB0150S01 compared with SB0150

~~—— (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) 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 (4)(a)(i), the municipal legislative 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 (2)(a)(ii), the entire island or unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (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~~

SB0150S01 compared with SB0150

~~—— (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):~~

~~—— (4) (a) The legislative body of each municipality intending to annex an area under 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] provide notice by:~~

~~—— (A) (I) publishing a notice 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 (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] or~~

~~—— (III) mailing notice to the owner of record of each parcel within the area proposed for annexation; 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~~

SB0150S01 compared with SB0150

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

~~—— (b) Each notice under Subsections (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 (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 (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 (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 (4)(a)(ii)(A) shall be within 14 days of the municipal legislative body's adoption of a resolution under Subsection (4)(a)(i):~~

~~—— (5) (a) Upon conclusion of the public hearing under Subsection (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 (4)(a)(iv), a municipality may adopt an ordinance approving the annexation of the area proposed for~~

SB0150S01 compared with SB0150

~~annexation under this section without allowing or considering protests under Subsection (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.~~

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

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

~~—— Section 3. Section 10-2a-405 is amended to read:~~

‡ **10-2a-405. Duties of county legislative body -- Public hearing -- Notice -- Other 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

SB0150S01 compared with SB0150

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)~~] (7).

(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 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;

SB0150S01 compared with SB0150

(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)(d)(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 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 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) After November 2, 2015, and before January 1, 2017, a person may not initiate an annexation or an incorporation process that, if approved, would change the boundaries of a planning township.

~~[(6)]~~ (7) (a) As used in this Subsection ~~[(6)]~~ (7), "rural real property" means an area:

(i) zoned primarily for manufacturing, commercial, or agricultural purposes; and

SB0150S01 compared with SB0150

(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)]~~ (7)(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)]~~ (7)(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:

(A) an agricultural protection area;

(B) an industrial protection area; or

(C) a mining protection area.

Section ~~4~~2. Section **10-2a-414** is enacted to read:

10-2a-414. Transition -- Continuity of county process.

When a metro township is incorporated:

(1) the operations, services, and functions provided by the county shall continue with as little interruption as possible as the operations, services, and functions are assumed by the metro township;

(2) all proceedings pending before the county shall continue without change until altered by a valid metro township ordinance, action, or decision; and

(3) each county ordinance in effect on the day on which the metro township is incorporated shall remain in effect as a metro township ordinance until the metro township

SB0150S01 compared with SB0150

council amends or repeals the ordinance.

Section ~~{5}~~3. Section **10-3c-103** is amended 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~~] municipal corporation; and

(c) a political subdivision of the state; and

(2) may:

(a) sue and be sued[-]; and

(b) except where expressly prohibited, exercise any power or responsibility generally granted to a municipality.

Section ~~{6}~~4. Section **10-3c-203** is amended to read:

10-3c-203. Administrative and operational services -- Staff provided by county or municipal services district.

(1) (a) The following officials elected or appointed, or persons employed by, the county in which a [~~municipality~~] metro 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 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; and

~~[(v) the district attorney shall provide legal counsel to the metro township; and]~~

~~[(vi)]~~ (v) subject to Subsection (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

SB0150S01 compared with SB0150

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 (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 (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.

(2) (a) Nothing in Subsection (1) may be construed to relieve an official described in Subsections (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 (2)(a), an official or the official's deputy or other person described in Subsections (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

(iv) is not required to provide a bond for the applicable municipal office if a bond for the office is required by this title.

(3) The district attorney of the county in which a metro township is located may provide legal counsel to the metro township if the county and the metro township agree.

~~[(3)]~~ (4) 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.

~~[(4)]~~ (5) A municipal services district established in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act, and of which the metro township is a part, may provide staff to the metro township planning commission and appeal authority.

~~[(5)]~~ (6) (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

SB0150S01 compared with SB0150

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 [~~(5)~~] (6)(a) if the municipal services district is dissolved.

Section ~~(7)~~5. Section **11-14-102** is amended to read:

11-14-102. Definitions.

For the purpose of this chapter:

(1) "Bond" means any bond authorized to be issued under this chapter, including municipal bonds.

(2) "Election results" has the same meaning as defined in Section 20A-1-102.

(3) "Governing body" means:

(a) for a county, city, [~~or~~] town, or metro township, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or

(ii) the administrative control board, if one has been established under Section 17D-1-301 and the power to issue bonds not payable from taxes has been delegated to the administrative control board.

(4) "Local district" means a district operating under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(5) (a) "Local political subdivision" means a county, city, town, metro township, school district, local district, or special service district.

(b) "Local political subdivision" does not include the state and its institutions.

Section ~~(8)~~6. Section **11-17-2** is amended to read:

11-17-2. Definitions.

As used in this chapter:

(1) "Bonds" means bonds, notes, or other evidences of indebtedness.

SB0150S01 compared with SB0150

(2) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, ceiling, roof, floor, or foundation; or

(ii) a heating or cooling distribution system;

(b) an insulated window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications that reduce energy loss;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulking or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of a low-flow toilet or showerhead;

(ii) installation of a timer or timing system for a hot water heater; or

(iii) installation of a rain catchment system; or

(j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.

(3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the

SB0150S01 compared with SB0150

acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.

(4) "Governing body" means:

(a) for a county, city, [or] town, or metro township, the legislative body of the county, city, [or] town, or metro township;

(b) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102;

(c) for a state university except as provided in Subsection (4)(d), the board or body having the control and supervision of the state university; and

(d) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

(5) (a) "Industrial park" means land, including all necessary rights, appurtenances, easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) "Industrial park" includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

(6) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a financing to the user or a user's designee.

(7) "Mortgage" means a mortgage, trust deed, or other security device.

SB0150S01 compared with SB0150

(8) "Municipality" means any incorporated city [~~or~~], town, or metro township in the state, including cities or towns operating under home rule charters.

(9) "Pollution" means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(10) (a) "Project" means:

(i) an industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a renewable energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than

SB0150S01 compared with SB0150

from:

- (A) municipal or county general fund money;
- (B) money raised under the taxing power of any county or municipality; or
- (C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

(11) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including:

- (a) a photovoltaic system;
- (b) a solar thermal system;
- (c) a wind system;
- (d) a geothermal system, including:
 - (i) a direct-use system; or
 - (ii) a ground source heat pump system;
- (e) a micro-hydro system; or
- (f) another renewable energy system approved by the governing body.

(12) "State university" means an institution of higher education as described in Section 53B-2-101 and includes any nonprofit corporation or foundation created by and operating under their authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Section ~~9~~7. Section **11-39-101** is amended to read:

11-39-101. Definitions.

As used in this chapter:

- (1) "Bid limit" means:
 - (a) for a building improvement:
 - (i) for the year 2003, \$40,000; and
 - (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an

SB0150S01 compared with SB0150

amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year; and

(b) for a public works project:

(i) for the year 2003, \$125,000; and

(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year.

(2) "Building improvement":

(a) means the construction or repair of a public building or structure; and

(b) does not include construction or repair at an international airport.

(3) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(4) "Design-build project":

(a) means a building improvement or public works project costing over \$250,000 with respect to which both the design and construction are provided for in a single contract with a contractor or combination of contractors capable of providing design-build services; and

(b) does not include a building improvement or public works project:

(i) that is undertaken by a local entity under contract with a construction manager that guarantees the contract price and is at risk for any amount over the contract price; and

(ii) each component of which is competitively bid.

(5) "Design-build services" means the engineering, architectural, and other services necessary to formulate and implement a design-build project, including its actual construction.

(6) "Emergency repairs" means a building improvement or public works project undertaken on an expedited basis to:

(a) eliminate an imminent risk of damage to or loss of public or private property;

(b) remedy a condition that poses an immediate physical danger; or

(c) reduce a substantial, imminent risk of interruption of an essential public service.

(7) "Governing body" means:

SB0150S01 compared with SB0150

(a) for a county, city, [~~or~~] town, or metro township, the legislative body of the county, city, [~~or~~] town, or metro township;

(b) for a local district, the board of trustees of the local district; and

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

(8) "Local district" has the same meaning as defined in Section 17B-1-102.

(9) "Local entity" means a county, city, town, metro township, local district, or special service district.

(10) "Lowest responsive responsible bidder" means a prime contractor who:

(a) has submitted a bid in compliance with the invitation to bid and within the requirements of the plans and specifications for the building improvement or public works project;

(b) is the lowest bidder that satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements;

(c) has furnished a bid bond or equivalent in money as a condition to the award of a prime contract; and

(d) furnishes a payment and performance bond as required by law.

