

**Senator Karen Mayne** proposes the following substitute bill:

**METRO TOWNSHIP AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karen Mayne**

House Sponsor: Eric K. Hutchings

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**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:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-2a-405**, as enacted by Laws of Utah 2015, Chapter 352



- 26 [10-3c-103](#), as enacted by Laws of Utah 2015, Chapter 352
- 27 [10-3c-203](#), as enacted by Laws of Utah 2015, Chapter 352
- 28 [11-14-102](#), as last amended by Laws of Utah 2008, Chapter 360
- 29 [11-17-2](#), as last amended by Laws of Utah 2013, Chapter 345
- 30 [11-39-101](#), as last amended by Laws of Utah 2012, Chapter 347
- 31 [11-41-102](#), as last amended by Laws of Utah 2008, Chapters 286 and 384
- 32 [17B-1-102](#), as last amended by Laws of Utah 2015, Chapter 352
- 33 [17B-1-502](#), as last amended by Laws of Utah 2015, Chapter 352
- 34 [17B-1-1308](#), as last amended by Laws of Utah 2009, Chapter 350
- 35 [17B-2a-1106](#), as last amended by Laws of Utah 2015, Chapter 352
- 36 [17B-2a-1110](#), as enacted by Laws of Utah 2015, Chapter 352
- 37 [17B-2a-1111](#), as enacted by Laws of Utah 2015, Chapter 352
- 38 [20A-1-102](#), as last amended by Laws of Utah 2015, Chapters 296, 352, and 392
- 39 [20A-5-301](#), as last amended by Laws of Utah 2007, Chapter 256
- 40 [20A-6-401](#), as last amended by Laws of Utah 2012, Chapter 68
- 41 [20A-6-402](#), as last amended by Laws of Utah 2014, Chapter 169
- 42 [20A-7-101](#), as last amended by Laws of Utah 2014, Chapters 364 and 396
- 43 [20A-7-501](#), as last amended by Laws of Utah 2011, Chapter 17
- 44 [32B-1-102](#), as last amended by Laws of Utah 2013, Chapter 349
- 45 [32B-1-202](#), as enacted by Laws of Utah 2010, Chapter 276
- 46 [32B-2-402](#), as last amended by Laws of Utah 2014, Chapter 119
- 47 [32B-4-202](#), as enacted by Laws of Utah 2010, Chapter 276
- 48 [32B-5-403](#), as enacted by Laws of Utah 2010, Chapter 276
- 49 [52-1-1](#), Utah Code Annotated 1953
- 50 [63G-6a-103](#), as last amended by Laws of Utah 2015, Chapters 218 and 464
- 51 [63I-1-220](#), as last amended by Laws of Utah 2014, Chapter 231

52 ENACTS:

- 53 [10-2a-414](#), Utah Code Annotated 1953
- 54 [52-1-5.1](#), Utah Code Annotated 1953



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

57 Section 1. Section **10-2a-405** is amended to read:

58 **10-2a-405. Duties of county legislative body -- Public hearing -- Notice -- Other**  
59 **election and incorporation issues -- Rural real property excluded.**

60 (1) The legislative body of a county of the first class shall before an election described  
61 in Section [10-2a-404](#):

62 (a) in accordance with Subsection (3), publish notice of the public hearing described in  
63 Subsection (1)(b);

64 (b) hold a public hearing; and

65 (c) at the public hearing, adopt a resolution:

66 (i) identifying, including a map prepared by the county surveyor, all unincorporated  
67 islands within the county;

68 (ii) identifying each eligible city that will annex each unincorporated island, including  
69 whether the unincorporated island may be annexed by one eligible city or divided and annexed  
70 by multiple eligible cities, if approved by the residents at an election under Section [10-2a-404](#);  
71 and

72 (iii) identifying, including a map prepared by the county surveyor, the planning  
73 townships within the county and any changes to the boundaries of a planning township that the  
74 county legislative body proposes under Subsection (5).

75 (2) The county legislative body shall exclude from a resolution adopted under  
76 Subsection (1)(c) rural real property unless the owner of the rural real property provides written  
77 consent to include the property in accordance with Subsection [~~(6)~~] (7).

78 (3) (a) The county clerk shall publish notice of the public hearing described in  
79 Subsection (1)(b):

80 (i) by mailing notice to each owner of real property located in an unincorporated island  
81 or planning township no later than 15 days before the day of the public hearing;

82 (ii) at least once a week for three successive weeks in a newspaper of general  
83 circulation within each unincorporated island, each eligible city, and each planning township;  
84 and

85 (iii) on the Utah Public Notice Website created in Section [63F-1-701](#), for three weeks  
86 before the day of the public hearing.

87 (b) The last publication of notice required under Subsection (3)(a)(ii) shall be at least

88 three days before the first public hearing required under Subsection (1)(b).

89 (c) (i) If, under Subsection (3)(a)(ii), there is no newspaper of general circulation  
90 within an unincorporated island, an eligible city, or a planning township, the county clerk shall  
91 post at least one notice of the hearing per 1,000 population in conspicuous places within the  
92 selected unincorporated island, eligible city, or planning township, as applicable, that are most  
93 likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or  
94 planning township.

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

97 (d) The notice under Subsection (3)(a) or (c) shall include:

98 (i) (A) for a resident of an unincorporated island, a statement that the property in the  
99 unincorporated island may be, if approved at an election under Section 10-2a-404, annexed by  
100 an eligible city, including divided and annexed by multiple cities if applicable, and the name of  
101 the eligible city or cities; or

102 (B) for residents of a planning township, a statement that the property in the planning  
103 township shall be, pending the results of the election held under Section 10-2a-404,  
104 incorporated as a city, town, or metro township;

105 (ii) the location and time of the public hearing; and

106 (iii) the county website where a map may be accessed showing:

107 (A) how the unincorporated island boundaries will change if annexed by an eligible  
108 city; or

109 (B) how the planning township area boundaries will change, if applicable under  
110 Subsection (5), when the planning township incorporates as a metro township or as a city or  
111 town.

112 (e) The county clerk shall publish a map described in Subsection (3)(d)(iii) on the  
113 county website.

114 (4) The county legislative body may, by ordinance or resolution adopted at a public  
115 meeting and in accordance with applicable law, resolve an issue that arises with an election  
116 held in accordance with this part or the incorporation and establishment of a metro township in  
117 accordance with this part.

118 (5) (a) The county legislative body may, by ordinance or resolution adopted at a public

119 meeting, change the boundaries of a planning township.

120 (b) A change to a planning township boundary under this Subsection (5) is effective  
121 only upon the vote of the residents of the planning township at an election under Section  
122 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the  
123 boundaries of the planning township before the election.

124 (c) The county legislative body:

125 (i) may alter a planning township boundary under Subsection (5)(a) only if the  
126 alteration:

127 (A) affects less than 5% of the residents residing within the planning advisory area; and

128 (B) does not increase the area located within the planning township's boundaries; and

129 (ii) may not alter the boundaries of a planning township whose boundaries are entirely  
130 surrounded by one or more municipalities.

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

134 [~~(6)~~] (7) (a) As used in this Subsection [~~(6)~~] (7), "rural real property" means an area:

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

136 (ii) that does not include residential units with a density greater than one unit per acre.

137 (b) Unless an owner of rural real property gives written consent to a county legislative  
138 body, rural real property described in Subsection [~~(6)~~] (7)(c) may not be:

139 (i) included in a planning township identified under Subsection (1)(c); or

140 (ii) incorporated as part of a metro township, city, or town, in accordance with this  
141 part.

142 (c) The following rural real property is subject to an owner's written consent under  
143 Subsection [~~(6)~~] (7)(b):

144 (i) rural real property that consists of 1,500 or more contiguous acres of real property  
145 consisting of one or more tax parcels;

146 (ii) rural real property that is not contiguous to, but used in connection with, rural real  
147 property that consists of 1,500 or more contiguous acres of real property consisting of one or  
148 more tax parcels;

149 (iii) rural real property that is owned, managed, or controlled by a person, company, or

150 association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more  
151 contiguous acres of rural real property consisting of one or more tax parcels; or

152 (iv) rural real property that is located in whole or in part in one of the following as  
153 defined in Section 17-41-101:

- 154 (A) an agricultural protection area;
- 155 (B) an industrial protection area; or
- 156 (C) a mining protection area.

157 Section 2. Section 10-2a-414 is enacted to read:

158 **10-2a-414. Transition -- Continuity of county process.**

159 When a metro township is incorporated:

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

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

165 (3) each county ordinance in effect on the day on which the metro township is  
166 incorporated shall remain in effect as a metro township ordinance until the metro township  
167 council amends or repeals the ordinance.

168 Section 3. Section 10-3c-103 is amended to read:

169 **10-3c-103. Status and powers.**

170 A metro township:

171 (1) is:

172 (a) a body corporate and politic with perpetual succession;

173 (b) a [~~quasi-municipal~~] municipal corporation; and

174 (c) a political subdivision of the state; and

175 (2) may:

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

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

179 Section 4. Section 10-3c-203 is amended to read:

180 **10-3c-203. Administrative and operational services -- Staff provided by county or**

181 **municipal services district.**

182 (1) (a) The following officials elected or appointed, or persons employed by, the county  
183 in which a [~~municipality~~] metro township is located shall, for the purposes of interpreting and  
184 complying with applicable law, fulfill the responsibilities and hold the following metro  
185 township offices or positions:

186 (i) the county treasurer shall fulfill the duties and hold the powers of treasurer for the  
187 metro township;

188 (ii) the county clerk shall fulfill the duties and hold the powers of recorder and clerk for  
189 the metro township;

190 (iii) the county surveyor shall fulfill, on behalf of the metro township, all surveyor  
191 duties imposed by law;

192 (iv) the county engineer shall fulfill the duties and hold the powers of engineer for the  
193 metro township; and

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

195 [~~(vi)~~] (v) subject to Subsection (1)(b), the county auditor shall fulfill the duties and  
196 hold the powers of auditor for the metro township.

197 (b) (i) The county auditor shall fulfill the duties and hold the powers of auditor for the  
198 metro township to the extent that the county auditor's powers and duties are described in and  
199 delegated to the county auditor in accordance with Title 17, Chapter 19a, County Auditor, and  
200 a municipal auditor's powers and duties described in this title are the same.

201 (ii) Notwithstanding Subsection (1)(b), in a metro township, services described in  
202 Sections [17-19a-203](#), [17-19a-204](#), and [17-19a-205](#), and services other than those described in  
203 Subsection (1)(b)(i) that are provided by a municipal auditor in accordance with this title that  
204 are required by law, shall be performed by county staff other than the county auditor.

205 (2) (a) Nothing in Subsection (1) may be construed to relieve an official described in  
206 Subsections (1)(a)(i) through (iv) of a duty to either the county or metro township or a duty to  
207 fulfill that official's position as required by law.

208 (b) Notwithstanding Subsection (2)(a), an official or the official's deputy or other  
209 person described in Subsections (1)(a)(i) through (iv):

210 (i) is elected, appointed, or otherwise employed, in accordance with the provisions of  
211 Title 17, Counties, as applicable to that official's or person's county office;

212 (ii) is paid a salary and benefits and subject to employment discipline in accordance  
213 with the provisions of Title 17, Counties, as applicable to that official's or person's county  
214 office;

215 (iii) is not subject to:

216 (A) Chapter 3, Part 11, Personnel Rules and Benefits; or

217 (B) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; and

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

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

222 [~~3~~] (4) The metro township may establish a planning commission in accordance with  
223 Section 10-9a-301 and an appeal authority in accordance with Section 10-9a-701.

224 [~~4~~] (5) A municipal services district established in accordance with Title 17B,  
225 Chapter 2a, Part 11, Municipal Services District Act, and of which the metro township is a  
226 part, may provide staff to the metro township planning commission and appeal authority.

227 [~~5~~] (6) (a) This section applies only to a metro township in which:

228 (i) the electors at an election under Section 10-2a-404 chose a metro township that is  
229 included in a municipal services district and has limited municipal powers; or

230 (ii) the metro township subsequently joins a municipal services district.

231 (b) This section does not apply to a metro township described in Subsection [~~5~~] (6)(a)  
232 if the municipal services district is dissolved.

233 Section 5. Section 11-14-102 is amended to read:

234 **11-14-102. Definitions.**

235 For the purpose of this chapter:

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

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

239 (3) "Governing body" means:

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

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



- 243 (c) for a school district, the local board of education; or
- 244 (d) for a special service district under Title 17D, Chapter 1, Special Service District

245 Act:

- 246 (i) the governing body of the county or municipality that created the special service
- 247 district, if no administrative control board has been established under Section 17D-1-301; or
- 248 (ii) the administrative control board, if one has been established under Section
- 249 17D-1-301 and the power to issue bonds not payable from taxes has been delegated to the
- 250 administrative control board.

251 (4) "Local district" means a district operating under Title 17B, Limited Purpose Local

252 Government Entities - Local Districts.

253 (5) (a) "Local political subdivision" means a county, city, town, metro township, school

254 district, local district, or special service district.

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

256 Section 6. Section 11-17-2 is amended to read:

257 **11-17-2. Definitions.**

258 As used in this chapter:

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

260 (2) "Energy efficiency upgrade" means an improvement that is permanently affixed to

261 real property and that is designed to reduce energy consumption, including:

262 (a) insulation in:

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

264 (ii) a heating or cooling distribution system;

265 (b) an insulated window or door, including:

266 (i) a storm window or door;

267 (ii) a multiglazed window or door;

268 (iii) a heat-absorbing window or door;

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

270 (v) additional window or door glazing;

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

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

273 (c) an automatic energy control system;

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

276 (e) caulking or weatherstripping;

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

279 (g) an energy recovery system;

280 (h) a daylighting system;

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

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

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

285 (iii) installation of a rain catchment system; or

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

288 (3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or  
289 state university for the purpose of using a portion, or all or substantially all of the proceeds to  
290 pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the  
291 acquisition of facilities of a project, or to create funds for the project itself where appropriate,  
292 whether these costs are incurred by the municipality, the county, the state university, the user,  
293 or a designee of the user. If title to or in these facilities at all times remains in the user, the  
294 bonds of the municipality or county shall be secured by a pledge of one or more notes,  
295 debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the  
296 sinking fund or other arrangement as in the judgment of the governing body is appropriate for  
297 the purpose of assuring repayment of the bond obligations to investors in accordance with their  
298 terms.

299 (4) "Governing body" means:

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

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

304 (c) for a state university except as provided in Subsection (4)(d), the board or body

305 having the control and supervision of the state university; and

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

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

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

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

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

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

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

327 (10) (a) "Project" means:

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

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

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

335 (C) that is suitable for use by any corporation, person, or entity engaged in health care

336 services, including hospitals, nursing homes, extended care facilities, facilities for the care of  
337 persons with a physical or mental disability, and administrative and support facilities; or

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

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

348 (iii) an energy efficiency upgrade;

349 (iv) a renewable energy system;

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

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

354 (A) municipal or county general fund money;

355 (B) money raised under the taxing power of any county or municipality; or

356 (C) money raised against the general credit of any county or municipality.

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

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

363 (a) a photovoltaic system;

364 (b) a solar thermal system;

365 (c) a wind system;

366 (d) a geothermal system, including:

- 367 (i) a direct-use system; or
- 368 (ii) a ground source heat pump system;
- 369 (e) a micro-hydro system; or
- 370 (f) another renewable energy system approved by the governing body.

371 (12) "State university" means an institution of higher education as described in Section  
372 53B-2-101 and includes any nonprofit corporation or foundation created by and operating  
373 under their authority.

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

377 Section 7. Section 11-39-101 is amended to read:

378 **11-39-101. Definitions.**

379 As used in this chapter:

380 (1) "Bid limit" means:

381 (a) for a building improvement:

382 (i) for the year 2003, \$40,000; and

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

387 (b) for a public works project:

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

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

393 (2) "Building improvement":

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

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

396 (3) "Consumer Price Index" means the Consumer Price Index for All Urban

397 Consumers as published by the Bureau of Labor Statistics of the United States Department of

398 Labor.

399 (4) "Design-build project":

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

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

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

406 (ii) each component of which is competitively bid.

