

HB0172S01 compared with HB0172

~~{deleted text}~~ shows text that was in HB0172 but was deleted in HB0172S01.

Inserted text shows text that was not in HB0172 but was inserted into HB0172S01.

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

Representative Christine F. Watkins proposes the following substitute bill:

COUNTY OFFICES AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor: _____

LONG TITLE

General Description:

This bill allows a county to select certain county officers by appointment rather than by election.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ recodifies and reorganizes Title 17, Chapter 16, County Officers, and related provisions;
- ▶ establishes a process by which a county may provide for the appointment of one or more of the following county officers by appointment rather than by election:
 - county treasurer;
 - county clerk;

HB0172S01 compared with HB0172

- county auditor;
 - county recorder;
 - county surveyor; ~~{and}~~
 - county assessor;
 - county sheriff;
 - county attorney; or
 - district attorney;
- ▶ provides that the process to ~~{become an appointing}~~ change how a county officer is selected may be initiated:
- by the county legislative body through resolution;
 - by the citizens of the county through petition; or
 - through an optional plan adopted at the time the county changes the county's form of county government;
- ▶ establishes signature thresholds and other requirements for a citizen petition that initiates the process to ~~{become an appointing}~~ change how a county officer is selected;
- ▶ requires the county legislative body to hold public hearings on a proposal to ~~{become an appointing}~~ change how a county officer is selected;
- ▶ provides that a county's change ~~{to an appointing}~~ in how a county officer is selected is only effective if approved by the county's voters at an election;
- ▶ establishes requirements and processes for an election to determine whether a county will ~~{become an appointing county}~~ change how one or more of the county's officers are selected;
- ▶ establishes provisions related to a county's transition ~~{to an appointing county}~~;
- ▶ ~~provides that a county's election to become an appointing county is permanent;~~
- ▶ after making a change under this bill;
- ▶ establishes a selection committee ~~{for an appointing county}~~ to select appointed county officers;
- ▶ ~~{}~~ provides that an appointed county office is a career service position of the county and that the recruitment, hiring, compensation, discipline, and termination of an appointed county officer is conducted under the career service provisions of law;

HB0172S01 compared with HB0172

- ▶ provides additional processes for the termination of an appointed county officer;
- ▶ amends provisions related to the consolidation of certain county offices; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[11-51-102, as last amended by Laws of Utah 2016, Chapter 348](#)

[11-51a-102, as enacted by Laws of Utah 2015, Chapter 419](#)

17-16a-4, as last amended by Laws of Utah 2013, Chapters 142 and 445

17-17-1, as last amended by Laws of Utah 2010, Chapter 381

17-17-2, as repealed and reenacted by Laws of Utah 2016, Chapter 285

17-18a-204, as enacted by Laws of Utah 2013, Chapter 237

17-18a-301, as enacted by Laws of Utah 2013, Chapter 237

17-20-1, as last amended by Laws of Utah 2008, Chapter 3

[17-22-1.5, as last amended by Laws of Utah 2011, Chapter 58](#)

17-23-1, as last amended by Laws of Utah 2001, Chapter 241

17-23-2, as last amended by Laws of Utah 2001, Chapter 241

17-24-1, as last amended by Laws of Utah 2017, Chapter 460

17-33-8, as last amended by Laws of Utah 2008, Chapters 25 and 172

17-52a-204, as renumbered and amended by Laws of Utah 2018, Chapter 68

17-52a-404, as renumbered and amended by Laws of Utah 2018, Chapter 68

17-53-104, as renumbered and amended by Laws of Utah 2000, Chapter 133

17-53-106, as last amended by Laws of Utah 2002, Chapters 11 and 185

17-53-317, as last amended by Laws of Utah 2011, Chapter 209

17D-2-203, as last amended by Laws of Utah 2018, Chapter 68

20A-1-102, as last amended by Laws of Utah 2018, Chapters 187 and 274

20A-1-404, as last amended by Laws of Utah 2008, Chapter 13

20A-1-501, as last amended by Laws of Utah 2016, Chapter 16

HB0172S01 compared with HB0172

20A-1-508, as last amended by Laws of Utah 2018, Chapters 68 and 199

20A-1-509.1, as last amended by Laws of Utah 2011, Chapters 297 and 327

20A-1-509.2, as last amended by Laws of Utah 2013, Chapter 237

20A-1-901, as enacted by Laws of Utah 2018, Chapter 259

20A-6-302, as last amended by Laws of Utah 2014, Chapter 17

20A-9-101, as last amended by Laws of Utah 2018, Chapter 19

20A-11-103, as last amended by Laws of Utah 2016, Chapter 16

41-1a-1320, as last amended by Laws of Utah 2006, Chapter 39

51-7-15, as last amended by Laws of Utah 2017, Chapter 338

51-9-408, as last amended by Laws of Utah 2014, Chapter 267

59-2-407, as last amended by Laws of Utah 2018, Chapters 432 and 436

59-2-1302, as last amended by Laws of Utah 2011, Chapter 163

59-2-1303, as last amended by Laws of Utah 2009, Chapter 388

59-2-1305, as last amended by Laws of Utah 2018, Chapter 197

59-2-1316, as repealed and reenacted by Laws of Utah 1988, Chapter 3

63I-1-217, as last amended by Laws of Utah 2018, Chapters 236 and 347

63J-1-602.2, as repealed and reenacted by Laws of Utah 2018, Chapter 469

63L-8-304, as last amended by Laws of Utah 2017, Chapter 451

65A-8-212, as last amended by Laws of Utah 2018, Chapter 189

ENACTS:

17-16-101, Utah Code Annotated 1953

17-16-102, Utah Code Annotated 1953

17-16-306, Utah Code Annotated 1953

17-16-307, Utah Code Annotated 1953

17-16-401, Utah Code Annotated 1953

17-16-402, Utah Code Annotated 1953

17-16-403, Utah Code Annotated 1953

17-16-404, Utah Code Annotated 1953

17-16-405, Utah Code Annotated 1953

17-16-406, Utah Code Annotated 1953

17-16-407, Utah Code Annotated 1953

HB0172S01 compared with HB0172

17-16-408, Utah Code Annotated 1953

17-16-409, Utah Code Annotated 1953

17-16-501, Utah Code Annotated 1953

17-16-502, Utah Code Annotated 1953

17-16-503, Utah Code Annotated 1953

17-16-504, Utah Code Annotated 1953

17-16-505, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

17-16-103, (Renumbered from 17-16-3, as last amended by Laws of Utah 2006, Chapter 3)

17-16-104, (Renumbered from 17-16-4, as last amended by Laws of Utah 2011, Chapter 297)

17-16-105, (Renumbered from 17-16-5.5, as last amended by Laws of Utah 2006, Chapter 39)

17-16-106, (Renumbered from 17-16-7, as last amended by Laws of Utah 2001, Chapter 241)

17-16-107, (Renumbered from 17-16-9, as last amended by Laws of Utah 2011, Chapter 297)

17-16-108, (Renumbered from 17-16-11, as last amended by Laws of Utah 2007, Chapter 268)

17-16-109, (Renumbered from 17-16-21, as last amended by Laws of Utah 2018, Chapter 347)

17-16-301, (Renumbered from 17-16-202, as enacted by Laws of Utah 2016, Chapter 50)

17-16-302, (Renumbered from 17-53-101, as last amended by Laws of Utah 2018, Chapter 68)

17-16-303, (Renumbered from 17-16-1, as last amended by Laws of Utah 2013, Chapter 237)

17-16-304, (Renumbered from 17-16-6, as last amended by Laws of Utah 2018, Chapter 68)

17-16-305, (Renumbered from 17-16-6.5, as last amended by Laws of Utah 2016,

HB0172S01 compared with HB0172

Chapters 16 and 409)

17-16-308, (Renumbered from 17-16-203, as enacted by Laws of Utah 2016, Chapter 50)

17-16-309, (Renumbered from 17-16-10.5, as last amended by Laws of Utah 2006, Chapter 321)

17-16-310, (Renumbered from 17-16-12, Utah Code Annotated 1953)

17-16-311, (Renumbered from 17-16-14, as last amended by Laws of Utah 1993, Chapter 227)

17-16-312, (Renumbered from 17-16-18, as last amended by Laws of Utah 2014, Chapter 176)

17-16-313, (Renumbered from 17-16-19, as last amended by Laws of Utah 1993, Chapter 227)

17-16-314, (Renumbered from 17-16-20, as last amended by Laws of Utah 1993, Chapter 227)

17-16-315, (Renumbered from 17-16-17, as last amended by Laws of Utah 1993, Chapter 227)

17-16-316, (Renumbered from 17-16-16, as last amended by Laws of Utah 2017, Chapter 70)

17-18a-704, (Renumbered from 17-16-2.5, as last amended by Laws of Utah 2013, Chapter 237)

REPEALS:

17-16-8, Utah Code Annotated 1953

17-16-201, as enacted by Laws of Utah 2016, Chapter 50

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

Section 1. Section 11-51-102 is amended to read:

11-51-102. Definitions.

As used in this chapter:

(1) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor, if the municipality is operating under a form of municipal government

HB0172S01 compared with HB0172

other than the council-manager form of government; or

(ii) the city manager, if the municipality is operating under the council-manager form of government; or

(b) for a county:

(i) the chair of the county commission, if the county is operating under the county commission or expanded county commission form of government;

(ii) the county executive officer, if the county is operating under the county-executive council form of government; or

(iii) the county manager, if the county is operating under the council-manager form of government.

(2) "County sheriff" means an individual ~~[elected to the office of county sheriff]~~ who holds the office of county sheriff in the state and who meets the qualifications described in Section 17-22-1.5.

(3) "Federal agency" means the United States Bureau of Land Management, the United States Forest Service, the United States Fish and Wildlife Service, or the National Park Service.

(4) "Federally managed land" means land that is managed by the United States Bureau of Land Management, the United States Forest Service, or the National Park Service.

(5) "National monument" means a national monument designated or declared in accordance with the Antiquities Act of 1906, 54 U.S.C. Sec. 320301 et seq.

(6) "National recreation area" means a recreation area designated by an act of Congress.

(7) "Political subdivision" means a municipality or county.

Section 2. Section 11-51a-102 is amended to read:

11-51a-102. Definitions.

As used in this chapter:

(1) "Catastrophic public nuisance" means a condition on state or federal land where natural resources and biota have been managed or neglected to such an extent as to cause:

(a) the threat of a catastrophic wildfire demonstrated by:

(i) stand density, basal area, or ground fuel load greater than 150% of land health standards; or

HB0172S01 compared with HB0172

(ii) an insect or disease infestation severe enough to threaten the mortality of at least 20% of the trees in the area; or

(b) a condition in the area that threatens the:

(i) quantity or quality of the public water supply of a political subdivision;

(ii) health, safety, or welfare of the citizens of a political subdivision;

(iii) air quality of a nonattainment area; or

(iv) vegetative resources required to support land health and authorized livestock grazing.

(2) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor, if the municipality is operating under a form of municipal government other than the council-manager form of government; or

(ii) the city manager, if the municipality is operating under the council-manager form of government;

(b) for a county:

(i) the chair of the county commission, if the county is operating under the county commission or expanded county commission form of government;

(ii) the county executive officer, if the county is operating under the county-executive form of government; or

(iii) the county manager, if the county is operating under the council-manager form of government.

(3) "County sheriff" means an individual:

(a) ~~elect~~ who holds the office of county sheriff; and

(b) who fulfills the duties described in Subsection 17-22-1.5(1).

(4) "Federal agency" means the:

(a) United States Bureau of Land Management;

(b) United States Forest Service;

(c) United States Fish and Wildlife Service; or

(d) National Park Service.

(5) "Federally managed land" means land that is managed by a federal agency.

(6) "Political subdivision" means a municipality or county.

HB0172S01 compared with HB0172

Section ~~{1}~~3. Section **17-16-101** is enacted to read:

CHAPTER 16. COUNTY OFFICERS

Part 1. General Provisions

17-16-101. Title.

This chapter is known as "County Officers."

Section ~~{2}~~4. Section **17-16-102** is enacted to read:

17-16-102. Definitions.

As used in this chapter:

(1) "Appointed county office" means an office ~~{in an appointing county}~~ that is filled by appointment under Title 17, Chapter 16, Part 5, Appointed County Officers.

(2) "Appointed county officer" means an individual who holds an appointed county office.

~~{~~ (3) "Appointing county" means a county that elects under Title 17, Chapter 16, Part 4, Change to Appointed County Officers, to have certain appointed county officers.

~~}~~ (~~{4}~~3) "County office" means an elected county office or an appointed county office.

(~~{5}~~4) "County officer" means an individual who holds a county office.

(~~{6}~~5) (a) "Elected county office" means an office that is filled by election under Title 17, Chapter 16, Part 3, Elected County Officers.

(b) "Elected county office" does not include an appointed county office.

(~~{7}~~6) "Elected county officer" means an individual who holds an elected county office.

Section ~~{3}~~5. Section **17-16-103**, which is renumbered from Section 17-16-3 is renumbered and amended to read:

~~[17-16-3].~~ **17-16-103. Consolidating county offices.**

(1) ~~[A]~~ Except as provided in Subsection (2), a county legislative body may~~[, unless prohibited by Subsection (2),]~~ pass an ordinance that:

(a) consolidates county offices and establishes the duties of those consolidated offices;

(b) separates any previously consolidated county offices and reconsolidates ~~[them]~~ those offices differently; or

(c) separates any previously consolidated county offices without reconsolidating ~~[them]~~ those offices.

HB0172S01 compared with HB0172

(2) A county legislative body may not:

(a) consolidate the offices of county commissioner, county council member, or county treasurer with the office of county auditor;

(b) consolidate the office of county executive with the office of county auditor, unless a referendum approving that consolidation passes; ~~or~~

(c) consolidate the offices of county commissioner, county council member, county executive, county assessor, or county auditor with the office of county treasurer~~[-]; or~~

(d) consolidate an appointed county office with an elected county office.

(3) ~~[Each]~~ A county legislative body shall ensure that any ordinance consolidating or separating elected county offices:

(a) is enacted before the February 1 of the year in which elected county officers are elected; and

(b) takes effect on the first Monday in January after the year in which elected county officers are elected.

~~[(4)(a) Each county legislative body shall:]~~

~~[(i) enact an ordinance by February 1, 2010, separating any county offices that are prohibited from consolidation by this section; and]~~

~~[(ii) publish, by February 15, 2010, a notice once in a newspaper of general circulation in the county identifying the county offices that will be filled in the November 2010 election.]~~

~~[(b)(i) If a county legislative body has, by February 1, 2006, enacted an ordinance, in compliance with this Subsection (4) then in effect, separating county offices that are prohibited from consolidation by this section, the county legislative body may repeal that ordinance.]~~

~~[(ii) If a county legislative body has published notice in a newspaper identifying the county offices that will be filled in the November 2006 election, and that notice, because of a repeal of an ordinance under Subsection (4)(b)(i), is incorrect, the county legislative body shall publish notice once in a newspaper of general circulation in the county indicating that the previous notice was incorrect and correctly identifying the county offices that will be filled in the November 2006 election.]~~

Section ~~{4}~~6. Section **17-16-104**, which is renumbered from Section 17-16-4 is renumbered and amended to read:

~~[17-16-4].~~ **17-16-104. Filling a consolidated office.**

HB0172S01 compared with HB0172

When two or more county offices are [~~united and~~] consolidated:

(1) ~~(a) if the consolidated offices are elected county offices, only one [person shall] individual may be elected to fill the [united and consolidated offices, and] consolidated office;~~

or

~~(b) if the consolidated offices are appointed county offices, only one individual may be appointed to fill the consolidated office; and~~

(2) the ~~[person]~~ individual who is elected or appointed to fill the consolidated office shall:

(a) take the oath and give the bond required for each of the offices; and

(b) discharge all the duties pertaining to each of the offices.

Section ~~{5}7~~. Section **17-16-105**, which is renumbered from Section 17-16-5.5 is renumbered and amended to read:

~~[17-16-5.5].~~ **17-16-105. Reassignment of certain assessor duties to treasurer.**

A county legislative body may by ordinance reassign to the treasurer the duties of the assessor under Sections 41-1a-1320, 59-2-407, 59-2-1302, 59-2-1303, and 59-2-1305.

Section ~~{6}8~~. Section **17-16-106**, which is renumbered from Section 17-16-7 is renumbered and amended to read:

~~[17-16-7].~~ **17-16-106. Appointment of deputy to county officers -- Deputy may serve despite vacancy in office of appointing officer.**

(1) (a) A county officer or precinct officer, including an elected county executive, except a county commissioner or county council member, may, with the consent of the county legislative body, appoint deputies and employees as necessary for the discharge of the duties of the officer's office.

(b) The county legislative body's consent power under Subsection (1)(a) shall be defined in county ordinance and may include consent by:

(i) the budget approval process;

(ii) approval of an allocation of a certain number of positions; or

(iii) approval or disapproval of the hiring of individual applicants.

(c) A county legislative body may by ordinance delegate to the county executive the authority to consent to the appointment of deputies and employees under this Subsection (1).

~~[(2) If the county clerk performs district court clerk functions, the legislative body of~~

HB0172S01 compared with HB0172

that county shall provide the clerk with deputies and employees for the business of the district courts as considered necessary and advisable by the judge or judges of the district court, consistent with the level of funding for clerk services from the court administrator's office.]

~~[(3)]~~ (2) (a) Each officer appointing a deputy shall, for each deputy appointed, file a signed writing with the county clerk that memorializes the appointment.

(b) The officer appointing the deputy is liable for all official acts of the deputy.

(c) If the office of the officer who appointed the deputy becomes vacant, the deputy may continue to serve despite the vacancy.

(3) If a law or ordinance grants powers or imposes duties on a county officer, a deputy appointed under this section has the same powers and duties as the county officer.

