{deleted text} shows text that was in HB0502S03 but was deleted in HB0502S04.

inserted text shows text that was not in HB0502S03 but was inserted into HB0502S04.

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 {Melvin R}Fred C. {Brown}Cox proposes the following substitute bill:

INCORPORATION AMENDMENTS

2012 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor:

LONG TITLE

General Description:

This bill amends provisions related to the incorporation of a city or town.

Highlighted Provisions:

This bill:

- ► amends {definitions;
- amends language related to a request for a feasibility study;
- amends language related to the exclusion of property from proposed incorporation boundaries:
 - amends language related to the certification of a request for a feasibility study;
 - amends provisions that require a city incorporation feasibility study;
 - amends language related to a city incorporation petition;
- amends language related to an incorporation of a city election;

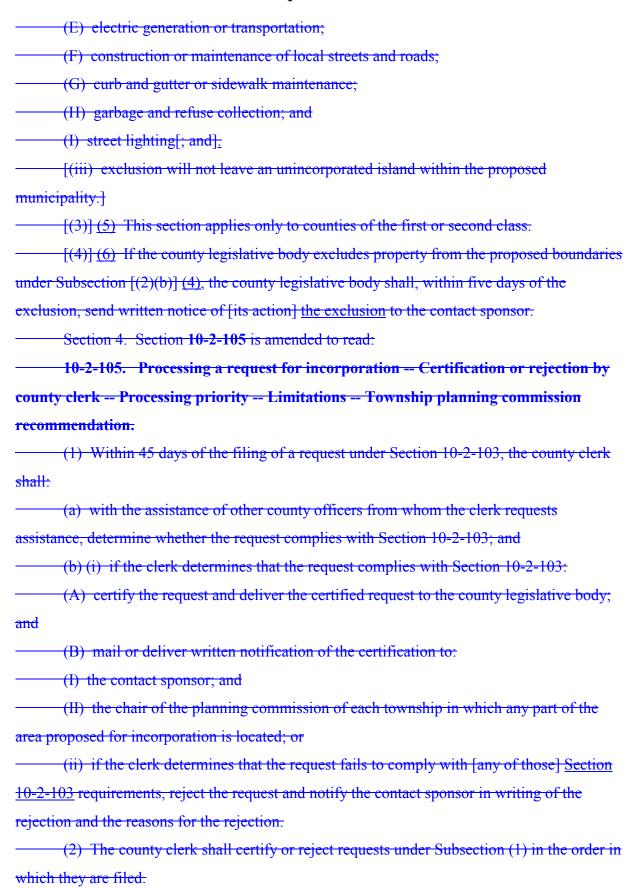
amends provisions related to a town incorporation feasibility study; amends language related to a town incorporation petition; requires a county legislative body to hold a public hearing on a feasibility study; enacts provisions related to an incorporation of a town election; enacts provisions related to a town form of government and election of town officers; enacts provisions requiring notice of a town incorporation to the lieutenant governor; enacts provisions related to the effective date of a town incorporation; amends language related to the duties of a planning commission of a township; amends the definition of "ballot proposition" signature requirements for a petition to incorporate a city; amends signature requirements for a petition to incorporate a town; and makes technical corrections. Money Appropriated in this Bill: None **Other Special Clauses:** None **Utah Code Sections Affected:** AMENDS: 10-2-101, as last amended by Laws of Utah 2008, Chapter 360 10-2-102, as repealed and reenacted by Laws of Utah 1997, Chapter 389 10-2-104, as last amended by Laws of Utah 2003, Chapter 129 10-2-105, as last amended by Laws of Utah 1998, Chapter 13 10-2-106, as last amended by Laws of Utah 2007, Chapter 329 10-2-108, as last amended by Laws of Utah 2010, Chapter 90 } **10-2-109**, as last amended by Laws of Utah 2010, Chapter 378 10-2-111, as last amended by Laws of Utah 2009, Chapter 388 10-2-116, as last amended by Laws of Utah 2009, Chapter 388 } 10-2-125, as last amended by Laws of Utah 2010, Chapters 90, 122 and last amended

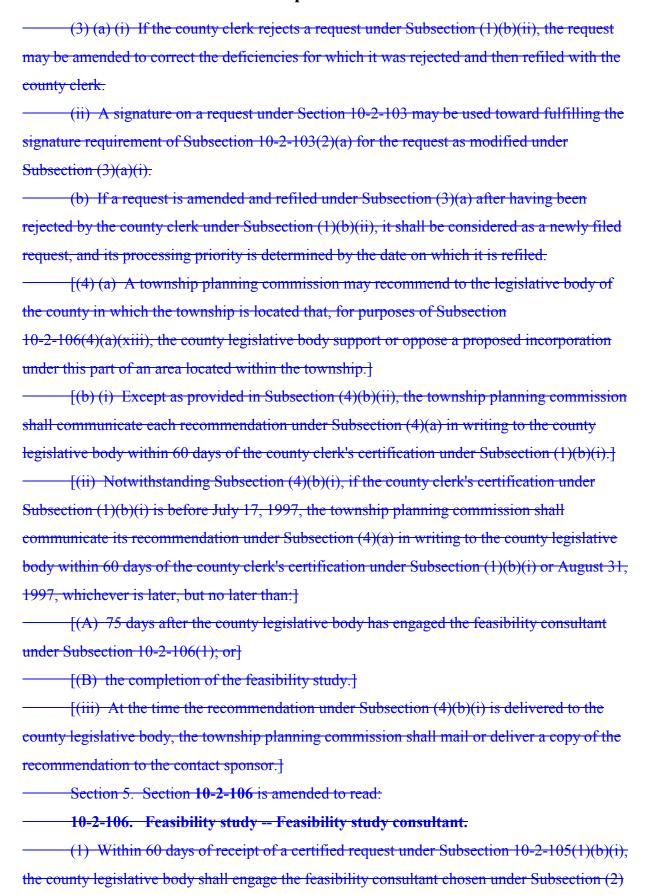
by Coordination Clause, Laws of Utah 2010, Chapter 90

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17-27a-302, as renumbered and amended by Laws of Utah 2005, Chapter 254
       20A-1-102, as last amended by Laws of Utah 2011, Chapters 17, 40, 310, and 335
      20A-1-203, as last amended by Laws of Utah 2011, Chapter 371
       20A-1-204, as last amended by Laws of Utah 2008, Chapters 16 and 382
ENACTS:
       10-2-126, Utah Code Annotated 1953
      10-2-127, Utah Code Annotated 1953
      10-2-128, Utah Code Annotated 1953
      10-2-129, Utah Code Annotated 1953
REPEALS AND REENACTS:
      10-2-124, as enacted by Laws of Utah 1997, Chapter 389
Be it enacted by the Legislature of the state of Utah:
       Section 1. Section \frac{10-2-101}{10-2-109} is amended to read:
     <del>10-2-101. Definitions.</del>
      (1) As used in this part:
       (a) "Commission" means a boundary commission established under Section 10-2-409
for the county in which the property that is proposed to be incorporated is located.]
      - [(b)] (a) "Feasibility consultant" means a person or firm:
       (i) with expertise in the processes and economics of local government[.]; and
       (ii) who is independent of and not affiliated with a county or sponsor of a petition to
incorporate.
       [(c)] (b) "Private," with respect to real property, means [not owned by the United States
or any agency of the federal government, the state, a county, a municipality, a school district, a
local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a
special service district under Title 17D, Chapter 1, Special Service District Act, or any other
political subdivision or governmental entity of the state | taxable property.
      (2) For purposes of this part:
      (a) the owner of real property shall be the record title owner according to the records of
the county recorder on the date of the filing of the request or petition; and
       (b) the value of private real property shall be determined according to the last
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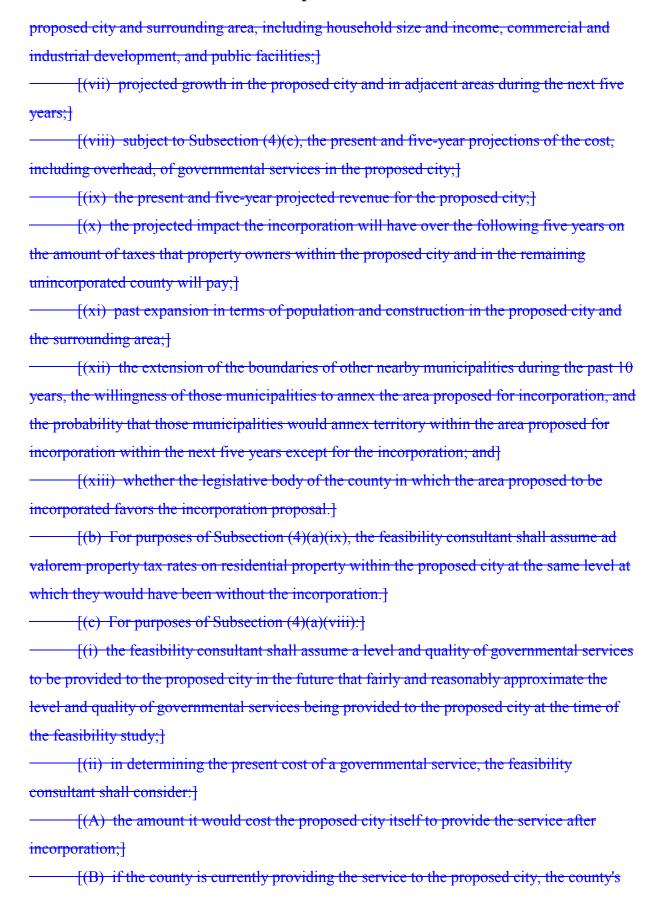
assessment roll for county taxes before the filing of the request or petition. (3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or fraction of the total private land area within an area to sign a request or petition: (a) a parcel of real property may not be included in the calculation of the required percentage or fraction unless the request or petition is signed by: (i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel; (b) the signature of a person signing a request or petition in a representative capacity on behalf of an owner is invalid unless: (i) the person's representative capacity and the name of the owner the person represents are indicated on the request or petition with the person's signature; and (ii) the person provides documentation accompanying the request or petition that substantiates the person's representative capacity; and (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a request or petition on behalf of a deceased owner. Section 2. Section 10-2-102 is amended to read: 10-2-102. Incorporation of a contiguous area -- Governing provisions of city or town incorporation. (1) A contiguous area of a county not within a municipality may incorporate as a municipality as provided in this part. (2) (a) Incorporation as a city is governed by Sections 10-2-103 through 10-2-124. (b) Incorporation as a town is governed by [Section] Sections 10-2-125 through 10-2-129. Section 3. Section 10-2-104 is amended to read: 10-2-104. Notice to owner of property -- Exclusion of property from proposed boundaries. (1) As used in this section: (a) "Assessed value" with respect to property means the value at which the property