(11) "Procurement code" means the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(12) "Public works project":

(a) means the construction of:

(i) a park or recreational facility; or

(ii) a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control; and

(b) does not include:

(i) the replacement or repair of existing infrastructure on private property;

(ii) construction commenced before June 1, 2003; and

SB0150S01 compared with SB0150

(iii) construction or repair at an international airport.

(13) "Special service district" has the same meaning as defined in Section 17D-1-102.

Section ~~11-41-102~~8. Section **11-41-102** is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a:

- (a) (i) county; or
- (ii) municipality; and
- (b) person.

(2) "Municipality" means a:

- (a) city; [~~or~~]
- (b) town[~~;~~]; or
- (c) metro township.

(3) "Payment" includes:

- (a) a payment;
- (b) a rebate;
- (c) a refund; or
- (d) an amount similar to Subsections (3)(a) through (c).

(4) "Regional retail business" means a:

- (a) retail business that occupies a floor area of more than 80,000 square feet;
- (b) dealer as defined in Section 41-1a-102;
- (c) retail shopping facility that has at least two anchor tenants if the total number of anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square feet; or
- (d) grocery store that occupies a floor area of more than 30,000 square feet.

(5) (a) "Sales and use tax" means a tax:

(i) imposed on transactions within a:

- (A) county; or
- (B) municipality; and

(ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12, Sales and Use Tax Act.

SB0150S01 compared with SB0150

(b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax authorized under:

- (i) Subsection 59-12-103(2)(a)(i);
- (ii) Subsection 59-12-103(2)(b)(i);
- (iii) Subsection 59-12-103(2)(c)(i);
- (iv) Subsection 59-12-103(2)(d)(i)(A);
- (v) Section 59-12-301;
- (vi) Section 59-12-352;
- (vii) Section 59-12-353;
- (viii) Section 59-12-603; or
- (ix) Section 59-12-1201.

(6) (a) "Sales and use tax incentive payment" means a payment of revenues:

- (i) to a person;
- (ii) by a:
 - (A) county; or
 - (B) municipality;
- (iii) to induce the person to locate or relocate a regional retail business within the:
 - (A) county; or
 - (B) municipality; and
- (iv) that are derived from a sales and use tax.

(b) "Sales and use tax incentive payment" does not include funding for public infrastructure.

Section ~~{11}~~9. Section ~~{13-14-102}~~17B-1-102 is amended to read:

~~{~~ **13-14-102. Definitions:**

~~As used in this chapter:~~

~~(1) "Advisory board" or "board" means the Utah Motor Vehicle Franchise Advisory Board created in Section 13-14-103.~~

~~(2) "Affected municipality" means an incorporated city [or], town, or metro township:~~

~~(a) that is located in the notice area; and~~

~~(b) (i) within which a franchisor is proposing a new or relocated dealership that is within the relevant market area of an existing dealership of the same line-make owned by~~

SB0150S01 compared with SB0150

~~another franchisee; or~~

~~—— (ii) within which an existing dealership is located and a franchisor is proposing a new or relocated dealership within the relevant market area of that existing dealership of the same line-make.~~

~~—— (3) "Affiliate" has the meaning set forth in Section 16-10a-102.~~

~~—— (4) "Aftermarket product" means any product or service not included in the franchisor's suggested retail price of the new motor vehicle, as that price appears on the label required by 15 U.S.C. Sec. 1232(f).~~

~~—— (5) "Dealership" means a site or location in this state:~~

~~—— (a) at which a franchisee conducts the business of a new motor vehicle dealer; and~~

~~—— (b) that is identified as a new motor vehicle dealer's principal place of business for licensing purposes under Section 41-3-204.~~

~~—— (6) "Department" means the Department of Commerce.~~

~~—— (7) "Executive director" means the executive director of the Department of Commerce.~~

~~—— (8) (a) "Franchise" or "franchise agreement" means a written agreement, or in the absence of a written agreement, then a course of dealing or a practice for a definite or indefinite period, in which:~~

~~—— (i) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and~~

~~—— (ii) a community of interest exists in the marketing of new motor vehicles, new motor vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or retail.~~

~~—— (b) "Franchise" or "franchise agreement" includes a sales and service agreement.~~

~~—— (9) "Franchisee" means a person with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new motor vehicles manufactured, produced, represented, or distributed by the franchisor.~~

~~—— (10) "Franchisor" means a person who has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured, produced, assembled, represented, or distributed by the franchisor, and includes:~~

~~—— (a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;~~

~~—— (b) an intermediate distributor; and~~

SB0150S01 compared with SB0150

- ~~—— (c) an agent, officer, or field or area representative of the franchisor.~~
- ~~—— (11) "Lead" means the referral by a franchisor to a franchisee of a potential customer whose contact information was obtained from a franchisor's program, process, or system designed to generate referrals for the purchase or lease of a new motor vehicle, or for service work related to the franchisor's vehicles.~~
- ~~—— (12) "Line-make" means:~~
 - ~~—— (a) for other than a recreational vehicle, the motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor; or~~
 - ~~—— (b) for a recreational vehicle, a specific series of recreational vehicle product that:~~
 - ~~—— (i) is identified by a common series trade name or trademark;~~
 - ~~—— (ii) is targeted to a particular market segment, as determined by decor, features, equipment, size, weight, and price range;~~
 - ~~—— (iii) has a length and floor plan that distinguish the recreational vehicle from other recreational vehicles with substantially the same decor, features, equipment, size, weight, and price;~~
 - ~~—— (iv) belongs to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and~~
 - ~~—— (v) a franchise agreement authorizes a dealer to sell.~~
- ~~—— (13) "Mile" means 5,280 feet.~~
- ~~—— (14) "Motor home" means a self-propelled vehicle, primarily designed as a temporary dwelling for travel, recreational, or vacation use.~~
- ~~—— (15) (a) "Motor vehicle" means:~~
 - ~~—— (i) a travel trailer;~~
 - ~~—— (ii) except as provided in Subsection (15)(b), a motor vehicle as defined in Section 41-3-102;~~
 - ~~—— (iii) a semitrailer as defined in Section 41-1a-102;~~
 - ~~—— (iv) a trailer as defined in Section 41-1a-102; and~~
 - ~~—— (v) a recreational vehicle.~~
- ~~—— (b) "Motor vehicle" does not include:~~

SB0150S01 compared with SB0150

- ~~—— (i) a motorcycle as defined in Section 41-1a-102;~~
- ~~—— (ii) an off-highway vehicle as defined in Section 41-3-102; and~~
- ~~—— (iii) a small trailer as defined in Section 41-3-102.~~
- ~~—— (16) "New motor vehicle" means a motor vehicle as defined in Subsection (15) that has never been titled or registered and has been driven less than 7,500 miles, unless the motor vehicle is a trailer, travel trailer, or semitrailer, in which case the mileage limit does not apply.~~
- ~~—— (17) "New motor vehicle dealer" is a person who is licensed under Subsection 41-3-202(1)(a) to sell new motor vehicles.~~
- ~~—— (18) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.~~
- ~~—— (19) "Notice area" means the geographic area that is:~~
 - ~~—— (a) within a radius of at least six miles and no more than 10 miles from the site of an existing dealership; and~~
 - ~~—— (b) located within a county with a population of at least 225,000.~~
- ~~—— (20) "Primary market area" means:~~
 - ~~—— (a) for an existing dealership, the geographic area established by the franchisor that the existing dealership is intended to serve; or~~
 - ~~—— (b) for a new or relocated dealership, the geographic area proposed by the franchisor that the new or relocated dealership is intended to serve.~~
- ~~—— (21) (a) "Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or pulled by another vehicle.~~
 - ~~—— (b) "Recreational vehicle" includes:~~
 - ~~—— (i) a travel trailer;~~
 - ~~—— (ii) a camping trailer;~~
 - ~~—— (iii) a motor home;~~
 - ~~—— (iv) a fifth wheel trailer; and~~
 - ~~—— (v) a van.~~
- ~~—— (22) (a) "Relevant market area," except with respect to recreational vehicles, means:~~
 - ~~—— (i) as applied to an existing dealership that is located in a county with a population of less than 225,000;~~

SB0150S01 compared with SB0150

~~—— (A) the county in which the existing dealership is located; and~~

~~—— (B) the area within a 15-mile radius of the existing dealership; or~~

~~—— (ii) as applied to an existing dealership that is located in a county with a population of 225,000 or more, the area within a 10-mile radius of the existing dealership.~~