Section ~~{7}~~9. Section **17-16-107**, which is renumbered from Section 17-16-9 is renumbered and amended to read:

~~[17-16-9].~~ **17-16-107. Officers at county seats -- Office hours.**

(1) The ~~[elected]~~ county officers of all counties, except those in counties having a population of less than 8,000, shall have their offices at the county seats.

(2) (a) In all counties the clerk, sheriff, recorder, auditor, treasurer, assessor, and attorney shall keep their offices open for the transaction of business as authorized by resolution of the county legislative body.

(b) If the county legislative body does not authorize hours of operation for Saturdays, then the hours served by the employees of the county may not be less than under their present schedule.

(c) (i) Any act authorized, required, or permitted to be performed at or by, or with respect to, any county office on a Saturday when the county office is closed, may be performed on the next business day.

(ii) No liability or loss of rights of any kind may result from the delay described in Subsection (2)(c)(i).

Section ~~{8}~~10. Section **17-16-108**, which is renumbered from Section 17-16-11 is renumbered and amended to read:

~~[17-16-11].~~ **17-16-108. Fidelity bonds and theft or crime insurance.**

(1) As used in this section, "county officials" means:

(a) the members of the county legislative body;

HB0172S01 compared with HB0172

- (b) the county executive;
- (c) the county clerk;
- (d) the county auditor;
- (e) the county sheriff;
- (f) the county attorney;
- (g) in a county that is within a prosecution district, the district attorney;
- (h) the county recorder;
- (i) the county assessor;
- (j) the county surveyor;
- (k) each justice court judge and constable within the county;
- (l) the county treasurer; and

(m) each deputy or assistant of those listed in Subsections (1)(a) through (l) for whom the county legislative body determines a general fidelity bond or theft or crime insurance should be acquired.

(2) (a) The legislative body of each county shall prescribe the amount of each general fidelity bond or of theft or crime insurance to be acquired for county officials, except the county treasurer, before the county officials, except the county treasurer, may discharge the duties of their respective offices.

(b) The State Money Management Council created in Section 51-7-16 shall prescribe the amount of a general fidelity bond or theft or crime insurance to be acquired for the county treasurer before the county treasurer may discharge the duties of that office.

(c) A county legislative body may acquire a fidelity bond or theft or crime insurance on all county officials as a group rather than individually.

(3) (a) The county legislative body shall approve the premium for each fidelity bond before the bond may be filed.

(b) The cost of each fidelity bond and theft or crime insurance policy shall be paid from county funds.

(4) Each fidelity bond shall be filed and maintained in the office of the county clerk.

(5) (a) The district attorney of each multicounty prosecution district shall:

(i) execute a fidelity bond or acquire theft or crime insurance in the amount specified in the interlocal agreement that created the prosecution district; and

HB0172S01 compared with HB0172

(ii) file each fidelity bond with the county clerk as specified in the interlocal agreement.

(b) The cost of each fidelity bond or theft or crime insurance policy under Subsection (5)(a) shall be paid as specified in the interlocal agreement that created the prosecution district.

Section ~~9~~11. Section **17-16-109**, which is renumbered from Section 17-16-21 is renumbered and amended to read:

~~[17-16-21]~~. **17-16-109**. **Fees of county officers.**

(1) As used in this section, "county officer" [~~means a county officer enumerated in Section 17-53-101 except~~] does not include a county recorder, a county constable, or a county sheriff.

(2) (a) A county officer shall collect, in advance, for exclusive county use and benefit:

(i) a fee established by the county legislative body under Section 17-53-211; and

(ii) any other fee authorized or required by law.

(b) As long as the Children's Legal Defense Account is authorized by Section 51-9-408, the county clerk shall:

(i) assess \$10 in addition to whatever fee for a marriage license is established under authority of this section; and

(ii) transmit \$10 from each marriage license fee to the Division of Finance for deposit in the Children's Legal Defense Account.

(c) (i) As long as the Division of Child and Family Services, created in Section 62A-4a-103, has the responsibility under Section 62A-4a-105 to provide services, including temporary shelter, for victims of domestic violence, the county clerk shall:

(A) collect \$10 in addition to whatever fee for a marriage license is established under authority of this section and in addition to the amount described in Subsection (2)(b), if an applicant chooses, as provided in Subsection (2)(c)(ii), to pay the additional \$10; and

(B) to the extent actually paid, transmit \$10 from each marriage license fee to the Division of Finance for distribution to the Division of Child and Family Services for the operation of shelters for victims of domestic violence.

(ii) (A) The county clerk shall provide a method for an applicant for a marriage license to choose to pay the additional \$10 referred to in Subsection (2)(c)(i).

(B) An applicant for a marriage license may choose not to pay the additional \$10 referred to in Subsection (2)(c)(i) without affecting the applicant's ability to be issued a

HB0172S01 compared with HB0172

marriage license.

(d) If a county operates an online marriage application system, the county clerk of that county:

(i) may assess \$20 in addition to the other fees for a marriage license established under this section;

(ii) except as provided in Subsection (2)(d)(iii), shall transmit \$20 from the marriage license fee to the state treasurer for deposit annually as follows:

(A) the first \$400,000 shall accrue to the Utah Marriage Commission, created in Section 62A-1-120, as dedicated credits for the operation of the Utah Marriage Commission; and

(B) proceeds in excess of \$400,000 shall be deposited into the General Fund; and

(iii) may not transmit \$20 from the marriage license fee to the state treasurer under this Subsection (2)(d) if both individuals seeking the marriage license certify that they have completed premarital counseling or education in accordance with Section 30-1-34.

(3) This section does not apply to a fee currently being assessed by the state but collected by a county officer.

Section ~~10~~12. Section **17-16-301**, which is renumbered from Section 17-16-202 is renumbered and amended to read:

Part 3. Elected County Officers

~~17-16-202~~. 17-16-301. Definitions.

As used in this part:

(1) (a) [~~Except as provided in Subsection (1)(b), "contribution"~~] "Contribution" means any of the following when done for a political purpose:

(i) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

HB0172S01 compared with HB0172

(v) a loan made by a county office candidate or local school board candidate deposited into the county office candidate's or local school board candidate's own campaign account; or

(vi) an in-kind contribution.

(b) "Contribution" does not include:

(i) services provided by an individual volunteering a portion or all of the individual's time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a county office candidate or local school board candidate at less than fair market value that are not authorized by or coordinated with the county office candidate or the local school board candidate.

~~[(2) "County office" means an office described in Section 17-53-101 that is required to be filled by an election.]~~

~~[(3)]~~ (2) "County office candidate" means an individual who:

(a) files a declaration of candidacy for [a] an elected county office; or

(b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to [a] an elected county office.

~~[(4) "County officer" means an individual who holds a county office.]~~

~~[(5)]~~ (3) (a) ~~[Except as provided in Subsection (5)(b), "expenditure"]~~ "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or the separate bank account required under Section ~~[17-16-6.5]~~ 17-16-305 or 17-16-306;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for a political purpose;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(iv) compensation paid by a filing entity for personal services rendered by a person

HB0172S01 compared with HB0172

without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a county office candidate's, or a local school board candidate's, personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for a political purpose at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything described in Subsection ~~[(5)]~~ (3)(a) that is given by a reporting entity to a candidate or officer in another state.

~~[(6)]~~ (4) "Filing entity" means:

(a) a county office candidate;

(b) ~~[a]~~ an elected county officer;

(c) a local school board candidate;

(d) a local school board member; or

(e) a reporting entity that is required to meet a campaign finance disclosure requirement ~~[adopted by a county in accordance with Section 17-16-6.5]~~ under Section 17-16-305 or 17-16-306.

~~[(7)]~~ (5) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

~~[(8)]~~ (6) "Local school board candidate" means an individual who:

(a) files a declaration of candidacy for local school board; or

(b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a local school board.

~~[(9)]~~ (7) (a) "Personal use expenditure" means an expenditure that:

(i) (A) is not excluded from the definition of personal use expenditure by Subsection ~~[(9)]~~ (7)(c); and

(B) primarily furthers a personal interest of a county office candidate, elected county

HB0172S01 compared with HB0172

officer, local school board candidate, or a local school board member, or a member of a county office candidate's, elected county officer's, local school board candidate's, or local school board member's family; or

(ii) would cause the county office candidate, elected county officer, local school board candidate, or local school board member to recognize the expenditure as taxable income under federal law.

(b) "Personal use expenditure" includes:

(i) a mortgage, rent, utility, or vehicle payment;

(ii) a household food item or supply;

(iii) clothing, except for clothing:

(A) bearing the county office candidate's or local school board candidate's name or campaign slogan or logo; and

(B) used in the county office candidate's or local school board member's campaign;

(iv) admission to a sporting, artistic, or recreational event or other form of entertainment;

(v) dues, fees, or gratuities at a country club, health club, or recreational facility;

(vi) a salary payment made to:

(A) a county office candidate, elected county officer, local school board candidate, or local school board member; or

(B) a person who has not provided a bona fide service to a county candidate, elected county officer, local school board candidate, or local school board member;

(vii) a vacation;

(viii) a vehicle expense;

(ix) a meal expense;

(x) a travel expense;

(xi) payment of an administrative, civil, or criminal penalty;

(xii) satisfaction of a personal debt;

(xiii) a personal service, including the service of an attorney, accountant, physician, or other professional person;

(xiv) a membership fee for a professional or service organization; and

(xv) a payment in excess of the fair market value of the item or service purchased.

HB0172S01 compared with HB0172

- (c) "Personal use expenditure" does not include an expenditure made:
- (i) for a political purpose;
 - (ii) for candidacy for an elected county office or local school board;
 - (iii) to fulfill a duty or activity of [~~a~~] an elected county officer or local school board member;
 - (iv) for a donation to a registered political party;
 - (v) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;
 - (vi) to return all or a portion of a contribution to a contributor;
 - (vii) for the following items, if made in connection with the candidacy for an elected county office or local school board, or an activity or duty of [~~a~~] an elected county officer or local school board member:
 - (A) a mileage allowance at the rate established by the political subdivision that provides the mileage allowance;
 - (B) for motor fuel or special fuel, as defined in Section 59-13-102;
 - (C) a meal expense;
 - (D) a travel expense, including an expense incurred for airfare or a rental vehicle;
 - (E) a payment for a service provided by an attorney or accountant;
 - (F) a tuition payment or registration fee for participation in a meeting or conference;
 - (G) a gift;
 - (H) a payment for rent, utilities, a supply, or furnishings, in connection with an office space;
 - (I) a booth at a meeting or event; or
 - (J) educational material;
 - (viii) to purchase or mail informational material, a survey, or a greeting card;
 - (ix) for a donation to a charitable organization, as defined in Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;
 - (x) to repay a loan a county office candidate or local school board candidate makes from the candidate's personal account to the candidate's campaign account;

HB0172S01 compared with HB0172

(xi) to pay membership dues to a national organization whose primary purpose is to address general public policy;

(xii) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the county candidate's, elected county officer's, local school board candidate's, or local school board member's community;

(xiii) for one or more guests of a county office candidate, elected county officer, local school board candidate, or local school board member to attend an event, meeting, or conference described in this Subsection [~~(9)~~] (7)(c); or

(xiv) that is connected with the performance of an activity as a county office candidate or local school board member, or an activity or duty of [a] an elected county officer or local school board member.

[~~(10)~~] (8) "Political purpose" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking an office at any caucus, political convention, or election.

[~~(11)~~] (9) "Reporting entity":

(a) means the same as that term is defined in Subsection 20A-11-101(52); and

(b) includes a county office candidate, a county office candidate's personal campaign committee, [a] an elected county officer, a local school board candidate, a local school board candidate's personal campaign committee, and a local school board member.

Section ~~{11}~~ 13. Section **17-16-302**, which is renumbered from Section 17-53-101 is renumbered and amended to read:

~~[17-53-101].~~ **17-16-302. Elected county officers enumerated.**

(1) The elected officers of a county are:

(a) (i) in a county operating under a county commission or expanded county commission form of government, county commission members; or

(ii) in a county operating under one of the other forms of county government under Subsection 17-52a-405(1)(a), county legislative body members and the county executive;

(b) except as provided {for an appointing county } in Title 17, Chapter 16, Part 5, Appointed County Officers, a county treasurer, a sheriff, a county clerk, a county auditor, a

HB0172S01 compared with HB0172

county recorder, a county attorney, a district attorney in a county which is part of a prosecution district, a county surveyor, and a county assessor; and

(c) any others provided by law.

(2) Notwithstanding Subsection (1), in counties having a taxable value of less than \$100,000,000 the county clerk shall be ex officio auditor of the county and shall perform the duties of the office without extra compensation.

Section ~~{12}~~14. Section **17-16-303**, which is renumbered from Section 17-16-1 is renumbered and amended to read:

~~[17-16-1].~~ **17-16-303. Eligibility and residency requirements for elected county office or district, precinct, or prosecution district office.**

(1) ~~[A person]~~ An individual filing a declaration of candidacy for ~~[a county,]~~ an elected county office or a district, precinct, or prosecution district office shall:

(a) be a United States citizen;

(b) except as provided in Section 20A-1-509.2 with respect to the office of county attorney or district attorney, as of the date of the election, have been a resident for at least one year of the county, district, precinct, or prosecution district in which the person seeks office; and

(c) be a registered voter in the county, district, precinct, or prosecution district in which the person seeks office.

(2) (a) ~~[A county,]~~ An elected county officer or a district, precinct, or prosecution district officer shall maintain residency within the county, district, precinct, or prosecution district in which the officer was elected during the officer's term of office.

(b) If ~~[a county,]~~ an elected county officer or a district, precinct, or prosecution district officer establishes the officer's principal place of residence as provided in Section 20A-2-105 outside the county, district, precinct, or prosecution district in which the officer was elected, the office is automatically vacant.

Section ~~{13}~~15. Section **17-16-304**, which is renumbered from Section 17-16-6 is renumbered and amended to read:

~~[17-16-6].~~ **17-16-304. Elected county officers -- Time of holding elections -- County commissioners -- Terms of office.**

(1) Except as otherwise provided in an optional plan adopted under Chapter 52a,

HB0172S01 compared with HB0172

Changing Forms of County Government:

(a) each elected county officer shall be elected at the regular general election every four years in accordance with Section 20A-1-201, except as otherwise provided in this title;

(b) county commissioners shall be elected at the times, in the manner, and for the terms provided in Section 17-52a-201; and

(c) an elected county officer shall hold office for the term for which the officer is elected, beginning at noon on the first Monday in January following the officer's election and until a successor is elected or appointed and qualified, except as provided in Section [~~17-16-1~~] 17-16-303.

(2) (a) The terms of county officers shall be staggered in accordance with this Subsection (2).

(b) Except as provided in Subsection (2)(c), in the 2014 general election:

(i) the following elected county officers shall be elected to one six-year term and thereafter elected to a four-year term:

(A) county treasurer;

(B) county recorder;

(C) county surveyor; and

(D) county assessor; and

(ii) all other elected county officers shall be elected to a four-year term.

(c) If a county legislative body consolidates two or more elected county offices in accordance with Section [~~17-16-3~~] 17-16-103, and the consolidated offices are on conflicting election schedules, the county legislative body shall pass an ordinance that sets the election schedule for the consolidated offices in a reasonable manner that staggers the terms of county officers as provided in this Subsection (2).

Section ~~(14)~~ 16. Section **17-16-305**, which is renumbered from Section 17-16-6.5 is renumbered and amended to read:

~~[17-16-6.5]~~. **17-16-305**. **County ordinance regarding financial disclosure in county elections.**

(1) [~~(a)~~] A county shall adopt an ordinance establishing campaign finance disclosure requirements for:

[~~(i)~~] (a) [~~candidates for~~] county office candidates; and

HB0172S01 compared with HB0172

~~[(ii)]~~ ~~(b)~~ ~~[candidates for]~~ local school board ~~[office]~~ candidate who reside in that county.

~~[(b)]~~ ~~(2)~~ The ordinance ~~[required by]~~ described in Subsection (1)~~[(a)]~~ shall include:

~~[(i)]~~ ~~(a)~~ a requirement that each ~~[candidate for]~~ county office candidate or local school board ~~[office]~~ candidate report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

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

~~[(iii)]~~ ~~(c)~~ a requirement that the financial reports identify:

~~[(A)]~~ ~~(i)~~ for each contribution, the name of the donor of the contribution, if known, and the amount of the contribution; and

~~[(B)]~~ ~~(ii)~~ for each expenditure, the name of the recipient and the amount of the expenditure;

~~[(iv)]~~ ~~(d)~~ a requirement that a ~~[candidate for]~~ county office candidate or local school board ~~[office]~~ candidate deposit a contribution in a separate campaign account in a financial institution;

~~[(v)]~~ ~~(e)~~ a prohibition against a ~~[candidate for]~~ county office candidate or local school board ~~[office]~~ candidate depositing or mingling any contributions received into a personal or business account; and

~~[(vi)]~~ ~~(f)~~ a requirement that a ~~[candidate for]~~ county office candidate who receives a contribution that is cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown, shall, within 30 days after receiving the contribution, disburse the amount of the contribution to:

~~[(A)]~~ ~~(i)~~ the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

~~[(B)]~~ ~~(ii)~~ an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

~~[(e)-(i)]~~ ~~(3)~~ ~~(a)~~ As used in this Subsection ~~[(1)(e)]~~ ~~(3)~~, "account" means an account in a financial institution:

~~[(A)]~~ ~~(i)~~ that is not described in Subsection ~~[(1)(b)(iv)]~~ ~~(2)~~~~(d)~~; and

HB0172S01 compared with HB0172

~~[(B)] (ii)~~ into which or from which ~~[a person]~~ an individual who, as a candidate for an office, other than ~~[a]~~ an elected county office for which the ~~[person]~~ individual files a declaration of candidacy or federal office, or as a holder of an office, other than ~~[a]~~ an elected county office for which the ~~[person]~~ individual files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

~~[(ii)] (b)~~ The ordinance required by Subsection (1)~~[(a)]~~ shall include a requirement that a ~~[candidate for]~~ county office candidate or local school board ~~[office]~~ candidate include on a financial report filed in accordance with the ordinance a contribution deposited in or an expenditure made from an account:

~~[(A)] (i)~~ since the last financial report was filed; or

~~[(B)] (ii)~~ that has not been reported under a statute or ordinance that governs the account.