would be assessed without regard to a valuation for agricultural use under Section 59-2-503. (b) "Owner" means the record owner of property, including an affiliate, subsidiary, or parent company. (c) "Urban" means an area with a residential density of greater than one unit per acre. [(1)] (2) Within seven calendar days of the date on which a request under Section 10-2-103 is filed, the county clerk shall [notify] send written notice of the proposed incorporation to each record owner of real property owning more than: (a) 1% of the assessed value of all property in the proposed incorporation boundaries[.]; or (b) 10% of the total private land area within the proposed incorporation boundaries. [(2) (a)] (3) [A property owner within the boundaries of a proposed municipality, owning] If an owner owns, controls, or manages more than 1% of the assessed value of all property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation boundaries, the owner may exclude all or part of the property [owner's property] owned, controlled, or managed by the owner from the proposed boundaries by filing a Notice of Exclusion with the county legislative body within [10] 15 calendar days of receiving the clerk's notice under Subsection [(1)] (2). [(b)] (4) The county legislative body shall exclude the property identified by an owner in the Notice of Exclusion from the proposed incorporation boundaries [only if the property:] unless the county legislative body finds by clear and convincing evidence in the record that: (a) the exclusion will leave an unincorporated island within the proposed municipality; and (b) the property to be excluded: (i) is urban; and (i) is currently nonurban; (ii) [does not or will not require municipal provision of] currently receives from the county a majority of municipal-type services including: (A) culinary or irrigation water; (B) sewage collection or treatment; (C) storm drainage or flood control; (D) recreational facilities or parks;





to conduct a feasibility study.
[(2) The feasibility consultant shall be chosen by a majority vote of a selection
committee consisting of:]
[(a) a person designated by the county legislative body;]
[(b) a person designated by the sponsors of the request for a feasibility study; and]
[(c) a person designated by the governor.]
(2) The feasibility consultant shall be chosen:
(a) by the contact sponsor of the incorporation petition in consultation with the county
<u>or</u>
(b) by the county if the designated sponsors state, in writing, that the contact sponsor
defers selection of the feasibility consultant to the county.
(3) The county legislative body shall require the feasibility consultant to:
(a) complete the feasibility study and submit the written results to the county legislative
body and the contact sponsor no later than 90 days after the feasibility consultant is engaged to
conduct the study;
(b) submit with the full written results of the feasibility study a summary of the results
no longer than one page in length; and
(c) attend the public hearings under Subsection 10-2-108(1) and present the feasibility
study results and respond to questions from the public at those hearings.
[(4) (a) The feasibility study shall consider:]
[(i) the population and population density within the area proposed for incorporation
and the surrounding area;]
[(ii) the history, geography, geology, and topography of and natural boundaries within
the area proposed to be incorporated and the surrounding area;]
[(iii) whether the proposed boundaries eliminate or create an unincorporated island or
peninsula;]
[(iv) whether the proposed incorporation will hinder or prevent a future and more
logical and beneficial incorporation or a future logical and beneficial annexation;]
[(v) the fiscal impact on unincorporated areas, other municipalities, local districts,
special service districts, and other governmental entities in the county;]
[(vi) current and five-year projections of demographics and economic base in the



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cost of providing the service; and (C) if the county is not currently providing the service to the proposed city, the amount the proposed city can reasonably expect to pay for the service under a contract for the service; and] (iii) the five-year projected cost of a governmental service shall be based on the amount calculated under Subsection (4)(c)(ii), taking into account inflation and anticipated growth.] [(5) If the results of the feasibility study or revised feasibility study do not meet the requirements of Subsection 10-2-109(3), the feasibility consultant shall, as part of the feasibility study or revised feasibility study and if requested by the sponsors of the request, make recommendations as to how the boundaries of the proposed city may be altered so that the requirements of Subsection 10-2-109(3) may be met.] (4) (a) The feasibility study shall consider: (i) population and population density within the area proposed for incorporation and the surrounding area; (ii) current and five-year projections of demographics and economic base in the proposed city and surrounding area, including household size and income, commercial and industrial development, and public facilities; (iii) projected growth in the proposed city and in adjacent areas during the next five years; (iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of governmental services in the proposed city, including: (A) culinary water; (B) secondary water; (C) sewer; (D) law enforcement; (E) fire protection (F) roads and public works; (G) garbage (II) weeds; and (I) government offices;

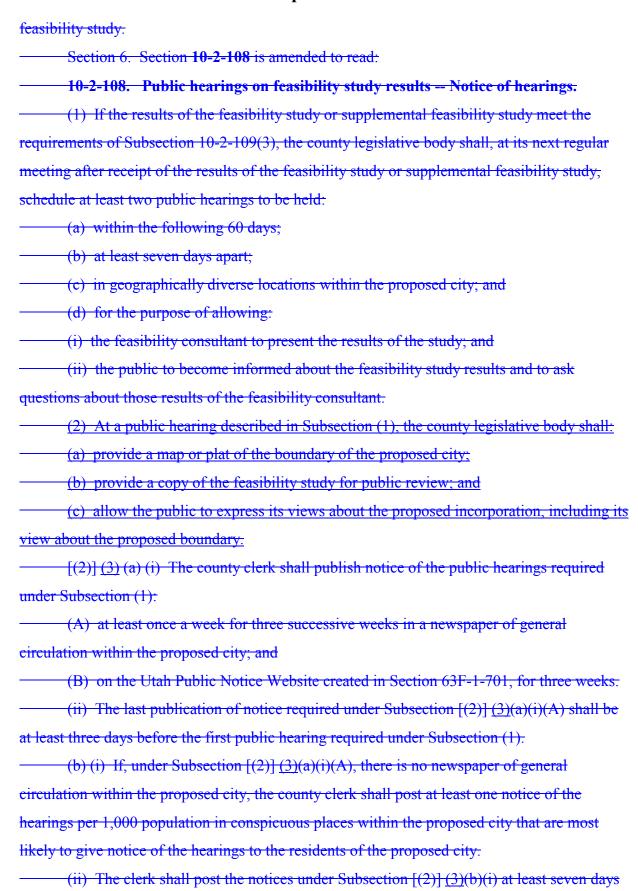
(v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed city; and (vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation. (b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed city in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed city at the time of the feasibility study. (ii) In determining the present cost of a governmental service, the feasibility consultant shall consider: (A) the amount it would cost the proposed city to provide governmental service for the first five years after incorporation; and (B) the county's present and five-year projected cost of providing governmental service. (iii) The costs calculated under Subsection (4)(a)(iv), shall take into account inflation and anticipated growth. (5) If the five year projected revenues under Subsection (4)(a)(v) exceed the five year projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor. (6) If the results of the feasibility study or revised feasibility study do not meet the requirements of Subsection 10-2-109(3), the feasibility consultant shall, as part of the feasibility study or revised feasibility study and if requested by the sponsors of the request, make recommendations as to how the boundaries of the proposed city may be altered so that the requirements of Subsection 10-2-109(3) may be met. [(6)] (7) (a) For purposes of this Subsection [(6)] (7), "pending" means that the process to incorporate an unincorporated area has been initiated by the filing of a request for feasibility study under Section 10-2-103 but that, as of [the date this Subsection (6) becomes effective] May 8, 2012, a petition under Section 10-2-109 has not yet been filed.