~~—— (b) "Relevant market area," with respect to recreational vehicles, means:~~

~~—— (i) the county in which the dealership is to be established or relocated; and~~

~~—— (ii) the area within a 35-mile radius from the site of the existing dealership.~~

~~—— (23) "Sale, transfer, or assignment" means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.~~

~~—— (24) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.~~

~~—— (25) "Site-control agreement" means an agreement, however denominated and regardless of the agreement's form or of the parties to the agreement, that has the effect of:~~

~~—— (a) controlling in any way the use and development of the premises upon which a franchisee's business operations are located;~~

~~—— (b) requiring a franchisee to establish or maintain an exclusive dealership facility on the premises upon which the franchisee's business operations are located; or~~

~~—— (c) restricting the ability of the franchisee or, if the franchisee leases the dealership premises, the franchisee's lessor to transfer, sell, lease, develop, redevelop, or change the use of some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase or lease, or any similar arrangement.~~

~~—— (26) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.~~

~~—— (27) "Written," "write," "in writing," or other variations of those terms shall include all reliable forms of electronic communication.~~

~~—— Section 12. Section 17B-1-102 is amended to read:~~

‡ **17B-1-102. Definitions.**

SB0150S01 compared with SB0150

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 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":

SB0150S01 compared with SB0150

(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 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.

SB0150S01 compared with SB0150

(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;
- (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 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, or metro township.

(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.

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

(20) "Political subdivision" means a county, city, town, metro township, local district

SB0150S01 compared with SB0150

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.

(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.

(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.

(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.

(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:

(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.

(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.

(26) "Service applicant" means a person who requests that a local district provide a

SB0150S01 compared with SB0150

service that the local district is authorized to provide.

(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.

(28) "Short-term bond" means a bond that is required to be repaid during the fiscal year in which the bond is issued.

(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.

(30) "Special assessment bond" means a bond payable from special assessments.

(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, a water conservancy district, or a municipal services district.

(32) "Taxable value" means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

(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.

(34) "Unincorporated" means not included within a municipality.

(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.

(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 ~~{13}~~10. Section **17B-1-502** is amended to read:

SB0150S01 compared with SB0150

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 Chapter 2a, 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 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) or (g); 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 Subsection 17B-1-512(2)(b).

(3) (a) Except as provided in 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 ~~{, or metro township}~~ incorporated under Title 10,

SB0150S01 compared with SB0150

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;

(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

(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 [~~after the expiration of the 180-day period described in Subsection (3)(a)(iii)(B)~~] if:

(i) the local district from which the area is withdrawn provides:

(A) fire protection, paramedic, and emergency services;

(B) law enforcement service; 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)[~~;~~]; and

(iii) for a local district that provides municipal services, as defined in Section 17B-2a-1102, the 180-day period described in Subsection (3)(a)(iii)(B) is expired.

(d) An area within the boundaries of a local district that is incorporated as a metro 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 ~~{14}~~11. Section **17B-1-1308** is amended to read:

17B-1-1308. Dissolution resolution -- Limitations on dissolution -- Distribution of remaining assets -- Notice to lieutenant governor -- Recording requirements.

(1) After the public hearing required under Section 17B-1-1306 and subject to Subsection (2), the administrative body may adopt a resolution approving dissolution of the local district.

(2) A resolution under Subsection (1) may not be adopted unless:

(a) any outstanding debt of the local district is:

SB0150S01 compared with SB0150

- (i) satisfied and discharged in connection with the dissolution; or
 - (ii) assumed by another governmental entity with the consent of all the holders of that debt and all the holders of other debts of the local district;
- (b) for a local district that has provided service during the preceding three years or undertaken planning or other activity preparatory to providing service:
- (i) another entity has committed to provide the same service to the area being served or proposed to be served by the local district; and
 - (ii) all who are to receive the service have consented to the service being provided by the other entity; and
- (c) all outstanding contracts to which the local district is a party are resolved through mutual termination or the assignment of the district's rights, duties, privileges, and responsibilities to another entity with the consent of the other parties to the contract.
- (3) (a) (i) Any assets of the local district remaining after paying all debts and other obligations of the local district shall be used to pay costs associated with the dissolution process under this part.
- (ii) Any costs of the dissolution process remaining after exhausting the remaining assets of the local district under Subsection (3)(a)(i) shall be paid by the administrative body.
- (b) Any assets of the local district remaining after application of Subsection (3)(a) shall be distributed:
- (i) proportionately to the owners of real property within the dissolved local district if there is a readily identifiable connection between a financial burden borne by the real property owners in the district and the remaining assets; or
 - (ii) except as provided in Subsection (3)(b)(i), to each county, city, ~~or~~ town, or metro township in which the dissolved local district was located before dissolution in the same proportion that the land area of the local district located within the unincorporated area of the county or within the city ~~or~~, town, or metro township bears to the total local district land area.
- (4) (a) The administrative body shall:
- (i) within 30 days after adopting a resolution approving dissolution, file with the lieutenant governor 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) upon the lieutenant governor's issuance of a certificate of dissolution under Section

SB0150S01 compared with SB0150

67-1a-6.5:

(A) if the local district was 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; and

(Bb) certificate of dissolution; and

(II) a certified copy of the resolution adopted under Subsection (1); or

(B) if the local district was 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 (4)(a)(ii)(A)(I)(Aa) and (Bb);

and

(Bb) a certified copy of the resolution adopted under Subsection (1); and

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

(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa) and

(Bb); and

(Bb) a certified copy of the resolution adopted under Subsection (1).

(b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the local district is dissolved.

Section ~~{15}~~12. Section ~~{17B-2a-1007}~~17B-2a-1106 is amended to read:

~~{~~17B-2a-1007. Contract assessments.

~~_____~~(1) As used in this section:

~~_____~~(a) "Assessed land" means:

~~_____~~(i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract; or

~~_____~~(ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy district and that receives the beneficial use of water under the water contract.

~~_____~~(b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.

~~_____~~(c) "Governing body" means:

SB0150S01 compared with SB0150

- ~~—— (i) for a county, city, [or] town, or metro township, the legislative body of the county, city, [or] town, or metro township;~~
- ~~—— (ii) for a local district, the board of trustees of the local district;~~
- ~~—— (iii) for a special service district:~~
- ~~—— (A) the legislative body of the county, city, [or] town, or metro township that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or~~
- ~~—— (B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and~~
- ~~—— (iv) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.~~
- ~~—— (d) "Petitioner" means a private petitioner or a public petitioner.~~
- ~~—— (e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.~~
- ~~—— (f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.~~
- ~~—— (g) "Public petitioner" means a political subdivision of the state:~~
- ~~—— (i) whose territory is partly or entirely within the boundaries of a water conservancy district; and~~
- ~~—— (ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.~~
- ~~—— (h) "Public water user" means a political subdivision of the state:~~
- ~~—— (i) whose territory is partly or entirely within the boundaries of a water conservancy district; and~~
- ~~—— (ii) that enters into a water contract with the district.~~
- ~~—— (i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:~~
- ~~—— (i) land owned by the private water user; or~~

SB0150S01 compared with SB0150

~~—— (ii) land within the public water user's boundaries that is also within the boundaries of the water conservancy district.~~

~~—— (j) "Water user" means a private water user or a public water user.~~

~~—— (2) A water conservancy district may levy a contract assessment as provided in this section.~~

~~—— (3) (a) The governing body of a public petitioner may authorize its chief executive officer to submit a written petition on behalf of the public petitioner to a water conservancy district requesting to enter into a water contract.~~

~~—— (b) A private petitioner may submit a written petition to a water conservancy district requesting to enter into a water contract.~~

~~—— (c) Each petition under this Subsection (3) shall include:~~

~~—— (i) the petitioner's name;~~

~~—— (ii) the quantity of water the petitioner desires to purchase or otherwise acquire;~~

~~—— (iii) a description of the land upon which the water will be used;~~

~~—— (iv) the price to be paid for the water;~~

~~—— (v) the amount of any service, turnout, connection, distribution system, or other charge to be paid;~~

~~—— (vi) whether payment will be made in cash or annual installments;~~

~~—— (vii) a provision requiring the contract assessment to become a lien on the land for which the water is petitioned and is to be allotted; and~~

~~—— (viii) an agreement that the petitioner is bound by the provisions of this part and the rules and regulations of the water conservancy district board of trustees.~~

~~—— (4) (a) If the board of a water conservancy district desires to consider a petition submitted by a petitioner under Subsection (3), the board shall:~~