~~[(2) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (3) through (8).]~~

~~[(3) A candidate for elective office in a county or local school board office:]~~

~~[(a) shall deposit a contribution in a separate campaign account in a financial institution; and]~~

~~[(b) may not deposit or mingle any contributions received into a personal or business account.]~~

~~[(4) Each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor, and each candidate for local school board office, shall file a signed campaign financial statement with the county clerk:]~~

~~[(a) seven days before the date of the regular general election, reporting each contribution and each expenditure as of 10 days before the date of the regular general election; and]~~

~~[(b) no later than 30 days after the date of the regular general election.]~~

~~[(5)(a) The statement filed seven days before the regular general election shall include:]~~

~~[(i) a list of each contribution received by the candidate, and the name of the donor, if~~

HB0172S01 compared with HB0172

~~known; and]~~

~~[(ii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.]~~

~~[(b) The statement filed 30 days after the regular general election shall include:]~~

~~[(i) a list of each contribution received after the cutoff date for the statement filed seven days before the election, and the name of the donor; and]~~

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

~~[(6)(a) As used in this Subsection (6), "account" means an account in a financial institution:]~~

~~[(i) that is not described in Subsection (3)(a); and]~~

~~[(ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person filed a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person filed a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.]~~

~~[(b) A county office candidate and a local school board office candidate shall include on any campaign financial statement filed in accordance with Subsection (4) or (5):]~~

~~[(i) a contribution deposited in an account:]~~

~~[(A) since the last campaign finance statement was filed; or]~~

~~[(B) that has not been reported under a statute or ordinance that governs the account; or]~~

~~[(ii) an expenditure made from an account:]~~

~~[(A) since the last campaign finance statement was filed; or]~~

~~[(B) that has not been reported under a statute or ordinance that governs the account.]~~

~~[(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown, a county office candidate shall disburse the amount of the contribution to:]~~

~~[(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or]~~

~~[(b) an organization that is exempt from federal income taxation under Section~~

HB0172S01 compared with HB0172

~~501(c)(3), Internal Revenue Code.]~~

~~[(8) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.]~~

~~[(9) Any person who fails to comply with this section is guilty of an infraction.]~~

~~[(10)] (4) (a) Counties may, by ordinance, enact requirements that:~~

~~(i) require greater disclosure of campaign contributions and expenditures than those that are described in Section 17-16-306; and~~

~~(ii) impose additional penalties.~~

~~(b) The requirements described in Subsection [(10)] (4)(a) apply to a local school board [office] candidate who resides in that county.~~

~~[(11) If a candidate fails to file an interim report due before the election, the county clerk:]~~

~~[(a) may send an electronic notice to the candidate and the political party of which the candidate is a member, if any, that states:]~~

~~[(i) that the candidate failed to timely file the report; and]~~

~~[(ii) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified and the political party will not be permitted to replace the candidate; and]~~

~~[(b) impose a fine of \$100 on the candidate.]~~

~~[(12)(a) The county clerk shall disqualify a candidate and inform the appropriate election officials that the candidate is disqualified if the candidate fails to file an interim report described in Subsection (11) within 24 hours after the deadline for filing the report.]~~

~~[(b) The political party of a candidate who is disqualified under Subsection (12)(a) may not replace the candidate.]~~

~~[(13) If a candidate is disqualified under Subsection (12)(a) the election official:]~~

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

~~[(ii) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes~~

HB0172S01 compared with HB0172

~~cast for the candidate will not be counted; and]~~

~~[(b) may not count any votes for that candidate.]~~

~~[(14) An election official may fulfill the requirement described in Subsection (13)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.]~~

~~[(15) A candidate is not disqualified if:]~~

~~[(a) the candidate files the interim reports described in Subsection (11) no later than 24 hours after the applicable deadlines for filing the reports;]~~

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

~~[(c) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.]~~

~~[(16) (a) A report is considered timely filed if:]~~

~~[(i) the report is received in the county clerk's office no later than midnight, Mountain Time, at the end of the day on which the report is due;]~~

~~[(ii) the report is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or]~~

~~[(iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.]~~

~~[(b) For a county clerk's office that is not open until midnight at the end of the day on which a report is due, the county clerk shall permit a candidate to file the report via email or another electronic means designated by the county clerk.]~~

~~[(17) (a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.]~~

~~[(b) In a civil action filed under Subsection (17)(a), the court shall award costs and attorney fees to the prevailing party.]~~

~~[(18) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:]~~

~~[(a) make each campaign finance statement filed by a candidate available for public~~

HB0172S01 compared with HB0172

~~inspection and copying no later than one business day after the statement is filed; and]~~

~~[(b) make the campaign finance statement filed by a candidate available for public inspection by:]~~

~~[(i) (A) posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the statement is filed; and]~~

~~[(B) verifying that the address of the county's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or]~~

~~[(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.]~~

Section ~~{15}~~17. Section **17-16-306** is enacted to read:

17-16-306. County campaign finance requirements in absence of county ordinance.

(1) If a county fails to adopt a campaign finance disclosure ordinance described in Section 17-16-305, county office candidates and local school board candidates shall comply with the financial reporting requirements contained in this section.

(2) A county office candidate or local school board candidate:

(a) shall deposit a contribution in a separate campaign account in a financial institution; and

(b) may not deposit or mingle any contributions received into a personal or business account.

(3) Each county office candidate who is not required to submit a campaign financial statement to the lieutenant governor, and each local school board candidate, shall file a signed campaign financial statement with the county clerk:

(a) seven days before the date of the regular general election, reporting each contribution and each expenditure as of 10 days before the date of the regular general election; and

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

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

(i) a list of each contribution received by the candidate, and the name of the donor, if known; and

HB0172S01 compared with HB0172

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

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

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

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

(5) (a) As used in this Subsection (5), "account" means an account in a financial institution:

(i) that is not described in Subsection (2)(a); and

(ii) into which or from which an individual who, as a candidate for an office, other than an elected county office for which the individual files a declaration of candidacy or federal office, or as a holder of an office, other than an elected county office for which the individual files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A county office candidate and a local school board candidate shall include on any campaign financial statement filed in accordance with Subsection (3) or (4):

(i) a contribution deposited into an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(6) Within 30 days after the day on which a county office candidate receives a contribution that is cash or a negotiable instrument that exceeds \$50 and is from a donor whose name is unknown, the county office candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

HB0172S01 compared with HB0172

(7) A county office candidate or a local school board candidate who is eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

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

Section ~~16~~18. Section **17-16-307** is enacted to read:

17-16-307. Penalties for violation of campaign finance law or ordinance.

(1) If a candidate fails to file an interim report due before the election, the county clerk:

(a) may send an electronic notice to the candidate and the political party of which the candidate is a member, if any, that states:

(i) that the candidate failed to timely file the report; and

(ii) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified and the political party will not be permitted to replace the candidate; and

(b) impose a fine of \$100 on the candidate.

(2) (a) The county clerk shall disqualify a candidate and inform the appropriate election officials that the candidate is disqualified if the candidate fails to file an interim report described in Subsection (1) within 24 hours after the deadline for filing the report.

(b) The political party of a candidate who is disqualified under Subsection (2)(a) may not replace the candidate.

(3) If a candidate is disqualified under Subsection (2)(a) the election official:

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

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

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

(4) An election official may comply with the requirement described in Subsection (3)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A candidate is not disqualified if:

HB0172S01 compared with HB0172

(a) the candidate files the interim reports described in Subsection (1) no later than 24 hours after the applicable deadlines for filing the reports;

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

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

(6) (a) A report is considered timely filed if:

(i) the report is received in the county clerk's office no later than midnight, Mountain Time, at the end of the day on which the report is due;

(ii) the report is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or

(iii) the candidate has proof that the report was mailed, with appropriate postage and address, three days before the report was due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a report is due, the county clerk shall permit a candidate to file the report via email or other electronic means designated by the county clerk.

(7) (a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under Section 17-16-305.

(b) In a civil action filed under Subsection (7)(a), the court shall award costs and attorney fees to the prevailing party.

(8) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) (A) posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the county's website has been provided to the lieutenant governor in order to comply with Subsection 20A-11-103(5); or

HB0172S01 compared with HB0172

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

Section ~~{17}~~19. Section **17-16-308**, which is renumbered from Section 17-16-203 is renumbered and amended to read:

~~[17-16-203].~~ **17-16-308. Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.**

(1) A county office candidate, elected county officer, local school board candidate, or local school board member may not use money deposited into the separate bank account ~~[required under Section 17-16-6.5]~~ described in Section 17-16-305 or 17-16-306 for:

- (a) a personal use expenditure; or
- (b) an expenditure prohibited by law.

(2) (a) A county clerk shall enforce this section prohibiting a personal use expenditure by:

- (i) evaluating a financial statement to identify a personal use expenditure; and
- (ii) commencing an adjudicative proceeding in accordance with applicable county ordinance or policy if the county clerk has probable cause to believe a county office candidate, elected county officer, local school board candidate, or local school board member has made a personal use expenditure.

(b) Following the proceeding, the county clerk may issue a signed order requiring a county office candidate, elected county officer, local school board candidate, or local school board member who has made a personal use expenditure to:

- (i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the county clerk; and
- (ii) deposit the amount of the personal use expenditure in the campaign account from which the personal use expenditure was disbursed.

(c) The county clerk shall deposit money received under Subsection (2)(b)(i) into the county's general fund.

Section ~~{18}~~20. Section **17-16-309**, which is renumbered from Section 17-16-10.5 is renumbered and amended to read:

~~[17-16-10.5].~~ **17-16-309. Failure to perform duties constitutes malfeasance**

HB0172S01 compared with HB0172

in office -- Felony charges arising from official duties -- Paid administrative leave -- Reassignment of duties.

(1) The failure of an elected county officer or prosecution district officer substantially to perform the officer's official duties constitutes malfeasance in office under Section 77-6-1.

(2) (a) If an elected county officer or prosecution district officer is charged with the commission of a felony arising from conduct related to the officer's official duties, the [~~officer shall be placed~~] county's legislative body shall place the officer on paid administrative leave [~~by the county legislative body~~] until:

(i) the charges are dismissed or the officer is acquitted, at which time the officer shall be entitled to return to office, unless the officer's term of office has in the meantime expired; or

(ii) the officer is convicted of a felony or attempt to commit a felony arising from conduct related to the officer's official duties, in which case the sentencing judge shall order the officer removed from office.

(b) A conviction or a plea of guilty or nolo contendere, relating to a felony charge described in Subsection (2)(a), constitutes malfeasance in office for purposes of Section 77-6-1.

(c) Entry of a plea in abeyance is the equivalent of a conviction for purposes of Subsection (2)(a)(ii), even if the charge is later dismissed pursuant to a plea in abeyance agreement.

(d) The provisions under this Subsection (2) for the removal of a county or prosecution district officer are in addition to and do not replace or supersede the removal provisions under Title 77, Chapter 6, Removal by Judicial Proceedings.

(3) (a) During the time that an elected county officer or prosecution district officer is on paid administrative leave under Subsection (2), the officer's duties may, except as provided in Subsection (3)(c), be temporarily:

(i) reassigned to another officer by the county legislative body; or

(ii) performed by a person employed for that purpose.

(b) For purposes of Subsection (3)(a) with respect to a prosecution district officer in a multi-county prosecution district, "county legislative body" means the legislative bodies of all counties included in the prosecution district.

(c) A reassignment under Subsection (3)(a) may not result in the same person

HB0172S01 compared with HB0172

exercising the duties of:

- (i) both a county legislative body member or county treasurer and county auditor; or
- (ii) both a county executive and county auditor.

Section ~~{19}~~21. Section **17-16-310**, which is renumbered from Section 17-16-12 is renumbered and amended to read:

~~[17-16-12].~~ **17-16-310. Business to be finished before expiration of term.**

~~[It shall be the duty of all officers in this title named to complete the business of their respective offices to the time of the expiration of their respective terms, and in case an officer at the close of his term shall leave to his]~~

(1) An elected county officer shall complete the business of the office the elected county officer holds until the elected county officer's term expires.

(2) If an elected county officer leaves to the elected county officer's successor official labor to be performed for which [he] the elected county officer has received compensation [or which it was his], or that was the elected county officer's duty to perform, [he shall be] the elected county officer is liable to pay [his] the successor the full value of [such service] that labor.

Section ~~{20}~~22. Section **17-16-311**, which is renumbered from Section 17-16-14 is renumbered and amended to read:

~~[17-16-14].~~ **17-16-311. Salaries of elected county officers.**

~~[The annual salaries of the officers of all counties in the state shall be fixed by the respective county legislative bodies]~~ The county legislative body shall fix the annual salary of an elected county officer, provided no changes [shall be] are made in existing salaries of [county officers] an elected county officer until the county legislative body [in a county desiring to change existing salaries of county officers shall first hold] holds a public hearing at which all interested persons [shall be] are given an opportunity to be heard.

Section ~~{21}~~23. Section **17-16-312**, which is renumbered from Section 17-16-18 is renumbered and amended to read:

~~[17-16-18].~~ **17-16-312. Salaries paid out of general fund.**

~~[The]~~ Upon the order of the county legislative body, the salaries of elected county officers shall be paid monthly, semi-monthly, or bi-weekly, as determined by the county legislative body, out of the county general fund or the county salary fund [upon the order of the

HB0172S01 compared with HB0172

county legislative body].

Section ~~{22}~~24. Section **17-16-313**, which is renumbered from Section 17-16-19 is renumbered and amended to read:

~~[17-16-19].~~ **17-16-313. Salaries to be full compensation -- Compensation for deputies.**

(1) ~~[The salaries herein provided for]~~ The salary described in Section 17-16-312 shall be full compensation for all services ~~[of every kind and description rendered by the officers named herein; and where deputies or assistants have been allowed to any such officers the]~~ rendered by the elected county officer.

(2) The county legislative body shall fix the salary of any deputy or assistant ~~[shall be fixed by the county legislative body, and shall be a county charge]~~ to an elected county officer.

Section ~~{23}~~25. Section **17-16-314**, which is renumbered from Section 17-16-20 is renumbered and amended to read:

~~[17-16-20].~~ **17-16-314. Salaries in case of consolidated offices.**

~~[Whenever the county legislative body shall combine the duties of any county officers the salary of the person discharging the duties of such offices shall be fixed at a sum not exceeding]~~ If the county legislative body consolidates elected county offices, the county legislative body shall fix the salary for the office in an amount that does not exceed the sum of:

(1) ~~the highest salary [paid to either of the officers whose offices are so combined, in addition to an amount not exceeding]~~ of the county offices that are combined; and

(2) (a) ~~if only two offices are combined, one-half of the salary [fixed for the other officer, when only two offices are combined, or when]~~ of the other combined office; or

(b) ~~if more than two offices are combined, [in addition to such highest salary,]~~ one-third of the combined salaries of [such other officers] all the other combined offices.

Section ~~{24}~~26. Section **17-16-315**, which is renumbered from Section 17-16-17 is renumbered and amended to read:

~~[17-16-17].~~ **17-16-315. Change of class -- Effect on elected officer salaries -- Salaries for new counties.**

(1) (a) If the taxable value of any existing county has been reduced below or raised above the class and rank first assumed, the county legislative body of the county shall:

(i) designate the class to which the county has been reduced or raised, and the county is

HB0172S01 compared with HB0172

in that class^[7]; and

(ii) except as provided in Subsection (1)(b), adjust the salaries of elected county officers [shall be adjusted] on or before the next January 1 [next succeeding by the county legislative body, but in no event may the salaries be reduced].

(b) The county legislative body may not reduce the salaries of elected county officers under Subsection (1)(a)(ii) for the term for which the elected officers were elected and [are] qualified.

(2) The county legislative body in a newly created county shall at its first meeting after the organization of the county, for the purpose of fixing salaries and compensation of elected county officers, determine to which class the county belongs, and fix the salaries for the first term of the elected officers accordingly.

Section ~~{25}~~27. Section **17-16-316**, which is renumbered from Section 17-16-16 is renumbered and amended to read:

~~[17-16-16].~~ **17-16-316. Commissioners' traveling expenses.**

(1) The members of the board of county commissioners may not receive any compensation in addition to that provided in Section ~~[17-16-14]~~ 17-16-311 for any special or committee work, but, subject to Subsection (2), each member shall receive travel expenses for attending the regular and special sessions of the board and in the discharge of necessary duties, in accordance with Section 11-55-103.

(2) Before receiving travel expenses described in Subsection (1), the member shall:

- (a) submit an itemized statement showing in detail the expenses incurred; and
- (b) subscribe and swear to the statement described in Subsection (2)(a).

Section ~~{26}~~28. Section **17-16-401** is enacted to read:

Part 4. Change ~~{to Appointed}~~of County ~~{Officers}~~Officer Selection Method **17-16-401.**~~Reserved.~~

~~Reserved~~

~~Section 27}~~ **Definitions.**

(1) "Appointment change" means to change the process by which a county office is filled in order to fill the office by appointment rather than by election.

(2) "Appointment reversal" means to change the process by which a county office is filled in order to fill the office by election rather than by appointment.

HB0172S01 compared with HB0172

Section 29. Section 17-16-402 is enacted to read:

17-16-402. ~~{County}~~ **County** option for appointed officers.

~~{A county may elect to become an appointing county in}~~(1) In accordance with this part ~~{and fill}~~, a county may:

(a) make an appointment change in order to fill one or more of the county offices described in Section 17-16-502 by appointment ~~{rather than election in accordance with}~~under Title 17, Chapter 16, Part 5, Appointed County Officers, rather than by election; or

(b) after the county makes an appointment change described in Subsection (1)(a) for a county office, make an appointment reversal in order to fill that county office by election rather than by appointment.