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

this Subsection [(6)] (7): (i) apply to each pending proceeding proposing the incorporation of an unincorporated area; and (ii) do not apply to a municipal incorporation proceeding under this part in which a petition under Section 10-2-109 has been filed. (c) (i) If, in a pending incorporation proceeding, the feasibility consultant has, as of [the effective date of this Subsection (6)] May 8, 2012, already completed the feasibility study, the county legislative body shall, within 20 days after the effective date of this Subsection [(6)] (7) and except as provided in Subsection [(6)] (7)(c)(iii), engage the feasibility consultant to revise the feasibility study to take into account the amendments to Subsection (4) that became effective on the effective date of this Subsection [(6)] (7). (ii) Except as provided in Subsection [(6)] (7)(c)(iii), the county legislative body shall require the feasibility consultant to complete the revised feasibility study under Subsection [(6)] (7)(c)(i) within 20 days after being engaged to do so. (iii) Notwithstanding Subsections [(6)] (7)(c)(i) and (ii), a county legislative body is not required to engage the feasibility consultant to revise the feasibility study if, within 15 days after the effective date of this Subsection [(6)] (7), the request sponsors file with the county clerk a written withdrawal of the request signed by all the request sponsors. (d) All provisions of this part that set forth the incorporation process following the completion of a feasibility study shall apply with equal force following the completion of a revised feasibility study under this Subsection [(6)] (7), except that, if a petition under Section 10-2-109 has already been filed based on the feasibility study that is revised under this Subsection [(6)] (7): (i) the notice required by Section 10-2-108 for the revised feasibility study shall include a statement informing signers of the petition of their right to withdraw their signatures from the petition and of the process and deadline for withdrawing a signature from the petition; (ii) a signer of the petition may withdraw the signer's signature by filing with the county clerk a written withdrawal within 30 days after the final notice under Subsection 10-2-108[(2)](3) has been given with respect to the revised feasibility study; and

(iii) unless withdrawn, a signature on the petition may be used toward fulfilling the

signature requirements under Subsection 10-2-109(2)(a) for a petition based on the revised



before the first hearing under Subsection (1).

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

Section 7. Section 10-2-109 is amended to read:

† 10-2-109. Incorporation petition -- Requirements and form.

- (1) At any time within \{\frac{1}{2}\ \text{non ths \{\frac{1}{2}\ \text{one year}\}}\) of the completion of the public hearings required under Subsection 10-2-108(1), a petition for incorporation of the area proposed to be incorporated as a city may be filed in the office of the clerk of the county in which the area is located.
 - (2) Each petition under Subsection (1) shall:
 - (a) be signed by {:
- (i) the owners of private real property that:
 - $\{(i), (i), (A)\}$ is located within the area proposed to be incorporated; $\{and\}$
 - $\{(i)\}$ covers at least $[\frac{1}{3}]$ 1/6 of the total private land area within the area; and
- $\{\{\}\}$ is equal in value to at least $[\frac{1}{3}]$ $\{\frac{1}{8}\}$ of the value of all private real property within the area; $\{\}$ and $\{\}$
- { (ii) 1/8 of all registered voters within the area proposed to be incorporated as a city, according to the official voter registration list maintained by the county on the date the petition is filed;
- † (b) indicate the typed or printed name and current residence address of each owner signing the petition;
- (c) describe the area proposed to be incorporated as a city, as described in the feasibility study request or modified request that meets the requirements of Subsection (3);
 - (d) state the proposed name for the proposed city;
- (e) designate five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;
- (f) state that the signers of the petition appoint the sponsors, if the incorporation measure passes, to represent the signers in the process of:
 - (i) selecting the number of commission or council members the new city will have; and
 - (ii) drawing district boundaries for the election of commission or council members, if

the voters decide to elect commission or council members by district;

- (g) be accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed city; and
 - (h) substantially comply with and be circulated in the following form:

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

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

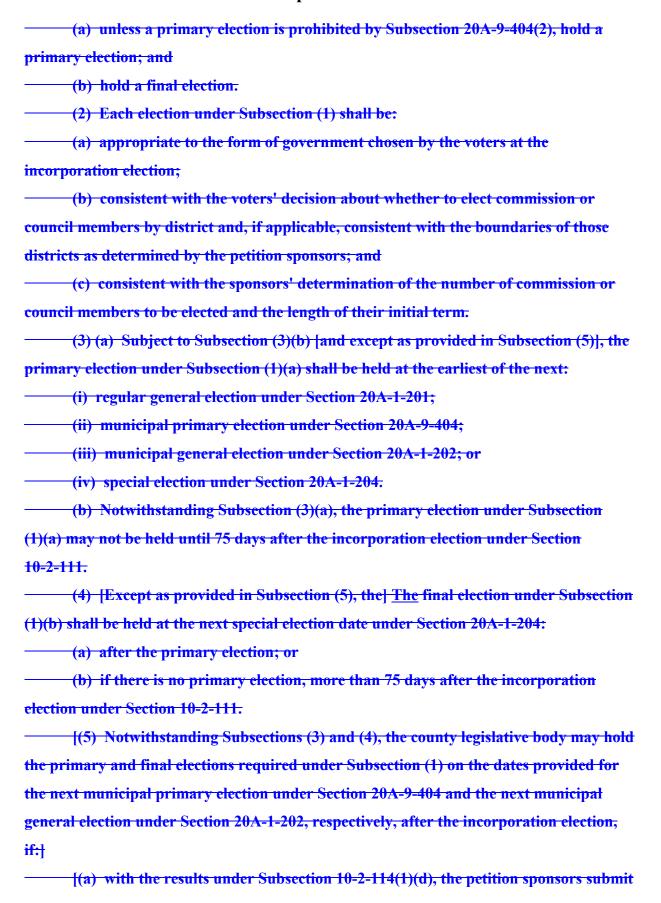
We, the undersigned owners of real property within the area described in this petition, respectfully petition the county legislative body to submit to the registered voters residing within the area described in this petition, at {{}} a special election held for that purpose {{}} the next regular general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

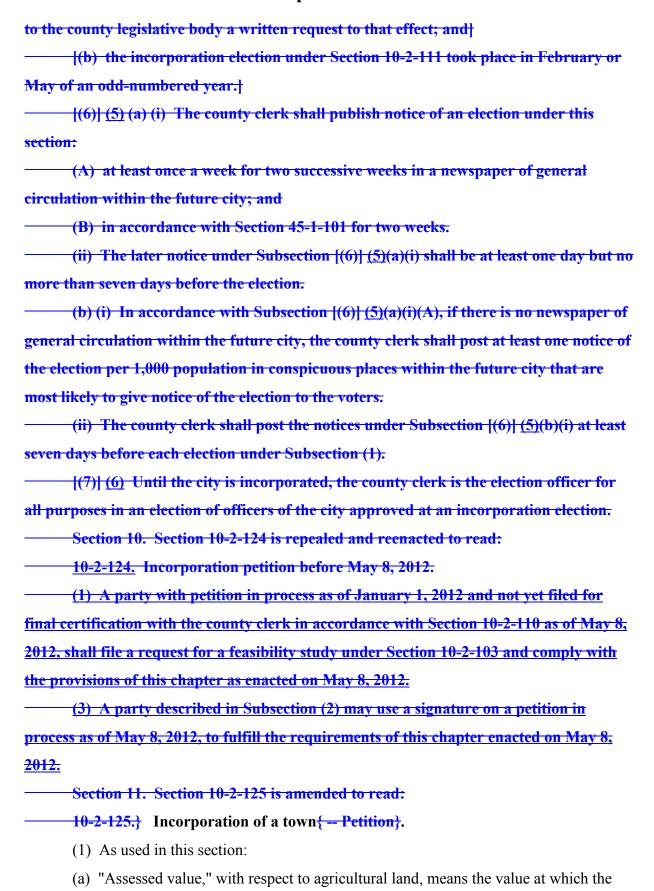
- (3) A petition for incorporation of a city under Subsection (1) may not be filed unless the results of the feasibility study or supplemental feasibility study show that the average annual amount of revenue under Subsection $10-2-106(4)(a) \frac{\{(x)\}(x)\}}{\{(x)\}(x)\}}$ does not exceed the average annual amount of cost under Subsection $10-2-106(4)(a) \frac{\{(x)\}(x)\}}{\{(x)\}(x)\}}$ by more than 5%.
- (4) A signature on a request under Section 10-2-103 or a modified request under Section 10-2-107 may be used toward fulfilling the signature requirement of Subsection (2)(a):
- (a) if the request under Section 10-2-103 or modified request under Section 10-2-107 notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a petition for incorporation under this section; and
- (b) unless the signer files with the county clerk a written withdrawal of the signature before the petition under this section is filed with the clerk.