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

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

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

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

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

414 (7) "Governing body" means:

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

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

418 (c) for a special service district:

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

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

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

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

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

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

429 project;

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

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

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

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

438 (12) "Public works project":

439 (a) means the construction of:

440 (i) a park or recreational facility; or

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

443 (b) does not include:

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

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

446 (iii) construction or repair at an international airport.

447 (13) "Special service district" has the same meaning as defined in Section [17D-1-102](#).  
448 Section 8. Section **11-41-102** is amended to read:

449 **11-41-102. Definitions.**

450 As used in this chapter:

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

452 (a) (i) county; or

453 (ii) municipality; and

454 (b) person.

455 (2) "Municipality" means a:

456 (a) city; [or]

457 (b) town[er]; or

458 (c) metro township.

459 (3) "Payment" includes:

- 460 (a) a payment;
- 461 (b) a rebate;
- 462 (c) a refund; or
- 463 (d) an amount similar to Subsections (3)(a) through (c).
- 464 (4) "Regional retail business" means a:
  - 465 (a) retail business that occupies a floor area of more than 80,000 square feet;
  - 466 (b) dealer as defined in Section [41-1a-102](#);
  - 467 (c) retail shopping facility that has at least two anchor tenants if the total number of
  - 468 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
  - 469 feet; or
  - 470 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 471 (5) (a) "Sales and use tax" means a tax:
  - 472 (i) imposed on transactions within a:
    - 473 (A) county; or
    - 474 (B) municipality; and
  - 475 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
  - 476 Sales and Use Tax Act.
- 477 (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax
- 478 authorized under:
  - 479 (i) Subsection [59-12-103](#)(2)(a)(i);
  - 480 (ii) Subsection [59-12-103](#)(2)(b)(i);
  - 481 (iii) Subsection [59-12-103](#)(2)(c)(i);
  - 482 (iv) Subsection [59-12-103](#)(2)(d)(i)(A);
  - 483 (v) Section [59-12-301](#);
  - 484 (vi) Section [59-12-352](#);
  - 485 (vii) Section [59-12-353](#);
  - 486 (viii) Section [59-12-603](#); or
  - 487 (ix) Section [59-12-1201](#).
- 488 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
  - 489 (i) to a person;
  - 490 (ii) by a:



- 491 (A) county; or
- 492 (B) municipality;
- 493 (iii) to induce the person to locate or relocate a regional retail business within the:
- 494 (A) county; or
- 495 (B) municipality; and
- 496 (iv) that are derived from a sales and use tax.
- 497 (b) "Sales and use tax incentive payment" does not include funding for public
- 498 infrastructure.

499 Section 9. Section **17B-1-102** is amended to read:

500 **17B-1-102. Definitions.**

501 As used in this title:

- 502 (1) "Appointing authority" means the person or body authorized to make an
- 503 appointment to the board of trustees.
- 504 (2) "Basic local district":
- 505 (a) means a local district that is not a specialized local district; and
- 506 (b) includes an entity that was, under the law in effect before April 30, 2007, created
- 507 and operated as a local district, as defined under the law in effect before April 30, 2007.
- 508 (3) "Bond" means:
- 509 (a) a written obligation to repay borrowed money, whether denominated a bond, note,
- 510 warrant, certificate of indebtedness, or otherwise; and
- 511 (b) a lease agreement, installment purchase agreement, or other agreement that:
- 512 (i) includes an obligation by the district to pay money; and
- 513 (ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title
- 514 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond
- 515 Act.
- 516 (4) "Cemetery maintenance district" means a local district that operates under and is
- 517 subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District
- 518 Act, including an entity that was created and operated as a cemetery maintenance district under
- 519 the law in effect before April 30, 2007.
- 520 (5) "Drainage district" means a local district that operates under and is subject to the
- 521 provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that

522 was created and operated as a drainage district under the law in effect before April 30, 2007.

523 (6) "Facility" or "facilities" includes any structure, building, system, land, water right,  
524 water, or other real or personal property required to provide a service that a local district is  
525 authorized to provide, including any related or appurtenant easement or right-of-way,  
526 improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

527 (7) "Fire protection district" means a local district that operates under and is subject to  
528 the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an  
529 entity that was created and operated as a fire protection district under the law in effect before  
530 April 30, 2007.

531 (8) "General obligation bond":

532 (a) means a bond that is directly payable from and secured by ad valorem property  
533 taxes that are:

534 (i) levied:

535 (A) by the district that issues the bond; and

536 (B) on taxable property within the district; and

537 (ii) in excess of the ad valorem property taxes of the district for the current fiscal year;

538 and

539 (b) does not include:

540 (i) a short-term bond;

541 (ii) a tax and revenue anticipation bond; or

542 (iii) a special assessment bond.

543 (9) "Improvement assurance" means a surety bond, letter of credit, cash, or other  
544 security:

545 (a) to guarantee the proper completion of an improvement;

546 (b) that is required before a local district may provide a service requested by a service  
547 applicant; and

548 (c) that is offered to a local district to induce the local district before construction of an  
549 improvement begins to:

550 (i) provide the requested service; or

551 (ii) commit to provide the requested service.

552 (10) "Improvement assurance warranty" means a promise that the materials and

553 workmanship of an improvement:

554 (a) comply with standards adopted by a local district; and

555 (b) will not fail in any material respect within an agreed warranty period.

556 (11) "Improvement district" means a local district that operates under and is subject to  
557 the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an  
558 entity that was created and operated as a county improvement district under the law in effect  
559 before April 30, 2007.

560 (12) "Irrigation district" means a local district that operates under and is subject to the  
561 provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that  
562 was created and operated as an irrigation district under the law in effect before April 30, 2007.

563 (13) "Local district" means a limited purpose local government entity, as described in  
564 Section [17B-1-103](#), that operates under, is subject to, and has the powers set forth in:

565 (a) this chapter; or

566 (b) (i) this chapter; and

567 (ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;

568 (B) Chapter 2a, Part 2, Drainage District Act;

569 (C) Chapter 2a, Part 3, Fire Protection District Act;

570 (D) Chapter 2a, Part 4, Improvement District Act;

571 (E) Chapter 2a, Part 5, Irrigation District Act;

572 (F) Chapter 2a, Part 6, Metropolitan Water District Act;

573 (G) Chapter 2a, Part 7, Mosquito Abatement District Act;

574 (H) Chapter 2a, Part 8, Public Transit District Act;

575 (I) Chapter 2a, Part 9, Service Area Act;

576 (J) Chapter 2a, Part 10, Water Conservancy District Act; or

577 (K) Chapter 2a, Part 11, Municipal Services District Act.

578 (14) "Metropolitan water district" means a local district that operates under and is  
579 subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District  
580 Act, including an entity that was created and operated as a metropolitan water district under the  
581 law in effect before April 30, 2007.

582 (15) "Mosquito abatement district" means a local district that operates under and is  
583 subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District

584 Act, including an entity that was created and operated as a mosquito abatement district under  
585 the law in effect before April 30, 2007.

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

587 (17) "Municipality" means a city [or], town, or metro township.

588 (18) "Municipal services district" means a local district that operates under and is  
589 subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District  
590 Act.

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

593 (20) "Political subdivision" means a county, city, town, metro township, local district  
594 under this title, special service district under Title 17D, Chapter 1, Special Service District Act,  
595 an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal  
596 Cooperation Act, or any other governmental entity designated in statute as a political  
597 subdivision of the state.

598 (21) "Private," with respect to real property, means not owned by the United States or  
599 any agency of the federal government, the state, a county, or a political subdivision.

600 (22) "Public entity" means:

601 (a) the United States or an agency of the United States;

602 (b) the state or an agency of the state;

603 (c) a political subdivision of the state or an agency of a political subdivision of the  
604 state;

605 (d) another state or an agency of that state; or

606 (e) a political subdivision of another state or an agency of that political subdivision.

607 (23) "Public transit district" means a local district that operates under and is subject to  
608 the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an  
609 entity that was created and operated as a public transit district under the law in effect before  
610 April 30, 2007.

611 (24) "Revenue bond":

612 (a) means a bond payable from designated taxes or other revenues other than the local  
613 district's ad valorem property taxes; and

614 (b) does not include:

615 (i) an obligation constituting an indebtedness within the meaning of an applicable  
616 constitutional or statutory debt limit;

617 (ii) a tax and revenue anticipation bond; or

618 (iii) a special assessment bond.

619 (25) "Rules of order and procedure" means a set of rules that govern and prescribe in a  
620 public meeting:

621 (a) parliamentary order and procedure;

622 (b) ethical behavior; and

623 (c) civil discourse.

624 (26) "Service applicant" means a person who requests that a local district provide a  
625 service that the local district is authorized to provide.

626 (27) "Service area" means a local district that operates under and is subject to the  
627 provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was  
628 created and operated as a county service area or a regional service area under the law in effect  
629 before April 30, 2007.

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

632 (29) "Special assessment" means an assessment levied against property to pay all or a  
633 portion of the costs of making improvements that benefit the property.

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

635 (31) "Specialized local district" means a local district that is a cemetery maintenance  
636 district, a drainage district, a fire protection district, an improvement district, an irrigation  
637 district, a metropolitan water district, a mosquito abatement district, a public transit district, a  
638 service area, a water conservancy district, or a municipal services district.

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

641 (33) "Tax and revenue anticipation bond" means a bond:

642 (a) issued in anticipation of the collection of taxes or other revenues or a combination  
643 of taxes and other revenues; and

644 (b) that matures within the same fiscal year as the fiscal year in which the bond is  
645 issued.

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

647 (35) "Water conservancy district" means a local district that operates under and is  
648 subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District  
649 Act, including an entity that was created and operated as a water conservancy district under the  
650 law in effect before April 30, 2007.

651 (36) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel,  
652 power plant, and any facility, improvement, or property necessary or convenient for supplying  
653 or treating water for any beneficial use, and for otherwise accomplishing the purposes of a local  
654 district.

655 Section 10. Section **17B-1-502** is amended to read:

656 **17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in**  
657 **certain circumstances.**

658 (1) (a) An area within the boundaries of a local district may be withdrawn from the  
659 local district only as provided in this part or, if applicable, as provided in Chapter 2a, Part 11,  
660 Municipal Services District Act.

661 (b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local  
662 district within a municipality because of a municipal incorporation under Title 10, Chapter 2a,  
663 Municipal Incorporation, or a municipal annexation or boundary adjustment under Title 10,  
664 Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process  
665 of withdrawing that area from the local district.

666 (2) (a) An area within the boundaries of a local district is automatically withdrawn  
667 from the local district by the annexation of the area to a municipality or the adding of the area  
668 to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

669 (i) the local district provides:

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

671 (B) law enforcement service;

672 (ii) an election for the creation of the local district was not required because of  
673 Subsection [17B-1-214\(3\)\(d\)](#) or [\(g\)](#); and

674 (iii) before annexation or boundary adjustment, the boundaries of the local district do  
675 not include any of the annexing municipality.

676 (b) The effective date of a withdrawal under this Subsection (2) is governed by

677 Subsection 17B-1-512(2)(b).

678 (3) (a) Except as provided in Subsection (3)(c) or (d), an area within the boundaries of  
679 a local district located in a county of the first class is automatically withdrawn from the local  
680 district by the incorporation of a municipality whose boundaries include the area if:

681 (i) the local district provides~~[-(A) fire protection, paramedic, and emergency services;~~  
682 ~~(B) law enforcement service; or (C)]~~ municipal services, as defined in Section 17B-2a-1102,  
683 excluding fire protection, paramedic, emergency, and law enforcement services;

684 (ii) an election for the creation of the local district was not required because of  
685 Subsection 17B-1-214(3)~~(d) or~~ (g); and

686 (iii) the legislative body of the newly incorporated municipality:

687 (A) for a city or town incorporated under Title 10, Chapter 2a, Part 4, Incorporation of  
688 Metro Townships and Unincorporated Islands in a County of the First Class on and after May  
689 12, 2015, complies with the feasibility study requirements of Section 17B-2a-1110;

690 (B) adopts a resolution no later than 180 days after the effective date of incorporation  
691 approving the withdrawal that includes the legal description of the area to be withdrawn; and

692 (C) delivers a copy of the resolution to the board of trustees of the local district.

693 (b) The effective date of a withdrawal under this Subsection (3) is governed by  
694 Subsection 17B-1-512(2)(a).

695 (c) Section 17B-1-505 shall govern the withdrawal of an incorporated area within a  
696 county of the first class ~~[after the expiration of the 180-day period described in Subsection~~  
697 ~~(3)(a)(iii)(B)]~~ if:

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

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

700 (B) law enforcement service; or

701 (C) municipal services, as defined in Section 17B-2a-1102; ~~[and]~~

702 (ii) an election for the creation of the local district was not required under Subsection  
703 17B-1-214(3)(d) or (g)~~[-]; and~~

704 (iii) for a local district that provides municipal services, as defined in Section  
705 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services,  
706 the 180-day period described in Subsection (3)(a)(iii)(B) is expired.

707 (d) An area ~~[within the boundaries of]~~ may not be withdrawn from a local district that

708 provides municipal services, as defined in Section [17B-2a-1102](#), excluding fire protection,  
709 paramedic, emergency, and law enforcement services, if:

710 (i) the area is incorporated as a metro township; and [~~for which the residents of the~~  
711 ~~metro township at an~~]

712 (ii) at the election to incorporate as a metro township, the residents of the area chose to  
713 be included in a municipal services district [~~is not subject to the provisions of this Subsection~~  
714 ~~(3)~~].

715 Section 11. Section **17B-1-1308** is amended to read:

716 **17B-1-1308. Dissolution resolution -- Limitations on dissolution -- Distribution of**  
717 **remaining assets -- Notice to lieutenant governor -- Recording requirements.**

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

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

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

723 (i) satisfied and discharged in connection with the dissolution; or

724 (ii) assumed by another governmental entity with the consent of all the holders of that  
725 debt and all the holders of other debts of the local district;

726 (b) for a local district that has provided service during the preceding three years or  
727 undertaken planning or other activity preparatory to providing service:

728 (i) another entity has committed to provide the same service to the area being served or  
729 proposed to be served by the local district; and

730 (ii) all who are to receive the service have consented to the service being provided by  
731 the other entity; and

732 (c) all outstanding contracts to which the local district is a party are resolved through  
733 mutual termination or the assignment of the district's rights, duties, privileges, and  
734 responsibilities to another entity with the consent of the other parties to the contract.

735 (3) (a) (i) Any assets of the local district remaining after paying all debts and other  
736 obligations of the local district shall be used to pay costs associated with the dissolution  
737 process under this part.

738 (ii) Any costs of the dissolution process remaining after exhausting the remaining



739 assets of the local district under Subsection (3)(a)(i) shall be paid by the administrative body.

740 (b) Any assets of the local district remaining after application of Subsection (3)(a) shall  
741 be distributed:

742 (i) proportionately to the owners of real property within the dissolved local district if  
743 there is a readily identifiable connection between a financial burden borne by the real property  
744 owners in the district and the remaining assets; or

745 (ii) except as provided in Subsection (3)(b)(i), to each county, city, ~~town~~, or metro  
746 township in which the dissolved local district was located before dissolution in the same  
747 proportion that the land area of the local district located within the unincorporated area of the  
748 county or within the city ~~town~~, or metro township bears to the total local district land area.

749 (4) (a) The administrative body shall:

750 (i) within 30 days after adopting a resolution approving dissolution, file with the  
751 lieutenant governor a copy of a notice of an impending boundary action, as defined in Section  
752 [67-1a-6.5](#), that meets the requirements of Subsection [67-1a-6.5\(3\)](#); and

753 (ii) upon the lieutenant governor's issuance of a certificate of dissolution under Section  
754 [67-1a-6.5](#):

755 (A) if the local district was located within the boundary of a single county, submit to  
756 the recorder of that county:

757 (I) the original:

758 (Aa) notice of an impending boundary action; and

759 (Bb) certificate of dissolution; and

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

761 (B) if the local district was located within the boundaries of more than a single county:

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

763 (Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa) and (Bb);

764 and

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

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

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

768 (Bb); and

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

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

772 Section 12. Section 17B-2a-1106 is amended to read:

773 **17B-2a-1106. Municipal services district board of trustees -- Governance.**

774 (1) Except as provided in Subsection (2), and notwithstanding any other provision of  
775 law regarding the membership of a local district board of trustees, the initial board of trustees  
776 of a municipal services district shall consist of the county legislative body.