(2) (a) A county may not vote at an election described in Section 17-16-408 on an appointment reversal for an appointed county office until the third regular general election after the election in which the county approved the appointment change for that county office.

(b) If a county approves at an election described in Section 17-16-408 to make an appointment reversal for a county office, the county may not vote on an appointment change for that office until the third regular general election after the election in which the county approved the appointment reversal.

Section ~~{28}~~30. Section 17-16-403 is enacted to read:

17-16-403. Procedure for initiating ~~{transition to appointing county}~~**appointment change or appointment reversal** -- Limitations.

~~{(1)}~~ The process to ~~{become}~~make an ~~{appointing county}~~appointment change or appointment reversal may be initiated ~~{by}~~:

(~~{a}~~1) by the county legislative body under Section 17-16-404;

(~~{b}~~2) by registered voters of the county under Section 17-16-405; or

(~~{c}~~3) through an optional plan adopted under Title 17, Chapter 52a, Changing Forms of County Government.

~~{——}~~ (2) A county's election under this part to become an appointing county is permanent and may not be reversed.

~~{~~ Section ~~{29}~~31. Section 17-16-404 is enacted to read:

17-16-404. County legislative body initiation of **appointment change ~~{to appointing county}~~or appointment reversal** -- Procedure.

HB0172S01 compared with HB0172

(1) A county legislative body may initiate ~~the process to become~~ an ~~appointing county~~ appointment change or appointment reversal by adopting a resolution to submit to the voters the question whether the county should ~~become an appointing county~~ make the appointment change or appointment reversal.

(2) The county legislative body shall ensure that a resolution adopted under Subsection (1):

(a) indicates one or more of the county offices described in Section 17-16-502 that the county legislative body proposes should be subject to an appointment change or appointment reversal; and

(b) requires the question described in Subsection (1), including a list of the county offices described in Subsection (2)(a), to be submitted to the registered voters of the county at the next regular general election in accordance with Subsection 17-16-408(2).

(3) A resolution adopted under this section may not be rescinded.

(4) A county legislative body may not propose an appointment change and an appointment reversal in the same resolution adopted under this section.

Section ~~30~~ 32. Section **17-16-405** is enacted to read:

17-16-405. Registered voter initiation of appointment change ~~to appointing county~~ or appointment reversal -- Procedure.

(1) (a) Registered voters of a county may initiate ~~the process to become~~ an ~~appointing county~~ appointment change or appointment reversal by filing with the county clerk a notice of intent to gather signatures for a petition to submit to the voters the question whether the county should ~~become an appointing county~~ make the appointment change or appointment reversal.

(b) Registered voters who submit a notice of intent described in Subsection (1)(a) shall ensure that the notice of intent:

(i) designates five sponsors for the petition;

(ii) designates a contact sponsor to serve as the primary contact for the petition sponsors;

(iii) lists the mailing address and telephone number of each of the petition sponsors;

(iv) indicates one or more of the county offices described in Section 17-16-502 that the sponsors propose should be subject to an appointment change or appointment reversal; and

HB0172S01 compared with HB0172

(~~five~~v) is signed by each of the petition sponsors.

(c) Sponsors of a petition described in this Subsection (1) may not propose an appointment change and an appointment reversal in the same petition.

(2) (a) The sponsors of a petition may circulate the petition after filing a notice of intent to gather signatures under Subsection (1).

(b) To be considered valid, the petition shall be signed by registered voters residing in the county equal in number to at least 3% of the total number of votes cast in the county for all candidates for president of the United States at the most recent election at which a president of the United States was elected.

(c) Except as provided in Subsection (5)(b)(ii), the sponsors of the petition shall submit the completed petition and any amended or supplemental petition described in Subsection (5) with the county clerk not more than 180 days after the day on which the sponsors file the notice described in Subsection (1).

(3) Within 30 days after the day on which the sponsors submit a petition under Subsection (2)(c), or an amended or supplemental petition under Subsection (5), the county clerk shall:

(a) determine whether the petition or amended or supplemental petition has been signed by the required number of registered voters; and

(b) (i) if the petition was signed by a sufficient number of registered voters, the county clerk shall:

(A) certify the petition;

(B) deliver the petition to the county legislative body; and

(C) notify the contact sponsor in writing of the certification; or

(ii) if the petition was not signed by a sufficient number of registered voters:

(A) reject the petition; and

(B) notify the county legislative body and the contact sponsor in writing of the rejection and the reasons for the rejection.

(4) A petition that is certified under Subsection (3) may not be rescinded.

(5) The sponsors of a petition circulated under this section may submit amended or supplemental signatures for the petition:

(a) if the county clerk rejects the petition under Subsection (3)(b)(ii); and

HB0172S01 compared with HB0172

(b) before the earlier of:

(i) the deadline described in Subsection (2)(c); or

(ii) 20 days after the day on which the county clerk rejects the petition under

Subsection (3)(b)(ii).

Section ~~{31}~~33. Section 17-16-406 is enacted to read:

17-16-406. Public hearings.

The county legislative body shall hold two public hearings on a ~~{proposal to}~~proposed ~~appointment~~ change ~~{to an appointing county}~~or ~~appointment reversal~~ within 45 days after the day on which:

(1) the county legislative body adopts a resolution under Section 17-16-404; or

(2) the county clerk certifies a petition described in Section 17-16-405 in accordance

with Subsection 17-16-405(3).

Section ~~{32}~~34. Section 17-16-407 is enacted to read:

17-16-407. Voter information pamphlet.

(1) In anticipation of an election described in Section 17-16-408, the county clerk may prepare a voter information pamphlet to inform the public of the ~~{proposal to become an appointing county}~~proposed ~~appointment change or appointment reversal~~.

(2) In preparing a voter information pamphlet under this section, the county clerk may:

(a) allow proponents and opponents of the ~~{proposal to become an appointing county}~~proposed ~~appointment change or appointment reversal~~ to provide written statements to be included in the pamphlet; and

(b) use as a guideline the provisions of Title 20A, Chapter 7, Part 7, Voter Information Pamphlet.

(3) A county clerk who prepares a voter information pamphlet under this section shall cause the publication and distribution of the pamphlet in a manner that the county clerk determines is adequate.

Section ~~{33}~~35. Section 17-16-408 is enacted to read:

17-16-408. Election to determine ~~appointment~~ change ~~{to appointing county}~~or ~~appointment reversal~~.

(1) The county legislative body shall hold an election under this section if:

(a) the county legislative body adopts a resolution under Section 17-16-404; or

HB0172S01 compared with HB0172

(b) the county clerk certifies a petition described in Section 17-16-405 in accordance with Subsection 17-16-405(3).

(2) An election described in Subsection (1) shall be held:

(a) on the date of the next regular general election if the resolution described in Section 17-16-404 is adopted, or the petition described in Subsection 17-16-405(3) is certified, more than 75 days before the next regular general election; or

(b) on the date of the regular general election following the next regular general election if the resolution described in Section 17-16-404 is adopted, or the petition described in Subsection 17-16-405(3) is certified, less than 75 days before the next regular general election.

(3) The county clerk shall prepare the ballot for an election described in Subsection (1) with a question that asks substantially the following:

(a) for a proposed appointment change:

"Shall _____ County change its governing structure so that the ~~{positions of county treasurer, clerk, auditor, recorder, surveyor, and assessor are}~~ (position/positions) of (insert the name[s] of the county office[s] specified under Subsection 17-16-404(2)(a) or 17-16-405(1)(b)(iv)) (is/are) filled by appointment rather than by election?"; or

(b) for a proposed appointment reversal:

"Shall _____ County change its governing structure so that the (position/positions) of (insert the name[s] of the county office[s] specified under Subsection 17-16-404(2)(a) or 17-16-405(1)(b)(iv)) (is/are) filled by election rather than by appointment?";

(4) A county clerk shall declare a proposal to ~~{become}~~ make an ~~{appointing county}~~ appointment change or appointment reversal as adopted by the voters if a majority of voters voting on the proposal vote in favor of the proposal.

Section ~~{34}~~ 36. Section **17-16-409** is enacted to read:

17-16-409. Adoption of appointment change ~~{to appointing county}~~ or appointment reversal -- Appointment of new county officers.

(1) (a) If a county adopts a proposal to ~~{become an appointing county}~~ fill a county office by appointment under Section 17-16-408 ~~{:~~

_____ (a) ~~an appointment}~~ rather than by election, a selection committee shall ~~{appoint individuals}~~ select an individual to fill the appointed county ~~{offices}~~ office in accordance with Section 17-16-503 no earlier than January 1 and no later than April 30 following the election ~~{:~~

HB0172S01 compared with HB0172

~~_____ (b) all public officers and employees shall cooperate fully in making the transition to an appointing county; and~~

~~_____ (c) the county legislative body may enact ordinances to facilitate the county's orderly transition to an appointing county}.~~

~~(~~2~~)b~~ Notwithstanding Section 17-16-304, an individual who holds an elected county office on the December 31 following an election at which a county ~~{adopts a proposal to become}~~ approves an ~~{appointing county}~~ appointment change to fill that office by appointment shall continue to hold that office until a successor for the office is appointed in accordance with Section 17-16-503.

~~(~~3~~)c~~ Subject to Subsection (~~2~~)1(b), and notwithstanding Section 20A-4-304, a county officer that is elected in ~~{the same}~~ an election may not take office if, in the same election, the voters approve an appointment change under Section 17-16-408 for the office to which the county officer was elected.

(2) If a county adopts a proposal to fill a county office by election under Section 17-16-408 rather than by appointment, the county office shall be filled at the next regular general election following the election at which the ~~{voters approve a proposed change to become an appointing county may not take office.~~

~~_____ Section 35}county adopts the proposal.~~

(3) If a county adopts a proposal to make an appointment change or appointment reversal:

(a) all public officers and employees shall cooperate fully in making the appointment change or appointment reversal; and

(b) the county legislative body may enact ordinances to facilitate the appointment change or appointment reversal.

Section 37. Section **17-16-501** is enacted to read:

Part 5. Appointed County Officers

17-16-501. Definitions.

As used in this part, "selection committee" means a county officer selection committee established under Section 17-16-503.

Section ~~{36}~~ 38. Section **17-16-502** is enacted to read:

17-16-502. Appointed county officers enumerated -- Provisions applicable to

HB0172S01 compared with HB0172

appointed county officers.

(1) Notwithstanding Title 17, Chapter 16, Part 3, Elected County Officers, the following county offices ~~{ in an appointing county }~~, that are approved in an election held under Section 17-16-408 or 17-52a-501 to be filled by appointment rather than by election, shall be filled by appointment in accordance with this part:

- (a) county treasurer;
- (b) county clerk;
- (c) county auditor;
- (d) county recorder;
- (e) county surveyor; ~~{ and }~~
- (f) county assessor;
- (g) county sheriff;
- (h) county attorney; and
- (i) district attorney in a county that is a part of a prosecution district.

(2) ~~{ The }~~ An appointed county ~~{ officers in an appointing county }~~ officer:

- (a) ~~{ are }~~ is not subject to Title 17, Chapter 16, Part 3, Elected County Officers; and
- (b) ~~{ are }~~ is subject to this part.

(3) Notwithstanding Subsection (1), in counties having a taxable value of less than \$100,000,000 the county clerk shall be ex officio auditor of the county and shall perform the duties of the office without additional compensation.

Section ~~{37}~~ 39. Section **17-16-503** is enacted to read:

17-16-503. Selection of appointed county officer -- Filling vacancies.

(1) A county officer selection committee shall appoint each appointed county officer ~~{ in an appointing county }~~ by majority vote.

(2) A selection committee is composed of the following three members:

- (a) one member of the county's governing body, selected by a majority vote of the county's governing body;
- (b) (i) the county's director of personnel management described in Section 17-33-5;
 - (ii) if the county does not have a director of personnel management, the county's human resource manager or the functional equivalent of the county's human resource manager;
 - (iii) if the county does not have an individual described in Subsection (2)(b)(i) or (ii).

HB0172S01 compared with HB0172

the county administrator or the functional equivalent of the county administrator; or

(iv) if the county does not have an individual described in Subsection (2)(b)(i) through (iii)~~(i)~~:

(A) the county sheriff; or

(B) if the selection committee is selecting a county sheriff, the county attorney; and

(c) a third individual jointly selected by the members described in Subsections (2)(a) and (b).

(3) The selection committee shall, ~~by majority vote~~, select an individual to fill a vacant appointed county office:

(a) within 90 days after the day on which the office becomes vacant; or

(b) after an election described in Section 17-16-408, within the time period described in Subsection 17-16-409(1)(a).

Section ~~{38}~~40. Section 17-16-504 is enacted to read:

17-16-504. Appointed county officers employees of the county.

(1) ~~An~~ Except as provided in Subsections 17-18a-301(3) and (4), an appointed county office is a permanent, full-time, career service position of the county under Title 17, Chapter 33, County Personnel Management Act.

(2) Except as provided in this part, a county shall provide for the recruitment, hiring, compensation, discipline, and termination of an appointed county officer in accordance with Title 17, Chapter 33, County Personnel Management Act.

Section ~~{39}~~41. Section 17-16-505 is enacted to read:

17-16-505. Terminating appointed county ~~official~~ officer.

(1) An appointed county officer may be terminated only by a majority vote of a selection committee.

(2) Except as provided in Subsection (3), a selection committee may only terminate an appointed county officer for cause.

(3) A selection committee may terminate an appointed county officer without cause during the probationary period described in Subsection 17-33-5(3)(b)(viii).

Section ~~{40}~~42. Section 17-16a-4 is amended to read:

17-16a-4. Prohibited use of official position -- Exception.

(1) Except as provided in Subsection (3) or (5), it is an offense for an elected or

HB0172S01 compared with HB0172

appointed officer to:

(a) disclose confidential information acquired by reason of the officer's official position or use that information to secure special privileges or exemptions for [~~himself~~] the officer or others;

(b) use or attempt to use the officer's official position to secure special privileges for the officer or for others; or

(c) knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for the officer or for another, if the gift or loan tends to influence the officer in the discharge of the officer's official duties.

(2) This section is inapplicable to:

(a) an occasional nonpecuniary gift having a value of less than \$50;

(b) an award publicly presented;

(c) any bona fide loan made in the ordinary course of business; or

(d) political campaign contributions subject to Section [~~17-16-6.5~~] 17-16-305 or 17-16-306.

(3) A member of a county legislative body who is also a member of the governing board of a provider of mental health or substance abuse services under contract with the county does not commit an offense under Subsection (1)(a) or (b) by discharging, in good faith, the duties and responsibilities of each position, if the county legislative body member does not participate in the process of selecting the mental health or substance abuse service provider.

(4) Notwithstanding the provisions of this section, a county or county official may encourage support from a public or private individual or institution, whether in financial contributions or by other means, on behalf of an organization or activity that benefits the community.

(5) This section does not apply to an elected or appointed officer who engages in conduct that constitutes a violation of this section to the extent that the elected or appointed officer is chargeable, for the same conduct, under Section 76-8-105.

Section ~~{41}~~43. Section **17-17-1** is amended to read:

17-17-1. Duties of assessor -- Effective date of boundary changes for assessment.

(1) The assessor, in cooperation with the State Tax Commission, shall:

(a) perform the duties required in Title 59, Chapter 2, Part 13, Collection of Taxes,

HB0172S01 compared with HB0172

except those duties that have been reassigned to the treasurer in an ordinance adopted under Section ~~[17-16-5.5]~~ 17-16-105; and

(b) perform any other duties required by law.

(2) An assessment shall be collected in accordance with the effective date and boundary adjustment provisions in Subsection 17-2-209(4).

Section ~~{42}~~44. Section **17-17-2** is amended to read:

17-17-2. Assessor to be state qualified -- Vacancy -- Filling vacancy.

(1) As used in this section:

(a) "Selection committee" means the same as that term is defined in Section 17-16-501.

~~{(a)}~~ (b) "State-certified appraiser" means a state-certified general appraiser or state-certified residential appraiser as those terms are defined in Section 61-2g-102.

~~{(b)}~~ (c) "State-licensed appraiser" means the same as that term is defined in Section 61-2g-102.

(2) (a) An individual elected to the office of county assessor shall ~~{(a)}~~ meet the requirements described in Section ~~[17-16-1; and]~~ 17-16-303.

(b) An individual elected or appointed to the office of county assessor shall:

(i) except as provided in Subsection (2)(b)(ii), ~~[if elected on or after November 1, 1993;]~~ become a state-licensed or state-certified appraiser no later than 36 months after the day on which the ~~[individual's term of office begins]~~ individual takes office; or

(ii) if elected or appointed on or after January 1, 2010, in a county of the first, second, or third class, be a state-licensed or state-certified appraiser before filing a declaration of candidacy for or applying to fill the office of county assessor.

(3) The county assessor's office is vacant if:

(a) an assessor fails to meet the requirements described in Subsection (2); or

(b) no individual who meets the requirements described in Subsection (2):

(i) timely files a declaration of candidacy ~~{or, in an appointing}~~ for the office [of county ~~{as defined in Section 17-16-103,}~~ assessor.]; or

(ii) submits an application ~~{,}~~ for the office ~~{of county assessor.}, if the office is filled by appointment under Chapter 16, Part 5, Appointed County Officers.~~

(4) (a) If a vacancy described in Subsection (3) occurs, the county legislative body shall:

HB0172S01 compared with HB0172

(i) if the vacancy occurs in a county with an elected assessor, fill the vacancy in accordance with [Sections 17-53-104 and 20A-1-508:] Section 20A-1-508; or

(ii) if the vacancy occurs in a county with an appointed assessor, fill the vacancy in accordance with Section 17-16-503.