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Section \frac{\{8\}_{\underline{2}}}{2}. Section \frac{\{10-2-111\}_{\underline{10-2-125}}}{10-2-125} is amended to read:
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(1) (a) At the next [special election] regular general election date under Section

[20A-1-204] 20A-1-201 more than [45] 60 days after the county legislative body's receipt of the certified petition or certified modified petition under Subsection 10-2-110(1)(b)(i), the county legislative body shall hold an election on the proposed incorporation. (b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed city, the person may not vote on the proposed incorporation. (2) (a) The county clerk shall publish notice of the election: (i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks; and (ii) in accordance with Section 45-1-101 for three weeks. (b) The notice required by Subsection (2)(a) shall contain: (i) a statement of the contents of the petition; (ii) a description of the area proposed to be incorporated as a city; (iii) a statement of the date and time of the election and the location of polling places; and (iv) the feasibility study summary under Subsection 10-2-106(3)(b) and a statement that a full copy of the study is available for inspection and copying at the office of the county clerk. (c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election. (d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the election to the voters of the proposed city. (ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1). (3) If a majority of those casting votes within the area boundaries of the proposed city vote to incorporate as a city, the area shall incorporate. Section 9. Section 10-2-116 is amended to read: 10-2-116. Election of officers of new city. (1) For the election of city officers, the county legislative body shall:





land would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

- (b) "Financial feasibility study" means a study {{}} to determine:{{}} described in Subsection (8).}
- $\{\{\}\}$ (i) the projected revenues for the proposed town during the first three years after incorporation; and $\{\{\}\}\}$
- {{}}(ii) the projected costs, including overhead, that the proposed town will incur in providing governmental services during the first three years after incorporation.{{}}
 - (c) "Feasibility consultant" means a person or firm:
 - (i) with expertise in the processes and economics of local government; and
- (ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.
 - (c) (d)
- (c) "Municipal service" means a publicly provided service that is not provided on a countywide basis.
- $\{\{\}\}$ "Nonurban" means having a residential density of less than one unit per acre.
- (2) (a) (i) A contiguous area of a county not within a municipality, with a population of at least 100 but less than 1,000, may incorporate as a town as provided in this section.
- (ii) An area within a county of the first class is not contiguous for purposes of Subsection (2)(a)(i) if:
 - (A) the area includes a strip of land that connects geographically separate areas; and
- (B) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.
 - (b) The population figure under Subsection (2)(a) shall be determined:
 - (i) as of the date the incorporation petition is filed; and
- (ii) by the Utah Population Estimates Committee within 20 days after the county clerk's certification under Subsection (6) of a petition filed under Subsection (4).

- (b) Each request for a public hearing under Subsection (3)(a) shall:
- {}(i) be signed by the owners of at least five separate parcels of private real property, each owned by a different owner, located within the area proposed to be incorporated; and {}}
- {{}}(ii) be accompanied by an accurate map or plat depicting the boundary of the proposed town.
- (3)(a), the county clerk shall, with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3)(b).
- {}}(d) If the clerk determines that a request under Subsection (3)(a) fails to comply with the requirements of Subsection (3)(b), the clerk shall reject the request and deliver written notice of the rejection to the signers of the request.{}}
- {{}}(e) (i) If the clerk determines that a request under Subsection (3)(a) complies with the requirements of Subsection (3)(b), the clerk shall:{{}}
 - (A) schedule and arrange for a public hearing to be held:
 - {{}}(I) (Aa) at a public facility located within the boundary of the proposed town; or {{}}
- {{}}(Bb) if there is no public facility within the boundary of the proposed town, at another nearby public facility or at the county seat; and {{}}
- $\{\{\}\}$ (II) within 20 days after the clerk provides the last notice required under Subsection (3)(e)(i)(B); and $\{\}\}$
- {{}}(B) no later than 10 days after the clerk determines that a request complies with the requirements of Subsection (3)(b), give notice of the public hearing on the proposed incorporation by:{{}}
- $\{\{\}\}$ (I) posting notice of the public hearing on the county's Internet website, if the county has an Internet website; $\{\}\}$
- {{}}(II) (Aa) publishing notice of the public hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the proposed town; or{{}}}
- {{}}(Bb) if there is no newspaper of general circulation within the proposed town, posting notice of the public hearing in at least five conspicuous public places within the proposed town; and {{}}
 - (III) publishing notice of the public hearing on the Utah Public Notice Website

created in Section 63F-1-701.

- $\{\{\}\}$ (ii) Each public hearing under Subsection (3)(e)(i)(A) shall be conducted by the chair of the county commission or council, or the chair's designee, to: $\{\}\}$
 - (A) introduce the concept of the proposed incorporation to the public;
- {{}}(B) allow the public to review the map or plat of the boundary of the proposed town;
- $\{\{\}\}$ (C) allow the public to ask questions and become informed about the proposed incorporation; and $\{\}\}$
- {{}}(D) allow the public to express their views about the proposed incorporation, including their views about the boundary of the area proposed to be incorporated.{{}}
- {{}}(4) (a) At any time within three months after the public hearing under Subsection (3)(e), a petition to incorporate the area as a town may be filed with the clerk of the county in which the area is located.
 - (b) $\{\{\}\}$ Each $\{\}\}$ petition under Subsection $\{\{\}\}$ (a) shall:
 - (i) be signed by:
 - (A) the owners of private real property that:
 - (I) is located within the area proposed to be incorporated; { and}
 - {{}}(II) covers a majority of the total private land area within the area;
- $\{[](III)\{](III)\}$ is equal in assessed value to more than $[]\frac{1/2}[]\frac{1/5}[]\frac{1/4}[]$ of the assessed value of all private real property within the area; and
- $\{\{\}\}$ (IV) consists, in number of parcels, of at least [1/3] of the number of all parcels of private real property within the area proposed to be incorporated; and $\{\}\}$
- (B) {{}} a majority{{} 1/5} of all registered voters within the area proposed to be incorporated as a town, according to the official voter registration list maintained by the county on the date the petition is filed;
- (ii) designate as sponsors at least five of the property owners who have signed the petition, one of whom shall be designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;
- (iii) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed town; and
 - (iv) substantially comply with and be circulated in the following form:

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

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

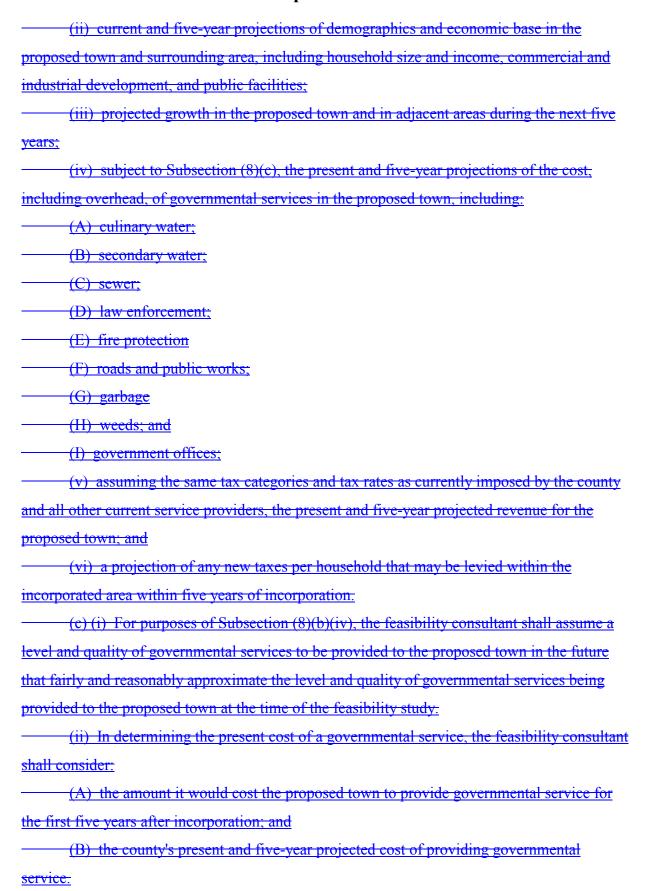
We, the undersigned owners of real property and registered voters within the area described in this petition, respectfully petition the county legislative body \{\} for the area described in this petition to be incorporated\{\} to submit to the registered voters residing within the area described in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

- (c) A petition under this Subsection $\{\{\}\}$ (4) $\{\{\}\}$ may not describe an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:
 - (i) was filed before the filing of the petition; and
 - (ii) is still pending on the date the petition is filed.
- (d) A petition may not be filed under this section if the private real property owned by the petition sponsors, designated under Subsection {{}}(4){{}}(3){})(b)(ii), cumulatively exceeds 40% of the total private land area within the area proposed to be incorporated as a town.
- (e) A signer of a petition under this Subsection $\{\{\}\}$ (4) $\{\{\}\}$ may withdraw or, after withdrawn, reinstate the signer's signature on the petition:
- (i) at any time until the county clerk certifies the petition under Subsection \(\{\frac{1}{2}}\)(6)\(\{\frac{1}{2}}\); and
 - (ii) by filing a signed, written withdrawal or reinstatement with the county clerk.
- $\{\{\}\}$ (a) If a petition is filed under Subsection $\{\{\}\}$ (a) proposing to incorporate as a town an area located within a county of the first class, the county clerk shall deliver written notice of the proposed incorporation:
- (i) to each owner of private real property owning more than 1% of the assessed value of all private real property within the area proposed to be incorporated as a town; and

- (ii) within seven calendar days after the date on which the petition is filed.
- (b) A private real property owner described in Subsection $\{\{\}\}$ (5) $\{\{\}\}$ (a)(i) may exclude all or part of the owner's property from the area proposed to be incorporated as a town by filing a notice of exclusion:
 - (i) with the county clerk; and
- (ii) within 10 calendar days after receiving the clerk's notice under Subsection \(\{\frac{1}{2}}\)(5)\(\{\frac{4}{2}}\)(a).
- (c) The county legislative body shall exclude from the area proposed to be incorporated as a town the property identified in the notice of exclusion under Subsection $\{\{\}\}$ (b) if:
 - (i) the property:
 - (A) is nonurban; and
 - (B) does not and will not require a municipal service; and
 - (ii) exclusion will not leave an unincorporated island within the proposed town.
- (d) If the county legislative body excludes property from the area proposed to be incorporated as a town, the county legislative body shall send written notice of the exclusion to the contact sponsor within five days after the exclusion.
- $\{\{\}\}$ (6) Within $\{\}$ (5) No later than $\}$ 20 days after the filing of a petition under Subsection $\{\{\}\}$ (4) $\{\}$ (3), the county clerk shall:
- (a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection $\{\{1\},\{1\},\{3\}\}\}$; and
 - (b) (i) if the clerk determines that the petition complies with those requirements:
- (A) certify the petition and deliver the certified petition to the county legislative body; and
 - (B) mail or deliver written notification of the certification to:
 - (I) the contact sponsor;
- (II) if applicable, the chair of the planning commission of each township in which any part of the area proposed for incorporation is located; and
 - (III) the Utah Population Estimates Committee; or
- (ii) if the clerk determines that the petition fails to comply with any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and

the reasons for the rejection.