777 (2) (a) Notwithstanding any provision of law regarding the membership of a local  
778 district board of trustees or the governance of a local district, and, except as provided in  
779 Subsection (3), if a municipal services district is created in a county of the first class with the  
780 county executive-council form of government, the initial governance of the municipal services  
781 district is as follows:

782 (i) subject to Subsection (2)(b), the county council is the municipal services district  
783 board of trustees; and

784 (ii) subject to Subsection (2)(c), the county executive is the executive of the municipal  
785 services district.

786 (b) Notwithstanding any other provision of law, the board of trustees of a municipal  
787 services district described in Subsection (2)(a) shall:

788 (i) act as the legislative body of the district; and

789 (ii) exercise legislative branch powers and responsibilities established for county  
790 legislative bodies in:

791 (A) Title 17, Counties; and

792 (B) an optional plan, as defined in Section 17-52-101, adopted for a county  
793 executive-council form of county government as described in Section 17-52-504.

794 (c) Notwithstanding any other provision of law, in a municipal services district  
795 described in Subsection (2)(a), the executive of the district shall:

796 (i) act as the executive of the district; and

797 (ii) exercise executive branch powers and responsibilities established for a county  
798 executive in:

799 (A) Title 17, Counties; and

800 (B) an optional plan, as defined in Section 17-52-101, adopted for a county

801 executive-council form of county government as described in Section 17-52-504.

802 (3) (a) If, after the initial creation of a municipal services district, an area within the  
803 district is incorporated as a municipality as defined in Section 10-1-104 and the area is not  
804 withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area  
805 within the municipality is annexed into the municipal services district in accordance with  
806 Section 17B-2a-1103, the district's board of trustees shall be as follows:

807 (i) subject to Subsection (3)(b), a member of that municipality's governing body;

808 (ii) subject to Subsection (4), two members of the county council of the county in

809 which the municipal services district is located; and

810 (iii) the total number of board members shall be an odd number.

811 (b) A member described in Subsection (3)(a)(i) shall be:

812 (i) for a municipality other than a metro township, designated by the municipal

813 legislative body; and

814 (ii) for a metro township, the chair of the metro township.

815 (c) A member of the board of trustees has the powers and duties described in

816 Subsection (2)(b).

817 (d) The county executive is the executive and has the powers and duties as described in

818 Subsection (2)(c).

819 (4) (a) The number of county council members may be increased or decreased to meet  
820 the membership requirements of Subsection (3)(a)(iii) but may not be less than one.

821 (b) The number of county council members described in Subsection (3)(a)(ii) does not  
822 include the county mayor.

823 (5) For a board of trustees described in Subsection (3), each board member's vote is  
824 weighted using the proportion of the municipal services district population that resides:

825 (a) for each member described in Subsection (3)(a)(i), within that member's  
826 municipality; and

827 (b) for each member described in Subsection (3)(a)(ii), within the unincorporated  
828 county, with the members' weighted vote divided evenly if there is more than one member on  
829 the board described in Subsection (3)(a)(ii).

830 (6) The board may adopt a resolution providing for future board members to be  
831 appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

832 (7) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of  
833 trustees may adopt a resolution to determine the internal governance of the board.

834 (b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of  
835 trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's  
836 duties, powers, or responsibilities described in Subsection (2)(c).

837 (8) The municipal services district and the county may enter into an agreement for the  
838 provision of legal services to the municipal services district.

839 Section 13. Section 17B-2a-1110 is amended to read:

840 **17B-2a-1110. Withdrawal from a municipal services district upon incorporation**  
841 **-- Feasibility study required for city or town withdrawal -- Public hearing -- Revenues**  
842 **transferred to municipal services district.**

843 (1) (a) A municipality may withdraw from a municipal services district in accordance  
844 with Section 17B-1-502 or 17B-1-505, as applicable, and the requirements of this section.

845 (b) If a municipality engages a feasibility consultant to conduct a feasibility study  
846 under Subsection (2)(a), the 180 days described in Subsection 17B-1-502(3)(a)(iii)[(A)](B) is  
847 tolled from the day that the municipality engages the feasibility consultant to the day on which  
848 the municipality holds the final public hearing under Subsection (5).

849 (2) (a) If a municipality decides to withdraw from a municipal services district, the  
850 municipal legislative body shall, before adopting a resolution under Section 17B-1-502 or  
851 17B-1-505, as applicable, engage a feasibility consultant to conduct a feasibility study.

852 (b) The feasibility consultant shall be chosen:

853 (i) by the municipal legislative body; and

854 (ii) in accordance with applicable municipal procurement procedures.

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

856 (a) complete the feasibility study and submit the written results to the municipal  
857 legislative body before the council adopts a resolution under Section 17B-1-502;

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

860 (c) attend the public hearings under Subsection (5).

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

862 (i) population and population density within the withdrawing municipality;

863 (ii) current and five-year projections of demographics and economic base in the  
864 withdrawing municipality, including household size and income, commercial and industrial  
865 development, and public facilities;

866 (iii) projected growth in the withdrawing municipality during the next five years;

867 (iv) subject to Subsection (4)(b), the present and five-year projections of the cost,  
868 including overhead, of municipal services in the withdrawing municipality;

869 (v) assuming the same tax categories and tax rates as currently imposed by the  
870 municipal services district and all other current service providers, the present and five-year  
871 projected revenue for the withdrawing municipality;

872 (vi) a projection of any new taxes per household that may be levied within the  
873 withdrawing municipality within five years of the withdrawal; and

874 (vii) the fiscal impact on other municipalities serviced by the municipal services  
875 district.

876 (b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a  
877 level and quality of municipal services to be provided to the withdrawing municipality in the  
878 future that fairly and reasonably approximates the level and quality of municipal services being  
879 provided to the withdrawing municipality at the time of the feasibility study.

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

882 (A) the amount it would cost the withdrawing municipality to provide municipal  
883 services for the first five years after withdrawing; and

884 (B) the municipal services district's present and five-year projected cost of providing  
885 municipal services.

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

888 (5) If the results of the feasibility study meet the requirements of Subsection (4), the  
889 municipal legislative body shall, at its next regular meeting after receipt of the results of the  
890 feasibility study, schedule at least one public hearing to be held:

891 (a) within the following 60 days; and

892 (b) for the purpose of allowing:

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

894 (ii) the public to become informed about the feasibility study results, including the  
895 requirement that if the municipality withdraws from the municipal services district, the  
896 municipality must comply with Subsection (9), and to ask questions about those results of the  
897 feasibility consultant.

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

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

901 (b) allow the public to express its views about the proposed withdrawal from the  
902 municipal services district.

903 (7) (a) (i) The municipal clerk or recorder shall publish notice of the public hearings  
904 required under Subsection (5):

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

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

908 (ii) The municipal clerk or recorder shall publish the last publication of notice required  
909 under Subsection (7)(a)(i)(A) at least three days before the first public hearing required under  
910 Subsection (5).

911 (b) (i) If, under Subsection (7)(a)(i)(A), there is no newspaper of general circulation  
912 within the proposed municipality, the municipal clerk or recorder shall post at least one notice  
913 of the hearings per 1,000 population in conspicuous places within the municipality that are  
914 most likely to give notice of the hearings to the residents.

915 (ii) The municipal clerk or recorder shall post the notices under Subsection (7)(b)(i) at  
916 least seven days before the first hearing under Subsection (5).

917 (c) The notice under Subsections (7)(a) and (b) shall include the feasibility study  
918 summary and shall indicate that a full copy of the study is available for inspection and copying  
919 at the office of the municipal clerk or recorder.

920 (8) At a public meeting held after the public hearing required under Subsection (5), the  
921 municipal legislative body may adopt a resolution under Section 17B-1-502 or 17B-1-505, as  
922 applicable, if the municipality is in compliance with the other requirements of that section.

923 (9) The municipality shall pay revenues in excess of 5% to the municipal services  
924 district for 10 years beginning on the next fiscal year immediately following the municipal

925 legislative body adoption of a resolution or an ordinance to withdraw under Section 17B-1-502  
926 or 17B-1-505 if the results of the feasibility study show that the average annual amount of  
927 revenue under Subsection (4)(a)(v) exceed the average annual amount of cost under Subsection  
928 (4)(a)(iv) by more than 5%.

929 Section 14. Section 17B-2a-1111 is amended to read:

930 **17B-2a-1111. Withdrawal of a municipality that changes form of government.**

931 If a municipality after the 180-day period described in Subsection  
932 17B-1-502(3)(a)(iii)[(A)](B) changes form of government in accordance with Title 10, Chapter  
933 3b, Part 6, Changing to Another Form of Municipal Government, the municipality under the  
934 new form of government may withdraw from a municipal services district only in accordance  
935 with the provisions of Section 17B-1-505.

936 Section 15. Section 20A-1-102 is amended to read:

937 **20A-1-102. Definitions.**

938 As used in this title:

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

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

943 (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic,  
944 upon which a voter records the voter's votes.

945 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy  
946 envelopes.

947 (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

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

950 (b) are used in conjunction with ballot sheets that do not display that information.

951 (5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters  
952 on the ballot for their approval or rejection including:

953 (a) an opinion question specifically authorized by the Legislature;

954 (b) a constitutional amendment;

955 (c) an initiative;

- 956 (d) a referendum;
- 957 (e) a bond proposition;
- 958 (f) a judicial retention question;
- 959 (g) an incorporation of a city or town; or
- 960 (h) any other ballot question specifically authorized by the Legislature.
- 961 (6) "Ballot sheet":
- 962 (a) means a ballot that:
- 963 (i) consists of paper or a card where the voter's votes are marked or recorded; and
- 964 (ii) can be counted using automatic tabulating equipment; and
- 965 (b) includes punch card ballots and other ballots that are machine-countable.
- 966 (7) "Bind," "binding," or "bound" means securing more than one piece of paper
- 967 together with a staple or stitch in at least three places across the top of the paper in the blank
- 968 space reserved for securing the paper.
- 969 (8) "Board of canvassers" means the entities established by Sections [20A-4-301](#) and
- 970 [20A-4-306](#) to canvass election returns.
- 971 (9) "Bond election" means an election held for the purpose of approving or rejecting
- 972 the proposed issuance of bonds by a government entity.
- 973 (10) "Book voter registration form" means voter registration forms contained in a
- 974 bound book that are used by election officers and registration agents to register persons to vote.
- 975 (11) "Business reply mail envelope" means an envelope that may be mailed free of
- 976 charge by the sender.
- 977 (12) "By-mail voter registration form" means a voter registration form designed to be
- 978 completed by the voter and mailed to the election officer.
- 979 (13) "Canvass" means the review of election returns and the official declaration of
- 980 election results by the board of canvassers.
- 981 (14) "Canvassing judge" means a poll worker designated to assist in counting ballots at
- 982 the canvass.
- 983 (15) "Contracting election officer" means an election officer who enters into a contract
- 984 or interlocal agreement with a provider election officer.
- 985 (16) "Convention" means the political party convention at which party officers and
- 986 delegates are selected.



987 (17) "Counting center" means one or more locations selected by the election officer in  
988 charge of the election for the automatic counting of ballots.

989 (18) "Counting judge" means a poll worker designated to count the ballots during  
990 election day.

991 (19) "Counting poll watcher" means a person selected as provided in Section  
992 [20A-3-201](#) to witness the counting of ballots.

993 (20) "Counting room" means a suitable and convenient private place or room,  
994 immediately adjoining the place where the election is being held, for use by the poll workers  
995 and counting judges to count ballots during election day.

996 (21) "County officers" means those county officers that are required by law to be  
997 elected.

998 (22) "Date of the election" or "election day" or "day of the election":

999 (a) means the day that is specified in the calendar year as the day that the election  
1000 occurs; and

1001 (b) does not include:

1002 (i) deadlines established for absentee voting; or

1003 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early  
1004 Voting.

1005 (23) "Elected official" means:

1006 (a) a person elected to an office under Section [20A-1-303](#);

1007 (b) a person who is considered to be elected to a municipal office in accordance with  
1008 Subsection [20A-1-206\(1\)\(c\)\(ii\)](#); or

1009 (c) a person who is considered to be elected to a local district office in accordance with  
1010 Subsection [20A-1-206\(3\)\(c\)\(ii\)](#).

1011 (24) "Election" means a regular general election, a municipal general election, a  
1012 statewide special election, a local special election, a regular primary election, a municipal  
1013 primary election, and a local district election.

1014 (25) "Election Assistance Commission" means the commission established by [~~Public~~  
1015 ~~Law 107-252,~~] the Help America Vote Act of 2002, Pub. L. No. 107-252.

1016 (26) "Election cycle" means the period beginning on the first day persons are eligible to  
1017 file declarations of candidacy and ending when the canvass is completed.

- 1018 (27) "Election judge" means a poll worker that is assigned to:
- 1019 (a) preside over other poll workers at a polling place;
- 1020 (b) act as the presiding election judge; or
- 1021 (c) serve as a canvassing judge, counting judge, or receiving judge.
- 1022 (28) "Election officer" means:
- 1023 (a) the lieutenant governor, for all statewide ballots and elections;
- 1024 (b) the county clerk for:
- 1025 (i) a county ballot and election; and
- 1026 (ii) a ballot and election as a provider election officer as provided in Section
- 1027 [20A-5-400.1](#) or [20A-5-400.5](#);
- 1028 (c) the municipal clerk for:
- 1029 (i) a municipal ballot and election; and
- 1030 (ii) a ballot and election as a provider election officer as provided in Section
- 1031 [20A-5-400.1](#) or [20A-5-400.5](#);
- 1032 (d) the local district clerk or chief executive officer for:
- 1033 (i) a local district ballot and election; and
- 1034 (ii) a ballot and election as a provider election officer as provided in Section
- 1035 [20A-5-400.1](#) or [20A-5-400.5](#); or
- 1036 (e) the business administrator or superintendent of a school district for:
- 1037 (i) a school district ballot and election; and
- 1038 (ii) a ballot and election as a provider election officer as provided in Section
- 1039 [20A-5-400.1](#) or [20A-5-400.5](#).
- 1040 (29) "Election official" means any election officer, election judge, or poll worker.
- 1041 (30) "Election results" means:
- 1042 (a) for an election other than a bond election, the count of votes cast in the election and
- 1043 the election returns requested by the board of canvassers; or
- 1044 (b) for bond elections, the count of those votes cast for and against the bond
- 1045 proposition plus any or all of the election returns that the board of canvassers may request.
- 1046 (31) "Election returns" includes the pollbook, the military and overseas absentee voter
- 1047 registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all
- 1048 counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition

1049 form, and the total votes cast form.

1050 (32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting  
1051 device or other voting device that records and stores ballot information by electronic means.

1052 (33) "Electronic signature" means an electronic sound, symbol, or process attached to  
1053 or logically associated with a record and executed or adopted by a person with the intent to sign  
1054 the record.

1055 (34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

1056 (b) "Electronic voting device" includes a direct recording electronic voting device.

1057 (35) "Inactive voter" means a registered voter who has:

1058 (a) been sent the notice required by Section [20A-2-306](#); and

1059 (b) failed to respond to that notice.

1060 (36) "Inspecting poll watcher" means a person selected as provided in this title to  
1061 witness the receipt and safe deposit of voted and counted ballots.

1062 (37) "Judicial office" means the office filled by any judicial officer.

1063 (38) "Judicial officer" means any justice or judge of a court of record or any county  
1064 court judge.

1065 (39) "Local district" means a local government entity under Title 17B, Limited Purpose  
1066 Local Government Entities - Local Districts, and includes a special service district under Title  
1067 17D, Chapter 1, Special Service District Act.

1068 (40) "Local district officers" means those local district board members that are required  
1069 by law to be elected.

1070 (41) "Local election" means a regular county election, a regular municipal election, a  
1071 municipal primary election, a local special election, a local district election, and a bond  
1072 election.

1073 (42) "Local political subdivision" means a county, a municipality, a local district, or a  
1074 local school district.

1075 (43) "Local special election" means a special election called by the governing body of a  
1076 local political subdivision in which all registered voters of the local political subdivision may  
1077 vote.