(b) The individual who the county legislative body selects to fill the vacancy under Section 20A-1-508, or that the selection committee selects to fill the vacancy under Section 17-16-503, shall be a state-licensed or state-certified appraiser before the individual assumes the office of county assessor.

(5) If the county legislative body or a selection committee cannot find an individual who meets the requirements described in Subsection (2) to fill a vacancy described in Subsection (3), the county legislative body may contract with a state-licensed or state-certified appraiser from outside the county to:

(a) fill the remainder of the county assessor's term of office~~[-]; or~~

(b) in a county with an appointed assessor, fill the office of county assessor until the selection committee finds an individual to fill the vacancy that meets the requirements described in Subsection (2).

Section ~~{43}~~45. Section **17-18a-204** is amended to read:

17-18a-204. Consolidated office.

Within a prosecution district, the duties and responsibilities of the district attorney and county attorney may be consolidated into one office as provided in Section ~~[17-16-3]~~ 17-16-103.

Section ~~{44}~~46. Section **17-18a-301** is amended to read:

17-18a-301. County officers.

(1) ~~[The]~~ Except as provided in Chapter 16, Part 5, Appointed County Officers, the county attorney is an elected officer as described in Section ~~[17-53-101]~~ 17-16-302.

(2) (a) If the boundaries of a prosecution district are located entirely within one county, the district attorney of the prosecution district is an ~~[elected]~~ [elected] officer of that county.

(b) If the boundaries of a prosecution district include more than one county, the interlocal agreement that creates that prosecution district in accordance with Section 17-18a-602 may designate the district attorney as an ~~[elected]~~ [elected] officer in one or more of the counties in which the prosecution district is located.

HB0172S01 compared with HB0172

(3) The district attorney:

(a) is a full-time employee of the prosecution district; and

(b) may not engage in the private practice of law.

(4) A county attorney may:

(a) serve as a part-time employee; and

(b) engage in the private practice of law, subject to Section 17-18a-605 and the Rules of Professional Conduct.

Section ~~{45}~~47. Section **17-18a-704**, which is renumbered from Section 17-16-2.5 is renumbered and amended to read:

~~[17-16-2.5].~~ **17-18a-704. Creation of Office of District Attorney.**

For each prosecution district created in accordance with [~~Chapter 18a, Part 7, Prosecution District~~] this part, there is created the Office of District Attorney.

Section ~~{46}~~48. Section **17-20-1** is amended to read:

17-20-1. County clerk -- District court clerk duties.

(1) The county clerk is the clerk of the legislative body of the county. The clerk shall act as clerk of the district court in secondary counties of the state district court administrative system and those counties not in the system, and shall perform the duties listed in Section 78A-5-108.

(2) If the county clerk performs district court clerk functions, the legislative body of the county shall provide the clerk with deputies and employees to conduct district court business as considered necessary and advisable by the judge or judges of the district court, consistent with the level of funding for clerk services from the court administrator's office.

Section 49. Section 17-22-1.5 is amended to read:

17-22-1.5. County sheriff qualifications.

(1) (a) [Each person filing] Except as provided in Subsection (1)(b), each individual who files a declaration of candidacy for the office of county sheriff shall submit to the county clerk, at the time of filing a declaration of candidacy, a certificate that complies with Subsection (1)(c).

(b) Each individual who files an application for the office of county sheriff in a county where the office of county sheriff is filled by appointment under Chapter 16, Part 5, Appointed County Officers, shall submit to the selection committee, at the time the individual files the

HB0172S01 compared with HB0172

application, a certificate that complies with Subsection (1)(c).

(c) A certificate described in Subsections (1)(a) and (b) shall be issued by the Peace Officer Standards and Training Division created under Section 53-6-103 stating that the candidate has:

~~[(a)]~~ (i) (A) successfully met the standards and training requirements established for peace officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

~~[(ii)]~~ (B) met the waiver requirements in Section 53-6-206; and

~~[(b)]~~ (ii) met the qualifications to be certified as a law enforcement officer, as defined in Section 53-13-103.

(2) In addition to the general qualifications required of county officers by Title 17, Chapter 16, County Officers, each county sheriff shall:

(a) at the time of taking office:

(i) (A) have successfully met the standards and training requirements established for peace officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) have met the waiver requirements in Section 53-6-206; and

(ii) be qualified to be certified as ~~[(A)]~~

~~[(A)]~~ a law enforcement officer, as defined in Section 53-13-103; and

~~[(B)] if the person is elected to the office of county sheriff in any election held after the 2008 general election.~~

~~[(B)]~~

(iii) if the individual takes office after January 1, 2009, be qualified to be certified as:

~~[(A)]~~ (A) a correctional officer, as defined in Section 53-13-104; or

~~[(B)]~~ (B) a correctional facility manager by having successfully completed a correctional facility management course that is offered by a certified academy in both an online ~~{web-based}~~ web-based format and in a classroom format and that is approved by the Peace Officer Standards and Training Council created in Section 53-6-106;

(b) satisfactorily complete annual certified training as required in Section 53-13-103; and

(c) after certification as provided in Subsection (2)(a), remain certified ~~[during the~~

HB0172S01 compared with HB0172

sheriff's term of office as while the sheriff is in office as:

(i) a law enforcement officer; and

(ii) if the ~~person is elected to the office of county sheriff in any election held after the 2008 general election~~ individual takes office after January 1, 2009:

(A) a correctional officer; or

(B) a correctional facility manager by having completed a correctional facility management course approved by the Peace Officer Standards and Training Council.

(3) If ~~a~~ an elected county sheriff resigns, retires, dies, or otherwise does not complete the term of office, the ~~person~~ individual appointed to serve for the remainder of the term shall, within 60 days after the date of appointment, complete the training and exam required under Subsection (2)(a)(ii)(B).

(4) The county legislative body shall declare the office of sheriff to be vacant if at any time the incumbent sheriff fails to meet the qualifications for office under Subsection (2).

Section ~~{47}~~ 50. Section 17-23-1 is amended to read:

17-23-1. Filling office of county surveyor -- Requirement to be licensed land surveyor -- Authority to contract with licensed land surveyor if no elected county surveyor -- County surveyor duties.

(1) (a) ~~[The]~~ Except ~~{in an appointing county}~~ as provided in ~~{Title 17,}~~ Chapter 16, Part 5, Appointed County Officers, the office of the county surveyor in each county shall be filled by election ~~[and, except]~~.

(b) Except as provided in Subsection (1)~~(b)~~(c), the county surveyor shall be a licensed professional land surveyor in the state.

~~(b)~~ (c) In a county where the office of county surveyor is consolidated under Section 17-16-103 with another ~~[elected]~~ office, all county surveying work shall be performed by a licensed professional land surveyor.

~~(c)~~ (d) In a county where there is no ~~[elected]~~ county surveyor that complies with Subsection (1)(b):

(i) the county executive or legislative body may, consistent with Section 17-53-313, contract with a licensed professional land surveyor to perform those duties;

(ii) all county survey work shall be done by a licensed land surveyor;

(iii) the county recorder shall assume and perform all statutory functions and duties of

HB0172S01 compared with HB0172

the county surveyor related to the retention and maintenance of survey records;

(iv) the recorder's office shall act as the county surveyor's office only for the purpose of accepting, retaining, and managing county survey records;

(v) the county shall furnish sufficient office space, furniture, stationery, and record books necessary for the county recorder's office to fulfill its functions and duties under Subsection (1)[~~(c)~~](d)(iv); and

(vi) for purposes of this chapter, "county surveyor" means:

(A) for purposes of the retention and management of county survey records, the county recorder; and

(B) except as provided in Subsection (1)[~~(c)~~](d)(vi)(A), the licensed land surveyor under contract with the county to perform county surveyor duties.

(2) The county surveyor shall execute:

(a) all orders directed to the surveyor by any court; and

(b) all orders of survey required by the county executive or county legislative body.

(3) (a) The surveyor of each county shall:

(i) advise the county executive and county legislative body regarding all surveying work;

(ii) perform or arrange for the performance of all surveying work for the county;

(iii) permanently keep at county government offices at the county seat a fair and accurate record of all surveys made, including legal descriptions and geographic coordinates, all surveys received pursuant to Section 17-23-17, and all corner files received pursuant to Section 17-23-17.5;

(iv) number progressively all surveys received and state by whom and for whom the surveys were made;

(v) deliver a copy of any survey to any person or court requiring the survey after the payment of the fee established by the county legislative body;

(vi) ensure that all surveys of legal subdivisions of sections are made according to the United States Manual of Surveying Instructions in effect at the time the survey is completed;

(vii) verify the correctness of or establish correct coordinates for all survey reference monuments set in place and shown on all subdivision maps and plats which have a spatial relationship with any section or quarter section corner; and

HB0172S01 compared with HB0172

(viii) perform other duties required by law.

(b) In arranging for the performance of surveying work for the county under Subsection (3)(a)(ii), a surveyor may comply with Section 17-53-313.

(4) (a) The county surveyor or ~~[his]~~ the county surveyor's designee shall establish all corners of government surveys and reestablish all corners of government surveys where corners have been destroyed and where witness markers or other evidences of the government corners remain so that the corners established by government survey can be positively located.

(b) The corners shall be reestablished in the manner provided in Section 17-23-13 for establishing corners.

(c) The county surveyor shall keep a separate record of the established and reestablished corners of government surveys, giving the date and names of persons present and shall provide those records to ~~[his]~~ the county surveyor's successor when ~~[he]~~ the county surveyor vacates ~~[his]~~ the county surveyor's office.

(d) Established or reestablished corners shall be recognized as the legal and permanent corners.

(5) The county executive or legislative body may direct the county surveyor or ~~[his]~~ the county surveyor's staff to perform engineering and architectural work if the county surveyor or ~~[his]~~ the county surveyor's staff is qualified and licensed to perform that work.

Section ~~{48}~~51. Section 17-23-2 is amended to read:

17-23-2. Office furnishings and supplies -- Filing and indexing fees -- Records remain county property.

(1) The county shall furnish an office, furniture, and all stationery and record books necessary for the surveyor's office.

(2) The county legislative body, by ordinance or resolution, may establish the fee to be collected by the county for filing and indexing a map of a survey. Fees for filing of maps under Section 17-23-17 shall be governed by Section 17-23-19.

(3) All records, maps, plats, profiles, calculations, and field notes of all surveys made by the county surveyor in an official capacity ~~[during the surveyor's term of]~~ while the surveyor holds the office, or by persons designated by the surveyor to do survey work on behalf of the county, or maps of a survey filed under Section 17-23-17, shall be the property of the county, open to the inspection of any person, and shall be delivered by the surveyor to a successor in

HB0172S01 compared with HB0172

office.

Section ~~{49}~~52. Section 17-24-1 is amended to read:

17-24-1. General duties of treasurer.

The county treasurer shall:

(1) receive all money belonging to the county and all other money by law directed to be paid to the treasurer, including proceeds of bonds, notes, or other evidences of indebtedness issued under Title 11, Chapter 14, Local Government Bonding Act;

(2) deposit and invest all money received under Title 51, Chapter 7, State Money Management Act;

(3) keep a record of the receipts and expenditures of all such money;

(4) disburse county money:

(a) on a county warrant issued by the county auditor; or

(b) subject to Section 17-19a-301, by a county check or such other payment mechanism as may be adopted pursuant to Chapter 36, Uniform Fiscal Procedures Act for Counties;

(5) perform the duties assigned to the treasurer under Title 59, Chapter 2, Part 13, Collection of Taxes;

(6) perform the duties under Title 59, Chapter 2, Part 13, Collection of Taxes, that have been reassigned to the treasurer in an ordinance adopted under Section [~~17-16-5.5~~] 17-16-105;

(7) provide the notice required under Section 10-11-4 or 17B-1-902; and

(8) perform other duties that are required by law or ordinance.

Section ~~{50}~~53. Section 17-33-8 is amended to read:

17-33-8. Career service -- Exempt positions.

(1) The career service:

(a) is a permanent service to which this chapter applies; and

(b) comprises all tenured county positions in the public service, except:

(i) subject to Subsection (2):

(A) the county executive, members of the county legislative body, and other elected officials; and

(B) each major department head charged directly by the county legislative body, or by a board appointed by the county legislative body, with the responsibility of assisting to formulate and carry out policy matters;

HB0172S01 compared with HB0172

(ii) one confidential secretary for each elected county officer and major department head, if a confidential secretary is assigned;

(iii) an administrative assistant to the county executive, each member of the county legislative body, and each elected official, if an administrative assistant is assigned;

(iv) each duly appointed chief deputy of any elected county officer who takes over and discharges the duties of the elected county officer in the absence or disability of the elected county officer;

(v) subject to Subsection (3), a person who is:

(A) appointed by an elected county officer to be a division director, to administer division functions in furtherance of the performance of the elected officer's professional duties;

(B) in a confidential relationship with the elected county officer; and

(C) not in a law enforcement rank position of captain or below;

(vi) each person employed to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the county legislative body or one of its committees;

(vii) each noncareer employee:

(A) compensated for the employee's services on a seasonal or contractual basis; and

(B) hired on emergency or seasonal appointment basis, as approved by the council; and

(viii) each provisional employee, as defined by the county's policies and procedures or its rules and regulations;

(ix) each part-time employee, as defined by the county's policies and procedures or its rules and regulations;

(x) each employee appointed to perform:

(A) work that does not exceed three years in duration; or

(B) work with limited funding; and

(xi) each position that[-];

(A) by its confidential or key policy-determining nature, cannot or should not be appropriately included in the career service[-]; and

(B) is not an appointed county officer under ~~Title 17,~~ Chapter 16, Part 5, Appointed County Officers.

(2) Before a position under Subsection (1)(b)(i) may be changed from its current status to exempt or tenured, the career service council shall, after giving due notice, hold a public

HB0172S01 compared with HB0172

hearing on the proposed change of status.

(3) (a) Subsection (1)(b)(v) may not be construed to cause a person serving as a nonexempt employee on May 5, 2008 in a position described in that subsection to lose the nonexempt status.

(b) The elected county officer in a supervisory position over an employee described in Subsection (3)(a) shall work with the county's office of personnel management to develop financial and other incentives to encourage a nonexempt employee to convert voluntarily to exempt status.

(4) (a) Rules and regulations promulgated under this chapter shall list by job title and department, office or agency, each position designated as exempt under Subsection (1)(b)(xi).

(b) A change in exempt status of a position designated as being exempt under Subsection (1)(b)(xi) constitutes an amendment to the rules and regulations promulgated under this chapter.

Section ~~51~~54. Section **17-52a-204** is amended to read:

17-52a-204. Council-manager form of county government.

(1) (a) The following shall govern a county operating under the form of government known as the "council-manager" form:

- (i) an elected county council;
- (ii) a county manager appointed by the council; and
- (iii) other officers and employees authorized by law.

(b) The optional plan shall provide for the qualifications, time and manner of appointment subject to Subsections (6) and (7), term of office, compensation, and removal of the county manager.

(2) The county manager is the administrative head of the county government and has the powers, functions, and duties of a county executive, except:

- (a) as the county legislative body otherwise provides by ordinance; and
- (b) that the county manager may not veto any ordinances enacted by the council.

(3) (a) A member of the council may not directly or indirectly, by suggestion or otherwise:

- (i) attempt to influence or coerce the manager in:
 - (A) making any appointment;

HB0172S01 compared with HB0172

(B) removing any officer or employee; or

(C) purchasing supplies;

(ii) attempt to exact any promise relative to any appointment from any candidate for manager; or

(iii) discuss directly or indirectly with the manager the matter of specific appointments to any county office or employment.

(b) (i) A person who violates the provisions of this Subsection (3) shall forfeit the office of the offending member of the council.

(ii) Nothing in this section shall be construed, however, as prohibiting the council while in open session from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county.

(iii) Neither manager nor any person in the employ of the county shall take part in securing, or contributing any money toward, the nomination or election of any candidate for a county office.

(iv) The optional plan may provide procedures for implementing this Subsection (3).

(4) In the council-manager form of county government:

(a) the legislative powers of the county are vested in the county council; and

(b) the executive powers of the county are vested in the county manager.

(5) A reference in statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the council-manager form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county manager, with respect to executive functions, duties, and powers.

(6) (a) As used in this Subsection (6), "interim vacancy period" means the period of time that:

(i) begins on the day on which a general election described in Section [~~17-16-6~~ 17-16-304] is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member's term.

(b) (i) The county council may not appoint a county manager during an interim vacancy period.

(ii) Notwithstanding Subsection (6)(b)(i):

HB0172S01 compared with HB0172

(A) the county council may appoint an interim county manager during an interim vacancy period; and

(B) the interim county manager's term shall expire once a new county manager is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection (6)(b) does not apply if all the county council members who held office on the day of the county general election whose term of office was vacant for the election are re-elected to the council for the following term.

(7) A county council that appoints a county manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the county manager.

Section ~~{52}~~55. Section **17-52a-404** is amended to read:

17-52a-404. Contents of proposed optional plan.

(1) The study committee, a county legislative body that adopts a resolution described in Subsection 17-52a-302(1)(b), or the sponsors of a petition described in Subsection 17-52a-303(1)(a)(ii) shall ensure that each optional plan the committee, legislative body, or registered voters propose under this chapter, respectively:

(a) proposes the adoption of one of the forms of county government listed in Subsection 17-52a-405(1)(a);

(b) contains detailed provisions relating to the transition from the existing form of county government to the form proposed in the optional plan, including provisions relating to the:

(i) ~~[election or appointment of]~~ selection of county officers specified in the optional plan for the new form of county government~~[:], including {whether the}~~:

(A) which county offices will be {an appointing county} filled by election under { Title 17,} Chapter 16 Part 3, Elected County Officers; and {,}

(B) which county offices will be filled by appointment under Chapter 16, Part 5, Appointed County Officers.