- $\{\{\}\}$ (a) (i) A petition that is rejected under Subsection $\{\{\}\}$ (b)(ii) may be amended to correct a deficiency for which it was rejected and then refiled with the county clerk.
- (ii) A valid signature on a petition filed under Subsection $\{\{\}\}$ (4) $\{\}$ (2) $\{\}$ (a) may be used toward fulfilling the signature requirement of Subsection $\{\{\}\}$ (4) $\{\}$ (5) $\{\}$ (b) for the same petition that is amended under Subsection $\{\{\}\}$ (7) $\{\}$ (6) $\{\}$ (a)(i) and then refiled with the county clerk.
- (b) If a petition is amended and refiled under Subsection $\{(7), (3), (a)\}$ (a)(i) after having been rejected by the county clerk under Subsection $\{(6), (3), (a)\}$ (b)(ii):
 - (i) the amended petition shall be considered as a newly filed petition; and
- (ii) the amended petition's processing priority is determined by the date on which it is refiled.
- (8) (a) (i) The legislative body of a county with which a petition is filed under Subsection (4) {{}} may, at its option and upon the petition being {{}} and {}} certified under Subsection (6) {{}}, {{}} shall {}} commission and pay for a financial feasibility study.
- {{}}(ii) If the county legislative body chooses to commission a financial feasibility study, the county legislative body shall:{{}}
- {{}}(A) within 20 days after the incorporation petition is certified, select and engage a feasibility consultant; and {{}}
 - (ii) The feasibility consultant shall be chosen:
- (A) by the contact sponsor of the incorporation petition, as described in Subsection (3)(b)(ii), in consultation with the county; or
- (B) by the county if the contact sponsor states, in writing, that the sponsor defers selection of the feasibility consultant to the county.
 - [(B)] (iii) The county legislative body shall}
- (B) require the feasibility consultant to complete the financial feasibility study and submit written results of the study to the county legislative body no later than 30 days after the feasibility consultant is engaged to conduct the financial feasibility study.
 - {(b) The financial feasibility study shall consider the:
- (i) population and population density within the area proposed for incorporation and the surrounding area;



- (iii) The costs calculated under Subsection (8)(b)(iv), shall take into account inflation and anticipated growth.
- (d) If the five year projected revenues under Subsection (8)(b)(v) exceed the five year projected costs under Subsection (8)(b)(iv) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.
- (b) (b) If the county legislative body has commissioned a financial feasibility study under Subsection (8)(a)(i), the
- (e) The county legislative body shall approve a { certified} petition proposing the incorporation of a town and hold {{}} an election for town officers, {{}} a public hearing} as provided in {{}} Subsection (9), if: {{}} Section 10-2-126.}
 - {{}}(i) the county clerk has certified the petition under Subsection (6); and {{}}
- {}(ii) (A) the results of the financial feasibility study described in Subsection (8)(a)(i) show that the average annual amount of revenues described in Subsection (1)(b)(i) does not exceed the average annual amount of costs described in Subsection (1)(b)(ii) by more than 15%; or {}}
- {{}}(B) the results of the financial feasibility study described in Subsection (8)(a)(i) show that the average annual amount of costs described in Subsection (1)(b)(ii) does not exceed the average annual amount of revenues described in Subsection (1)(b)(i) by more than 15%.
- {{}}(c) (i) If the results of the financial feasibility study described in Subsection (8)(a)(i) show that the average annual amount of revenues described in Subsection (1)(b)(i) exceeds the average annual amount of costs described in Subsection (1)(b)(ii) by more than 15%, the county legislative body may:{{}}
- {{}}(A) deny the petition, in accordance with Subsection (8)(c)(iii), if the results of the financial feasibility study show that the average annual amount of revenues described in Subsection (1)(b)(i) exceeds the average annual amount of costs described in Subsection (1)(b)(ii) by more than 15%; or{{}}
 - $\{\{\}\}$ (I) with the consent of the petition sponsors: $\{\}\}$
- (Aa) impose conditions to prevent the average annual amount of revenues described in Subsection (1)(b)(i) from exceeding the average annual amount of costs described in

Subsection (1)(b)(ii) by more than 15%; or $\{\}$

{{}}(Bb) alter the boundaries of the area proposed to be incorporated as a town to approximate the boundaries necessary to prevent the average annual amount of revenues described in Subsection (1)(b)(i) from exceeding the average annual amount of costs described in Subsection (1)(b)(ii) by more than 15%; and {{}}

 $\{\{\}\}$ (II) approve the incorporation petition and hold an election for town officers, as provided in Subsection (9). $\{\}\}$

{{}}(ii) If the results of the financial feasibility study described in Subsection (8)(a)(i) show that the average annual amount of costs described in Subsection (1)(b)(ii) exceeds the average annual amount of revenues described in Subsection (1)(b)(i) by more than 15%, the county legislative body shall:{{}}

 $\{(A)\}$ approve the petition;

 $\{\{\}\}$ deny the petition in accordance with Subsection (8)(c)(iii); or $\{\}\}$

 $\{\{\}\}$ (C) (I) with the consent of the petition sponsors: $\{\}\}$

{{}}(Aa) impose conditions to prevent the average annual amount of costs described in Subsection (1)(b)(ii) from exceeding the average annual amount of revenues described in Subsection (1)(b)(i) by more than 15%; or{{}}

{{}}(Bb) alter the boundaries of the area proposed to be incorporated as a town to approximate the boundaries necessary to prevent the average annual amount of costs described in Subsection (1)(b)(ii) from exceeding the average annual amount of revenues described in Subsection (1)(b)(i) by more than 15%; and {{}}

 $\{\{\}\}$ (II) approve the incorporation petition and hold an election for town officers, as provided in Subsection (9). $\{\}\}$

 $\{\{\}\}$ (iii) A county legislative body intending to deny a petition under Subsection (8)(c)(i)(A) or (8)(c)(i)(B) shall deny the petition within 20 days after the feasibility consultant submits the written results of the financial feasibility study.

 $\{\{\}\}$ (d) Each town that incorporates pursuant to a petition approved after the county legislative body imposes conditions under Subsection (8)(c)(i)(B)(I)(Aa) or (8)(c)(ii)(C)(I)(Aa) shall comply with those conditions. $\{\}\}$

 $\{\{\}\}$ (a) The legislative body of the county in which the proposed new town is located shall hold the election for town officers provided for in Subsection (8) within: $\{\}\}$

(i) 45 days after the day on which the feasibility consultant submits the written results of the financial feasibility study, for an election under Subsection (8)(b); or {} (ii) 60 days after the day on which the feasibility consultant submits the written results of the financial feasibility study, for an election under Subsection (8)(c)(i)(B)(II) or $(8)(c)(ii)(B)(II). \stackrel{\text{}}{\longleftrightarrow}$ $\{\{\}\}$ (b) The officers elected at an election under Subsection (9)(a) shall take office: $\{\}\}$ (i) at noon on the first Monday in January next following the election, if the election (ii) at noon on the first day of the month next following the effective date of the incorporation under Subsection (12), if the election of officers is held on any other date. (10) Each newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102. $\{\{\}\}$ (11) The mayor-elect of the future town shall: $\{\}\}$ (a) within 30 days after the canvass of the election of town officers under Subsection (9), file with the lieutenant governor: (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and { } } (b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5: { } (i) if the town is located within the boundary of a single county, submit to the recorder of that county the original: (A) notice of an impending boundary action; (B) certificate of incorporation; and $\{(C)\}$ approved final local entity plat; or $\{(C)\}$ (ii) if the town is located within the boundaries of more than a single county, submit the original of the documents listed in Subsections (11)(b)(i)(A), (B), and (C) to one of those counties and a certified copy of those documents to each other county. $\{(12)\}$ (a) A new town is incorporated: (i) on December 31 of the year in which the lieutenant governor issues a certificate

of incorporation under Section 67-1a-6.5, if the election of town officers under Subsection (9) is held on a regular general or municipal general election date; or {}}

(ii) on the last day of the month during which the lieutenant governor issues a

{{}}(ii) on the last day of the month during which the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, if the election of town officers under Subsection (9) is held on any other date.{{}}

{{}}(b) (i) The effective date of an incorporation for purposes of assessing property within the new town is governed by Section 59-2-305.5.{{}}

{};(ii) Until the documents listed in Subsection (11)(b) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated town may not:{}}

- $\{(A)\}$ levy or collect a property tax on property within the town;
- (B) levy or collect an assessment on property within the town; or
- (C) charge or collect a fee for service provided to property within the town.
- $\{(13)\}$ For each petition filed before March 5, 2008: $\{(13)\}$

{{}}(a) the petition is subject to and governed by the law in effect at the time the petition was filed; and {{}}

{}(b) the law in effect at the time the petition was filed governs in all administrative and judicial proceedings relating to the petition. {}}

Section 12. Section 10-2-126 is enacted to read:

<u>10-2-126.</u> Incorporation of town -- Public hearing on feasibility.