~~—— (i) publish notice of the petition and of the hearing required under Subsection (4)(a)(ii) at least once a week in two successive weeks in a newspaper of general circulation within the county in which the political subdivision or private petitioner's land, as the case may be, is located; and~~

~~—— (ii) hold a public hearing on the petition.~~

~~—— (b) Each notice under Subsection (4)(a)(i) shall:~~

~~—— (i) state that a petition has been filed and that the district is considering levying a~~

SB0150S01 compared with SB0150

~~contract assessment; and~~

~~—— (ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).~~

~~—— (c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the water conservancy district shall:~~

~~—— (A) allow any interested person to appear and explain why the petition should not be granted; and~~

~~—— (B) consider each written objection to the granting of the petition that the board receives before or at the hearing.~~

~~—— (ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.~~

~~—— (d) (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition:~~

~~—— (ii) Each person who fails to submit a written objection within the time provided under Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and levying a contract assessment.~~

~~—— (5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:~~

~~—— (a) deny the petition; or~~

~~—— (b) grant the petition, if the board considers granting the petition to be in the best interests of the district.~~

~~—— (6) The board of a water conservancy district that grants a petition under this section may:~~

~~—— (a) make an allotment of water for the benefit of assessed land;~~

~~—— (b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;~~

~~—— (c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and uniform, for similar classes of services throughout the district; and~~

~~—— (d) levy a contract assessment on assessed land.~~

~~—— (7) (a) The board of trustees of each water conservancy district that levies a contract~~

SB0150S01 compared with SB0150

~~assessment under this section shall:~~

~~—— (i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located;~~

~~and~~

~~—— (ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of each county in which assessed land is located the amount of the contract assessment;~~

~~—— (b) Upon the recording of the resolution or ordinance under Subsection (7)(a)(i), the contract assessment associated with allotting water to the assessed land under the water contract becomes a perpetual lien on the assessed land;~~

~~—— (c) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county;~~

~~—— (8) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:~~

~~—— (i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and~~

~~—— (ii) twice publish a notice, at least a week apart:~~

~~—— (A) (I) in a newspaper of general circulation in each county with assessed land included within the district boundaries; or~~

~~—— (II) if there is no newspaper of general circulation within the county, in a newspaper of general circulation in an adjoining county;~~

~~—— (B) that contains:~~

~~—— (I) a general description of the assessed land;~~

~~—— (II) the amount of the contract assessment; and~~

~~—— (III) the time and place of the public hearing under Subsection (8)(a)(i).~~

~~—— (b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to the assessment, stating the grounds for the objection:~~

~~—— (c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection:~~

~~—— (ii) After hearing and considering the evidence and arguments supporting an objection;~~

SB0150S01 compared with SB0150

the board of trustees:

~~—— (A) shall enter a written order, stating its decision, and~~

~~—— (B) may modify the assessment.~~

~~—— (d) (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)(ii)(A).~~

~~—— (ii) Each petition under Subsection (8)(d)(i) shall:~~

~~—— (A) be filed within 30 days after the board enters its written order;~~

~~—— (B) state specifically the part of the board's order for which review is sought; and~~

~~—— (C) be accompanied by a bond with good and sufficient security in an amount not exceeding \$200, as determined by the court clerk.~~

~~—— (iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.~~

~~—— (iv) The court shall act as quickly as possible after a petition is filed.~~

~~—— (v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.~~

~~—— (e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.~~

~~—— (9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007, under the law in effect at the time of the levy is validated, ratified, and confirmed, and a water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.~~

~~—— (10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.~~

~~—— Section 16. 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

SB0150S01 compared with SB0150

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 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) (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:

SB0150S01 compared with SB0150

- (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).
- (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.
- (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 (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).
- (8) The municipal services district and the county may enter into an agreement for the

SB0150S01 compared with SB0150

provision of legal services to the municipal services district.

Section ~~{17}~~13. Section 17B-2a-1110 is amended 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) 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 Subsection (2)(a), the 180 days described in Subsection 17B-1-502(3)(a)(iii)~~[(A)]~~[(B)] 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;

(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;

SB0150S01 compared with SB0150

(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 approximates 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 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 feasibility consultant.

(6) At a public hearing described in Subsection (5), the municipal legislative body shall:

SB0150S01 compared with SB0150

(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 (4)(a)(iv) by more than 5%.

Section ~~18~~14. Section **17B-2a-1111** is amended to read:

17B-2a-1111. Withdrawal of a municipality that changes form of government.

SB0150S01 compared with SB0150

If a municipality after the 180-day period described in Subsection 17B-1-502(3)(a)(iii)~~(A)~~(B) changes form of government in accordance with Title 10, Chapter 3b, 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 ~~19~~15. 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:
 - (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":

SB0150S01 compared with SB0150

(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 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.

SB0150S01 compared with SB0150

(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 Law 107-252,~~] the Help America Vote Act of 2002, Pub. L. No. 107-252.

(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;

SB0150S01 compared with SB0150

- (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.
- (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.

SB0150S01 compared with SB0150

(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 vote.

(44) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(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.

SB0150S01 compared with SB0150

(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) "Municipality" means a city, town, or metro township.

~~[(50)]~~ (51) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

~~[(51)]~~ (52) "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) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(b)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(c)(iii); and

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

- (i) the poll worker's initials; and
- (ii) the ballot number.

~~[(52)]~~ (53) "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)]~~ (54) "Paper ballot" means a paper that contains:

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

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

~~[(54)]~~ (55) "Pilot project" means the election day voter registration pilot project created in Section 20A-4-108.

SB0150S01 compared with SB0150

~~[(55)]~~ (56) "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)]~~ (57) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

~~[(57)]~~ (58) "Polling place" means the building where voting is conducted.

~~[(58)]~~ (59) (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)]~~ (60) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

~~[(60)]~~ (61) "Primary convention" means the political party conventions held during the year of the regular general election.

~~[(61)]~~ (62) "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)]~~ (63) "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)]~~ (64) "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.

~~[(64)]~~ (65) "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)]~~ (66) "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)]~~ (67) "Receiving judge" means the poll worker that checks the voter's name in the

SB0150S01 compared with SB0150

official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

~~[(67)]~~ (68) "Registration form" means a book voter registration form and a by-mail voter registration form.

~~[(68)]~~ (69) "Regular ballot" means a ballot that is not a provisional ballot.

~~[(69)]~~ (70) "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)]~~ (71) "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)]~~ (72) "Resident" means a person who resides within a specific voting precinct in Utah.

~~[(72)]~~ (73) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

~~[(73)]~~ (74) "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 or who are unaffiliated.

~~[(74)]~~ (75) "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)]~~ (76) "Special election" means an election held as authorized by Section 20A-1-203.

~~[(76)]~~ (77) "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)]~~ (78) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

~~[(78)]~~ (79) "Stub" means the detachable part of each ballot.

~~[(79)]~~ (80) "Substitute ballots" means replacement ballots provided by an election

SB0150S01 compared with SB0150

officer to the poll workers when the official ballots are lost or stolen.

~~[(80)]~~ (81) "Ticket" means each list of candidates for each political party or for each group of petitioners.

~~[(81)]~~ (82) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

~~[(82)]~~ (83) "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)]~~ (84) "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)]~~ (84)(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;
- (ii) a bank or other financial account statement, or a legible copy thereof;
- (iii) a certified birth certificate;
- (iv) a valid social security card;

SB0150S01 compared with SB0150

- (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)]~~ (85) "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)]~~ (86) "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)]~~ (87) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

~~[(87)]~~ (88) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

~~[(88)]~~ (89) "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.

~~[(89)]~~ (90) "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;

SB0150S01 compared with SB0150

- (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)]~~ (91) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

~~[(91)]~~ (92) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

~~[(92)]~~ (93) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

~~[(93)]~~ (94) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

~~[(94)]~~ (95) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

~~[(95)]~~ (96) "Write-in ballot" means a ballot containing any write-in votes.

~~[(96)]~~ (97) "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 ~~{20}~~16. Section **20A-5-301** is amended to read:

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

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

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

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

SB0150S01 compared with SB0150

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

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

Section ~~{21}~~17. Section **20A-6-401** is amended to read:

20A-6-401. Ballots for municipal primary elections.

(1) Each election officer shall ensure that:

(a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the top of the ballot;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(b) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) "Official Primary Ballot for ____ (City [~~or~~], Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight point type;

(c) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(d) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10 point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(e) after the rules, the designation of the office for which the candidates seek nomination is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

(f) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

SB0150S01 compared with SB0150

(g) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates; and

(h) the candidate groups are separated from each other by one light and one heavy line or rule.