1078 (44) "Municipal executive" means:

1079 (a) the mayor in the council-mayor form of government defined in Section [10-3b-102](#);

1080 (b) the mayor in the council-manager form of government defined in Subsection  
1081 [10-3b-103](#)(7); or

1082 (c) the chair of a metro township form of government defined in Section [10-3b-102](#).

1083 (45) "Municipal general election" means the election held in municipalities and, as  
1084 applicable, local districts on the first Tuesday after the first Monday in November of each  
1085 odd-numbered year for the purposes established in Section [20A-1-202](#).

1086 (46) "Municipal legislative body" means:

1087 (a) the council of the city or town in any form of municipal government; or

1088 (b) the council of a metro township.

1089 (47) "Municipal office" means an elective office in a municipality.

1090 (48) "Municipal officers" means those municipal officers that are required by law to be  
1091 elected.

1092 (49) "Municipal primary election" means an election held to nominate candidates for  
1093 municipal office.

1094 (50) "Municipality" means a city, town, or metro township.

1095 [~~50~~] (51) "Official ballot" means the ballots distributed by the election officer to the  
1096 poll workers to be given to voters to record their votes.

1097 [~~51~~] (52) "Official endorsement" means:

1098 (a) the information on the ballot that identifies:

1099 (i) the ballot as an official ballot;

1100 (ii) the date of the election; and

1101 (iii) (A) for a ballot prepared by an election officer other than a county clerk, the  
1102 facsimile signature required by Subsection [20A-6-401](#)(1)(b)(iii); or

1103 (B) for a ballot prepared by a county clerk, the words required by Subsection  
1104 [20A-6-301](#)(1)(c)(iii); and

1105 (b) the information on the ballot stub that identifies:

1106 (i) the poll worker's initials; and

1107 (ii) the ballot number.

1108 [~~52~~] (53) "Official register" means the official record furnished to election officials  
1109 by the election officer that contains the information required by Section [20A-5-401](#).

1110 [~~53~~] (54) "Paper ballot" means a paper that contains:

1111 (a) the names of offices and candidates and statements of ballot propositions to be  
1112 voted on; and

1113 (b) spaces for the voter to record the voter's vote for each office and for or against each  
1114 ballot proposition.

1115 [~~(54)~~] (55) "Pilot project" means the election day voter registration pilot project created  
1116 in Section 20A-4-108.

1117 [~~(55)~~] (56) "Political party" means an organization of registered voters that has  
1118 qualified to participate in an election by meeting the requirements of Chapter 8, Political Party  
1119 Formation and Procedures.

1120 [~~(56)~~] (57) "Pollbook" means a record of the names of voters in the order that they  
1121 appear to cast votes.

1122 [~~(57)~~] (58) "Polling place" means the building where voting is conducted.

1123 [~~(58)~~] (59) (a) "Poll worker" means a person assigned by an election official to assist  
1124 with an election, voting, or counting votes.

1125 (b) "Poll worker" includes election judges.

1126 (c) "Poll worker" does not include a watcher.

1127 [~~(59)~~] (60) "Position" means a square, circle, rectangle, or other geometric shape on a  
1128 ballot in which the voter marks the voter's choice.

1129 [~~(60)~~] (61) "Primary convention" means the political party conventions held during the  
1130 year of the regular general election.

1131 [~~(61)~~] (62) "Protective counter" means a separate counter, which cannot be reset, that:

1132 (a) is built into a voting machine; and

1133 (b) records the total number of movements of the operating lever.

1134 [~~(62)~~] (63) "Provider election officer" means an election officer who enters into a  
1135 contract or interlocal agreement with a contracting election officer to conduct an election for  
1136 the contracting election officer's local political subdivision in accordance with Section  
1137 20A-5-400.1.

1138 [~~(63)~~] (64) "Provisional ballot" means a ballot voted provisionally by a person:

1139 (a) whose name is not listed on the official register at the polling place;

1140 (b) whose legal right to vote is challenged as provided in this title; or

1141 (c) whose identity was not sufficiently established by a poll worker.

1142            [~~(64)~~] (65) "Provisional ballot envelope" means an envelope printed in the form  
1143 required by Section 20A-6-105 that is used to identify provisional ballots and to provide  
1144 information to verify a person's legal right to vote.

1145            [~~(65)~~] (66) "Qualify" or "qualified" means to take the oath of office and begin  
1146 performing the duties of the position for which the person was elected.

1147            [~~(66)~~] (67) "Receiving judge" means the poll worker that checks the voter's name in the  
1148 official register, provides the voter with a ballot, and removes the ballot stub from the ballot  
1149 after the voter has voted.

1150            [~~(67)~~] (68) "Registration form" means a book voter registration form and a by-mail  
1151 voter registration form.

1152            [~~(68)~~] (69) "Regular ballot" means a ballot that is not a provisional ballot.

1153            [~~(69)~~] (70) "Regular general election" means the election held throughout the state on  
1154 the first Tuesday after the first Monday in November of each even-numbered year for the  
1155 purposes established in Section 20A-1-201.

1156            [~~(70)~~] (71) "Regular primary election" means the election on the fourth Tuesday of  
1157 June of each even-numbered year, to nominate candidates of political parties and candidates for  
1158 nonpartisan local school board positions to advance to the regular general election.

1159            [~~(71)~~] (72) "Resident" means a person who resides within a specific voting precinct in  
1160 Utah.

1161            [~~(72)~~] (73) "Sample ballot" means a mock ballot similar in form to the official ballot  
1162 printed and distributed as provided in Section 20A-5-405.

1163            [~~(73)~~] (74) "Scratch vote" means to mark or punch the straight party ticket and then  
1164 mark or punch the ballot for one or more candidates who are members of different political  
1165 parties or who are unaffiliated.

1166            [~~(74)~~] (75) "Secrecy envelope" means the envelope given to a voter along with the  
1167 ballot into which the voter places the ballot after the voter has voted it in order to preserve the  
1168 secrecy of the voter's vote.

1169            [~~(75)~~] (76) "Special election" means an election held as authorized by Section  
1170 20A-1-203.

1171            [~~(76)~~] (77) "Spoiled ballot" means each ballot that:

1172            (a) is spoiled by the voter;

1173 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

1174 (c) lacks the official endorsement.

1175 ~~[(77)]~~ (78) "Statewide special election" means a special election called by the governor  
1176 or the Legislature in which all registered voters in Utah may vote.

1177 ~~[(78)]~~ (79) "Stub" means the detachable part of each ballot.

1178 ~~[(79)]~~ (80) "Substitute ballots" means replacement ballots provided by an election  
1179 officer to the poll workers when the official ballots are lost or stolen.

1180 ~~[(80)]~~ (81) "Ticket" means each list of candidates for each political party or for each  
1181 group of petitioners.

1182 ~~[(81)]~~ (82) "Transfer case" means the sealed box used to transport voted ballots to the  
1183 counting center.

1184 ~~[(82)]~~ (83) "Vacancy" means the absence of a person to serve in any position created  
1185 by statute, whether that absence occurs because of death, disability, disqualification,  
1186 resignation, or other cause.

1187 ~~[(83)]~~ (84) "Valid voter identification" means:

1188 (a) a form of identification that bears the name and photograph of the voter which may  
1189 include:

1190 (i) a currently valid Utah driver license;

1191 (ii) a currently valid identification card that is issued by:

1192 (A) the state; or

1193 (B) a branch, department, or agency of the United States;

1194 (iii) a currently valid Utah permit to carry a concealed weapon;

1195 (iv) a currently valid United States passport; or

1196 (v) a currently valid United States military identification card;

1197 (b) one of the following identification cards, whether or not the card includes a  
1198 photograph of the voter:

1199 (i) a valid tribal identification card;

1200 (ii) a Bureau of Indian Affairs card; or

1201 (iii) a tribal treaty card; or

1202 (c) two forms of identification not listed under Subsection ~~[(83)]~~ (84)(a) or (b) but that  
1203 bear the name of the voter and provide evidence that the voter resides in the voting precinct,

1204 which may include:

1205 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the  
1206 election;

1207 (ii) a bank or other financial account statement, or a legible copy thereof;

1208 (iii) a certified birth certificate;

1209 (iv) a valid social security card;

1210 (v) a check issued by the state or the federal government or a legible copy thereof;

1211 (vi) a paycheck from the voter's employer, or a legible copy thereof;

1212 (vii) a currently valid Utah hunting or fishing license;

1213 (viii) certified naturalization documentation;

1214 (ix) a currently valid license issued by an authorized agency of the United States;

1215 (x) a certified copy of court records showing the voter's adoption or name change;

1216 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

1217 (xii) a currently valid identification card issued by:

1218 (A) a local government within the state;

1219 (B) an employer for an employee; or

1220 (C) a college, university, technical school, or professional school located within the  
1221 state; or

1222 (xiii) a current Utah vehicle registration.

1223 [~~84~~] (85) "Valid write-in candidate" means a candidate who has qualified as a  
1224 write-in candidate by following the procedures and requirements of this title.

1225 [~~85~~] (86) "Voter" means a person who:

1226 (a) meets the requirements for voting in an election;

1227 (b) meets the requirements of election registration;

1228 (c) is registered to vote; and

1229 (d) is listed in the official register book.

1230 [~~86~~] (87) "Voter registration deadline" means the registration deadline provided in  
1231 Section 20A-2-102.5.

1232 [~~87~~] (88) "Voting area" means the area within six feet of the voting booths, voting  
1233 machines, and ballot box.

1234 [~~88~~] (89) "Voting booth" means:



1235 (a) the space or compartment within a polling place that is provided for the preparation  
1236 of ballots, including the voting machine enclosure or curtain; or

1237 (b) a voting device that is free standing.

1238 [~~89~~] (90) "Voting device" means:

1239 (a) an apparatus in which ballot sheets are used in connection with a punch device for  
1240 piercing the ballots by the voter;

1241 (b) a device for marking the ballots with ink or another substance;

1242 (c) an electronic voting device or other device used to make selections and cast a ballot  
1243 electronically, or any component thereof;

1244 (d) an automated voting system under Section 20A-5-302; or

1245 (e) any other method for recording votes on ballots so that the ballot may be tabulated  
1246 by means of automatic tabulating equipment.

1247 [~~90~~] (91) "Voting machine" means a machine designed for the sole purpose of  
1248 recording and tabulating votes cast by voters at an election.

1249 [~~91~~] (92) "Voting poll watcher" means a person appointed as provided in this title to  
1250 witness the distribution of ballots and the voting process.

1251 [~~92~~] (93) "Voting precinct" means the smallest voting unit established as provided by  
1252 law within which qualified voters vote at one polling place.

1253 [~~93~~] (94) "Watcher" means a voting poll watcher, a counting poll watcher, an  
1254 inspecting poll watcher, and a testing watcher.

1255 [~~94~~] (95) "Western States Presidential Primary" means the election established in  
1256 Chapter 9, Part 8, Western States Presidential Primary.

1257 [~~95~~] (96) "Write-in ballot" means a ballot containing any write-in votes.

1258 [~~96~~] (97) "Write-in vote" means a vote cast for a person whose name is not printed on  
1259 the ballot according to the procedures established in this title.

1260 Section 16. Section 20A-5-301 is amended to read:

1261 **20A-5-301. Combined voting precincts -- Municipalities.**

1262 (1) (a) The municipal legislative body of a city of the first or second class may combine  
1263 up to four regular county voting precincts into one municipal voting precinct for purposes of a  
1264 municipal election if they designate the location and address of each of those combined voting  
1265 precincts.

1266 (b) The polling place shall be within the combined voting precinct or within 1/2 mile  
1267 of the boundaries of the voting precinct.

1268 (2) (a) The municipal legislative body of a city of the third, fourth, or fifth class [~~or~~], a  
1269 town, or a metro township may combine two or more regular county voting precincts into one  
1270 municipal voting precinct for purposes of an election if it designates the location and address of  
1271 that combined voting precinct.

1272 (b) If only two precincts are combined, the polling place shall be within the combined  
1273 precinct or within 1/2 mile of the boundaries of the combined voting precinct.

1274 (c) If more than two precincts are combined, the polling place should be as near as  
1275 practical to the middle of the combined precinct.

1276 Section 17. Section **20A-6-401** is amended to read:

1277 **20A-6-401. Ballots for municipal primary elections.**

1278 (1) Each election officer shall ensure that:

1279 (a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across  
1280 the top of the ballot;

1281 (ii) the ballot number and the words "Poll Worker's Initial \_\_\_\_" are printed on the  
1282 stub; and

1283 (iii) ballot stubs are numbered consecutively;

1284 (b) immediately below the perforated ballot stub, the following endorsements are  
1285 printed in 18 point bold type:

1286 (i) "Official Primary Ballot for \_\_\_\_ (City [~~or~~], Town, or Metro Township), Utah";

1287 (ii) the date of the election; and

1288 (iii) a facsimile of the signature of the election officer and the election officer's title in  
1289 eight point type;

1290 (c) immediately below the election officer's title, two one-point parallel horizontal  
1291 rules separate endorsements from the rest of the ballot;

1292 (d) immediately below the horizontal rules, an "Instructions to Voters" section is  
1293 printed in 10 point bold type that states: "To vote for a candidate, place a cross (X) in the  
1294 square following the name(s) of the person(s) you favor as the candidate(s) for each respective  
1295 office." followed by two one-point parallel rules;

1296 (e) after the rules, the designation of the office for which the candidates seek

1297 nomination is printed flush with the left-hand margin and the words, "Vote for one" or "Vote  
1298 for up to \_\_\_\_ (the number of candidates for which the voter may vote)" are printed to extend  
1299 to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

1300 (f) after the hair-line rule, the names of the candidates are printed in heavy face type  
1301 between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305  
1302 with surnames last and grouped according to the office that they seek;

1303 (g) a square with sides not less than one-fourth inch long is printed immediately  
1304 adjacent to the names of the candidates; and

1305 (h) the candidate groups are separated from each other by one light and one heavy line  
1306 or rule.

1307 (2) A municipal primary ballot may not contain any space for write-in votes.

1308 Section 18. Section 20A-6-402 is amended to read:

1309 **20A-6-402. Ballots for municipal general elections.**

1310 (1) When using a paper ballot at municipal general elections, each election officer shall  
1311 ensure that:

1312 (a) the names of the two candidates who received the highest number of votes for  
1313 mayor in the municipal primary are placed upon the ballot;

1314 (b) if no municipal primary election was held, the names of the candidates who filed  
1315 declarations of candidacy for municipal offices are placed upon the ballot;

1316 (c) for other offices:

1317 (i) twice the number of candidates as there are positions to be filled are certified as  
1318 eligible for election in the municipal general election from those candidates who received the  
1319 greater number of votes in the primary election; and

1320 (ii) the names of those candidates are placed upon the municipal general election  
1321 ballot;

1322 (d) the names of the candidates are placed on the ballot in the order specified under  
1323 Section 20A-6-305;

1324 (e) in an election in which a voter is authorized to cast a write-in vote and where a  
1325 write-in candidate is qualified under Section 20A-9-601, a write-in area is placed upon the  
1326 ballot that contains, for each office in which there is a qualified write-in candidate:

1327 (i) a blank, horizontal line to enable a voter to submit a valid write-in candidate; and

- 1328           (ii) a square or other conforming area that is adjacent to or opposite the blank  
1329 horizontal line to enable the voter to indicate the voter's vote;
- 1330           (f) ballot propositions that have qualified for the ballot, including propositions  
1331 submitted to the voters by the municipality, municipal initiatives, and municipal referenda, are  
1332 listed on the ballot in accordance with Section [20A-6-107](#); and
- 1333           (g) bond propositions that have qualified for the ballot are listed on the ballot under the  
1334 title assigned to each bond proposition under Section [11-14-206](#).
- 1335           (2) When using a punch card ballot at municipal general elections, each election officer  
1336 shall ensure that:
- 1337           (a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across  
1338 the top of the ballot;
- 1339           (ii) the ballot number and the words "Poll Worker's Initial \_\_\_\_" are printed on the  
1340 stub; and
- 1341           (iii) ballot stubs are numbered consecutively;
- 1342           (b) immediately below the perforated ballot stub, the following endorsements are  
1343 printed in 18 point bold type:
- 1344           (i) "Official Ballot for \_\_\_\_ (City [~~or~~], Town, or Metro Township), Utah";
- 1345           (ii) the date of the election; and
- 1346           (iii) a facsimile of the signature of the election officer and the election officer's title in  
1347 eight-point type;
- 1348           (c) immediately below the election officer's title, two one-point parallel horizontal  
1349 rules separate endorsements from the rest of the ballot;
- 1350           (d) immediately below the horizontal rules, an "Instructions to Voters" section is  
1351 printed in 10-point bold type that states: "To vote for a candidate, place a cross (X) in the  
1352 square following the name(s) of the person(s) you favor as the candidate(s) for each respective  
1353 office." followed by two one-point parallel rules;
- 1354           (e) after the rules, the designation of the office for which the candidates seek election is  
1355 printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to \_\_\_\_  
1356 (the number of candidates for which the voter may vote)" are printed to extend to the extreme  
1357 right of the column in 10-point bold type, followed by a hair-line rule;
- 1358           (f) after the hair-line rule, the names of the candidates are printed in heavy face type

1359 between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305  
1360 with surnames last and grouped according to the office that they seek;

1361 (g) a square with sides not less than one-fourth inch long is printed immediately  
1362 adjacent to the names of the candidates;

1363 (h) following the name of the last candidate for each office in which a write-in  
1364 candidate is qualified under Section 20A-9-601, the ballot contains:

1365 (i) a write-in space for each elective office in which a write-in candidate is qualified  
1366 where the voter may enter the name of a valid write-in candidate; and

1367 (ii) a square printed immediately adjacent to the write-in space or line where the voter  
1368 may vote for a valid write-in candidate; and

1369 (i) the candidate groups are separated from each other by one light and one heavy line  
1370 or rule.