(1) If, in accordance with Section 10-2-125, the county clerk certifies a petition for incorporation or an amended petition for incorporation, the county legislative body shall, at its next regular meeting after completion of the feasibility study, schedule a public hearing to:

(a) be held no later than 60 days after the day on which the feasibility study is completed; and

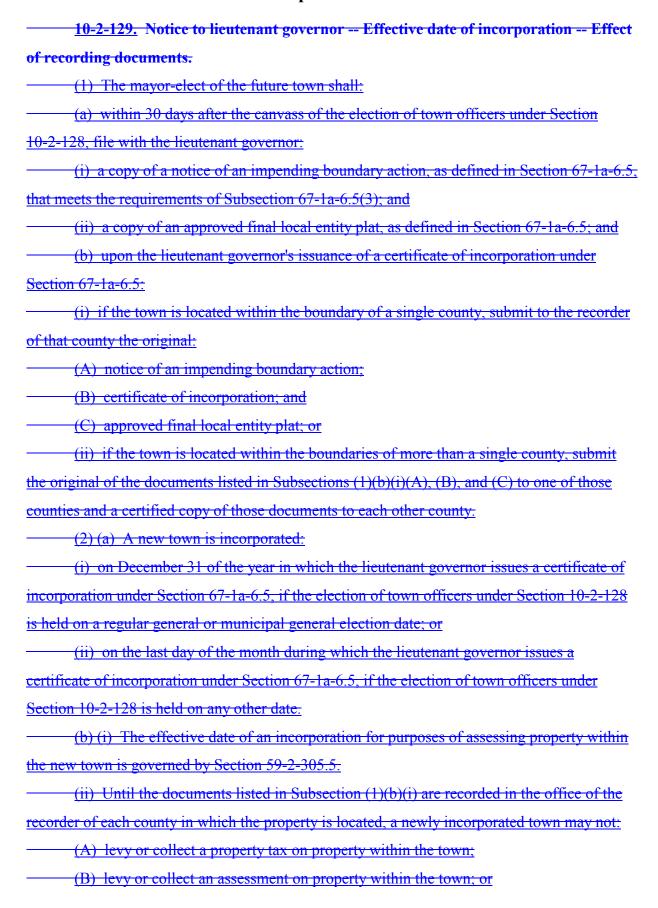
(b) consider, in accordance with Subsection (3)(b), the feasibility of incorporation for the proposed town.

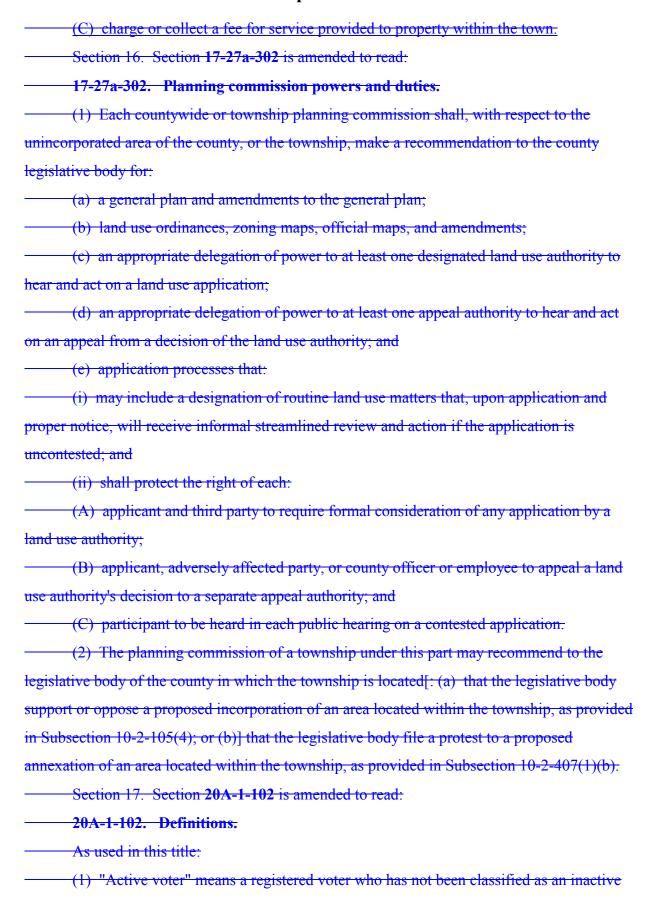
(2) The county legislative body shall give notice of the public hearing on the proposed incorporation by:

(a) posting notice of the public hearing on the county's Internet website, if the county has an Internet website;

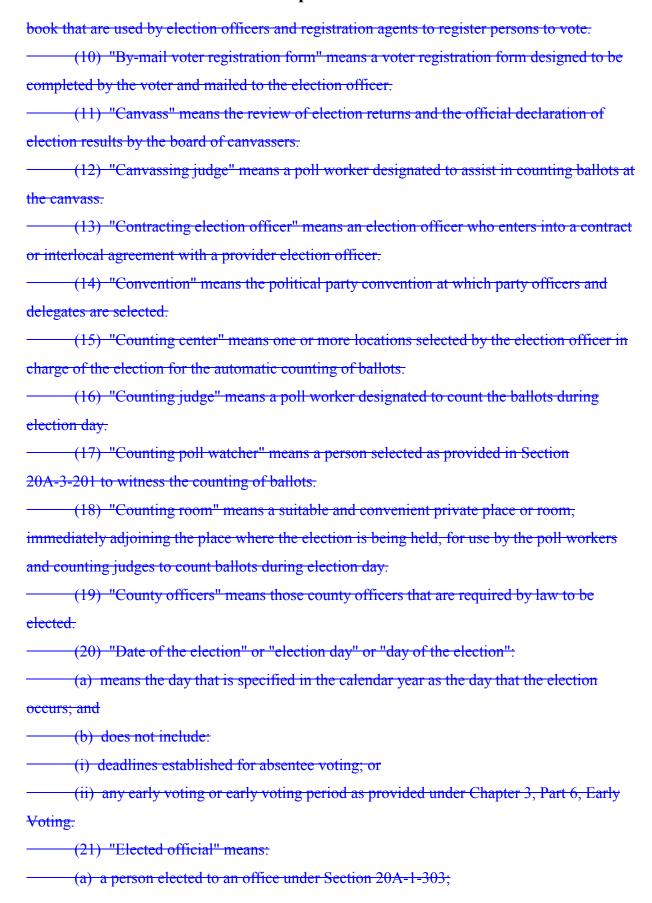
(b) (i) publishing notice of the public hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the proposed town; or (ii) if there is no newspaper of general circulation within the proposed town, posting notice of the public hearing in at least five conspicuous public places within the proposed town; and (c) publishing notice of the public hearing on the Utah Public Notice Website created in Section 63F-1-701. (3) At the public hearing scheduled in accordance with Subsection (1), the county legislative body shall: (a) (i) provide a copy of the feasibility study; and (ii) present the results of the feasibility study to the public; and (b) allow the public to: (i) review the map or plat of the boundary of the proposed town; (ii) ask guestions and become informed about the proposed incorporation; and (iii) express its views about the proposed incorporation, including their views about the boundary of the area proposed to be incorporated. Section 13. Section 10-2-127 is enacted to read: <u>10-2-127.</u> Incorporation of town -- Election to incorporate -- Ballot form. (1) (a) At the next regular general election, as defined in Section 20A-1-102, more than 60 days after the public hearing described in Section 10-2-126, the county legislative body shall hold an election on the proposed incorporation. (b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed town, the person may not vote on the proposed incorporation. (2) (a) The county clerk shall publish notice of the election: (i) in a newspaper of general circulation, within the area proposed to be incorporated, at least once a week for three successive weeks; and (ii) in accordance with Section 45-1-101 for three weeks. (b) The notice required by Subsection (2)(a) shall contain: (i) a statement of the contents of the petition; (ii) a description of the area proposed to be incorporated as a town;

