

Representative Melvin R. Brown proposes the following substitute bill:

TOWN INCORPORATION PROCESS

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: Dennis E. Stowell

LONG TITLE

General Description:

This bill modifies provisions relating to the incorporation of a town.

Highlighted Provisions:

This bill:

▶ modifies the process of incorporating a town;

§→ ▶ limits the areas in counties of the first class that qualify as contiguous for purposes of a proposed incorporation of a town; ←§

▶ requires at least five sponsors to be designated on a petition to incorporate an area as a town;

▶ prohibits the filing of a petition to incorporate an area as a town if the petition sponsors own more than 40% of the total area proposed to be incorporated;

▶ eliminates definitions of "base petition" and "qualifying petition";

▶ enacts definitions;

▶ modifies a requirement regarding county legislative body approval of a petition for the incorporation of a town if the petition meets certain signature requirements;

▶ clarifies that the value of property for purposes of determining incorporation petition requirements is assessed value;

▶ establishes a process for a public hearing on a proposed incorporation of a town before a petition to incorporate may be filed;

5th Sub. H.B. 164



- 26 ▶ requires a majority of registered voters to sign a petition to incorporate as a town;
- 27 ▶ allows a county legislative body the option whether to commission a financial
- 28 feasibility study with respect to a proposed incorporation of a town and provides a
- 29 process for commissioning a financial feasibility study;
- 30 ▶ establishes financial feasibility study criteria;
- 31 ▶ requires the initial officers of a newly incorporated town to be elected rather than
- 32 appointed by the county legislative body;
- 33 ▶ modifies election provisions to allow the election of officers of a newly
- 34 incorporated town to be conducted as a special election;
- 35 ▶ provides for when newly elected town officers in a new town take office;
- 36 ▶ provides that a previously filed petition is subject to the law in effect when the
- 37 petition was filed; and
- 38 ▶ modifies the date upon which a town is incorporated.

39 **Monies Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 This bill provides an immediate effective date.

43 This bill provides revisor instructions.

43a **§→ This bill coordinates with S.B. 20, Municipal Government Amendments, by technically**
 43b **merging amendments. ←§**

44 **Utah Code Sections Affected:**

45 AMENDS:

- 46 **10-2-109**, as last amended by Laws of Utah 1997, Second Special Session, Chapter 3
- 47 **10-2-125**, as last amended by Laws of Utah 2007, Chapter 212
- 48 **20A-1-203**, as last amended by Laws of Utah 2007, Chapter 215
- 49 **20A-1-204**, as last amended by Laws of Utah 2004, Chapter 371



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

52 Section 1. Section **10-2-109** is amended to read:

53 **10-2-109. Incorporation petition -- Requirements and form.**

54 (1) At any time within 18 months of the completion of the public hearings required
 55 under Subsection 10-2-108(1), a petition for incorporation of the area proposed to be
 56 incorporated as a city may be filed in the office of the clerk of the county in which the area is

57 located.

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

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

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

61 (ii) covers at least 1/3 of the total private land area within the area; and

62 (iii) is equal in value to at least 1/3 of the value of all private real property within the
63 area;

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

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

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

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

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

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

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

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

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

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

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

84 We, the undersigned owners of real property within the area described in this petition,
85 respectfully petition the county legislative body to submit to the registered voters residing
86 within the area described in this petition, at a special election held for that purpose, the
87 question of whether the area should incorporate as a city. Each of the undersigned affirms that

88 each has personally signed this petition and is an owner of real property within the described
89 area, and that the current residence address of each is correctly written after the signer's name.
90 The area proposed to be incorporated as a city is described as follows: (insert an accurate
91 description of the area proposed to be incorporated).

92 (3) A petition for incorporation of a city under Subsection (1) may not be filed unless
93 the results of the feasibility study or supplemental feasibility study show that the average
94 annual amount of revenue under Subsection 10-2-106(4)(a)(ix) does not exceed the average
95 annual amount of cost under Subsection 10-2-106(4)(a)(viii) by more than 5%.