(2) A municipal primary ballot may not contain any space for write-in votes.

Section ~~{22}~~18. Section **20A-6-402** is amended to read:

20A-6-402. Ballots for municipal general elections.

(1) When using a paper ballot at municipal general elections, each election officer shall ensure that:

(a) the names of the two candidates who received the highest number of votes for mayor in the municipal primary are placed upon the ballot;

(b) if no municipal primary election was held, the names of the candidates who filed declarations of candidacy for municipal offices are placed upon the ballot;

(c) for other offices:

(i) twice the number of candidates as there are positions to be filled are certified as eligible for election in the municipal general election from those candidates who received the greater number of votes in the primary election; and

(ii) the names of those candidates are placed upon the municipal general election ballot;

(d) the names of the candidates are placed on the ballot in the order specified under Section 20A-6-305;

(e) in an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, a write-in area is placed upon the ballot that contains, for each office in which there is a qualified write-in candidate:

(i) a blank, horizontal line to enable a voter to submit a valid write-in candidate; and

(ii) a square or other conforming area that is adjacent to or opposite the blank horizontal line to enable the voter to indicate the voter's vote;

(f) ballot propositions that have qualified for the ballot, including propositions submitted to the voters by the municipality, municipal initiatives, and municipal referenda, are listed on the ballot in accordance with Section 20A-6-107; and

(g) bond propositions that have qualified for the ballot are listed on the ballot under the

SB0150S01 compared with SB0150

title assigned to each bond proposition under Section 11-14-206.

(2) When using a punch card ballot at municipal general elections, each election officer shall ensure that:

(a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the top of the ballot;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(b) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) "Official Ballot for ____ (City [or], Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight-point type;

(c) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(d) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10-point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(e) after the rules, the designation of the office for which the candidates seek election is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

(f) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(g) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates;

(h) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:

SB0150S01 compared with SB0150

(i) a write-in space for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and

(ii) a square printed immediately adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and

(i) the candidate groups are separated from each other by one light and one heavy line or rule.

(3) When using a ballot sheet other than a punch card ballot at municipal general elections, each election officer shall ensure that:

(a) (i) the ballot contains a perforated ballot stub placed across the top of the ballot;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(b) immediately below the perforated ballot stub, the following endorsements are printed:

(i) "Official Ballot for ____ (City [~~or~~], Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

(c) immediately below the election officer's title, a distinct border or line separates endorsements from the rest of the ballot;

(d) immediately below the border or line, an "Instructions to Voters" section is printed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

(e) after the border or line, the designation of the office for which the candidates seek election is printed and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed, followed by a line or border;

(f) after the line or border, the names of the candidates are printed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(g) an oval is printed adjacent to the names of the candidates;

(h) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:

SB0150S01 compared with SB0150

(i) a write-in space or blank line for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and

(ii) an oval printed adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and

(i) the candidate groups are separated from each other by a line or border.

(4) When using an electronic ballot at municipal general elections, each election officer shall ensure that:

(a) the following endorsements are displayed on the first screen of the ballot:

(i) "Official Ballot for ____ (City [or], Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

(b) immediately below the election officer's title, a distinct border or line separates the endorsements from the rest of the ballot;

(c) immediately below the border or line, an "Instructions to Voters" section is displayed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

(d) after the border or line, the designation of the office for which the candidates seek election is displayed, and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are displayed, followed by a line or border;

(e) after the line or border, the names of the candidates are displayed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(f) a voting square or position is located adjacent to the name of each candidate;

(g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains a write-in space where the voter may enter the name of and vote for a valid write-in candidate for the office; and

(h) the candidate groups are separated from each other by a line or border.

(5) When a municipality has chosen to nominate candidates by convention or committee, the election officer shall ensure that the party name is included with the candidate's name on the ballot.

Section ~~{23}~~19. Section **20A-7-101** is amended to read:

SB0150S01 compared with SB0150

20A-7-101. Definitions.

As used in this chapter:

(1) "Budget officer" means:

- (a) for a county, the person designated as budget officer in Section 17-19a-203;
- (b) for a city, the person designated as budget officer in Subsection 10-6-106(5); [or]
- (c) for a town, the town council[-]; or
- (d) for a metro township, the person described in Subsection (1)(a) for the county in

which the metro township is located.

(2) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(5) "Initial fiscal impact estimate" means:

- (a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or
- (b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

(6) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(7) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(8) "Legal signatures" means the number of signatures of legal voters that:

- (a) meet the numerical requirements of this chapter; and
- (b) have been certified and verified as provided in this chapter.

(9) "Legal voter" means a person who:

- (a) is registered to vote; or
- (b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

SB0150S01 compared with SB0150

(10) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(11) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(12) (a) "Local law" includes an ordinance, resolution, master plan, and any comprehensive zoning regulation adopted by ordinance or resolution.

(b) "Local law" does not include an individual property zoning decision.

(13) "Local legislative body" means the legislative body of a county, city, ~~or~~ town, or metro township.

(14) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(15) "Local tax law" means a local law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(16) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(17) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(18) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(19) (a) "Signature" means a holographic signature.

(b) "Signature" does not mean an electronic signature.

(20) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

(21) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

(22) "Sufficient" means that the signatures submitted in support of an initiative or referendum petition have been certified and verified as required by this chapter.

(23) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section ~~(24)~~20. Section **20A-7-501** is amended to read:

SB0150S01 compared with SB0150

20A-7-501. Initiatives.

(1) (a) Except as provided in Subsection (1)(b), a person seeking to have an initiative submitted to a local legislative body or to a vote of the people for approval or rejection shall obtain legal signatures equal to:

(i) 10% of all the votes cast in the county, city, [or] town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes exceeds 25,000;

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

(iii) 15% of all the votes cast in the county, city, [or] town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 10,000 but is more than 2,500;

(iv) 20% of all the votes cast in the county, city, [or] town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 2,500 but is more than 500;

(v) 25% of all the votes cast in the county, city, [or] town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 500 but is more than 250; and

(vi) 30% of all the votes cast in the county, city, [or] town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 250.

(b) In addition to the signature requirements of Subsection (1)(a), a person seeking to have an initiative submitted to a local legislative body or to a vote of the people for approval or rejection in a county, city, [or] town, or metro township where the local legislative body is elected from council districts shall obtain, from each of a majority of council districts, legal signatures equal to the percentages established in Subsection (1)(a).

SB0150S01 compared with SB0150

(2) If the total number of certified names from each verified signature sheet equals or exceeds the number of names required by this section, the clerk or recorder shall deliver the proposed law to the local legislative body at its next meeting.

(3) (a) The local legislative body shall either adopt or reject the proposed law without change or amendment within 30 days of receipt of the proposed law.

(b) The local legislative body may:

(i) adopt the proposed law and refer it to the people;

(ii) adopt the proposed law without referring it to the people; or

(iii) reject the proposed law.

(c) If the local legislative body adopts the proposed law but does not refer it to the people, it is subject to referendum as with other local laws.

(d) (i) If a county legislative body rejects a proposed county ordinance or amendment, or takes no action on it, the county clerk shall submit it to the voters of the county at the next regular general election immediately after the petition is filed under Section 20A-7-502.

(ii) If a local legislative body rejects a proposed municipal ordinance or amendment, or takes no action on it, the municipal recorder or clerk shall submit it to the voters of the municipality at the next municipal general election immediately after the petition is filed under Section 20A-7-502.

(e) (i) If the local legislative body rejects the proposed ordinance or amendment, or takes no action on it, the local legislative body may adopt a competing local law.

(ii) The local legislative body shall prepare and adopt the competing local law within the 30 days allowed for its action on the measure proposed by initiative petition.

(iii) If the local legislative body adopts a competing local law, the clerk or recorder shall submit it to the voters of the county or municipality at the same election at which the initiative proposal is submitted.

(f) If conflicting local laws are submitted to the people at the same election and two or more of the conflicting measures are approved by the people, then the measure that receives the greatest number of affirmative votes shall control all conflicts.

Section ~~25~~21. Section **32B-1-102** is amended to read:

32B-1-102. Definitions.

As used in this title:

SB0150S01 compared with SB0150

(1) "Airport lounge" means a business location:

- (a) at which an alcoholic product is sold at retail for consumption on the premises; and
- (b) that is located at an international airport with a United States Customs office on the

premises of the international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

- (a) beer; or
- (b) liquor.