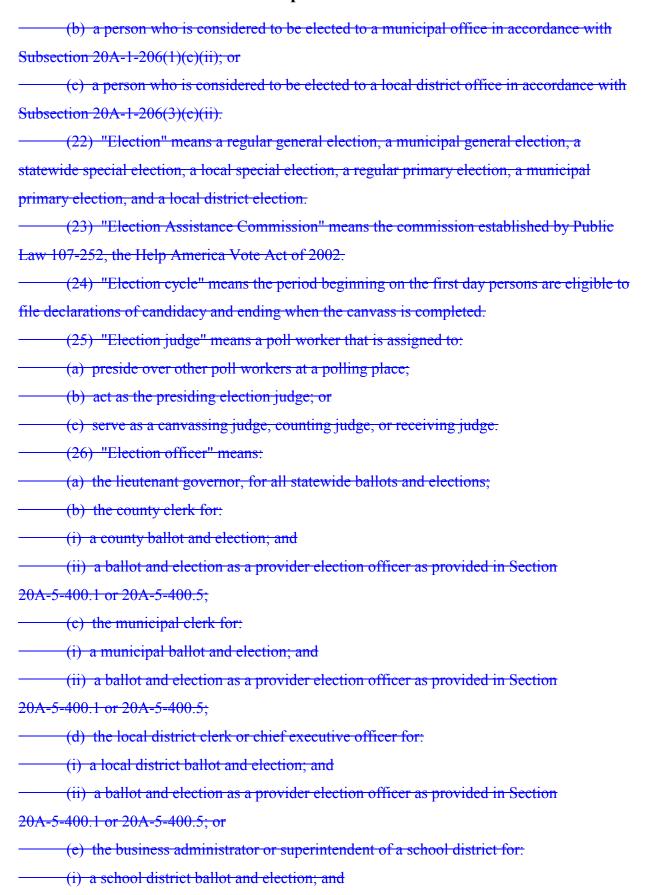
(iii) a statement of the date and time of the election and the location of polling places; and (iv) the county Internet website address, if applicable, and the address of the county office where the feasibility study is available for review. (c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election. (d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed town, the county clerk shall post at least one notice of the election per 100 population in conspicuous places within the proposed town that are most likely to give notice of the election to the voters of the proposed town. (ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1)(a). (3) The ballot at the incorporation election shall pose the incorporation question substantially as follows: Shall the area described as (insert a description of the proposed town) be incorporated as the town of (insert the proposed name of the proposed town)? (4) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (3). (5) If a majority of those casting votes within the area boundaries of the proposed town vote to incorporate as a town, the area shall incorporate. Section 14. Section 10-2-128 is enacted to read: 10-2-128. Form of government -- Election of officers of new town. (1) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102. (2) (a) The county legislative body of the county in which a newly incorporated town is located shall hold an election for town officers at the next special election after the regular general election in which the town incorporation is approved. (b) The officers elected at an election described in Subsection (2)(a) shall take office at noon on the first Monday in January next following the special election described in Subsection (2)(a). Section 15. Section 10-2-129 is enacted to read:

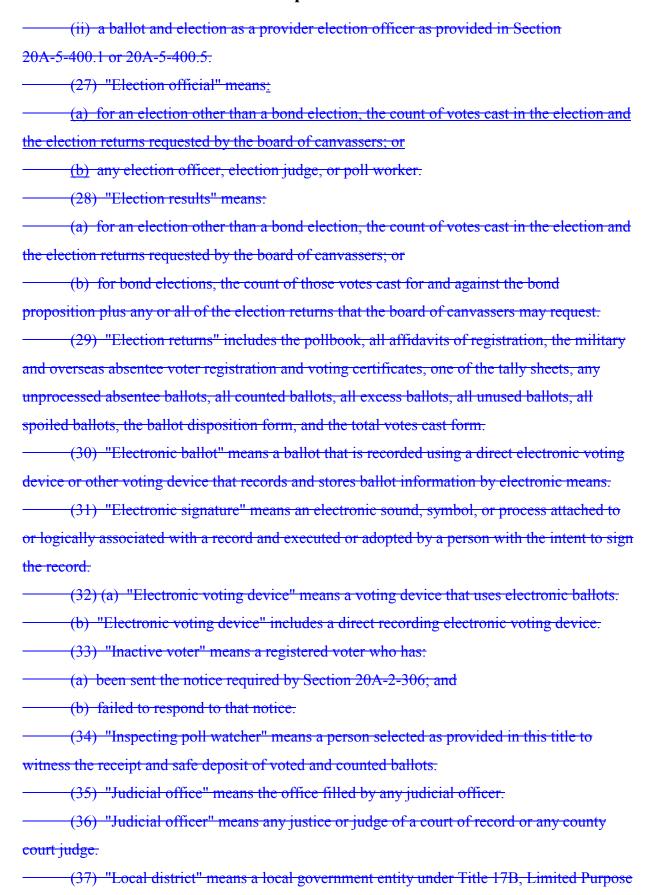




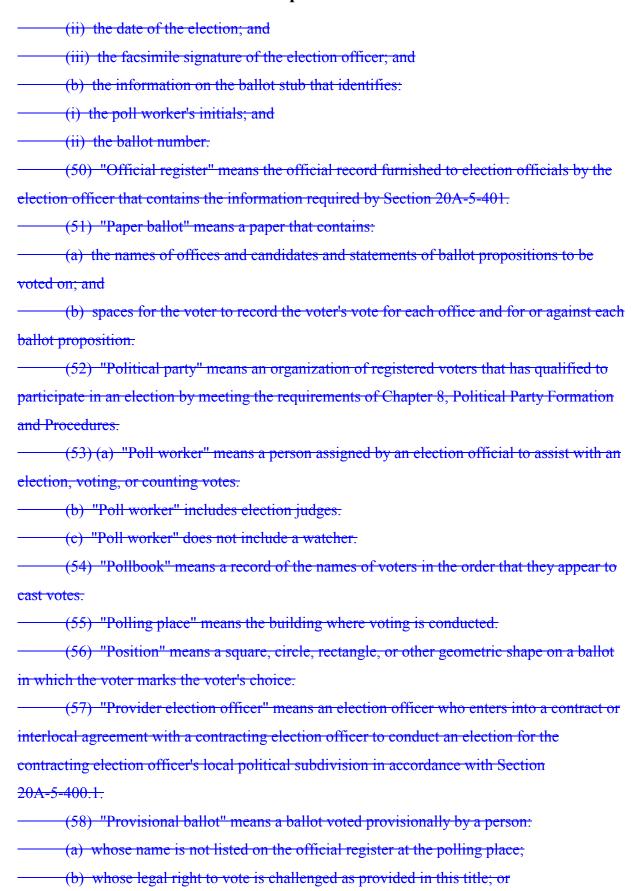
voter by the county clerk. (2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results. (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes. (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes. (4) "Ballot 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. (5) "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. (6) "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; [or] (g) an incorporation of a city or town; or [(g)] (h) any other ballot question specifically authorized by the Legislature. (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns. (8) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity. (9) "Book voter registration form" means voter registration forms contained in a bound