(ii) retention, elimination, or combining of existing offices and, if an office is eliminated, the division or department of county government responsible for performing the duties of the eliminated office;

(iii) continuity of existing ordinances and regulations;

HB0172S01 compared with HB0172

(iv) continuation of pending legislative, administrative, or judicial proceedings;

(v) making of interim and temporary appointments; and

(vi) preparation, approval, and adjustment of necessary budget appropriations;

(c) specifies the date the optional plan becomes effective if adopted, which may not be earlier than the first day of January next following the election of officers under the new plan; and

(d) notwithstanding any other provision of this title and except with respect to an optional plan that proposes the adoption of the county commission or expanded county commission form of government, with respect to the county budget provides that:

(i) the county executive's role is to prepare and present a proposed budget to the county legislative body; and

(ii) the county legislative body's role is to adopt a final budget.

(2) Subject to Subsection (3), an optional plan may include provisions that are considered necessary or advisable to the effective operation of the proposed optional plan.

(3) An optional plan may not include any provision that is inconsistent with or prohibited by the Utah Constitution or any statute.

(4) The optional plan proponent described in Subsection (1) shall ensure that each optional plan proposing to change the form of government to the county executive-council form under Section 17-52a-203 or the council-manager form under Section 17-52a-204:

(a) provides for the same executive and legislative officers as are specified in the applicable section for the form of government that the optional plan proposes;

(b) provides for the election of the county council;

(c) specifies the number of county council members, which shall be an odd number from three to nine;

(d) specifies whether the members of the county council are to be elected from districts, at large, or by a combination of at large and by district;

(e) specifies county council members' qualifications and terms and whether the terms are to be staggered;

(f) contains procedures for filling vacancies on the county council, consistent with the provisions of Section 20A-1-508; and

(g) states the initial compensation, if any, of county council members and procedures

HB0172S01 compared with HB0172

for prescribing and changing compensation.

(5) The optional plan proponent described in Subsection (1) shall ensure that each optional plan proposing to change the form of government to the county commission form under Section 17-52a-201 or the expanded county commission form under Section 17-52a-202 specifies:

(a) (i) for the county commission form of government, that the county commission shall have three members; or

(ii) for the expanded county commission form of government, whether the county commission shall have five or seven members;

(b) the terms of office for county commission members and whether the terms are to be staggered;

(c) whether members of the county commission are to be elected from districts, at large, or by a combination of at large and from districts;

(d) if any members of the county commission are to be elected from districts, the district residency requirements for those commission members; and

(e) if any members of the county commission are to be elected at large, whether the election of county commission members is subject to the provisions of Subsection 17-52a-201(6) or Subsection 17-52a-202(6).

Section ~~53~~56. Section **17-53-104** is amended to read:

17-53-104. Vacancy in a county office -- Vacancies in the office of county attorney or district attorney.

(1) Except as provided in Subsection (2) or (3), a vacancy in [a] an elected county office shall be filled as provided in Section 20A-1-508.

(2) A vacancy in the office of county attorney or district attorney shall be filled as provided in Sections 20A-1-509.1, 20A-1-509.2, and 20A-1-509.3.

(3) A vacancy in an appointed county office, as defined in Section 17-16-102, shall be filled in accordance with Section 17-16-503.

Section ~~54~~57. Section **17-53-106** is amended to read:

17-53-106. Supervision of elected county officers -- Legislative body and executive may examine and audit accounts and conduct investigation.

(1) As used in this section, "professional duties" means a county elected officer's

HB0172S01 compared with HB0172

functions, duties, and responsibilities specifically provided for by law and includes:

(a) the exercise of professional judgment and discretion reasonably related to the elected county officer's required functions, duties, and responsibilities; and

(b) the management of deputies and other employees under the supervision of the elected county officer under statute or county ordinance, policy, or regulation.

(2) (a) A county legislative body and a county executive each:

(i) may generally direct and supervise all elected county officers and employees to ensure compliance with general county administrative ordinances, rules, or policies;

(ii) may not direct or supervise other elected county officers or [~~their~~] an elected county officer's sworn deputies with respect to the performance of the professional duties of the elected county officers or the elected county officer's deputies;

(iii) may examine and audit the accounts of all county officers having the care, management, collection, or distribution of money belonging to the county, appropriated to the county, or otherwise available for the county's use and benefit; and

(iv) may investigate any matter pertaining to a county officer or to the county or its business or affairs, and may require the attendance of witnesses and take evidence in any such investigation.

(b) In an investigation under Subsection (2)(a)(iv):

(i) the county executive or any member of the county legislative body may issue subpoenas and administer oaths to witnesses; and

(ii) if the county legislative body appoints members of the legislative body as a committee and confers on the committee power to hear or take evidence, the committee shall have the same power as the full county legislative body.

(3) Nothing in this section may be construed to prohibit the county executive or county legislative body from initiating an action for removal or prosecution of an elected county officer as provided by statute.

Section ~~55~~58. Section **17-53-317** is amended to read:

17-53-317. Executive appointment with advice and consent of county legislative body.

(1) The appointment of a person to fill a position on a board, committee, or similar body whose membership is appointed by the county shall be by the county executive, with the

HB0172S01 compared with HB0172

advice and consent of the county legislative body.

(2) (a) As used in this Subsection (2), "interim vacancy period" means:

(i) for a county commission form or expanded county commission form of government, the period of time that:

(A) begins on the day on which a general election described in Section [~~17-16-6~~] 17-16-304 is held to elect a commission member; and

(B) ends on the day on which the commission member-elect begins the council member's term; or

(ii) for a county executive-council form of government, the period of time that:

(A) begins on the day on which a general election described in Section [~~17-16-6~~] 17-16-304 is held to elect a county executive; and

(B) ends on the day on which the county executive-elect begins the county executive's term.

(b) (i) A county commission in a county commission form of government, or a county commission in an expanded county commission form of government, may not appoint during an interim period vacancy a manager, a chief executive officer, a chief administrative officer, or a similar position to perform executive and administrative duties or functions.

(ii) Notwithstanding Subsection (2)(b)(i):

(A) a county commission in a county commission form of government, or a county commission in an expanded county commission form of government, may appoint an interim manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and

(B) the interim appointee's term shall expire once a new manager, a chief executive officer, a chief administrative officer, or a similar position is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection (2)(b) does not apply if all the county commission members who held office on the day of the county general election whose term of office was vacant for the election are re-elected to the county commission for the following term.

(d) (i) A county executive in a county executive-council form of government may not appoint during an interim vacancy period a manager, a chief executive officer, a chief administrative officer, or a similar position to perform executive and administrative duties or

HB0172S01 compared with HB0172

functions.

(ii) Notwithstanding Subsection (2)(d)(i):

(A) a county executive in a county executive-council form of government may appoint an interim manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and

(B) the interim appointee's term shall expire once a new manager, a chief executive officer, a chief administrative officer, or a similar position is appointed by the new county executive after the interim vacancy period has ended.

(e) Subsection (2)(d) does not apply if the county executive who held office on the day of the county general election is re-elected to the office of county executive for the following term.

(3) A county commission in a county commission form of government, a county commission in an expanded county commission form of government, or a county executive in a county executive-council form of government that appoints a manager, a chief executive officer, a chief administrative officer, or a similar position in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager, chief executive officer, chief administrative officer, or similar position.

Section ~~56~~59. Section **17D-2-203** is amended to read:

17D-2-203. Local building authority board of directors.

(1) Except as provided in Subsection (3), the members of the governing body of the creating local entity constitute the authority board of the local building authority created by the creating local entity.

(2) An authority board may be referred to as a board of trustees.

(3) (a) For a local building authority whose creating local entity is a county that operates under the county commission form of government under Section 17-52a-201, two members of the authority board may appoint an elected officer of the county to serve temporarily as a member of the authority board if the other authority board member:

(i) is, as a member of the county commission, placed on paid administrative leave under Section [~~17-16-10.5~~] 17-16-309;

(ii) is unable to serve due to a disability;

HB0172S01 compared with HB0172

(iii) has a conflict of interest with respect to a matter before the authority board that disqualifies the authority board member or causes the member to abstain from participating in action on that matter; or

(iv) is unable for any other reason to serve temporarily on the authority board or to participate in a matter before the board.

(b) An elected county officer appointed to an authority board under Subsection (3)(a) may serve only until the condition under Subsection (3)(a)(i), (ii), (iii), or (iv) causing the need for the appointment is no longer present.

Section ~~{57}~~60. Section **20A-1-102** is amended to read:

20A-1-102. Definitions.

As used in this title:

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

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

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

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

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

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

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

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

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

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

HB0172S01 compared with HB0172

- (g) an incorporation of a city or town; or
- (h) any other ballot question specifically authorized by the Legislature.
- (6) "Ballot sheet":
 - (a) means a ballot that:
 - (i) consists of paper or a card where the voter's votes are marked or recorded; and
 - (ii) can be counted using automatic tabulating equipment; and
 - (b) includes punch card ballots and other ballots that are machine-countable.
- (7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.
- (8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.
- (9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.
- (10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.
- (11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.
- (12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.
- (13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.
- (14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.
- (15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.
- (16) "Convention" means the political party convention at which party officers and delegates are selected.
- (17) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.
- (18) "Counting judge" means a poll worker designated to count the ballots during

HB0172S01 compared with HB0172

election day.

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

(20) (a) "County officers" means those county officers that are required by law to be elected.

(b) "County officers" does not include an appointed county officer as defined in Section 17-16-102.

(21) "Date of the election" or "election day" or "day of the election":

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

(b) does not include:

(i) deadlines established for absentee voting; or

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

(22) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or [~~Title 20A,~~] Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

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

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

(23) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(24) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

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

(26) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

HB0172S01 compared with HB0172

- (b) act as the presiding election judge; or
- (c) serve as a canvassing judge, counting judge, or receiving judge.

(27) "Election officer" means:

- (a) the lieutenant governor, for all statewide ballots and elections;
- (b) the county clerk for:
 - (i) a county ballot and election; and
 - (ii) a ballot and election as a provider election officer as provided in Section

20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

- (i) a municipal ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section

20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

- (i) a local district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section

20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

- (i) a school district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section

20A-5-400.1 or 20A-5-400.5.

(28) "Election official" means any election officer, election judge, or poll worker.

(29) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(30) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(31) "Electronic ballot" means a ballot that is recorded using a direct electronic voting

HB0172S01 compared with HB0172

device or other voting device that records and stores ballot information by electronic means.

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

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

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

(34) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

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

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

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

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

(39) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

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

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

(42) "Municipal executive" means:

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

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

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

(43) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each

HB0172S01 compared with HB0172

odd-numbered year for the purposes established in Section 20A-1-202.

(44) "Municipal legislative body" means:

- (a) the council of the city or town in any form of municipal government; or
- (b) the council of a metro township.

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

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

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

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

(49) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(50) "Official endorsement" means:

(a) the information on the ballot that identifies:

- (i) the ballot as an official ballot;
- (ii) the date of the election; and

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

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

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

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

(51) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(52) "Paper ballot" means a paper that contains:

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

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

(53) "Political party" means an organization of registered voters that has qualified to

HB0172S01 compared with HB0172

participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

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

(b) "Poll worker" includes election judges.

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

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

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

(57) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(58) "Primary convention" means the political party conventions held during the year of the regular general election.

(59) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

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

(60) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

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

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

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

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

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

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

(64) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot

HB0172S01 compared with HB0172

after the voter has voted.

(65) "Registration form" means a book voter registration form and a by-mail voter registration form.

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

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

(68) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

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

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

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

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

(73) "Special election" means an election held as authorized by Section 20A-1-203.

(74) "Spoiled ballot" means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- (c) lacks the official endorsement.

(75) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(76) "Stub" means the detachable part of each ballot.

(77) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(78) "Ticket" means a list of:

- (a) political parties;

HB0172S01 compared with HB0172

- (b) candidates for an office; or
- (c) ballot propositions.

(79) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(80) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(81) "Valid voter identification" means:

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

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:
 - (A) the state; or
 - (B) a branch, department, or agency of the United States;
- (iii) a currently valid Utah permit to carry a concealed weapon;
- (iv) a currently valid United States passport; or
- (v) a currently valid United States military identification card;

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

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or
- (iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (81)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

- (i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;
- (ii) a bank or other financial account statement, or a legible copy thereof;
- (iii) a certified birth certificate;
- (iv) a valid social security card;
- (v) a check issued by the state or the federal government or a legible copy thereof;

HB0172S01 compared with HB0172

- (vi) a paycheck from the voter's employer, or a legible copy thereof;
- (vii) a currently valid Utah hunting or fishing license;
- (viii) certified naturalization documentation;
- (ix) a currently valid license issued by an authorized agency of the United States;
- (x) a certified copy of court records showing the voter's adoption or name change;
- (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- (xii) a currently valid identification card issued by:
 - (A) a local government within the state;
 - (B) an employer for an employee; or
 - (C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

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

(83) "Voter" means a person who:

- (a) meets the requirements for voting in an election;
- (b) meets the requirements of election registration;
- (c) is registered to vote; and
- (d) is listed in the official register book.

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

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

(86) "Voting booth" means:

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

(b) a voting device that is free standing.

(87) "Voting device" means:

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

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

HB0172S01 compared with HB0172

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

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

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

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

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

(90) "Watcher" means an individual who complies with the requirements described in Section 20A-3-201 to become a watcher for an election.

(91) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

(92) "Write-in ballot" means a ballot containing any write-in votes.

(93) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section ~~58~~61. Section **20A-1-404** is amended to read:

20A-1-404. Election controversies.

(1) (a) (i) Whenever any controversy occurs between any election officer or other person or entity charged with any duty or function under this title and any candidate, or the officers or representatives of any political party, or persons who have made nominations, either party to the controversy may file a verified petition with the district court.

(ii) If a petition is filed, the petitioner shall serve a copy of the petition on the respondents on the same day that the petition is filed with the court.

(b) The verified petition shall identify concisely the nature of the controversy and the relief sought.

(2) After reviewing the petition, the court shall:

(a) issue an order commanding the respondent named in the petition to appear before the court to answer, under oath, to the petition;

(b) summarily hear and dispose of any issues raised by the petition to obtain:

(i) strict compliance with all filing deadlines for financial disclosure reports under:

HB0172S01 compared with HB0172

- (A) Section 10-3-208, regarding campaign finance statements in municipal elections;
 - (B) ~~[Section 17-16-6.5]~~ Sections 17-16-305 and 17-16-306, regarding campaign finance statements for county offices;
 - (C) ~~[Title 20A,]~~ Chapter 11, Part 2, State Office Candidates - Campaign Organization and Financial Reporting Requirements;
 - (D) ~~[Title 20A,]~~ Chapter 11, Part 3, Candidates for Legislative Office - Campaign Organization and Financial Reporting Requirements;
 - (E) ~~[Title 20A,]~~ Chapter 11, Part 4, Officeholder Financial Reporting Requirements;
 - (F) ~~[Title 20A,]~~ Chapter 11, Part 5, Political Party Registration and Financial Reporting Requirements;
 - (G) ~~[Title 20A,]~~ Chapter 11, Part 6, Political Action Committee Registration and Financial Reporting Requirements;
 - (H) ~~[Title 20A,]~~ Chapter 11, Part 7, Campaign Financial Reporting by Corporations;
 - (I) ~~[Title 20A,]~~ Chapter 11, Part 8, Political Issues Committees - Registration and Financial Reporting;
 - (J) ~~[Title 20A,]~~ Chapter 11, Part 13, State School Board Candidates; and
 - (K) ~~[Title 20A,]~~ Chapter 12, Part 3, Campaign and Financial Reporting Requirements for Judicial Retention Elections; and
- (ii) substantial compliance with all other provisions of this title by the parties to the controversy; and
 - (c) make and enter orders and judgments, and issue the process of the court to enforce all of those orders and judgments.

Section ~~59~~62. Section **20A-1-501** is amended to read:

20A-1-501. Candidate vacancies -- Procedure for filling.

(1) The state central committee of a political party, for candidates for United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of a political party, for all other party candidates seeking an office elected at a regular general election, may certify the name of another candidate to the appropriate election officer if:

- (a) for a registered political party that will have a candidate on a ballot in a primary

HB0172S01 compared with HB0172

election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor provides the list described in Subsection 20A-9-403(4)(a):

(i) only one or two candidates from that party have filed a declaration of candidacy for that office; and

(ii) one or both:

(A) dies;

(B) resigns because of acquiring a physical or mental disability, certified by a physician, that prevents the candidate from continuing the candidacy; or

(C) is disqualified by an election officer for improper filing or nominating procedures;

(b) for a registered political party that does not have a candidate on the ballot in a primary, but that will have a candidate on the ballot for a general election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician;

(iii) is disqualified by an election officer for improper filing or nominating procedures;

or

(iv) resigns to become a candidate for president or vice president of the United States;

or

(c) for a registered political party with a candidate certified as winning a primary election, after the deadline described in Subsection (1)(a) and continuing through the day before that day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician;

(iii) is disqualified by an election officer for improper filing or nominating procedures;

or

HB0172S01 compared with HB0172

(iv) resigns to become a candidate for president or vice president of the United States.

(2) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party candidate for another position, the state central committee of that political party, for candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of that political party, for all other party candidates, may certify the name of another candidate to the appropriate election officer.

(3) Each replacement candidate shall file a declaration of candidacy as required by ~~[Title 20A,]~~ Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

(4) (a) The name of a candidate who is certified under Subsection (1)(a) after the deadline described in Subsection (1)(a) may not appear on the primary election ballot.

(b) The name of a candidate who is certified under Subsection (1)(b) after the deadline described in Subsection (1)(b) may not appear on the general election ballot.

(c) The name of a candidate who is certified under Subsection (1)(c) after the deadline described in Subsection (1)(c) may not appear on the general election ballot.

(5) A political party may not replace a candidate who is disqualified for failure to timely file a campaign disclosure financial report under ~~[Title 20A,]~~ Chapter 11, Campaign and Financial Reporting Requirements, or Section ~~[17-16-6.5]~~ 17-16-305 or 17-16-306.