1371 (3) When using a ballot sheet other than a punch card ballot at municipal general  
1372 elections, each election officer shall ensure that:

1373 (a) (i) the ballot contains a perforated ballot stub placed across the top of the ballot;

1374 (ii) the ballot number and the words "Poll Worker's Initial \_\_\_\_" are printed on the  
1375 stub; and

1376 (iii) ballot stubs are numbered consecutively;

1377 (b) immediately below the perforated ballot stub, the following endorsements are  
1378 printed:

1379 (i) "Official Ballot for \_\_\_\_ (City [or] Town, or Metro Township), Utah";

1380 (ii) the date of the election; and

1381 (iii) a facsimile of the signature of the election officer and the election officer's title;

1382 (c) immediately below the election officer's title, a distinct border or line separates  
1383 endorsements from the rest of the ballot;

1384 (d) immediately below the border or line, an "Instructions to Voters" section is printed  
1385 that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the  
1386 candidate(s) for each respective office." followed by another border or line;

1387 (e) after the border or line, the designation of the office for which the candidates seek  
1388 election is printed and the words, "Vote for one" or "Vote for up to \_\_\_\_ (the number of  
1389 candidates for which the voter may vote)" are printed, followed by a line or border;

1390 (f) after the line or border, the names of the candidates are printed in the order  
1391 specified under Section 20A-6-305 with surnames last and grouped according to the office that  
1392 they seek;

1393 (g) an oval is printed adjacent to the names of the candidates;

1394 (h) following the name of the last candidate for each office in which a write-in  
1395 candidate is qualified under Section 20A-9-601, the ballot contains:

1396 (i) a write-in space or blank line for each elective office in which a write-in candidate  
1397 is qualified where the voter may enter the name of a valid write-in candidate; and

1398 (ii) an oval printed adjacent to the write-in space or line where the voter may vote for a  
1399 valid write-in candidate; and

1400 (i) the candidate groups are separated from each other by a line or border.

1401 (4) When using an electronic ballot at municipal general elections, each election officer  
1402 shall ensure that:

1403 (a) the following endorsements are displayed on the first screen of the ballot:

1404 (i) "Official Ballot for \_\_\_\_ (City [or] Town, or Metro Township), Utah";

1405 (ii) the date of the election; and

1406 (iii) a facsimile of the signature of the election officer and the election officer's title;

1407 (b) immediately below the election officer's title, a distinct border or line separates the  
1408 endorsements from the rest of the ballot;

1409 (c) immediately below the border or line, an "Instructions to Voters" section is  
1410 displayed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as  
1411 the candidate(s) for each respective office." followed by another border or line;

1412 (d) after the border or line, the designation of the office for which the candidates seek  
1413 election is displayed, and the words, "Vote for one" or "Vote for up to \_\_\_\_ (the number of  
1414 candidates for which the voter may vote)" are displayed, followed by a line or border;

1415 (e) after the line or border, the names of the candidates are displayed in the order  
1416 specified under Section 20A-6-305 with surnames last and grouped according to the office that  
1417 they seek;

1418 (f) a voting square or position is located adjacent to the name of each candidate;

1419 (g) following the name of the last candidate for each office in which a write-in  
1420 candidate is qualified under Section 20A-9-601, the ballot contains a write-in space where the

1421 voter may enter the name of and vote for a valid write-in candidate for the office; and

1422 (h) the candidate groups are separated from each other by a line or border.

1423 (5) When a municipality has chosen to nominate candidates by convention or  
1424 committee, the election officer shall ensure that the party name is included with the candidate's  
1425 name on the ballot.

1426 Section 19. Section **20A-7-101** is amended to read:

1427 **20A-7-101. Definitions.**

1428 As used in this chapter:

1429 (1) "Budget officer" means:

1430 (a) for a county, the person designated as budget officer in Section [17-19a-203](#);

1431 (b) for a city, the person designated as budget officer in Subsection [10-6-106\(5\)](#); [or]

1432 (c) for a town, the town council[-]; or

1433 (d) for a metro township, the person described in Subsection (1)(a) for the county in  
1434 which the metro township is located.

1435 (2) "Certified" means that the county clerk has acknowledged a signature as being the  
1436 signature of a registered voter.

1437 (3) "Circulation" means the process of submitting an initiative or referendum petition  
1438 to legal voters for their signature.

1439 (4) "Final fiscal impact statement" means a financial statement prepared after voters  
1440 approve an initiative that contains the information required by Subsection [20A-7-202.5\(2\)](#) or  
1441 [20A-7-502.5\(2\)](#).

1442 (5) "Initial fiscal impact estimate" means:

1443 (a) a financial statement prepared under Section [20A-7-202.5](#) after the filing of an  
1444 application for an initiative petition; or

1445 (b) a financial and legal statement prepared under Section [20A-7-502.5](#) or [20A-7-602.5](#)  
1446 for an initiative or referendum petition.

1447 (6) "Initiative" means a new law proposed for adoption by the public as provided in  
1448 this chapter.

1449 (7) "Initiative packet" means a copy of the initiative petition, a copy of the proposed  
1450 law, and the signature sheets, all of which have been bound together as a unit.

1451 (8) "Legal signatures" means the number of signatures of legal voters that:

- 1452 (a) meet the numerical requirements of this chapter; and  
1453 (b) have been certified and verified as provided in this chapter.  
1454 (9) "Legal voter" means a person who:  
1455 (a) is registered to vote; or  
1456 (b) becomes registered to vote before the county clerk certifies the signatures on an  
1457 initiative or referendum petition.  
1458 (10) "Local attorney" means the county attorney, city attorney, or town attorney in  
1459 whose jurisdiction a local initiative or referendum petition is circulated.  
1460 (11) "Local clerk" means the county clerk, city recorder, or town clerk in whose  
1461 jurisdiction a local initiative or referendum petition is circulated.  
1462 (12) (a) "Local law" includes an ordinance, resolution, master plan, and any  
1463 comprehensive zoning regulation adopted by ordinance or resolution.  
1464 (b) "Local law" does not include an individual property zoning decision.  
1465 (13) "Local legislative body" means the legislative body of a county, city, ~~or~~ town, or  
1466 metro township.  
1467 (14) "Local obligation law" means a local law passed by the local legislative body  
1468 regarding a bond that was approved by a majority of qualified voters in an election.  
1469 (15) "Local tax law" means a local law, passed by a political subdivision with an  
1470 annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.  
1471 (16) "Measure" means a proposed constitutional amendment, an initiative, or  
1472 referendum.  
1473 (17) "Referendum" means a process by which a law passed by the Legislature or by a  
1474 local legislative body is submitted or referred to the voters for their approval or rejection.  
1475 (18) "Referendum packet" means a copy of the referendum petition, a copy of the law  
1476 being submitted or referred to the voters for their approval or rejection, and the signature  
1477 sheets, all of which have been bound together as a unit.  
1478 (19) (a) "Signature" means a holographic signature.  
1479 (b) "Signature" does not mean an electronic signature.  
1480 (20) "Signature sheets" means sheets in the form required by this chapter that are used  
1481 to collect signatures in support of an initiative or referendum.  
1482 (21) "Sponsors" means the legal voters who support the initiative or referendum and



1483 who sign the application for petition copies.

1484 (22) "Sufficient" means that the signatures submitted in support of an initiative or  
1485 referendum petition have been certified and verified as required by this chapter.

1486 (23) "Verified" means acknowledged by the person circulating the petition as required  
1487 in Sections [20A-7-205](#) and [20A-7-305](#).

1488 Section 20. Section **20A-7-501** is amended to read:

1489 **20A-7-501. Initiatives.**

1490 (1) (a) Except as provided in Subsection (1)(b), a person seeking to have an initiative  
1491 submitted to a local legislative body or to a vote of the people for approval or rejection shall  
1492 obtain legal signatures equal to:

1493 (i) 10% of all the votes cast in the county, city, ~~[or]~~ town, or metro township for all  
1494 candidates for President of the United States at the last election at which a President of the  
1495 United States was elected if the total number of votes exceeds 25,000;

1496 (ii) 12-1/2% of all the votes cast in the county, city, ~~[or]~~ town, or metro township for  
1497 all candidates for President of the United States at the last election at which a President of the  
1498 United States was elected if the total number of votes does not exceed 25,000 but is more than  
1499 10,000;

1500 (iii) 15% of all the votes cast in the county, city, ~~[or]~~ town, or metro township for all  
1501 candidates for President of the United States at the last election at which a President of the  
1502 United States was elected if the total number of votes does not exceed 10,000 but is more than  
1503 2,500;

1504 (iv) 20% of all the votes cast in the county, city, ~~[or]~~ town, or metro township for all  
1505 candidates for President of the United States at the last election at which a President of the  
1506 United States was elected if the total number of votes does not exceed 2,500 but is more than  
1507 500;

1508 (v) 25% of all the votes cast in the county, city, ~~[or]~~ town, or metro township for all  
1509 candidates for President of the United States at the last election at which a President of the  
1510 United States was elected if the total number of votes does not exceed 500 but is more than  
1511 250; and

1512 (vi) 30% of all the votes cast in the county, city, ~~[or]~~ town, or metro township for all  
1513 candidates for President of the United States at the last election at which a President of the

1514 United States was elected if the total number of votes does not exceed 250.

1515 (b) In addition to the signature requirements of Subsection (1)(a), a person seeking to  
1516 have an initiative submitted to a local legislative body or to a vote of the people for approval or  
1517 rejection in a county, city, ~~[or] town,~~ or metro township where the local legislative body is  
1518 elected from council districts shall obtain, from each of a majority of council districts, legal  
1519 signatures equal to the percentages established in Subsection (1)(a).

1520 (2) If the total number of certified names from each verified signature sheet equals or  
1521 exceeds the number of names required by this section, the clerk or recorder shall deliver the  
1522 proposed law to the local legislative body at its next meeting.

1523 (3) (a) The local legislative body shall either adopt or reject the proposed law without  
1524 change or amendment within 30 days of receipt of the proposed law.

1525 (b) The local legislative body may:

1526 (i) adopt the proposed law and refer it to the people;

1527 (ii) adopt the proposed law without referring it to the people; or

1528 (iii) reject the proposed law.

1529 (c) If the local legislative body adopts the proposed law but does not refer it to the  
1530 people, it is subject to referendum as with other local laws.

1531 (d) (i) If a county legislative body rejects a proposed county ordinance or amendment,  
1532 or takes no action on it, the county clerk shall submit it to the voters of the county at the next  
1533 regular general election immediately after the petition is filed under Section [20A-7-502](#).

1534 (ii) If a local legislative body rejects a proposed municipal ordinance or amendment, or  
1535 takes no action on it, the municipal recorder or clerk shall submit it to the voters of the  
1536 municipality at the next municipal general election immediately after the petition is filed under  
1537 Section [20A-7-502](#).

1538 (e) (i) If the local legislative body rejects the proposed ordinance or amendment, or  
1539 takes no action on it, the local legislative body may adopt a competing local law.

1540 (ii) The local legislative body shall prepare and adopt the competing local law within  
1541 the 30 days allowed for its action on the measure proposed by initiative petition.

1542 (iii) If the local legislative body adopts a competing local law, the clerk or recorder  
1543 shall submit it to the voters of the county or municipality at the same election at which the  
1544 initiative proposal is submitted.

1545 (f) If conflicting local laws are submitted to the people at the same election and two or  
1546 more of the conflicting measures are approved by the people, then the measure that receives the  
1547 greatest number of affirmative votes shall control all conflicts.

1548 Section 21. Section **32B-1-102** is amended to read:

1549 **32B-1-102. Definitions.**

1550 As used in this title:

1551 (1) "Airport lounge" means a business location:

1552 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

1553 (b) that is located at an international airport with a United States Customs office on the  
1554 premises of the international airport.

1555 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,  
1556 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

1557 (3) "Alcoholic beverage" means the following:

1558 (a) beer; or

1559 (b) liquor.

1560 (4) (a) "Alcoholic product" means a product that:

1561 (i) contains at least .5% of alcohol by volume; and

1562 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other  
1563 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol  
1564 in an amount equal to or greater than .5% of alcohol by volume.

1565 (b) "Alcoholic product" includes an alcoholic beverage.

1566 (c) "Alcoholic product" does not include any of the following common items that  
1567 otherwise come within the definition of an alcoholic product:

1568 (i) except as provided in Subsection (4)(d), an extract;

1569 (ii) vinegar;

1570 (iii) cider;

1571 (iv) essence;

1572 (v) tincture;

1573 (vi) food preparation; or

1574 (vii) an over-the-counter medicine.

1575 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation

- 1576 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 1577 (5) "Alcohol training and education seminar" means a seminar that is:
- 1578 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- 1579 (b) described in Section [62A-15-401](#).
- 1580 (6) "Banquet" means an event:
- 1581 (a) that is held at one or more designated locations approved by the commission in or
- 1582 on the premises of a:
- 1583 (i) hotel;
- 1584 (ii) resort facility;
- 1585 (iii) sports center; or
- 1586 (iv) convention center;
- 1587 (b) for which there is a contract:
- 1588 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
- 1589 and
- 1590 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
- 1591 provide an alcoholic product at the event; and
- 1592 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 1593 (7) (a) "Bar" means a surface or structure:
- 1594 (i) at which an alcoholic product is:
- 1595 (A) stored; or
- 1596 (B) dispensed; or
- 1597 (ii) from which an alcoholic product is served.
- 1598 (b) "Bar structure" means a surface or structure on a licensed premises if on or at any
- 1599 place of the surface or structure an alcoholic product is:
- 1600 (i) stored; or
- 1601 (ii) dispensed.
- 1602 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:
- 1603 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
- 1604 volume or 3.2% by weight; and
- 1605 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 1606 (b) "Beer" may or may not contain hops or other vegetable products.