(4) (a) "Alcoholic product" means a product that:

- (i) contains at least .5% of alcohol by volume; and
- (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

- (i) except as provided in Subsection (4)(d), an extract;
- (ii) vinegar;
- (iii) cider;
- (iv) essence;
- (v) tincture;
- (vi) food preparation; or
- (vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

- (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- (b) described in Section 62A-15-401.

(6) "Banquet" means an event:

- (a) that is held at one or more designated locations approved by the commission in or

SB0150S01 compared with SB0150

on the premises of a:

- (i) hotel;
- (ii) resort facility;
- (iii) sports center; or
- (iv) convention center;
- (b) for which there is a contract:
 - (i) between a person operating a facility listed in Subsection (6)(a) and another person;

and

(ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and

(c) at which food and alcoholic products may be sold, offered for sale, or furnished.

(7) (a) "Bar" means a surface or structure:

- (i) at which an alcoholic product is:
 - (A) stored; or
 - (B) dispensed; or
- (ii) from which an alcoholic product is served.

(b) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

- (i) stored; or
- (ii) dispensed.

(8) (a) Subject to Subsection (8)(d), "beer" means a product that:

(i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Beer" may or may not contain hops or other vegetable products.

(c) "Beer" includes a product that:

(i) contains alcohol in the percentages described in Subsection (8)(a); and

(ii) is referred to as:

- (A) beer;
- (B) ale;
- (C) porter;

SB0150S01 compared with SB0150

(D) stout;

(E) lager; or

(F) a malt or malted beverage.

(d) "Beer" does not include a flavored malt beverage.

(9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(10) "Beer retailer" means a business:

(a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) to whom a license is issued:

(i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(11) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(12) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(13) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(14) "Brewery manufacturing license" means a license issued in accordance with

SB0150S01 compared with SB0150

Chapter 11, Part 5, Brewery Manufacturing License.

(15) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(16) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

- (a) under a single contract;
- (b) at a fixed charge in accordance with the bus company's tariff; and
- (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(17) "Church" means a building:

- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.

(18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License.

(b) "Club license" includes:

- (i) a dining club license;
- (ii) an equity club license;
- (iii) a fraternal club license; or
- (iv) a social club license.

(19) "Commission" means the Alcoholic Beverage Control Commission created in Section 32B-2-201.

(20) "Commissioner" means a member of the commission.

(21) "Community location" means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.

(22) "Community location governing authority" means:

SB0150S01 compared with SB0150

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(23) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(24) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a surface or structure if on or at any point of the surface or structure an alcoholic product is:

(i) stored; or

(ii) dispensed.

(26) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.

(27) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(28) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(29) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a dining club license.

(30) "Director," unless the context requires otherwise, means the director of the department.

(31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

SB0150S01 compared with SB0150

- (a) against a person subject to administrative action; and
- (b) that is brought on the basis of a violation of this title.

(32) (a) Subject to Subsection (32)(b), "dispense" means:

(i) drawing of an alcoholic product:

(A) from an area where it is stored; or

(B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii),

32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

(ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (32) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license; and

(iv) a beer-only restaurant license.

(33) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(34) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(35) "Educational facility" includes:

(a) a nursery school;

(b) an infant day care center; and

(c) a trade and technical school.

(36) "Equity club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an equity club license.

(37) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

(38) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of a retail license that the commission may issue at

SB0150S01 compared with SB0150

any time.

(39) (a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and

(iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) "Flavored malt beverage" is considered liquor for purposes of this title.

(40) "Fraternal club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a fraternal club license.

(41) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(42) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(43) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(44) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

SB0150S01 compared with SB0150

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(45) (a) "Heavy beer" means a product that:

(i) contains more than 4% alcohol by volume; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Heavy beer" is considered liquor for the purposes of this title.

(46) "Hotel" is as defined by the commission by rule.

(47) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(48) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(49) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(50) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

SB0150S01 compared with SB0150

(a) law; or

(b) court order.

(51) "Intoxicated" means that a person:

(a) is significantly impaired as to the person's mental or physical functions as a result of the use of:

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections (51)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

(52) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(53) "Invitee" [~~is as~~] means the same as that term is defined in Section 32B-8-102.

(54) "License" means:

(a) a retail license;

(b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

or

(d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

(55) "Licensee" means a person who holds a license.

(56) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(57) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

SB0150S01 compared with SB0150

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(58) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(59) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(60) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(61) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county; or

(b) for premises that are located in an incorporated city [~~or a~~], town, or metro township, the governing body of the city [~~or~~], town, or metro township.

(62) "Lounge or bar area" is as defined by rule made by the commission.

(63) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(64) "Member" means an individual who, after paying regular dues, has full privileges in an equity club licensee or fraternal club licensee.

(65) (a) "Military installation" means a base, air field, camp, post, station, yard, center,

SB0150S01 compared with SB0150

or homeport facility for a ship:

- (i) (A) under the control of the United States Department of Defense; or
- (B) of the National Guard;
- (ii) that is located within the state; and
- (iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

- (i) civil works;
- (ii) a rivers and harbors project; or
- (iii) a flood control project.

(66) "Minor" means an individual under the age of 21 years.

(67) "Nondepartment enforcement agency" means an agency that:

- (a) (i) is a state agency other than the department; or
- (ii) is an agency of a county, city, [or] town, or metro township; and
- (b) has a responsibility to enforce one or more provisions of this title.

(68) "Nondepartment enforcement officer" means an individual who is:

- (a) a peace officer, examiner, or investigator; and
- (b) employed by a nondepartment enforcement agency.

(69) (a) "Off-premise beer retailer" means a beer retailer who is:

- (i) licensed in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local

Authority; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(70) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(71) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

SB0150S01 compared with SB0150

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(72) "Opaque" means impenetrable to sight.

(73) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(74) "Package agent" means a person who holds a package agency.

(75) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort;

(g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102;

or

(h) an invitee.

(76) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(77) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

SB0150S01 compared with SB0150

- (d) a supplier;
- (e) an importer;
- (f) one of the following holding a certificate of approval:
 - (i) an out-of-state brewer;
 - (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- (g) staff of:
 - (i) a person listed in Subsections (77)(a) through (f); or
 - (ii) a package agent.

(78) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(79) "Prescription" means an order issued by a health care practitioner when:

- (a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;
- (b) the order is made in the course of that health care practitioner's professional practice; and
- (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(80) (a) "Private event" means a specific social, business, or recreational event:

- (i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and
- (ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(81) (a) "Proof of age" means:

- (i) an identification card;
- (ii) an identification that:
 - (A) is substantially similar to an identification card;
 - (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

SB0150S01 compared with SB0150

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act; or

(II) in accordance with the laws of the state in which it is issued;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with

Section 53-3-207.

(82) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(83) "Public conveyance" means a conveyance to which the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(84) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection

SB0150S01 compared with SB0150

(84)(a) to a third party for the third party's event.

(85) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(86) (a) "Record" means information that is:

- (i) inscribed on a tangible medium; or
- (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

- (i) a book;
- (ii) a book of account;
- (iii) a paper;
- (iv) a contract;
- (v) an agreement;
- (vi) a document; or
- (vii) a recording in any medium.

(87) "Residence" means a person's principal place of abode within Utah.

(88) "Resident," in relation to a resort, [~~is as~~] means the same as that term is defined in Section 32B-8-102.

(89) "Resort" [~~is as~~] means the same as that term is defined in Section 32B-8-102.

(90) "Resort facility" is as defined by the commission by rule.

(91) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(92) "Restaurant" means a business location:

- (a) at which a variety of foods are prepared;
- (b) at which complete meals are served to the general public; and
- (c) that is engaged primarily in serving meals to the general public.

(93) "Retail license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;
- (b) a master full-service restaurant license;
- (c) a limited-service restaurant license;
- (d) a master limited-service restaurant license;
- (e) a club license;

SB0150S01 compared with SB0150

- (f) an airport lounge license;
- (g) an on-premise banquet license;
- (h) an on-premise beer license;
- (i) a reception center license; or
- (j) a beer-only restaurant license.

(94) "Room service" means furnishing an alcoholic product to a person in a guest room of a:

- (a) hotel; or
- (b) resort facility.

~~[(96)]~~ (95) (a) "School" means a building used primarily for the general education of minors.

- (b) "School" does not include an educational facility.

~~[(97)]~~ (96) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

~~[(95)]~~ (97) "Serve" means to place an alcoholic product before an individual.