Section ~~{60}~~63. Section **20A-1-508** is amended to read:

20A-1-508. Midterm vacancies in county elected offices -- Temporary manager --

Interim replacement.

(1) As used in this section:

(a) (i) "County offices" includes:

(A) the county executive~~;~~ and members of the county legislative body~~;~~~~{}~~~~}~~~~the county sheriff~~; and

(B) except ~~fin~~ for an ~~appointing~~ appointed county officer as defined in Section 17-16-102, the county treasurer, ~~{}~~the county sheriff,~~{}~~ the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not include the office of county attorney, district attorney, or judge.

HB0172S01 compared with HB0172

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by Section 20A-8-401.

(2) (a) Until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily fill the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily fills a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily fills a county office:

HB0172S01 compared with HB0172

- (i) may not take an oath of office for the county office as a temporary manager;
 - (ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;
 - (iii) unless approved by the county legislative body, may not change the compensation of an employee;
 - (iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;
 - (v) may terminate an employee only if the termination is conducted in accordance with:
 - (A) personnel rules described in Subsection 17-33-5(3) that are approved by the county legislative body; and
 - (B) applicable law;
 - (vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office that the temporary manager fills was vacated;
 - (vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and
 - (viii) if approved by the county legislative body, may receive a performance award after:
 - (A) the county legislative body appoints an interim replacement under Subsection (3); and
 - (B) the interim replacement is sworn into office.
- (3) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).
- (b) (i) To appoint an interim replacement, the county legislative body shall give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.
 - (ii) That party liaison shall, within 30 days, submit the name of the person selected in accordance with the party constitution or bylaws as described in Section 20A-8-401 for the interim replacement to the county legislative body.
 - (iii) The county legislative body shall no later than five days after the day on which a

HB0172S01 compared with HB0172

party liaison submits the name of the person for the interim replacement appoint the person to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (3)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the person to fill the vacancy submitted by the party liaison.

(ii) The governor shall appoint the person named by the party liaison as an interim replacement to fill the vacancy within 30 days after receipt of the letter.

(d) A person appointed as interim replacement under this Subsection (3) shall hold office until their successor is elected and has qualified.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the person was elected but before April 10 of the next even-numbered year.

(b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate for the vacant office or qualified as an independent or write-in candidate under Chapter 8, Political Party Formation and Procedures, for the vacant office shall run in the regular general election.

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after April 9 of the next even-numbered year but more than 75

HB0172S01 compared with HB0172

days before the regular primary election.

(b) (i) When the conditions established in Subsection (5)(a) are met, the county clerk shall notify the public and each registered political party that:

(A) the vacancy exists; and

(B) identifies the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.

(ii) An individual intending to become a candidate for a vacant office shall, within five days after the date that the notice is made, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk at least 60 days before the regular primary election.

(6) (a) The requirements of this Subsection (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 days or less remain before the regular primary election but more than 65 days remain before the regular general election.

(b) When the conditions established in Subsection (6)(a) are met, the county central committees of each political party registered under this title that wishes to submit a candidate for the office shall summarily certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(7) (a) The requirements of this Subsection (7) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the next regular general election.

HB0172S01 compared with HB0172

(b) (i) When the conditions established in Subsection (7)(a) are met, the county legislative body shall give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.

(ii) That party liaison shall, within 30 days, submit the name of the person to fill the vacancy to the county legislative body.

(iii) The county legislative body shall no later than five days after the day on which a party liaison submits the name of the person to fill the vacancy appoint the person to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint a person to fill the vacancy in accordance with Subsection (7)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(B) contains the name of the person to fill the vacancy submitted by the party liaison.

(ii) The governor shall appoint the person named by the party liaison to fill the vacancy within 30 days after receipt of the letter.

(d) A person appointed to fill the vacancy under this Subsection (7) shall hold office until their successor is elected and has qualified.

(8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(9) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the same time limits.

(10) (a) Each person elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the person who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section [~~17-16-6~~] 17-16-304.

Section 64. Section 20A-1-509.1 is amended to read:

20A-1-509.1. Procedure for filling midterm vacancy in county or district with 15 or more attorneys.

HB0172S01 compared with HB0172

(1) ~~When a vacancy occurs~~ A vacancy in the office of county or district attorney ~~in a county or district having~~ shall be filled under this section if:

(a) the office is filled by election; and

(b) the county or district ~~attorney~~ in ~~a county or district having~~ which the vacancy occurs has 15 or more attorneys who are licensed active members in good standing with the Utah State Bar and who are registered voters~~;~~ ~~the vacancy shall be filled as provided in this section~~.

(2) (a) The requirements of this Subsection (2) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs before the third Thursday in March of the even-numbered year.

(b) When the conditions established in Subsection (2)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(c) All persons intending to become candidates for the vacant office shall:

(i) file a declaration of candidacy according to the procedures and requirements of Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy;

(ii) if nominated as a party candidate or qualified as an independent or write-in candidate under Chapter 9, Candidate Qualifications and Nominating Procedures, run in the regular general election; and

(iii) if elected, complete the unexpired term of the person who created the vacancy.

(d) If the vacancy occurs after the second Friday in March and before the third Thursday in March, the time for filing a declaration of candidacy under Section 20A-9-202 shall be extended until seven days after the county clerk gives notice under Subsection (2)(b), but no later than the fourth Thursday in March.

(3) (a) The requirements of this Subsection (3) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the third Thursday in March of the even-numbered year but more than 75 days before the regular primary election.

(b) When the conditions established in Subsection (3)(a) are met, the county clerk shall:

HB0172S01 compared with HB0172

(i) notify the public and each registered political party that the vacancy exists; and
(ii) identify the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.

(c) All persons intending to become candidates for the vacant office shall:

(i) within five days after the date that the notice is made, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office as required by Chapter 9, Part 2, Candidate Qualifications and Declaration of Candidacy; and

(ii) if elected, complete the unexpired term of the person who created the vacancy.

(d) The county central committee of each party shall:

(i) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(ii) certify the name of the candidate or candidates to the county clerk at least 60 days before the regular primary election.

(4) (a) The requirements of this Subsection (4) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) 75 days or less remain before the regular primary election but more than 65 days remain before the regular general election.

(b) When the conditions established in Subsection (4)(a) are met, the county central committees of each registered political party that wish to submit a candidate for the office shall summarily certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(c) The candidate elected shall complete the unexpired term of the person who created the vacancy.

(5) (a) The requirements of this Subsection (5) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of less than two years; or

(ii) the vacant office has an unexpired term of two years or more but 65 days or less remain before the next regular general election.

(b) When the conditions established in Subsection (5)(a) are met, the county legislative body shall give notice of the vacancy to the county central committee of the same political

HB0172S01 compared with HB0172

party of the prior officeholder and invite that committee to submit the names of three nominees to fill the vacancy.

(c) That county central committee shall, within 30 days of receiving notice from the county legislative body, submit to the county legislative body the names of three nominees to fill the vacancy.

(d) The county legislative body shall, within 45 days after the vacancy occurs, appoint one of those nominees to serve out the unexpired term.

(e) If the county legislative body fails to appoint a person to fill the vacancy within 45 days, the county clerk shall send to the governor a letter that:

(i) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(ii) contains the list of nominees submitted by the party central committee.

(f) The governor shall appoint a person to fill the vacancy from that list of nominees within 30 days after receipt of the letter.

(g) A person appointed to fill the vacancy under Subsection (5) shall complete the unexpired term of the person who created the vacancy.

(6) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the required time limits.

Section 65. Section 20A-1-509.2 is amended to read:

20A-1-509.2. Procedure for filling vacancy in county or district with fewer than 15 attorneys.

(1) ~~When a vacancy occurs~~ A vacancy in the office of county or district attorney, including a vacancy created by the failure of a person to file as a candidate for the office of county or district attorney in an election, ~~in a county or district having~~ shall be filled under this section if:

(a) the office is filled by election; and

(b) the county or district in which the vacancy occurs has fewer than 15 attorneys who are licensed, active members in good standing with the Utah State Bar ~~and~~ who are registered voters ~~, the vacancy shall be filled as provided in this section~~.

(2) The county clerk shall send a letter to each attorney residing in the county or district who is a licensed, active member in good standing with the Utah State Bar and a registered

HB0172S01 compared with HB0172

voter that:

(a) informs the attorney of the vacancy;

(b) invites the attorney to apply for the vacancy; and

(c) informs the attorney that if the attorney has not responded within 10 calendar days from the date that the letter was mailed, the attorney's candidacy to fill the vacancy will not be considered.

(3) (a) (i) If, after 10 calendar days from the date the letter was mailed, more than three attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county clerk shall, except as provided in Subsection (3)(a)(ii), submit the applications to the county central committee of the same political party of the prior officeholder.

(ii) In multicounty prosecution districts, the clerk shall submit the applications to the county central committee of each county within the prosecution district.

(b) The central committee shall nominate three of the applicants and forward the applicants' names to the county legislative body within 20 days after the date the county clerk submitted the applicants' names.

(c) The county legislative body shall appoint one of the nominees to fill the vacant position.

(d) If the central committee of the political party fails to submit at least three names to the county legislative body within 20 days after the date the county clerk submitted the applicants' names, the county legislative body shall appoint one of the applicants to fill the vacant position.

(e) If the county legislative body fails to appoint a person to fill the vacancy within 120 days after the vacancy occurs, the county clerk shall mail to the governor:

(i) a letter informing the governor that the county legislative body has failed to appoint a person to fill the vacancy; and

(ii) (A) the list of nominees, if any, submitted by the central committee of the political party; or

(B) if the party central committee has not submitted a list of at least three nominees within the required time, the names of the persons who submitted applications for the vacant position to the county clerk.

HB0172S01 compared with HB0172

(f) The governor shall appoint, within 30 days after receipt of the letter, a person from the list to fill the vacancy.

(4) (a) If, after 10 calendar days from the date the letter was mailed, three or fewer attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county legislative body may:

(i) appoint one of them to be county or district attorney; or

(ii) solicit additional applicants and appoint a county or district attorney as provided in Subsection (4)(b).

(b) (i) If three or fewer attorneys who are licensed members in good standing of the Utah State Bar and registered voters in the county or district submit applications, the county legislative body may publicly solicit and accept additional applications for the position from licensed, active members in good standing of the Utah State Bar who are not residents of the county or prosecution district.

(ii) The county legislative body shall consider the applications submitted by the attorneys who are residents of and registered voters in the county or prosecution district and the applications submitted by the attorneys who are not residents of the county or prosecution district and shall appoint one of the applicants to be county attorney or district attorney.

(c) If the legislative body fails to appoint a person to fill the vacancy within 120 days after the vacancy occurs, the county clerk shall:

(i) notify the governor that the legislative body has failed to fill the vacancy within the required time period; and

(ii) provide the governor with a list of all the applicants.

(d) The governor shall appoint a person to fill the vacancy within 30 days after the governor receives the notification.

(5) The person appointed to fill the vacancy shall serve for the unexpired term of the person who created the vacancy.

Section ~~61~~66. Section **20A-1-901** is amended to read:

20A-1-901. Definitions.

As used in this part:

(1) "Applicable office" means the office held by the subject officer.

HB0172S01 compared with HB0172

(2) "Mental capacity evaluation" means an evaluation by a qualified medical professional to determine whether the subject officer has the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations.

(3) "Officer" means [a] an elected county officer.

(4) "Results of the mental capacity evaluation" means a statement by the qualified medical professional who conducts the mental capacity evaluation that the subject officer:

(a) has the mental capacity to fulfill the essential functions of the applicable office, without reasonable accommodations;

(b) has the mental capacity to fulfill the essential functions of the applicable office, with specified reasonable accommodations; or

(c) lacks the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations.

(5) "Subject officer" means the officer who is subject to proceedings under this part to determine whether the officer has the mental capacity to fulfill the essential functions of the officer's office, with or without reasonable accommodations.

(6) "Unanimous" means a vote of all members of a county legislative body where all members of the county legislative body, not including the subject officer, vote on the same side of the motion.

Section 67. Section 20A-6-302 is amended to read:

20A-6-302. Paper ballots -- Placement of candidates' names.

(1) Each election officer shall ensure, for paper ballots in regular general elections, that:

(a) each candidate is listed by party, if nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5);

(b) candidates' surnames are listed in alphabetical order on the ballots when two or more candidates' names are required to be listed on a ticket under the title of an office; and

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

(2) (a) When there is only one candidate for county attorney at the regular general election in counties that have three or fewer registered voters of the county who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that

HB0172S01 compared with HB0172

candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of county attorney? Yes ____ No ____."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of county attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for county attorney is printed on the ballot under authority of this Subsection (2), the county clerk may not count any write-in votes received for the office of county attorney.

(e) If no qualified person files for the office of county attorney or if the candidate is not elected by the voters, the county legislative body shall appoint the county attorney as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (2)(f), be placed on the ballot under Subsection (2)(a) has been elected on a ballot under Subsection (2)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (2)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before the date of that year's primary election that:

(i) requests the procedure set forth in Subsection (2)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

(g) This Subsection (2) does not apply to a county that has an appointed county attorney under Title 17, Chapter 16, Appointed County Officers.

(3) (a) When there is only one candidate for district attorney at the regular general election in a prosecution district that has three or fewer registered voters of the district who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of district

HB0172S01 compared with HB0172

attorney? Yes ____ No ____."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of district attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for district attorney is printed on the ballot under authority of this Subsection (3), the county clerk may not count any write-in votes received for the office of district attorney.

(e) If no qualified person files for the office of district attorney, or if the only candidate is not elected by the voters under this subsection, the county legislative body shall appoint a new district attorney for a four-year term as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (3)(f), be placed on the ballot under Subsection (3)(a) has been elected on a ballot under Subsection (3)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (3)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before the date of that year's primary election that:

(i) requests the procedure set forth in Subsection (3)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

(g) This Subsection (3) does not apply to a prosecution district that has an appointed district attorney under Title 17, Chapter 16, Appointed County Officers.

Section ~~62~~68. Section **20A-9-101** is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

HB0172S01 compared with HB0172

- (i) justice or judge of court of record or not of record;
- (ii) presidential elector;
- (iii) any political party offices; and
- (iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" means the same as that term is defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the officeholder is selected by voters entirely within one county.

(b) "County office" does not mean:

(i) ~~fin an appointing county as defined in Section 17-16-102, an office described in Section 17-16-502;~~ an office that is filled by appointment under Title 17, Chapter 16, Part 5, Appointed County Officers;

- ~~(ii)~~ (ii) the office of justice or judge of any court of record or not of record;
- ~~(iii)~~ (iii) the office of presidential elector;
- ~~(iv)~~ (iv) any political party offices;
- ~~(v)~~ (v) any municipal or local district offices; ~~and~~ or
- ~~(vi)~~ (vi) the office of United States Senator and United States Representative.

(5) "Federal office" means an elective office for United States Senator and United States Representative.

(6) "Filing officer" means:

(a) the lieutenant governor, for:

- (i) the office of United States Senator and United States Representative; and
- (ii) all constitutional offices;
- (b) the county clerk, for county offices and local school district offices;
- (c) the county clerk in the filer's county of residence, for multicounty offices;
- (d) the city or town clerk, for municipal offices; and
- (e) the local district clerk, for local district offices.

(7) "Local district office" means an elected office in a local district.

(8) "Local government office" includes county offices, municipal offices, and local

HB0172S01 compared with HB0172

district offices and other elective offices selected by the voters from a political division entirely within one county.

(9) (a) "Multicounty office" means an elective office where the officeholder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

(i) a county office;

(ii) a federal office;

(iii) the office of justice or judge of any court of record or not of record;

(iv) the office of presidential elector;

(v) any political party offices; and

(vi) any municipal or local district offices.

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

(11) (a) "Political division" means a geographic unit from which an officeholder is elected and that an officeholder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

(12) "Qualified political party" means a registered political party that:

(a) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;

(b) does not hold the registered political party's convention before the fourth Saturday in March of an even-numbered year;

(c) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and

(d) (i) if the registered political party is a continuing political party, no later than 5 p.m.

HB0172S01 compared with HB0172

on September 30 of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.

Section ~~63~~69. Section **20A-11-103** is amended to read:

20A-11-103. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of reporting and filing requirements.

(1) (a) Except as provided under Subsection (1)(b), 10 days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by electronic mail unless postal mail is requested:

- (i) that the financial statement is due;
- (ii) of the date that the financial statement is due; and
- (iii) of the penalty for failing to file the financial statement.

(b) The chief election officer is not required to provide notice:

- (i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;
- (ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or

- (iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3) (a) A financial statement is considered timely filed if the financial statement is received by the chief election officer's office before midnight, Mountain Time, at the end of the day on which the financial statement is due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a financial statement is due, the county clerk shall permit a candidate to file the financial statement via email or another electronic means designated by the county clerk.

HB0172S01 compared with HB0172

(c) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) post an electronic copy or the contents of each financial statement in a searchable format on a website established by the lieutenant governor:

(i) for campaign finance statements submitted to the lieutenant governor under the requirements of Section 10-3-208 [~~or Section 17-16-6.5~~], 17-16-305, or 17-16-306, no later than seven business days after the date of receipt of the campaign finance statement; or

(ii) for a summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date the summary report or interim report is electronically filed.

(5) If a municipality, under Section 10-3-208, or a county, under Section [~~17-16-6.5~~] 17-16-305, elects to provide campaign finance disclosure on its own website, rather than through the lieutenant governor, the website established by the lieutenant governor shall contain a link or other access point to the municipality or county website.

(6) Between January 1 and January 15 of each year, the chief election officer shall provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in this chapter.

Section ~~{64}~~70. Section **41-1a-1320** is amended to read:

41-1a-1320. Tax clearance required to move manufactured home or mobile home.