- 1607 (c) "Beer" includes a product that:
- 1608 (i) contains alcohol in the percentages described in Subsection (8)(a); and
- 1609 (ii) is referred to as:
  - 1610 (A) beer;
  - 1611 (B) ale;
  - 1612 (C) porter;
  - 1613 (D) stout;
  - 1614 (E) lager; or
  - 1615 (F) a malt or malted beverage.
- 1616 (d) "Beer" does not include a flavored malt beverage.
- 1617 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
- 1618 Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 1619 (10) "Beer retailer" means a business:
  - 1620 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
  - 1621 whether for consumption on or off the business premises; and
  - 1622 (b) to whom a license is issued:
    - 1623 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise
    - 1624 Beer Retailer Local Authority; or
    - 1625 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
    - 1626 and Chapter 6, Part 7, On-Premise Beer Retailer License.
  - 1627 (11) "Beer wholesaling license" means a license:
    - 1628 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
    - 1629 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
    - 1630 retail licensees or off-premise beer retailers.
  - 1631 (12) "Billboard" means a public display used to advertise, including:
    - 1632 (a) a light device;
    - 1633 (b) a painting;
    - 1634 (c) a drawing;
    - 1635 (d) a poster;
    - 1636 (e) a sign;
    - 1637 (f) a signboard; or

- 1638 (g) a scoreboard.
- 1639 (13) "Brewer" means a person engaged in manufacturing:
- 1640 (a) beer;
- 1641 (b) heavy beer; or
- 1642 (c) a flavored malt beverage.
- 1643 (14) "Brewery manufacturing license" means a license issued in accordance with
- 1644 Chapter 11, Part 5, Brewery Manufacturing License.
- 1645 (15) "Certificate of approval" means a certificate of approval obtained from the
- 1646 department under Section [32B-11-201](#).
- 1647 (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 1648 a bus company to a group of persons pursuant to a common purpose:
- 1649 (a) under a single contract;
- 1650 (b) at a fixed charge in accordance with the bus company's tariff; and
- 1651 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
- 1652 motor vehicle, and a driver to travel together to one or more specified destinations.
- 1653 (17) "Church" means a building:
- 1654 (a) set apart for worship;
- 1655 (b) in which religious services are held;
- 1656 (c) with which clergy is associated; and
- 1657 (d) that is tax exempt under the laws of this state.
- 1658 (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail
- 1659 License Act, and Chapter 6, Part 4, Club License.
- 1660 (b) "Club license" includes:
- 1661 (i) a dining club license;
- 1662 (ii) an equity club license;
- 1663 (iii) a fraternal club license; or
- 1664 (iv) a social club license.
- 1665 (19) "Commission" means the Alcoholic Beverage Control Commission created in
- 1666 Section [32B-2-201](#).
- 1667 (20) "Commissioner" means a member of the commission.
- 1668 (21) "Community location" means:

- 1669 (a) a public or private school;
- 1670 (b) a church;
- 1671 (c) a public library;
- 1672 (d) a public playground; or
- 1673 (e) a public park.
- 1674 (22) "Community location governing authority" means:
- 1675 (a) the governing body of the community location; or
- 1676 (b) if the commission does not know who is the governing body of a community
- 1677 location, a person who appears to the commission to have been given on behalf of the
- 1678 community location the authority to prohibit an activity at the community location.
- 1679 (23) "Container" means a receptacle that contains an alcoholic product, including:
- 1680 (a) a bottle;
- 1681 (b) a vessel; or
- 1682 (c) a similar item.
- 1683 (24) "Convention center" means a facility that is:
- 1684 (a) in total at least 30,000 square feet; and
- 1685 (b) otherwise defined as a "convention center" by the commission by rule.
- 1686 (25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a
- 1687 dining area of a licensed premises where seating is provided to a patron for service of food.
- 1688 (b) "Counter" does not include a surface or structure if on or at any point of the surface
- 1689 or structure an alcoholic product is:
- 1690 (i) stored; or
- 1691 (ii) dispensed.
- 1692 (26) "Department" means the Department of Alcoholic Beverage Control created in
- 1693 Section [32B-2-203](#).
- 1694 (27) "Department compliance officer" means an individual who is:
- 1695 (a) an auditor or inspector; and
- 1696 (b) employed by the department.
- 1697 (28) "Department sample" means liquor that is placed in the possession of the
- 1698 department for testing, analysis, and sampling.
- 1699 (29) "Dining club license" means a license issued in accordance with Chapter 5, Retail

1700 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a  
1701 dining club license.

1702 (30) "Director," unless the context requires otherwise, means the director of the  
1703 department.

1704 (31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this  
1705 title:

1706 (a) against a person subject to administrative action; and

1707 (b) that is brought on the basis of a violation of this title.

1708 (32) (a) Subject to Subsection (32)(b), "dispense" means:

1709 (i) drawing of an alcoholic product:

1710 (A) from an area where it is stored; or

1711 (B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii),

1712 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

1713 (ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of  
1714 the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the  
1715 retail licensee.

1716 (b) The definition of "dispense" in this Subsection (32) applies only to:

1717 (i) a full-service restaurant license;

1718 (ii) a limited-service restaurant license;

1719 (iii) a reception center license; and

1720 (iv) a beer-only restaurant license.

1721 (33) "Distillery manufacturing license" means a license issued in accordance with  
1722 Chapter 11, Part 4, Distillery Manufacturing License.

1723 (34) "Distressed merchandise" means an alcoholic product in the possession of the  
1724 department that is saleable, but for some reason is unappealing to the public.

1725 (35) "Educational facility" includes:

1726 (a) a nursery school;

1727 (b) an infant day care center; and

1728 (c) a trade and technical school.

1729 (36) "Equity club license" means a license issued in accordance with Chapter 5, Retail  
1730 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an



1731 equity club license.

1732 (37) "Event permit" means:

1733 (a) a single event permit; or

1734 (b) a temporary beer event permit.

1735 (38) "Exempt license" means a license exempt under Section [32B-1-201](#) from being

1736 considered in determining the total number of a retail license that the commission may issue at

1737 any time.

1738 (39) (a) "Flavored malt beverage" means a beverage:

1739 (i) that contains at least .5% alcohol by volume;

1740 (ii) that is treated by processing, filtration, or another method of manufacture that is not

1741 generally recognized as a traditional process in the production of a beer as described in 27

1742 C.F.R. Sec. 25.55;

1743 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop

1744 extract; and

1745 (iv) (A) for which the producer is required to file a formula for approval with the

1746 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

1747 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

1748 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

1749 (40) "Fraternal club license" means a license issued in accordance with Chapter 5,

1750 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission

1751 as a fraternal club license.

1752 (41) "Full-service restaurant license" means a license issued in accordance with

1753 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

1754 (42) (a) "Furnish" means by any means to provide with, supply, or give an individual

1755 an alcoholic product, by sale or otherwise.

1756 (b) "Furnish" includes to:

1757 (i) serve;

1758 (ii) deliver; or

1759 (iii) otherwise make available.

1760 (43) "Guest" means an individual who meets the requirements of Subsection

1761 [32B-6-407\(9\)](#).

- 1762 (44) "Health care practitioner" means:
- 1763 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 1764 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 1765 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 1766 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
- 1767 Act;
- 1768 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
- 1769 Nurse Practice Act;
- 1770 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
- 1771 Practice Act;
- 1772 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
- 1773 Therapy Practice Act;
- 1774 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 1775 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
- 1776 Professional Practice Act;
- 1777 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 1778 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
- 1779 Practice Act;
- 1780 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
- 1781 Hygienist Practice Act; and
- 1782 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- 1783 (45) (a) "Heavy beer" means a product that:
- 1784 (i) contains more than 4% alcohol by volume; and
- 1785 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 1786 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 1787 (46) "Hotel" is as defined by the commission by rule.
- 1788 (47) "Identification card" means an identification card issued under Title 53, Chapter 3,
- 1789 Part 8, Identification Card Act.
- 1790 (48) "Industry representative" means an individual who is compensated by salary,
- 1791 commission, or other means for representing and selling an alcoholic product of a
- 1792 manufacturer, supplier, or importer of liquor.

1793 (49) "Industry representative sample" means liquor that is placed in the possession of  
1794 the department for testing, analysis, and sampling by a local industry representative on the  
1795 premises of the department to educate the local industry representative of the quality and  
1796 characteristics of the product.

1797 (50) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing  
1798 of an alcoholic product is prohibited by:

1799 (a) law; or

1800 (b) court order.

1801 (51) "Intoxicated" means that a person:

1802 (a) is significantly impaired as to the person's mental or physical functions as a result of  
1803 the use of:

1804 (i) an alcoholic product;

1805 (ii) a controlled substance;

1806 (iii) a substance having the property of releasing toxic vapors; or

1807 (iv) a combination of Subsections (51)(a)(i) through (iii); and

1808 (b) exhibits plain and easily observed outward manifestations of behavior or physical  
1809 signs produced by the overconsumption of an alcoholic product.

1810 (52) "Investigator" means an individual who is:

1811 (a) a department compliance officer; or

1812 (b) a nondepartment enforcement officer.

1813 (53) "Invitee" [~~is as~~] means the same as that term is defined in Section 32B-8-102.

1814 (54) "License" means:

1815 (a) a retail license;

1816 (b) a license issued in accordance with Chapter 11, Manufacturing and Related

1817 Licenses Act;

1818 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

1819 or

1820 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

1821 (55) "Licensee" means a person who holds a license.

1822 (56) "Limited-service restaurant license" means a license issued in accordance with  
1823 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

1824 (57) "Limousine" means a motor vehicle licensed by the state or a local authority, other  
1825 than a bus or taxicab:

1826 (a) in which the driver and a passenger are separated by a partition, glass, or other  
1827 barrier;

1828 (b) that is provided by a business entity to one or more individuals at a fixed charge in  
1829 accordance with the business entity's tariff; and

1830 (c) to give the one or more individuals the exclusive use of the limousine and a driver  
1831 to travel to one or more specified destinations.

1832 (58) (a) (i) "Liquor" means a liquid that:

1833 (A) is:

1834 (I) alcohol;

1835 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

1836 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

1837 (IV) other drink or drinkable liquid; and

1838 (B) (I) contains at least .5% alcohol by volume; and

1839 (II) is suitable to use for beverage purposes.

1840 (ii) "Liquor" includes:

1841 (A) heavy beer;

1842 (B) wine; and

1843 (C) a flavored malt beverage.

1844 (b) "Liquor" does not include beer.

1845 (59) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).

1846 (60) "Liquor warehousing license" means a license that is issued:

1847 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and

1848 (b) to a person, other than a licensed manufacturer, who engages in the importation for  
1849 storage, sale, or distribution of liquor regardless of amount.

1850 (61) "Local authority" means:

1851 (a) for premises that are located in an unincorporated area of a county, the governing  
1852 body of a county; or

1853 (b) for premises that are located in an incorporated city [~~or a~~], town, or metro township,  
1854 the governing body of the city [~~or~~], town, or metro township.

- 1855 (62) "Lounge or bar area" is as defined by rule made by the commission.
- 1856 (63) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or  
1857 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 1858 (64) "Member" means an individual who, after paying regular dues, has full privileges  
1859 in an equity club licensee or fraternal club licensee.
- 1860 (65) (a) "Military installation" means a base, air field, camp, post, station, yard, center,  
1861 or homeport facility for a ship:
- 1862 (i) (A) under the control of the United States Department of Defense; or  
1863 (B) of the National Guard;
- 1864 (ii) that is located within the state; and  
1865 (iii) including a leased facility.
- 1866 (b) "Military installation" does not include a facility used primarily for:
- 1867 (i) civil works;  
1868 (ii) a rivers and harbors project; or  
1869 (iii) a flood control project.
- 1870 (66) "Minor" means an individual under the age of 21 years.
- 1871 (67) "Nondepartment enforcement agency" means an agency that:
- 1872 (a) (i) is a state agency other than the department; or  
1873 (ii) is an agency of a county, city, [or] town, or metro township; and  
1874 (b) has a responsibility to enforce one or more provisions of this title.
- 1875 (68) "Nondepartment enforcement officer" means an individual who is:
- 1876 (a) a peace officer, examiner, or investigator; and  
1877 (b) employed by a nondepartment enforcement agency.
- 1878 (69) (a) "Off-premise beer retailer" means a beer retailer who is:
- 1879 (i) licensed in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local  
1880 Authority; and
- 1881 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's  
1882 premises.
- 1883 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 1884 (70) "On-premise banquet license" means a license issued in accordance with Chapter  
1885 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

- 1886 (71) "On-premise beer retailer" means a beer retailer who is:  
1887 (a) authorized to sell, offer for sale, or furnish beer under a license issued in  
1888 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer  
1889 Retailer License; and  
1890 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's  
1891 premises:  
1892 (i) regardless of whether the beer retailer sells beer for consumption off the licensed  
1893 premises; and  
1894 (ii) on and after March 1, 2012, operating:  
1895 (A) as a tavern; or  
1896 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).  
1897 (72) "Opaque" means impenetrable to sight.  
1898 (73) "Package agency" means a retail liquor location operated:  
1899 (a) under an agreement with the department; and  
1900 (b) by a person:  
1901 (i) other than the state; and  
1902 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package  
1903 Agency, to sell packaged liquor for consumption off the premises of the package agency.  
1904 (74) "Package agent" means a person who holds a package agency.  
1905 (75) "Patron" means an individual to whom food, beverages, or services are sold,  
1906 offered for sale, or furnished, or who consumes an alcoholic product including:  
1907 (a) a customer;  
1908 (b) a member;  
1909 (c) a guest;  
1910 (d) an attendee of a banquet or event;  
1911 (e) an individual who receives room service;  
1912 (f) a resident of a resort;  
1913 (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#);  
1914 or  
1915 (h) an invitee.  
1916 (76) "Permittee" means a person issued a permit under:

- 1917 (a) Chapter 9, Event Permit Act; or  
1918 (b) Chapter 10, Special Use Permit Act.  
1919 (77) "Person subject to administrative action" means:  
1920 (a) a licensee;  
1921 (b) a permittee;  
1922 (c) a manufacturer;  
1923 (d) a supplier;  
1924 (e) an importer;  
1925 (f) one of the following holding a certificate of approval:  
1926 (i) an out-of-state brewer;  
1927 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or  
1928 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or  
1929 (g) staff of:  
1930 (i) a person listed in Subsections (77)(a) through (f); or  
1931 (ii) a package agent.  
1932 (78) "Premises" means a building, enclosure, or room used in connection with the  
1933 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,  
1934 unless otherwise defined in this title or rules made by the commission.  
1935 (79) "Prescription" means an order issued by a health care practitioner when:  
1936 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,  
1937 to prescribe a controlled substance, other drug, or device for medicinal purposes;  
1938 (b) the order is made in the course of that health care practitioner's professional  
1939 practice; and  
1940 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.  
1941 (80) (a) "Private event" means a specific social, business, or recreational event:  
1942 (i) for which an entire room, area, or hall is leased or rented in advance by an identified  
1943 group; and  
1944 (ii) that is limited in attendance to people who are specifically designated and their  
1945 guests.  
1946 (b) "Private event" does not include an event to which the general public is invited,  
1947 whether for an admission fee or not.

- 1948 (81) (a) "Proof of age" means:
- 1949 (i) an identification card;
- 1950 (ii) an identification that:
- 1951 (A) is substantially similar to an identification card;
- 1952 (B) is issued in accordance with the laws of a state other than Utah in which the
- 1953 identification is issued;
- 1954 (C) includes date of birth; and
- 1955 (D) has a picture affixed;
- 1956 (iii) a valid driver license certificate that:
- 1957 (A) includes date of birth;
- 1958 (B) has a picture affixed; and
- 1959 (C) is issued:
- 1960 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- 1961 (II) in accordance with the laws of the state in which it is issued;
- 1962 (iv) a military identification card that:
- 1963 (A) includes date of birth; and
- 1964 (B) has a picture affixed; or
- 1965 (v) a valid passport.
- 1966 (b) "Proof of age" does not include a driving privilege card issued in accordance with
- 1967 Section [53-3-207](#).
- 1968 (82) (a) "Public building" means a building or permanent structure that is:
- 1969 (i) owned or leased by:
- 1970 (A) the state; or
- 1971 (B) a local government entity; and
- 1972 (ii) used for:
- 1973 (A) public education;
- 1974 (B) transacting public business; or
- 1975 (C) regularly conducting government activities.
- 1976 (b) "Public building" does not include a building owned by the state or a local
- 1977 government entity when the building is used by a person, in whole or in part, for a proprietary
- 1978 function.



1979 (83) "Public conveyance" means a conveyance to which the public or a portion of the  
1980 public has access to and a right to use for transportation, including an airline, railroad, bus,  
1981 boat, or other public conveyance.

1982 (84) "Reception center" means a business that:

1983 (a) operates facilities that are at least 5,000 square feet; and

1984 (b) has as its primary purpose the leasing of the facilities described in Subsection

1985 (84)(a) to a third party for the third party's event.

1986 (85) "Reception center license" means a license issued in accordance with Chapter 5,  
1987 Retail License Act, and Chapter 6, Part 8, Reception Center License.