(98) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

- (a) for the entertainment of one or more patrons;
- (b) on the premises of:
 - (i) a social club licensee; or
 - (ii) a tavern;
- (c) on behalf of or at the request of the licensee described in Subsection (98)(b);
- (d) on a contractual or voluntary basis; and
- (e) whether or not the person is designated as:
 - (i) an employee;
 - (ii) an independent contractor;
 - (iii) an agent of the licensee; or
 - (iv) a different type of classification.

SB0150S01 compared with SB0150

(99) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(100) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

(101) "Social club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a social club license.

(102) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(103) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

(104) "Sports center" is as defined by the commission by rule.

(105) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

(106) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

SB0150S01 compared with SB0150

- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus; or
- (b) a state of dress that fails to opaquely cover:
 - (i) the nipple or areola of a female human breast;
 - (ii) a human genital;
 - (iii) a human pubic area; or
 - (iv) a human anus.

(107) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

- (a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and
- (b) the human genitals, pubic area, and anus:
 - (i) with no less than the following at its widest point:
 - (A) four inches coverage width in the front of the human body; and
 - (B) five inches coverage width in the back of the human body; and
 - (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(108) (a) "State store" means a facility for the sale of packaged liquor:

- (i) located on premises owned or leased by the state; and
- (ii) operated by a state employee.
- (b) "State store" does not include:
 - (i) a package agency;
 - (ii) a licensee; or
 - (iii) a permittee.

(109) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product from which a person draws to prepare an alcoholic product to be furnished to a patron, except as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii).

(110) "Sublicense" [~~is as~~] means the same as that term is defined in Section 32B-8-102.

SB0150S01 compared with SB0150

(111) "Supplier" means a person who sells an alcoholic product to the department.

(112) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(113) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(114) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(115) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(116) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(117) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not

SB0150S01 compared with SB0150

another ingredient is added.

(b) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(118) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section ~~26~~22. Section **32B-1-202** is amended to read:

32B-1-202. Proximity to community location.

(1) For purposes of this section, "outlet" means:

- (a) a state store;
- (b) a package agency; or
- (c) a retail licensee, except an airport lounge licensee.

(2) Except as otherwise provided in this section, the premises of an outlet may not be located:

(a) within 600 feet of a community location, as measured from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(b) within 200 feet of a community location, measured in a straight line from the nearest entrance of the outlet to the nearest property boundary of the community location.

(3) With respect to the location of an outlet, the commission may authorize a variance to reduce the proximity requirement of Subsection (2) if:

(a) when the variance reduces the proximity requirement of Subsection (2)(b), the community location at issue is:

- (i) a public library; or
- (ii) a public park;

(b) except with respect to a state store, the local authority gives its written consent to the variance;

(c) the commission finds that alternative locations for locating that type of outlet in the community are limited;

(d) a public hearing is held in the city, town, metro township, or county, and when practical in the neighborhood concerned;

(e) after giving full consideration to the attending circumstances and the policies stated

SB0150S01 compared with SB0150

in Subsections 32B-1-103(3) and (4), the commission determines that locating the outlet in that location would not be detrimental to the public health, peace, safety, and welfare of the community;

(f) (i) the community location governing authority gives its written consent to the variance; or

(ii) if the community location governing authority does not give its written consent to a variance, the commission finds the following for a state store, or if the outlet is a package agency or retail licensee, the commission finds that the applicant establishes the following:

(A) there is substantial unmet public demand to consume an alcoholic product:

(I) within the geographic boundary of the local authority in which the outlet is to be located; and

(II) for an outlet that is a retail licensee, in a public setting;

(B) there is no reasonably viable alternative for satisfying the substantial unmet demand other than through locating that type of outlet in that location; and

(C) there is no reasonably viable alternative location within the geographic boundary of the local authority in which the outlet is to be located for locating that type of outlet to satisfy the unmet demand.

(4) With respect to the premises of a package agency or retail licensee that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsection (2) in considering whether to issue the package agency or same type of retail license to the new owner of the premises if:

(a) the premises previously received a variance reducing the proximity requirement of Subsection (2)(a);

(b) the premises received a variance reducing the proximity requirement of Subsection (2)(b) on or before May 4, 2008; or

(c) a variance from proximity requirements was otherwise allowed under this title.

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

Section ~~27~~23. Section **32B-2-402** is amended to read:

32B-2-402. Definitions -- Calculations.

SB0150S01 compared with SB0150

(1) As used in this part:

(a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.

(b) "Advisory council" means the Utah Substance Abuse Advisory Council created in Section 63M-7-301.

(c) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6a-510(1); or

(II) Section 76-5-207; or

(ii) an offense involving the illegal:

(A) sale of an alcoholic product;

(B) consumption of an alcoholic product;

(C) distribution of an alcoholic product;

(D) transportation of an alcoholic product; or

(E) possession of an alcoholic product.

(d) "Annual conviction time period" means the time period that:

(i) begins on July 1 and ends on June 30; and

(ii) immediately precedes the fiscal year for which an appropriation under this part is made.

(e) "Municipality" means:

(i) a city; ~~or~~

(ii) a town~~[-]; or~~

(iii) a metro township.

(f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Substance Abuse and Mental Health within the Department of Human Services.

(ii) In defining the term "prevention," the Division of Substance Abuse and Mental Health shall:

(A) include only evidence-based or evidence-informed programs; and

SB0150S01 compared with SB0150

(B) provide for coordination with local substance abuse authorities designated to provide substance abuse services in accordance with Section 17-43-201.

(2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:

(a) is the number determined by the department to be so located;

(b) includes the aggregate number of premises of the following:

(i) a state store;

(ii) a package agency; and

(iii) a retail licensee; and

(c) for a county, consists only of the number located within an unincorporated area of the county.

(3) The department shall determine:

(a) a population figure according to the most current population estimate prepared by the Utah Population Estimates Committee;

(b) a county's population for the 25% distribution to municipalities and counties under Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and

(c) a county's population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.

(4) (a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.

(b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

Section ~~28~~24. Section **32B-4-202** is amended to read:

32B-4-202. Duties to enforce this title.

(1) It is the duty of the following to diligently enforce this title in their respective capacities:

(a) the governor;

(b) a commissioner;

(c) the director;

SB0150S01 compared with SB0150

(d) an official, inspector, or department employee;
(e) a prosecuting official of the state or its political subdivisions;
(f) a county, city, ~~or~~ town, or metro township;
(g) a peace officer, sheriff, deputy sheriff, constable, marshal, or law enforcement official;

(h) a state health official; and

(i) a clerk of the court.

(2) Immediately upon conviction of a person for violation of this title or of a local ordinance relating to an alcoholic product, it is the duty of the clerk of the court to notify the department of the conviction in writing on forms supplied by the department.

Section ~~{29}~~25. Section **32B-5-403** is amended to read:

32B-5-403. Alcohol training and education -- Revocation, suspension, or nonrenewal of retail license.

(1) The commission may suspend, revoke, or not renew a license of a retail licensee if any of the following individuals, as defined in Section 62A-15-401, fail to complete an alcohol training and education seminar:

(a) an individual who manages operations at the licensed premises for consumption on the licensed premises;

(b) an individual who supervises the furnishing of an alcoholic product to a patron for consumption on the licensed premises; or

(c) an individual who serves an alcoholic product to a patron for consumption on the licensed premises.

(2) A city, town, metro township, or county in which a retail licensee conducts its business may suspend, revoke, or not renew the business license of the retail licensee if an individual described in Subsection (1) fails to complete an alcohol training and education seminar.

(3) A local authority that issues an off-premise beer retailer license to a business that is engaged in the retail sale of beer for consumption off the beer retailer's premises may immediately suspend the off-premise beer retailer license if any of the following individuals fails to complete an alcohol training and education seminar, an individual who:

(a) directly supervises the sale of beer to a patron for consumption off the premises of

SB0150S01 compared with SB0150

the off-premise beer retailer; or

(b) sells beer to a patron for consumption off the premises of the off-premise beer retailer.

Section ~~30~~26. Section **52-1-1** is amended to read:

52-1-1. Official bonds to run to state, county, municipality, or other agency.

When the law directs that a public officer shall give a bond without prescribing to whom it shall run it shall be made, if [he] the public officer is a state officer, to the state; if a county, precinct or district officer, to the county; if a municipal officer, to the city [or], town, or metro township; and if a school officer, to the board of education.

Section ~~31~~27. Section **52-1-5.1** is enacted to read:

52-1-5.1. Metro township officers -- Where filed.

Official oaths and bonds of metro township officers shall be filed with the county clerk.