(1) A manufactured home or mobile home may not be transported by any person, including its owner, unless a tax clearance has been obtained from the assessor or, if the responsibility to provide a tax clearance has been reassigned under Section [~~17-16-5.5~~] 17-16-105, the treasurer of the county in which the real property upon which the manufactured home or mobile home was last located showing that all property taxes, including any interest and penalties, have been paid.

HB0172S01 compared with HB0172

(2) The tax clearance described in Subsection (1):

(a) is proof of having paid all property taxes, interest, and penalties; and

(b) shall be displayed in a conspicuous place on the rear of the manufactured home or mobile home so as to be plainly visible while in transit.

(3) (a) Any person, including the owner, who transports a manufactured home or mobile home without a valid tax clearance is:

(i) in violation of Section 59-2-309; and

(ii) subject to the penalty provisions of Section 59-2-309.

(b) In addition to the penalty provided in Subsection (3)(a), any commercial mover who transports any manufactured home or mobile home without a valid tax clearance is guilty of a class B misdemeanor.

Section ~~65~~71. Section **51-7-15** is amended to read:

51-7-15. Bonds of state treasurer and other public treasurers -- Reports to council.

(1) (a) The state treasurer, county, city, and town treasurers, the clerk or treasurer of each school district, and other public treasurers that the council designates by rule shall be bonded or may procure crime or theft insurance as allowed in Section [~~17-16-11~~] 17-16-108 in an amount of not less than that established by the council.

(b) The council shall base the minimum bond amount or crime or theft insurance as allowed in Section [~~17-16-11~~] 17-16-108 on the amount of public funds normally in the treasurer's possession or control.

(2) (a) When a public treasurer deposits or invests public funds as authorized by this chapter, the public treasurer and the public treasurer's bondsmen or insurers are not liable for any loss of public funds invested or deposited unless the loss is caused by the malfeasance of the public treasurer or a member of the public treasurer's staff.

(b) A public treasurer and the public treasurer's bondsmen or insurers are liable for a loss for any reason from deposits or investments not made in conformity with this chapter and the rules of the council.

(3) (a) A public treasurer shall file a written report with the council on or before January 31 and July 31 of each year.

(b) The report shall contain:

HB0172S01 compared with HB0172

(i) the information about the deposits and investments of that public treasurer during the preceding six months ending December 31 and June 30, respectively, that the council requires by rule; and

(ii) information detailing the nature and extent of interest rate contracts permitted by Subsection 51-7-17(3).

(c) A public treasurer shall make copies of the report available to the public at the public treasurer's office during normal business hours.

Section ~~66~~72. Section **51-9-408** is amended to read:

51-9-408. Children's Legal Defense Account.

(1) There is created a restricted account within the General Fund known as the Children's Legal Defense Account.

(2) The purpose of the Children's Legal Defense Account is to provide for programs that protect and defend the rights, safety, and quality of life of children.

(3) The Legislature shall appropriate money from the account for the administrative and related costs of the following programs:

(a) implementing the Mandatory Educational Course on Children's Needs for Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4, 30-3-10.3, 30-3-11.3, and 30-3-15.3, and the Mediation Program - Child Custody or Parent-time;

(b) implementing the use of guardians ad litem as provided in Sections 78A-2-703, 78A-2-705, 78A-6-902, and 78B-3-102; the training of attorney guardians ad litem and volunteers as provided in Section 78A-6-902; and termination of parental rights as provided in Sections 78A-6-117 and 78A-6-118, and Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act. This account may not be used to supplant funding for the guardian ad litem program in the juvenile court as provided in Section 78A-6-902;

(c) implementing and administering the Expedited Parent-time Enforcement Program as provided in Section 30-3-38; and

(d) implementing and administering the Divorce Education for Children Program.

(4) The following withheld fees shall be allocated only to the Children's Legal Defense Account and used only for the purposes provided in Subsections (3)(a) through (d):

(a) the additional \$10 fee withheld on every marriage license issued in the state of Utah

HB0172S01 compared with HB0172

as provided in Section [~~17-16-21~~] 17-16-109; and

(b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

(5) The Division of Finance shall allocate the money described in Subsection (4) from the General Fund to the Children's Legal Defense Account.

(6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30 of any fiscal year shall lapse into the General Fund.

Section ~~{67}~~73. Section **59-2-407** is amended to read:

59-2-407. Administration of uniform fees.

(1) (a) Except as provided in Subsection 59-2-405(4) or 59-2-405.3(4), the uniform fee authorized in Sections 59-2-404, 59-2-405, 59-2-405.3, and 72-10-110.5 shall be assessed at the same time and in the same manner as ad valorem personal property taxes under Chapter 2, Part 13, Collection of Taxes, except that in listing personal property subject to the uniform fee with real property as permitted by Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under Section [~~17-16-5.5~~] 17-16-105, the treasurer shall list only the amount of the uniform fee due, and not the taxable value of the property subject to the uniform fee.

(b) Except as provided in Subsections 59-2-405.1(4), 59-2-405.2(5), and 59-2-405.3(4), the uniform fee imposed by Section 59-2-405.1, 59-2-405.2, or 59-2-405.3 shall be assessed at the time of:

- (i) registration as defined in Section 41-1a-102; and
- (ii) renewal of registration.

(2) The remedies for nonpayment of the uniform fees authorized by Sections 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, and 72-10-110.5 shall be the same as those provided in Chapter 2, Part 13, Collection of Taxes, for nonpayment of ad valorem personal property taxes.

Section ~~{68}~~74. Section **59-2-1302** is amended to read:

59-2-1302. Assessor or treasurer's duties -- Collection of uniform fees and taxes on personal property -- Unpaid tax or unpaid uniform fee is a lien -- Delinquency interest -- Rate.

(1) After the assessor assesses taxes or uniform fees on personal property, the assessor

HB0172S01 compared with HB0172

or, if this duty has been reassigned in an ordinance under Section [~~17-16-5.5~~] 17-16-105, the treasurer shall:

(a) list the personal property tax or uniform fee with the real property of the owner in the manner required by law and as provided under Subsection (3), if the assessor or treasurer, as the case may be, determines that the real property is sufficient to secure the payment of the personal property taxes or uniform fees;

(b) immediately collect the taxes or uniform fees due on the personal property; or

(c) on or before the day on which the tax or uniform fee on personal property is due, obtain from the taxpayer a bond that is:

(i) payable to the county in an amount equal to the amount of the tax or uniform fee due, plus 20% of the amount of the tax or uniform fee due; and

(ii) conditioned for the payment of the tax or uniform fee on or before November 30.

(2) (a) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal property listed with the real property is a lien upon the owner's real property as of noon of January 1 of each year.

(b) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal property not listed with the real property is a lien upon the owner's personal property as of noon of January 1 of each year.

(3) The assessor or treasurer, as the case may be, shall make the listing under this section:

(a) on the record of assessment of the real property; or

(b) by entering a reference showing the record of the assessment of the personal property on the record of assessment of the real property.

(4) (a) The amount of tax or uniform fee assessed upon personal property is delinquent if the tax or uniform fee is not paid on the day on which the tax notice or the combined signed statement and tax notice under Section 59-2-306 is due.

(b) Subject to Subsection (4)(c), delinquent taxes or uniform fees under Subsection (4)(a) shall bear interest from the date of delinquency until the day on which the delinquent tax or uniform fee is paid at an interest rate equal to the sum of:

(i) 6%; and

(ii) the federal funds rate target:

HB0172S01 compared with HB0172

- (A) established by the Federal Open Markets Committee; and
- (B) that exists on the January 1 immediately preceding the date of delinquency.
- (c) The interest rate described in Subsection (4)(b) may not be less than 7% or more

than 10%.

(5) A county assessor or treasurer shall deposit all collections of public funds from a personal property tax or personal property uniform fee no later than once every seven banking days with:

- (a) the state treasurer; or
- (b) a qualified depository for the credit of the county.

Section ~~69~~75. Section **59-2-1303** is amended to read:

59-2-1303. Seizure and sale -- Method and procedure.

Unless taxes or uniform fees on personal property assessed by the county assessor are paid or secured as provided under Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under Section [~~17-16-5.5~~] 17-16-105, the treasurer shall collect the taxes, including accrued interest and penalties, by seizure or seizure and subsequent sale of any personal property owned by the person against whom the tax is assessed. The assessor or treasurer, as the case may be, may seize that personal property on which a delinquent property tax or uniform fee exists at any time in order to protect a county's interest in that personal property. The sale of personal property shall be made in the following manner:

(1) (a) For all personal property, except manufactured homes and mobile homes as provided in Subsection (1)(b), the sale shall be made:

- (i) at public auction;
- (ii) of a sufficient amount of property to pay the taxes, or uniform fees and interest, penalties, and costs;
- (iii) when practicable, in the city, town, or precinct where the property was seized; and
- (iv) after one week's notice of the time and place of the sale, given by:
 - (A) (I) publication in a newspaper having general circulation in the county; and
 - (II) publication in accordance with Section 45-1-101; and
 - (B) posting in three public places in the county.

(b) For manufactured homes and mobile homes that are used as a residence and that are listed on the personal property roll of the county, the sale shall be made:

HB0172S01 compared with HB0172

- (i) at public auction;
- (ii) when practicable, in the city, town, or precinct where the property was seized;
- (iii) no sooner than one year after the taxes on the property became delinquent as determined in Section 59-2-1302;
- (iv) after publication of the date, time, and place of sale:
 - (A) in a newspaper having general circulation in the county, once in each of two successive weeks immediately preceding the date of the sale; and
 - (B) in accordance with Section 45-1-101 for two weeks immediately preceding the date of the sale; and
- (v) after notification, sent by certified mail at least 10 days prior to the first date of publication under Subsection (1)(b)(iv), to the owner of the manufactured home or mobile home, all lien holders of record, and any other person known by the assessor to have an interest in the manufactured home or mobile home, of the date, time, and place of the sale.

(2) For seizing or selling personal property the assessor or treasurer, as the case may be, may charge in each case the actual and necessary expenses for travel and seizing, handling, keeping, selling, or caring for that property.

(3) Upon payment of the price bid for any personal property sold under this section, the delivery of the property, with a bill of sale, vests title in the purchaser.

(4) All sale proceeds in excess of taxes, or uniform fees and interest, penalties, and costs shall be returned to the owner of the personal property, and until claimed shall be deposited in the county treasury and made subject to the order of the owner, the owner's heirs, or assigns.

(5) The unsold portion of any property may be left at the place of sale at the risk of the owner.

(6) If there is no acceptable purchaser of the property, the property shall be declared the property of the county. The county executive may sell or rent any property held in the name of the county at any time after the sale upon terms determined by the county legislative body.

Section ~~70~~76. Section **59-2-1305** is amended to read:

59-2-1305. Entries of payments made -- Payments to county treasurer.

(1) The assessor or, if this duty has been reassigned in an ordinance under Section ~~[17-16-5-5]~~ 17-16-105, the treasurer shall note on the assessment roll, opposite the names of

HB0172S01 compared with HB0172

each person against whom taxes have been assessed or tax notice charges have been listed, the amount of the taxes and tax notice charges paid.

(2) (a) The assessor or treasurer, as the case may be, shall require all checks to be made payable to the office of the county assessor or treasurer, respectively.

(b) If the assessor or treasurer receives checks made payable to a payee other than the office of the county assessor or treasurer, respectively, the assessor or treasurer, as the case may be, shall immediately endorse the check with a restrictive endorsement that makes the check payable to the office of the county treasurer.

(3) The assessor shall deposit all money the assessor collects into an account controlled by the county treasurer.

Section ~~{71}~~77. Section **59-2-1316** is amended to read:

59-2-1316. Annual settlements between county assessor, county treasurer, and county auditor.

(1) ~~[Every]~~ Each county assessor and county treasurer shall annually, on the first Monday in January, make a settlement with the county auditor of all transactions connected with the revenue described in Section 59-2-1315 for the previous year~~[, and every]~~.

(2) Each county treasurer~~[, on the expiration of the treasurer's term of office,]~~ shall make ~~[the]~~ a settlement with the county auditor of all transactions connected with the revenue described in Section 59-2-1315 when the treasurer leaves office.

Section ~~{72}~~78. Section **63I-1-217** is amended to read:

63I-1-217. Repeal dates, Title 17.

Subsection ~~[17-16-21]~~ 17-16-109(2)(d) is repealed July 1, 2023.

Section ~~{73}~~79. Section **63J-1-602.2** is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

- (1) The Legislature and its committees.
- (2) The Percent-for-Art Program created in Section 9-6-404.
- (3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection ~~[17-16-21]~~ 17-16-109(2)(d)(ii).

HB0172S01 compared with HB0172

- (5) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.
- (6) The primary care grant program created in Section 26-10b-102.
- (7) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).
- (8) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.
- (9) The Rural Physician Loan Repayment Program created in Section 26-46a-103.
- (10) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.
- (11) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a)(ii) or (b).
- (12) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.
- (13) A new program or agency that is designated as nonlapsing under Section 36-24-101.
- (14) The Utah National Guard, created in Title 39, Militia and Armories.
- (15) The State Tax Commission under Section 41-1a-1201 for the:
 - (a) purchase and distribution of license plates and decals; and
 - (b) administration and enforcement of motor vehicle registration requirements.
- (16) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.
- (17) The Motorcycle Rider Education Program, as provided in Section 53-3-905.
- (18) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.
- (19) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.
- (20) The State Board of Education, as provided in Section 53F-2-205.
- (21) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.
- (22) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

HB0172S01 compared with HB0172

- (23) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.
- (24) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.
- (25) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.
- (26) The Utah Science Technology and Research Initiative created in Section 63M-2-301.
- (27) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- (28) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.
- (29) The Department of Human Resource Management user training program, as provided in Section 67-19-6.
- (30) The University of Utah Poison Control Center program, as provided in Section 69-2-5.5.
- (31) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.
- (32) The Traffic Noise Abatement Program created in Section 72-6-112.
- (33) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.
- (34) A state rehabilitative employment program, as provided in Section 78A-6-210.
- (35) The Utah Geological Survey, as provided in Section 79-3-401.
- (36) The Bonneville Shoreline Trail Program created under Section 79-5-503.
- (37) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.
- (38) Indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 80. Section 63L-8-304 is amended to read:

63L-8-304. Enforcement authority.

(1) The director shall issue rules as necessary to implement the provisions of this

HB0172S01 compared with HB0172

chapter with respect to the management, use, and protection of the public land and property located on the public land.

(2) At the request of the director, the attorney general may institute a civil action in a district court for an injunction or other appropriate remedy to prevent any person from utilizing public land in violation of this chapter or rules issued by the director under this chapter.

(3) The use, occupancy, or development of any portion of the public land contrary to any rule issued by the DLM in accordance with this chapter, and without proper authorization, is unlawful and prohibited.

(4) (a) The locally [elected] selected county sheriff is the primary law enforcement authority with jurisdiction on public land to enforce:

(i) all the laws of this state; and

(ii) this chapter and rules issued by the director pursuant to Subsection (1).

(b) The governor may utilize the Department of Public Safety for the purposes of assisting the county sheriff in enforcing:

(i) all the laws of this state and this chapter; and

(ii) rules issued by the director pursuant to Subsection (1).

(c) Conservation officers employed by the Division of Wildlife Resources have authority to enforce the laws and regulations under Title 23, Wildlife Resources Code of Utah, for the sake of any protected wildlife.

(d) A conservation officer shall work cooperatively with the locally elected county sheriff to enforce the laws and regulations under Title 23, Wildlife Resources Code of Utah, for the sake of protected wildlife.

(e) Nothing herein shall be construed as enlarging or diminishing the responsibility or authority of a state certified peace officer in performing the officer's duties on public land.

Section 81. Section 65A-8-212 is amended to read:

65A-8-212. Power of state forester to close hazardous areas -- Violations of an order closing an area.

(1) (a) If the state forester finds conditions in a given area in the state to be extremely hazardous, "extremely hazardous" means categorized as "extreme" under a nationally recognized standard for rating fire danger, [he] the state forester shall close those areas to any forms of use by the public, or to limit that use, except as provided in Subsection (5).

HB0172S01 compared with HB0172

(b) The closure shall include, for the period of time the state forester considers necessary, the prohibition of open fires, and may include restrictions and prohibitions on:

- (i) smoking;
- (ii) the use of vehicles or equipment;
- (iii) welding, cutting, or grinding of metals;
- (iv) subject to Subsection (5), fireworks;
- (v) explosives; or
- (vi) the use of firearms for target shooting.

(c) Any restriction or closure relating to firearms use:

(i) shall be done with support of the [duly elected] county sheriff of the affected county or counties;

(ii) shall undergo a formal review by the [State Forester and County Sheriff] state forester and county sheriff every 14 days; and

(iii) may not prohibit a person from legally possessing a firearm or lawfully participating in a hunt.

(d) The [State Forester and County Sheriff] state forester and county sheriff shall:

- (i) agree to the terms of any restriction or closure relating to firearms use;
- (ii) reduce the agreement to writing;
- (iii) sign the agreement indicating approval of its terms and duration; and
- (iv) complete the steps in Subsections (1)(d)(i) through (d)(iii) at each 14 day review

and at termination of the restriction or closure.

(2) Nothing in this chapter prohibits any resident within the area from full and free access to [his] the resident's home or property, or any legitimate use by the owner or lessee of the property.

(3) The order or proclamation closing or limiting the use in the area shall set forth:

- (a) the exact area coming under the order;
- (b) the date when the order becomes effective; and
- (c) if advisable, the authority from whom permits for entry into the area may be

obtained.

(4) Any entry into or use of any area in violation of this section is a class B misdemeanor.

HB0172S01 compared with HB0172

(5) The state forester may not restrict or prohibit the discharge of fireworks within the municipal boundaries of a city, town, or metro township.

Section ~~{74}~~82. Repealer.

This bill repeals:

Section 17-16-8, Powers, duties and liabilities of deputies.

Section 17-16-201, Title.