1988 (86) (a) "Record" means information that is:

1989 (i) inscribed on a tangible medium; or

1990 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

1991 (b) "Record" includes:

1992 (i) a book;

1993 (ii) a book of account;

1994 (iii) a paper;

1995 (iv) a contract;

1996 (v) an agreement;

1997 (vi) a document; or

1998 (vii) a recording in any medium.

1999 (87) "Residence" means a person's principal place of abode within Utah.

2000 (88) "Resident," in relation to a resort, [~~is as~~] means the same as that term is defined in  
2001 Section [32B-8-102](#).

2002 (89) "Resort" [~~is as~~] means the same as that term is defined in Section [32B-8-102](#).

2003 (90) "Resort facility" is as defined by the commission by rule.

2004 (91) "Resort license" means a license issued in accordance with Chapter 5, Retail  
2005 License Act, and Chapter 8, Resort License Act.

2006 (92) "Restaurant" means a business location:

2007 (a) at which a variety of foods are prepared;

2008 (b) at which complete meals are served to the general public; and

2009 (c) that is engaged primarily in serving meals to the general public.

- 2010 (93) "Retail license" means one of the following licenses issued under this title:
- 2011 (a) a full-service restaurant license;
- 2012 (b) a master full-service restaurant license;
- 2013 (c) a limited-service restaurant license;
- 2014 (d) a master limited-service restaurant license;
- 2015 (e) a club license;
- 2016 (f) an airport lounge license;
- 2017 (g) an on-premise banquet license;
- 2018 (h) an on-premise beer license;
- 2019 (i) a reception center license; or
- 2020 (j) a beer-only restaurant license.
- 2021 (94) "Room service" means furnishing an alcoholic product to a person in a guest room
- 2022 of a:
- 2023 (a) hotel; or
- 2024 (b) resort facility.
- 2025 [~~96~~] (95) (a) "School" means a building used primarily for the general education of
- 2026 minors.
- 2027 (b) "School" does not include an educational facility.
- 2028 [~~97~~] (96) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby,
- 2029 for consideration, an alcoholic product is either directly or indirectly transferred, solicited,
- 2030 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether
- 2031 done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or
- 2032 the rules made by the commission.
- 2033 [~~95~~] (97) "Serve" means to place an alcoholic product before an individual.
- 2034 (98) "Sexually oriented entertainer" means a person who while in a state of seminudity
- 2035 appears at or performs:
- 2036 (a) for the entertainment of one or more patrons;
- 2037 (b) on the premises of:
- 2038 (i) a social club licensee; or
- 2039 (ii) a tavern;
- 2040 (c) on behalf of or at the request of the licensee described in Subsection (98)(b);

- 2041 (d) on a contractual or voluntary basis; and
- 2042 (e) whether or not the person is designated as:
- 2043 (i) an employee;
- 2044 (ii) an independent contractor;
- 2045 (iii) an agent of the licensee; or
- 2046 (iv) a different type of classification.
- 2047 (99) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3,
- 2048 Single Event Permit.
- 2049 (100) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
- 2050 beer, heavy beer, and flavored malt beverages per year.
- 2051 (101) "Social club license" means a license issued in accordance with Chapter 5, Retail
- 2052 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
- 2053 social club license.
- 2054 (102) "Special use permit" means a permit issued in accordance with Chapter 10,
- 2055 Special Use Permit Act.
- 2056 (103) (a) "Spirituos liquor" means liquor that is distilled.
- 2057 (b) "Spirituos liquor" includes an alcoholic product defined as a "distilled spirit" by
- 2058 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 2059 (104) "Sports center" is as defined by the commission by rule.
- 2060 (105) (a) "Staff" means an individual who engages in activity governed by this title:
- 2061 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
- 2062 holder;
- 2063 (ii) at the request of the business, including a package agent, licensee, permittee, or
- 2064 certificate holder; or
- 2065 (iii) under the authority of the business, including a package agent, licensee, permittee,
- 2066 or certificate holder.
- 2067 (b) "Staff" includes:
- 2068 (i) an officer;
- 2069 (ii) a director;
- 2070 (iii) an employee;
- 2071 (iv) personnel management;

- 2072 (v) an agent of the licensee, including a managing agent;
- 2073 (vi) an operator; or
- 2074 (vii) a representative.
- 2075 (106) "State of nudity" means:
- 2076 (a) the appearance of:
- 2077 (i) the nipple or areola of a female human breast;
- 2078 (ii) a human genital;
- 2079 (iii) a human pubic area; or
- 2080 (iv) a human anus; or
- 2081 (b) a state of dress that fails to opaquely cover:
- 2082 (i) the nipple or areola of a female human breast;
- 2083 (ii) a human genital;
- 2084 (iii) a human pubic area; or
- 2085 (iv) a human anus.
- 2086 (107) "State of seminudity" means a state of dress in which opaque clothing covers no
- 2087 more than:
- 2088 (a) the nipple and areola of the female human breast in a shape and color other than the
- 2089 natural shape and color of the nipple and areola; and
- 2090 (b) the human genitals, pubic area, and anus:
- 2091 (i) with no less than the following at its widest point:
- 2092 (A) four inches coverage width in the front of the human body; and
- 2093 (B) five inches coverage width in the back of the human body; and
- 2094 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 2095 (108) (a) "State store" means a facility for the sale of packaged liquor:
- 2096 (i) located on premises owned or leased by the state; and
- 2097 (ii) operated by a state employee.
- 2098 (b) "State store" does not include:
- 2099 (i) a package agency;
- 2100 (ii) a licensee; or
- 2101 (iii) a permittee.
- 2102 (109) (a) "Storage area" means an area on licensed premises where the licensee stores

2103 an alcoholic product.

2104 (b) "Store" means to place or maintain in a location an alcoholic product from which a  
2105 person draws to prepare an alcoholic product to be furnished to a patron, except as provided in  
2106 Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or  
2107 32B-6-905(12)(b)(ii).

2108 (110) "Sublicense" [~~is as~~] means the same as that term is defined in Section 32B-8-102.

2109 (111) "Supplier" means a person who sells an alcoholic product to the department.

2110 (112) "Tavern" means an on-premise beer retailer who is:

2111 (a) issued a license by the commission in accordance with Chapter 5, Retail License  
2112 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

2113 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,  
2114 On-Premise Beer Retailer License.

2115 (113) "Temporary beer event permit" means a permit issued in accordance with  
2116 Chapter 9, Part 4, Temporary Beer Event Permit.

2117 (114) "Temporary domicile" means the principal place of abode within Utah of a  
2118 person who does not have a present intention to continue residency within Utah permanently or  
2119 indefinitely.

2120 (115) "Translucent" means a substance that allows light to pass through, but does not  
2121 allow an object or person to be seen through the substance.

2122 (116) "Unsaleable liquor merchandise" means a container that:

2123 (a) is unsaleable because the container is:

2124 (i) unlabeled;

2125 (ii) leaky;

2126 (iii) damaged;

2127 (iv) difficult to open; or

2128 (v) partly filled;

2129 (b) (i) has faded labels or defective caps or corks;

2130 (ii) has contents that are:

2131 (A) cloudy;

2132 (B) spoiled; or

2133 (C) chemically determined to be impure; or

- 2134 (iii) contains:
- 2135 (A) sediment; or
- 2136 (B) a foreign substance; or
- 2137 (c) is otherwise considered by the department as unfit for sale.
- 2138 (117) (a) "Wine" means an alcoholic product obtained by the fermentation of the
- 2139 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
- 2140 another ingredient is added.
- 2141 (b) "Wine" is considered liquor for purposes of this title, except as otherwise provided
- 2142 in this title.
- 2143 (118) "Winery manufacturing license" means a license issued in accordance with
- 2144 Chapter 11, Part 3, Winery Manufacturing License.
- 2145 Section 22. Section **32B-1-202** is amended to read:
- 2146 **32B-1-202. Proximity to community location.**
- 2147 (1) For purposes of this section, "outlet" means:
- 2148 (a) a state store;
- 2149 (b) a package agency; or
- 2150 (c) a retail licensee, except an airport lounge licensee.
- 2151 (2) Except as otherwise provided in this section, the premises of an outlet may not be
- 2152 located:
- 2153 (a) within 600 feet of a community location, as measured from the nearest entrance of
- 2154 the outlet by following the shortest route of ordinary pedestrian travel to the property boundary
- 2155 of the community location; or
- 2156 (b) within 200 feet of a community location, measured in a straight line from the
- 2157 nearest entrance of the outlet to the nearest property boundary of the community location.
- 2158 (3) With respect to the location of an outlet, the commission may authorize a variance
- 2159 to reduce the proximity requirement of Subsection (2) if:
- 2160 (a) when the variance reduces the proximity requirement of Subsection (2)(b), the
- 2161 community location at issue is:
- 2162 (i) a public library; or
- 2163 (ii) a public park;
- 2164 (b) except with respect to a state store, the local authority gives its written consent to

2165 the variance;

2166 (c) the commission finds that alternative locations for locating that type of outlet in the  
2167 community are limited;

2168 (d) a public hearing is held in the city, town, metro township, or county, and when  
2169 practical in the neighborhood concerned;

2170 (e) after giving full consideration to the attending circumstances and the policies stated  
2171 in Subsections 32B-1-103(3) and (4), the commission determines that locating the outlet in that  
2172 location would not be detrimental to the public health, peace, safety, and welfare of the  
2173 community;

2174 (f) (i) the community location governing authority gives its written consent to the  
2175 variance; or

2176 (ii) if the community location governing authority does not give its written consent to a  
2177 variance, the commission finds the following for a state store, or if the outlet is a package  
2178 agency or retail licensee, the commission finds that the applicant establishes the following:

2179 (A) there is substantial unmet public demand to consume an alcoholic product:

2180 (I) within the geographic boundary of the local authority in which the outlet is to be  
2181 located; and

2182 (II) for an outlet that is a retail licensee, in a public setting;

2183 (B) there is no reasonably viable alternative for satisfying the substantial unmet  
2184 demand other than through locating that type of outlet in that location; and

2185 (C) there is no reasonably viable alternative location within the geographic boundary of  
2186 the local authority in which the outlet is to be located for locating that type of outlet to satisfy  
2187 the unmet demand.

2188 (4) With respect to the premises of a package agency or retail licensee that undergoes a  
2189 change of ownership, the commission may waive or vary the proximity requirements of  
2190 Subsection (2) in considering whether to issue the package agency or same type of retail license  
2191 to the new owner of the premises if:

2192 (a) the premises previously received a variance reducing the proximity requirement of  
2193 Subsection (2)(a);

2194 (b) the premises received a variance reducing the proximity requirement of Subsection  
2195 (2)(b) on or before May 4, 2008; or

2196 (c) a variance from proximity requirements was otherwise allowed under this title.  
2197 (5) Nothing in this section prevents the commission from considering the proximity of  
2198 an educational, religious, and recreational facility, or any other relevant factor in reaching a  
2199 decision on a proposed location of an outlet.

2200 Section 23. Section **32B-2-402** is amended to read:

2201 **32B-2-402. Definitions -- Calculations.**

2202 (1) As used in this part:

2203 (a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and  
2204 Treatment Restricted Account created in Section [32B-2-403](#).

2205 (b) "Advisory council" means the Utah Substance Abuse Advisory Council created in  
2206 Section [63M-7-301](#).

2207 (c) "Alcohol-related offense" means:

2208 (i) a violation of:

2209 (A) Section [41-6a-502](#); or

2210 (B) an ordinance that complies with the requirements of:

2211 (I) Subsection [41-6a-510](#)(1); or

2212 (II) Section [76-5-207](#); or

2213 (ii) an offense involving the illegal:

2214 (A) sale of an alcoholic product;

2215 (B) consumption of an alcoholic product;

2216 (C) distribution of an alcoholic product;

2217 (D) transportation of an alcoholic product; or

2218 (E) possession of an alcoholic product.

2219 (d) "Annual conviction time period" means the time period that:

2220 (i) begins on July 1 and ends on June 30; and

2221 (ii) immediately precedes the fiscal year for which an appropriation under this part is

2222 made.

2223 (e) "Municipality" means:

2224 (i) a city; ~~or~~

2225 (ii) a town[-]; or

2226 (iii) a metro township.



2227 (f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah  
2228 Administrative Rulemaking Act, by the Division of Substance Abuse and Mental Health within  
2229 the Department of Human Services.

2230 (ii) In defining the term "prevention," the Division of Substance Abuse and Mental  
2231 Health shall:

2232 (A) include only evidence-based or evidence-informed programs; and

2233 (B) provide for coordination with local substance abuse authorities designated to  
2234 provide substance abuse services in accordance with Section 17-43-201.

2235 (2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located  
2236 within the limits of a municipality or county:

2237 (a) is the number determined by the department to be so located;

2238 (b) includes the aggregate number of premises of the following:

2239 (i) a state store;

2240 (ii) a package agency; and

2241 (iii) a retail licensee; and

2242 (c) for a county, consists only of the number located within an unincorporated area of  
2243 the county.

2244 (3) The department shall determine:

2245 (a) a population figure according to the most current population estimate prepared by  
2246 the Utah Population Estimates Committee;

2247 (b) a county's population for the 25% distribution to municipalities and counties under  
2248 Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated  
2249 areas of the county; and

2250 (c) a county's population for the 25% distribution to counties under Subsection  
2251 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of  
2252 a municipality.

2253 (4) (a) A conviction occurs in the municipality or county that actually prosecutes the  
2254 offense to judgment.

2255 (b) If a conviction is based upon a guilty plea, the conviction is considered to occur in  
2256 the municipality or county that, except for the guilty plea, would have prosecuted the offense.

2257 Section 24. Section 32B-4-202 is amended to read:

2258 **32B-4-202. Duties to enforce this title.**

2259 (1) It is the duty of the following to diligently enforce this title in their respective  
2260 capacities:

2261 (a) the governor;

2262 (b) a commissioner;

2263 (c) the director;

2264 (d) an official, inspector, or department employee;

2265 (e) a prosecuting official of the state or its political subdivisions;

2266 (f) a county, city, [or] town, or metro township;

2267 (g) a peace officer, sheriff, deputy sheriff, constable, marshal, or law enforcement  
2268 official;

2269 (h) a state health official; and

2270 (i) a clerk of the court.

2271 (2) Immediately upon conviction of a person for violation of this title or of a local  
2272 ordinance relating to an alcoholic product, it is the duty of the clerk of the court to notify the  
2273 department of the conviction in writing on forms supplied by the department.

2274 Section 25. Section **32B-5-403** is amended to read:

2275 **32B-5-403. Alcohol training and education -- Revocation, suspension, or**  
2276 **nonrenewal of retail license.**

2277 (1) The commission may suspend, revoke, or not renew a license of a retail licensee if  
2278 any of the following individuals, as defined in Section [62A-15-401](#), fail to complete an alcohol  
2279 training and education seminar:

2280 (a) an individual who manages operations at the licensed premises for consumption on  
2281 the licensed premises;

2282 (b) an individual who supervises the furnishing of an alcoholic product to a patron for  
2283 consumption on the licensed premises; or

2284 (c) an individual who serves an alcoholic product to a patron for consumption on the  
2285 licensed premises.

2286 (2) A city, town, metro township, or county in which a retail licensee conducts its  
2287 business may suspend, revoke, or not renew the business license of the retail licensee if an  
2288 individual described in Subsection (1) fails to complete an alcohol training and education

2289 seminar.

2290 (3) A local authority that issues an off-premise beer retailer license to a business that is  
2291 engaged in the retail sale of beer for consumption off the beer retailer's premises may  
2292 immediately suspend the off-premise beer retailer license if any of the following individuals  
2293 fails to complete an alcohol training and education seminar, an individual who:

2294 (a) directly supervises the sale of beer to a patron for consumption off the premises of  
2295 the off-premise beer retailer; or

2296 (b) sells beer to a patron for consumption off the premises of the off-premise beer  
2297 retailer.

2298 Section 26. Section **52-1-1** is amended to read:

2299 **52-1-1. Official bonds to run to state, county, municipality, or other agency.**

2300 When the law directs that a public officer shall give a bond without prescribing to  
2301 whom it shall run it shall be made, if [~~he~~] the public officer is a state officer, to the state; if a  
2302 county, precinct or district officer, to the county; if a municipal officer, to the city [~~or~~], town, or  
2303 metro township; and if a school officer, to the board of education.