Section ~~32~~28. Section **63G-6a-103** is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

- (1) "Bidder" means a person who responds to an invitation for bids.
- (2) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.
- (3) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.
- (4) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).
- (5) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:
 - (a) except:
 - (i) reviewing a solicitation to verify that it is in proper form; and
 - (ii) causing the publication of a notice of a solicitation; and
 - (b) including:
 - (i) preparing any solicitation document;

SB0150S01 compared with SB0150

- (ii) appointing an evaluation committee;
 - (iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(5)(b) relating to scores calculated for costs of proposals;
 - (iv) selecting and recommending the person to be awarded a contract;
 - (v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and
 - (vi) administering a contract.
- (6) (a) "Construction" means the process of building, renovating, altering, improving, or repairing a public building or public work.
- (b) "Construction" does not include the routine operation, routine repair, or routine maintenance of an existing structure, building, or real property.
- (7) (a) "Construction manager/general contractor" means a contractor who enters into a contract for the management of a construction project when the contract allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services.
- (b) "Construction manager/general contractor" does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.
- (8) "Contract" means an agreement for the procurement or disposal of a procurement item.
- (9) "Contractor" means a person who is awarded a contract with a procurement unit.
- (10) "Cooperative procurement" means procurement conducted by, or on behalf of:
- (a) more than one procurement unit; or
 - (b) a procurement unit and a cooperative purchasing organization.
- (11) "Cost-plus-a-percentage-of-cost contract" means a contract where the contractor is paid a percentage over and above the contractor's actual expenses or costs.
- (12) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.
- (13) "Days" means calendar days, unless expressly provided otherwise.

SB0150S01 compared with SB0150

(14) "Definite quantity contract" means a fixed price contract that provides for the supply of a specified amount of goods over a specified period, with deliveries scheduled according to a specified schedule.

(15) "Design-build" means the procurement of design professional services and construction by the use of a single contract with the design-build provider.

(16) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act; or

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(17) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102; or

(c) master planning and programming services.

(18) "Directed procurement" means a procurement of a procurement item in which the source of the funds used to procure the procurement item:

(a) directs from whom the procurement item is to be procured; or

(b) imposes requirements on how the procurement is to be administered.

(19) "Director" means the director of the division.

(20) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(21) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

SB0150S01 compared with SB0150

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(22) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(23) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(24) "Head of a procurement unit" means:

(a) as it relates to a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) as it relates to an executive branch procurement unit:

(i) the director of a division; or

(ii) any other person designated by the board, by rule;

(c) as it relates to a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) as it relates to a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) as it relates to a local district, the board of trustees of the local district or a designee of the board of trustees;

(f) as it relates to a special service district, the governing body of the special service district or a designee of the governing body;

(g) as it relates to a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) as it relates to a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

SB0150S01 compared with SB0150

(i) as it relates to a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) as it relates to a school district or any school or entity within a school district, the board of the school district, or the board's designee;

(k) as it relates to a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;

(l) as it relates to an institution of higher education of the state, the president of the institution of higher education, or the president's designee; or

(m) as it relates to a public transit district, the board of trustees or a designee of the board of trustees.

(25) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(26) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

(27) "Invitation for bids" includes all documents, including documents that are attached or incorporated by reference, used for soliciting bids to provide a procurement item to a procurement unit.

(28) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates the terms and conditions of a contract.

(29) "Labor hour contract" is a contract where:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(30) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one bidder or offeror.

(31) "Multiyear contract" means a contract that extends beyond a one-year period,

SB0150S01 compared with SB0150

including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(32) "Municipality" means a city [~~or a~~], town, or metro township.

(33) "Offeror" means a person who responds to a request for proposals.

(34) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(35) "Procure" means to acquire a procurement item through a procurement.

(36) "Procurement":

(a) means an expenditure of public funds, or an agreement to expend public funds, in exchange for a procurement item;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) the description of requirements;

(ii) the selection process;

(iii) solicitation of sources;

(iv) the preparation for soliciting a procurement item; and

(v) the award of a contract; and

(c) does not include a grant.

(37) "Procurement item" means a supply, a service, construction, or technology.

(38) "Procurement officer" means:

(a) as it relates to a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to the division or a procurement unit without independent procurement authority, the chief procurement officer.

(39) "Professional service" means a service that requires a high degree of specialized knowledge and discretion in the performance of the service, including:

(a) legal services;

(b) consultation services;

(c) architectural services;

SB0150S01 compared with SB0150

- (d) engineering;
- (e) design;
- (f) underwriting;
- (g) bond counsel;
- (h) financial advice;
- (i) construction management;
- (j) medical services;
- (k) psychiatric services; or
- (l) counseling services.

(40) "Protest officer" means:

(a) as it relates to the division or a procurement unit with independent procurement authority:

- (i) the head of the procurement unit;
- (ii) a designee of the head of the procurement unit; or
- (iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee.

(41) "Request for information" means a nonbinding process where a procurement unit requests information relating to a procurement item.

(42) "Request for proposals" includes all documents, including documents that are attached or incorporated by reference, used for soliciting proposals to provide a procurement item to a procurement unit.

(43) "Request for statement of qualifications" means all documents used to solicit information about the qualifications of the person interested in responding to a potential procurement, including documents attached or incorporated by reference.

(44) "Requirements contract" means a contract:

(a) where a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

- (i) does not require a minimum purchase amount; or
- (ii) provides a maximum purchase limit.

SB0150S01 compared with SB0150

(45) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(46) "Responsive" means conforming in all material respects to the invitation for bids or request for proposals.

(47) "Sealed" means manually or electronically sealed and submitted bids or proposals.

(48) (a) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than a report that is incidental to the required performance.

(b) "Services" does not include an employment agreement or a collective bargaining agreement.

(49) "Sole source contract" means a contract resulting from a sole source procurement.

(50) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(2)(a) that there is only one source for the procurement item.

(51) "Solicitation" means an invitation for bids, request for proposals, notice of a sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into a procurement contract.

(52) "Specification" means any description of the physical or functional characteristics, or nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(53) "Standard procurement process" means one of the following methods of obtaining a procurement item:

(a) bidding, as described in Part 6, Bidding;

(b) request for proposals, as described in Part 7, Request for Proposals; or

(c) small purchases, in accordance with the requirements established under Section 63G-6a-408.

SB0150S01 compared with SB0150

(54) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(55) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(56) (a) "Subcontractor" means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction.

(b) "Subcontractor" includes a trade contractor or specialty contractor.

(c) "Subcontractor" does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

(57) "Supplies" means all property, including equipment, materials, and printing.

(58) "Tie bid" means that the lowest responsive and responsible bids are identical in price.

(59) "Time and materials contract" means a contract where the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

Section ~~{33}~~29. Section **63I-1-220** is amended to read:

63I-1-220. Repeal dates, Title 20A.

On January 1, 2017:

(1) Subsection 20A-1-102[~~(54)~~](55) is repealed.

(2) Subsection 20A-2-102.5(1) the language that states "20A-4-108, or" is repealed.

[~~(3)~~ Subsection 20A-2-201(3) the language that states "Except as provided in Subsection 20A-4-108(5)," is repealed.]

[~~(4)~~ (3) Subsection 20A-2-202(3)(a) the language that states "Except as provided in Subsection 20A-4-108(6)," is repealed.

[~~(5)~~ (4) Subsection 20A-2-204(5)(a) the language that states "Except as provided in Subsection 20A-4-108(7)," is repealed.

[~~(6)~~ (5) Subsection 20A-2-205(7)(a) the language that states "Except as provided in Subsection 20A-4-108(8)," is repealed.

[~~(7)~~ (6) Subsection 20A-2-206(8)[~~(b)~~](c) the language that states "Except as provided

SB0150S01 compared with SB0150

in Subsection 20A-4-108(9)," is repealed.

~~[(8)]~~ (7) Subsection 20A-2-307(2)(a) is repealed.

~~[(9)]~~ (8) Subsection 20A-4-107(2)(b) the language that states "Except as provided in Subsection 20A-4-108(10)," is repealed.

~~[(10)]~~ (9) Subsection 20A-4-107(3) the language that states "or if the voter is, in accordance with the pilot project, registered to vote under Subsection 20A-4-108(10)," is repealed.

~~[(11)]~~ (10) Subsection 20A-4-107(4) the language that states "Except as provided in Subsection 20A-4-108(12)," is repealed.

~~[(12)]~~ (11) Section 20A-4-108 is repealed.

†

Legislative Review Note

~~Office of Legislative Research and General Counsel~~