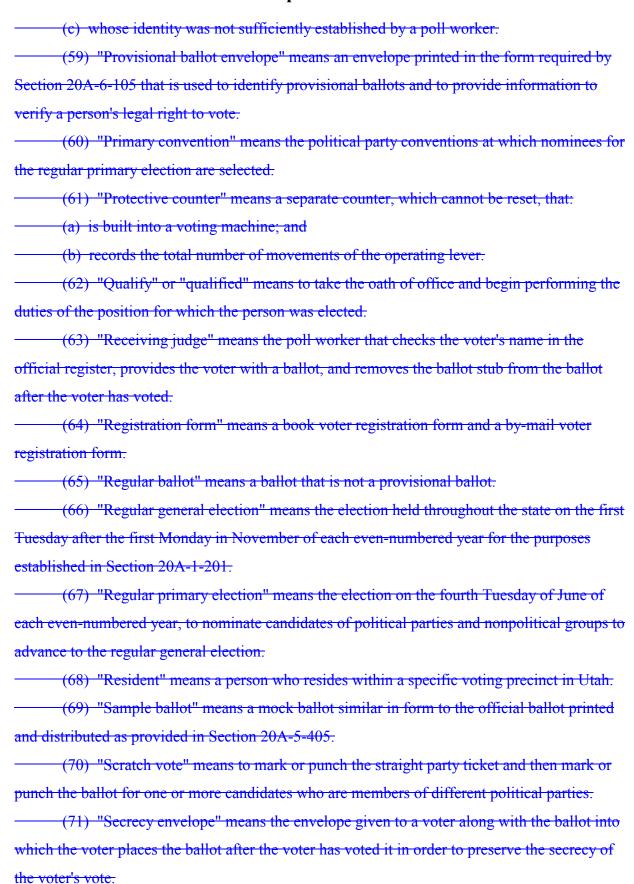


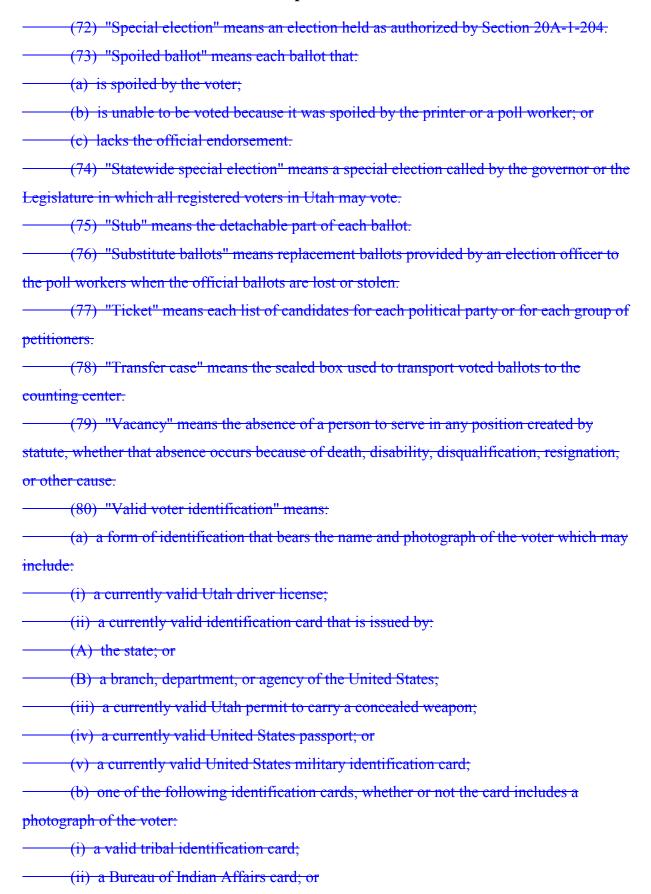


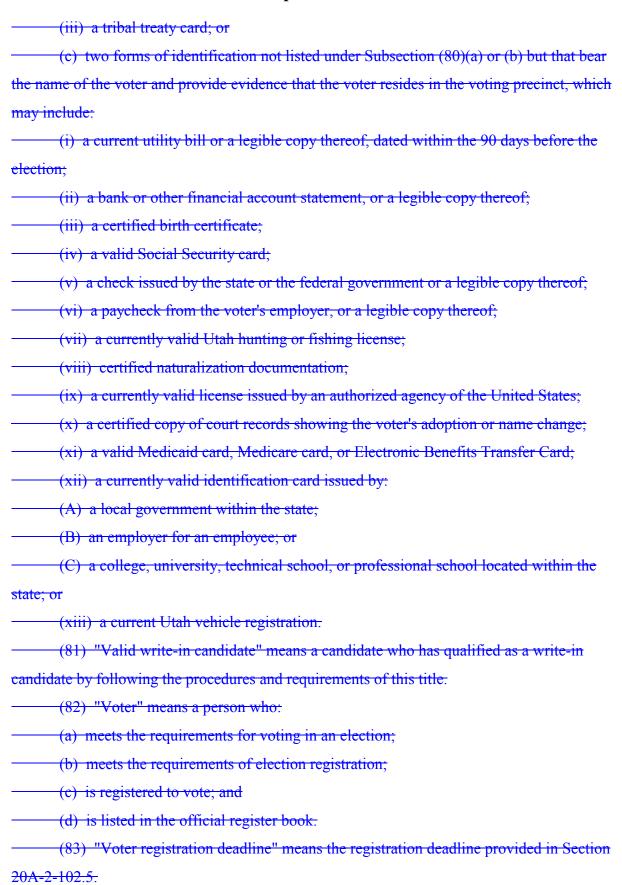


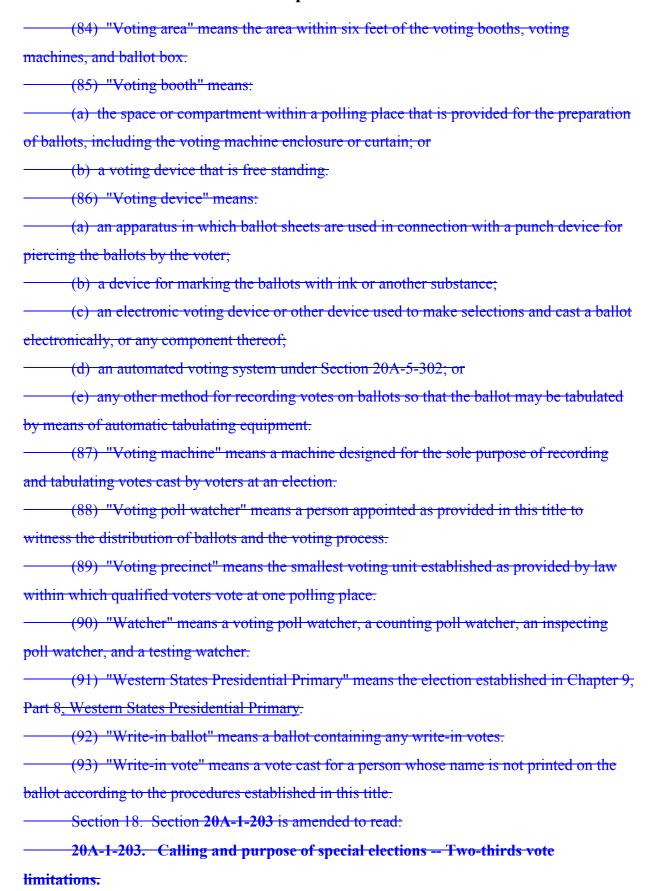
Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act. (38) "Local district officers" means those local district officers that are required by law to be elected. (39) "Local election" means a regular municipal election, 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; or (b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6). (43) "Municipal general election" means the election held in municipalities and local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202. (44) "Municipal legislative body" means the council of the city or town in any form of municipal government. (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) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes. (49) "Official endorsement" means: (a) the information on the ballot that identifies: (i) the ballot as an official ballot;

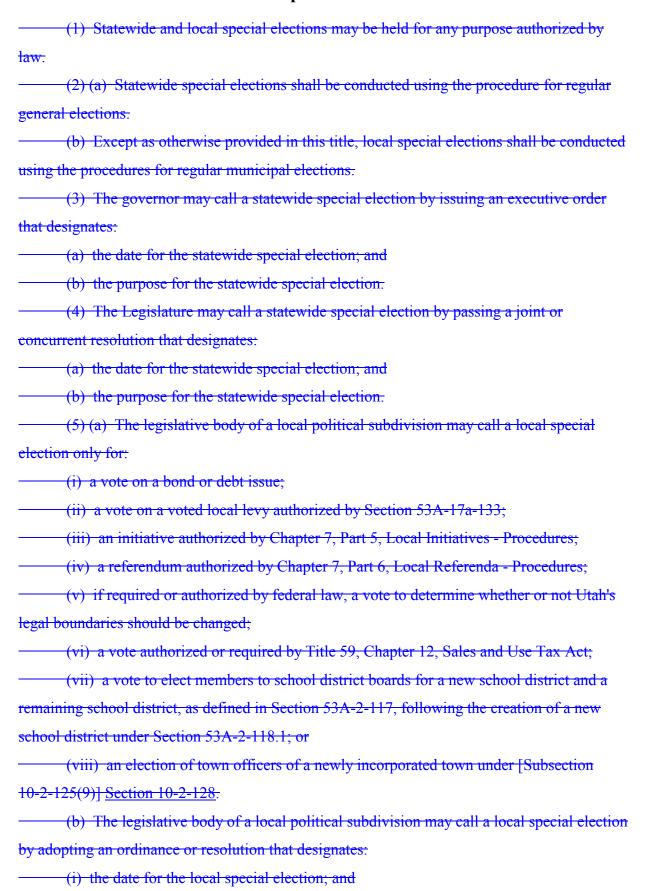


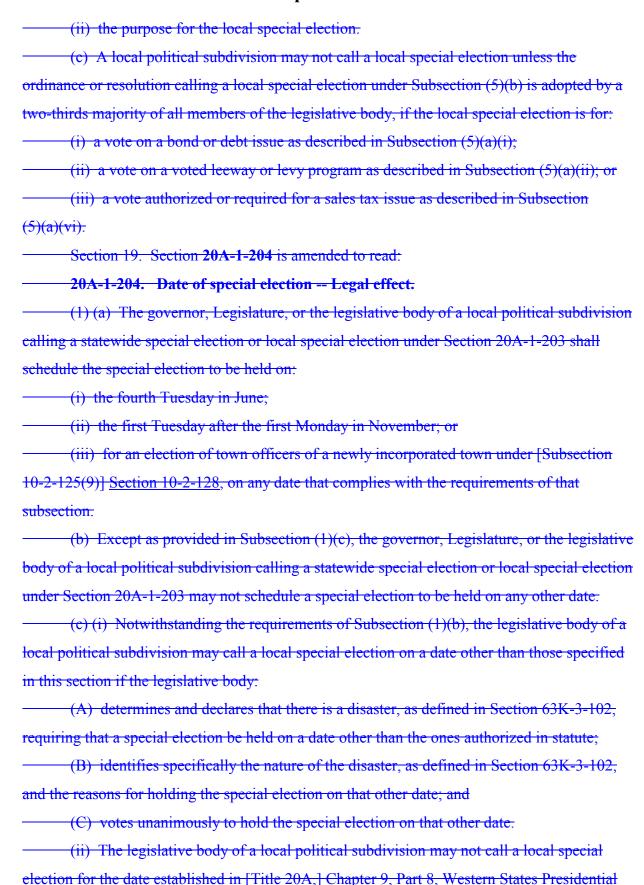












Primary, for Utah's Western States Presidential Primary.
(d) Nothing in this section prohibits:
(i) the governor or Legislature from submitting a matter to the voters at the regular
general election if authorized by law; or
(ii) a local government from submitting a matter to the voters at the regular municipal
election if authorized by law.
(2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a
special election within a county on the same day as:
(i) another special election;
(ii) a regular general election; or
(iii) a municipal general election.
(b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:
(i) polling places;
(ii) ballots;
(iii) election officials; and
(iv) other administrative and procedural matters connected with the election.
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