2304 Section 27. Section **52-1-5.1** is enacted to read:

2305 **52-1-5.1. Metro township officers -- Where filed.**

2306 Official oaths and bonds of metro township officers shall be filed with the county clerk.

2307 Section 28. Section **63G-6a-103** is amended to read:

2308 **63G-6a-103. Definitions.**

2309 As used in this chapter:

2310 (1) "Bidder" means a person who responds to an invitation for bids.

2311 (2) "Change directive" means a written order signed by the procurement officer that  
2312 directs the contractor to suspend work or make changes, as authorized by contract, without the  
2313 consent of the contractor.

2314 (3) "Change order" means a written alteration in specifications, delivery point, rate of  
2315 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual  
2316 agreement of the parties to the contract.

2317 (4) "Chief procurement officer" means the chief procurement officer appointed under  
2318 Subsection **63G-6a-302(1)**.

2319 (5) "Conducting procurement unit" means a procurement unit that conducts all aspects

2320 of a procurement:

2321 (a) except:

2322 (i) reviewing a solicitation to verify that it is in proper form; and

2323 (ii) causing the publication of a notice of a solicitation; and

2324 (b) including:

2325 (i) preparing any solicitation document;

2326 (ii) appointing an evaluation committee;

2327 (iii) conducting the evaluation process, except as provided in Subsection

2328 [63G-6a-707\(5\)\(b\)](#) relating to scores calculated for costs of proposals;

2329 (iv) selecting and recommending the person to be awarded a contract;

2330 (v) negotiating the terms and conditions of a contract, subject to the issuing

2331 procurement unit's approval; and

2332 (vi) administering a contract.

2333 (6) (a) "Construction" means the process of building, renovating, altering, improving,

2334 or repairing a public building or public work.

2335 (b) "Construction" does not include the routine operation, routine repair, or routine

2336 maintenance of an existing structure, building, or real property.

2337 (7) (a) "Construction manager/general contractor" means a contractor who enters into a

2338 contract for the management of a construction project when the contract allows the contractor

2339 to subcontract for additional labor and materials that are not included in the contractor's cost

2340 proposal submitted at the time of the procurement of the contractor's services.

2341 (b) "Construction manager/general contractor" does not include a contractor whose

2342 only subcontract work not included in the contractor's cost proposal submitted as part of the

2343 procurement of the contractor's services is to meet subcontracted portions of change orders

2344 approved within the scope of the project.

2345 (8) "Contract" means an agreement for the procurement or disposal of a procurement

2346 item.

2347 (9) "Contractor" means a person who is awarded a contract with a procurement unit.

2348 (10) "Cooperative procurement" means procurement conducted by, or on behalf of:

2349 (a) more than one procurement unit; or

2350 (b) a procurement unit and a cooperative purchasing organization.

2351 (11) "Cost-plus-a-percentage-of-cost contract" means a contract where the contractor is  
2352 paid a percentage over and above the contractor's actual expenses or costs.

2353 (12) "Cost-reimbursement contract" means a contract under which a contractor is  
2354 reimbursed for costs which are allowed and allocated in accordance with the contract terms and  
2355 the provisions of this chapter, and a fee, if any.

2356 (13) "Days" means calendar days, unless expressly provided otherwise.

2357 (14) "Definite quantity contract" means a fixed price contract that provides for the  
2358 supply of a specified amount of goods over a specified period, with deliveries scheduled  
2359 according to a specified schedule.

2360 (15) "Design-build" means the procurement of design professional services and  
2361 construction by the use of a single contract with the design-build provider.

2362 (16) "Design professional" means:

2363 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects  
2364 Licensing Act; or

2365 (b) an individual licensed as a professional engineer or professional land surveyor  
2366 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing  
2367 Act.

2368 (17) "Design professional services" means:

2369 (a) professional services within the scope of the practice of architecture as defined in  
2370 Section [58-3a-102](#);

2371 (b) professional engineering as defined in Section [58-22-102](#); or

2372 (c) master planning and programming services.

2373 (18) "Directed procurement" means a procurement of a procurement item in which the  
2374 source of the funds used to procure the procurement item:

2375 (a) directs from whom the procurement item is to be procured; or

2376 (b) imposes requirements on how the procurement is to be administered.

2377 (19) "Director" means the director of the division.

2378 (20) "Established catalogue price" means the price included in a catalogue, price list,  
2379 schedule, or other form that:

2380 (a) is regularly maintained by a manufacturer or contractor;

2381 (b) is either published or otherwise available for inspection by customers; and

2382 (c) states prices at which sales are currently or were last made to a significant number  
2383 of any category of buyers or buyers constituting the general buying public for the supplies or  
2384 services involved.

2385 (21) "Fixed price contract" means a contract that provides a price, for each  
2386 procurement item obtained under the contract, that is not subject to adjustment except to the  
2387 extent that:

2388 (a) the contract provides, under circumstances specified in the contract, for an  
2389 adjustment in price that is not based on cost to the contractor; or

2390 (b) an adjustment is required by law.

2391 (22) "Fixed price contract with price adjustment" means a fixed price contract that  
2392 provides for an upward or downward revision of price, precisely described in the contract, that:

2393 (a) is based on the consumer price index or another commercially acceptable index,  
2394 source, or formula; and

2395 (b) is not based on a percentage of the cost to the contractor.

2396 (23) "Grant" means an expenditure of public funds or other assistance, or an agreement  
2397 to expend public funds or other assistance, for a public purpose authorized by law, without  
2398 acquiring a procurement item in exchange.

2399 (24) "Head of a procurement unit" means:

2400 (a) as it relates to a legislative procurement unit, any person designated by rule made  
2401 by the applicable rulemaking authority;

2402 (b) as it relates to an executive branch procurement unit:

2403 (i) the director of a division; or

2404 (ii) any other person designated by the board, by rule;

2405 (c) as it relates to a judicial procurement unit:

2406 (i) the Judicial Council; or

2407 (ii) any other person designated by the Judicial Council, by rule;

2408 (d) as it relates to a local government procurement unit:

2409 (i) the legislative body of the local government procurement unit; or

2410 (ii) any other person designated by the local government procurement unit;

2411 (e) as it relates to a local district, the board of trustees of the local district or a designee  
2412 of the board of trustees;

2413 (f) as it relates to a special service district, the governing body of the special service  
2414 district or a designee of the governing body;

2415 (g) as it relates to a local building authority, the board of directors of the local building  
2416 authority or a designee of the board of directors;

2417 (h) as it relates to a conservation district, the board of supervisors of the conservation  
2418 district or a designee of the board of supervisors;

2419 (i) as it relates to a public corporation, the board of directors of the public corporation  
2420 or a designee of the board of directors;

2421 (j) as it relates to a school district or any school or entity within a school district, the  
2422 board of the school district, or the board's designee;

2423 (k) as it relates to a charter school, the individual or body with executive authority over  
2424 the charter school, or the individual's or body's designee;

2425 (l) as it relates to an institution of higher education of the state, the president of the  
2426 institution of higher education, or the president's designee; or

2427 (m) as it relates to a public transit district, the board of trustees or a designee of the  
2428 board of trustees.

2429 (25) "Indefinite quantity contract" means a fixed price contract that:

2430 (a) is for an indefinite amount of procurement items to be supplied as ordered by a  
2431 procurement unit; and

2432 (b) (i) does not require a minimum purchase amount; or

2433 (ii) provides a maximum purchase limit.

2434 (26) "Independent procurement authority" means authority granted to a procurement  
2435 unit under Subsection [63G-6a-106\(4\)\(a\)](#).

2436 (27) "Invitation for bids" includes all documents, including documents that are attached  
2437 or incorporated by reference, used for soliciting bids to provide a procurement item to a  
2438 procurement unit.

2439 (28) "Issuing procurement unit" means a procurement unit that:

2440 (a) reviews a solicitation to verify that it is in proper form;

2441 (b) causes the notice of a solicitation to be published; and

2442 (c) negotiates the terms and conditions of a contract.

2443 (29) "Labor hour contract" is a contract where:

2444 (a) the supplies and materials are not provided by, or through, the contractor; and

2445 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and

2446 profit for a specified number of labor hours or days.

2447 (30) "Multiple award contracts" means the award of a contract for an indefinite

2448 quantity of a procurement item to more than one bidder or offeror.

2449 (31) "Multiyear contract" means a contract that extends beyond a one-year period,

2450 including a contract that permits renewal of the contract, without competition, beyond the first

2451 year of the contract.

2452 (32) "Municipality" means a city [~~or a~~], town, or metro township.

2453 (33) "Offeror" means a person who responds to a request for proposals.

2454 (34) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference

2455 under the requirements of this chapter.

2456 (35) "Procure" means to acquire a procurement item through a procurement.

2457 (36) "Procurement":

2458 (a) means an expenditure of public funds, or an agreement to expend public funds, in

2459 exchange for a procurement item;

2460 (b) includes all functions that pertain to the acquisition of a procurement item,

2461 including:

2462 (i) the description of requirements;

2463 (ii) the selection process;

2464 (iii) solicitation of sources;

2465 (iv) the preparation for soliciting a procurement item; and

2466 (v) the award of a contract; and

2467 (c) does not include a grant.

2468 (37) "Procurement item" means a supply, a service, construction, or technology.

2469 (38) "Procurement officer" means:

2470 (a) as it relates to a procurement unit with independent procurement authority:

2471 (i) the head of the procurement unit;

2472 (ii) a designee of the head of the procurement unit; or

2473 (iii) a person designated by rule made by the applicable rulemaking authority; or

2474 (b) as it relates to the division or a procurement unit without independent procurement



2475 authority, the chief procurement officer.

2476 (39) "Professional service" means a service that requires a high degree of specialized  
2477 knowledge and discretion in the performance of the service, including:

2478 (a) legal services;

2479 (b) consultation services;

2480 (c) architectural services;

2481 (d) engineering;

2482 (e) design;

2483 (f) underwriting;

2484 (g) bond counsel;

2485 (h) financial advice;

2486 (i) construction management;

2487 (j) medical services;

2488 (k) psychiatric services; or

2489 (l) counseling services.

2490 (40) "Protest officer" means:

2491 (a) as it relates to the division or a procurement unit with independent procurement  
2492 authority:

2493 (i) the head of the procurement unit;

2494 (ii) a designee of the head of the procurement unit; or

2495 (iii) a person designated by rule made by the applicable rulemaking authority; or

2496 (b) as it relates to a procurement unit without independent procurement authority, the  
2497 chief procurement officer or the chief procurement officer's designee.

2498 (41) "Request for information" means a nonbinding process where a procurement unit  
2499 requests information relating to a procurement item.

2500 (42) "Request for proposals" includes all documents, including documents that are  
2501 attached or incorporated by reference, used for soliciting proposals to provide a procurement  
2502 item to a procurement unit.

2503 (43) "Request for statement of qualifications" means all documents used to solicit  
2504 information about the qualifications of the person interested in responding to a potential  
2505 procurement, including documents attached or incorporated by reference.

- 2506 (44) "Requirements contract" means a contract:
- 2507 (a) where a contractor agrees to provide a procurement unit's entire requirements for
- 2508 certain procurement items at prices specified in the contract during the contract period; and
- 2509 (b) that:
- 2510 (i) does not require a minimum purchase amount; or
- 2511 (ii) provides a maximum purchase limit.
- 2512 (45) "Responsible" means being capable, in all respects, of:
- 2513 (a) meeting all the requirements of a solicitation; and
- 2514 (b) fully performing all the requirements of the contract resulting from the solicitation,
- 2515 including being financially solvent with sufficient financial resources to perform the contract.
- 2516 (46) "Responsive" means conforming in all material respects to the invitation for bids
- 2517 or request for proposals.
- 2518 (47) "Sealed" means manually or electronically sealed and submitted bids or proposals.
- 2519 (48) (a) "Services" means the furnishing of labor, time, or effort by a contractor, not
- 2520 involving the delivery of a specific end product other than a report that is incidental to the
- 2521 required performance.
- 2522 (b) "Services" does not include an employment agreement or a collective bargaining
- 2523 agreement.
- 2524 (49) "Sole source contract" means a contract resulting from a sole source procurement.
- 2525 (50) "Sole source procurement" means a procurement without competition pursuant to
- 2526 a determination under Subsection [63G-6a-802\(2\)\(a\)](#) that there is only one source for the
- 2527 procurement item.
- 2528 (51) "Solicitation" means an invitation for bids, request for proposals, notice of a sole
- 2529 source procurement, request for statement of qualifications, request for information, or any
- 2530 document used to obtain bids, proposals, pricing, qualifications, or information for the purpose
- 2531 of entering into a procurement contract.
- 2532 (52) "Specification" means any description of the physical or functional characteristics,
- 2533 or nature of a procurement item included in an invitation for bids or a request for proposals, or
- 2534 otherwise specified or agreed to by a procurement unit, including a description of:
- 2535 (a) a requirement for inspecting or testing a procurement item; or
- 2536 (b) preparing a procurement item for delivery.

2537 (53) "Standard procurement process" means one of the following methods of obtaining  
2538 a procurement item:

- 2539 (a) bidding, as described in Part 6, Bidding;  
2540 (b) request for proposals, as described in Part 7, Request for Proposals; or  
2541 (c) small purchases, in accordance with the requirements established under Section  
2542 [63G-6a-408](#).

2543 (54) "State cooperative contract" means a contract awarded by the division for and in  
2544 behalf of all public entities.

2545 (55) "Statement of qualifications" means a written statement submitted to a  
2546 procurement unit in response to a request for statement of qualifications.

2547 (56) (a) "Subcontractor" means a person under contract with a contractor or another  
2548 subcontractor to provide services or labor for design or construction.

2549 (b) "Subcontractor" includes a trade contractor or specialty contractor.

2550 (c) "Subcontractor" does not include a supplier who provides only materials,  
2551 equipment, or supplies to a contractor or subcontractor.

2552 (57) "Supplies" means all property, including equipment, materials, and printing.

2553 (58) "Tie bid" means that the lowest responsive and responsible bids are identical in  
2554 price.

2555 (59) "Time and materials contract" means a contract where the contractor is paid:

2556 (a) the actual cost of direct labor at specified hourly rates;

2557 (b) the actual cost of materials and equipment usage; and

2558 (c) an additional amount, expressly described in the contract, to cover overhead and  
2559 profit, that is not based on a percentage of the cost to the contractor.

2560 Section 29. Section **63I-1-220** is amended to read:

2561 **63I-1-220. Repeal dates, Title 20A.**

2562 On January 1, 2017:

2563 (1) Subsection [20A-1-102](#)~~[(54)]~~[\(55\)](#) is repealed.

2564 (2) Subsection [20A-2-102.5](#)(1) the language that states "[20A-4-108](#), or" is repealed.

2565 ~~[(3) Subsection [20A-2-201](#)(3) the language that states "Except as provided in~~  
2566 ~~Subsection [20A-4-108](#)(5)," is repealed.]~~

2567 ~~[(4)]~~ (3) Subsection [20A-2-202](#)(3)(a) the language that states "Except as provided in

2568 Subsection 20A-4-108(6)," is repealed.

2569 [~~5~~] (4) Subsection 20A-2-204(5)(a) the language that states "Except as provided in

2570 Subsection 20A-4-108(7)," is repealed.

2571 [~~6~~] (5) Subsection 20A-2-205(7)(a) the language that states "Except as provided in

2572 Subsection 20A-4-108(8)," is repealed.

2573 [~~7~~] (6) Subsection 20A-2-206(8)[~~(b)~~](c) the language that states "Except as provided

2574 in Subsection 20A-4-108(9)," is repealed.

2575 [~~8~~] (7) Subsection 20A-2-307(2)(a) is repealed.

2576 [~~9~~] (8) Subsection 20A-4-107(2)(b) the language that states "Except as provided in

2577 Subsection 20A-4-108(10)," is repealed.

2578 [~~10~~] (9) Subsection 20A-4-107(3) the language that states "or if the voter is, in

2579 accordance with the pilot project, registered to vote under Subsection 20A-4-108(10)," is

2580 repealed.

2581 [~~11~~] (10) Subsection 20A-4-107(4) the language that states "Except as provided in

2582 Subsection 20A-4-108(12)," is repealed.

2583 [~~12~~] (11) Section 20A-4-108 is repealed.