96 (4) A signature on a request under Section 10-2-103 or a modified request under
97 Section 10-2-107 may be used toward fulfilling the signature requirement of Subsection (2)(a):

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

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

103 Section 2. Section **10-2-125** is amended to read:

104 **10-2-125. Incorporation of a town.**

105 [~~(1) As used in this section:~~]

106 [~~(a) "Base petition" means a petition under this section proposing the incorporation of a
107 town and signed by the owners of private real property that:]~~

108 [~~(i) is located within the area proposed to be incorporated;]~~

109 [~~(ii) covers at least a majority of the total private land area within the area proposed to
110 be incorporated; and]~~

111 [~~(iii) is equal in value to at least 1/3 but not more than 1/2 of the value of all private
112 real property within the area proposed to be incorporated.]~~

113 [~~(b) "Qualifying petition" means a petition under this section proposing the
114 incorporation of a town and signed by the owners of private real property that:]~~

115 [~~(i) is located within the area proposed to be incorporated;]~~

116 [~~(ii) covers at least a majority of the total private land area within the area proposed to
117 be incorporated; and]~~

118 [~~(iii) is equal in value to more than 1/2 of the value of all private real property within~~

119 ~~the area proposed to be incorporated.]~~

120 (1) As used in this section:

121 (a) "Assessed value," with respect to agricultural land, means the value at which the
122 land would be assessed without regard to a valuation for agricultural use under Section
123 59-2-503.

124 (b) "Financial feasibility study" means a study to determine:

125 (i) the projected revenues for the proposed town during the first three years after
126 incorporation; and

127 (ii) the projected costs, including overhead, that the proposed town will incur in
128 providing governmental services during the first three years after incorporation.

129 (c) "Municipal service" means a publicly provided service that is not provided on a
130 countywide basis.

131 (d) "Nonurban" means having a residential density of less than one unit per acre.

132 (2) (a) ~~§~~→ (i) ←~~§~~ A contiguous area of a county not within a municipality, with a
132a population of at
133 least 100 but less than 1,000, may incorporate as a town as provided in this section.

133a **~~§~~→ (ii) An area within a county of the first class is not contiguous for purposes of Subsection**
133b **(2)(a)(i) if:**

133c **(A) the area includes a strip of land that connects geographically separate areas; and**

133d **(B) the distance between the geographically separate areas is greater than the average**
133e **width of the strip of land connecting the geographically separate areas. ←~~§~~**

134 (b) [~~(i)~~] The population figure under Subsection (2)(a) shall be [~~derived from the most~~
135 recent official census or census estimate of the United States Bureau of the Census. (ii) If the
136 population figure is not available from the United States Bureau of the Census, the population
137 figure shall be derived from the estimate from] determined:

138 (i) as of the date the incorporation petition is filed; and

139 (ii) by the Utah Population Estimates Committee within 20 days after the county clerk's
140 certification under Subsection (5) of a petition filed under Subsection (4).

141 (3) (a) The process to incorporate an area as a town is initiated by filing a [~~petition~~]
142 request for a public hearing with the clerk of the county in which the area is located.

143 (b) Each request for a public hearing under Subsection (3)(a) shall:

144 (i) be signed by the owners of at least five separate parcels of private real property,
145 each owned by a different owner, located within the area proposed to be incorporated; and

146 (ii) be accompanied by an accurate map or plat depicting the boundary of the proposed
147 town.

148 (c) Within ten days after a request for a public hearing is filed under Subsection (3)(a),
149 the county clerk shall, with the assistance of other county officers from whom the clerk

150 requests assistance, determine whether the petition complies with the requirements of
151 Subsection (3)(b).

152 (d) If the clerk determines that a request under Subsection (3)(a) fails to comply with
153 the requirements of Subsection (3)(b), the clerk shall reject the request and deliver written
154 notice of the rejection to the signers of the request.

155 (e) (i) If the clerk determines that a request under Subsection (3)(a) complies with the
156 requirements of Subsection (3)(b), the clerk shall:

157 (A) schedule and arrange for a public hearing to be held:

158 (I) (Aa) at a public facility located within the boundary of the proposed town; or

159 (Bb) if there is no public facility within the boundary of the proposed town, at another
160 nearby public facility or at the county seat; and

161 (II) within 20 days after the clerk provides the last notice required under Subsection
162 (3)(e)(i)(B); and

163 (B) subject to Subsection (3)(e)(ii), give notice of the public hearing on the proposed
164 incorporation by:

165 (I) posting notice of the public hearing on the county's Internet website, if the county
166 has an Internet website; and

167 (II) (Aa) publishing notice of the public hearing at least once a week for two
168 consecutive weeks in a newspaper of general circulation within the proposed town; or

169 (Bb) if there is no newspaper of general circulation within the proposed town, posting
170 notice of the public hearing in at least five conspicuous public places within the proposed town.

171 (ii) The posting of notice required under Subsection (3)(e)(i)(B)(I) and, if applicable,
172 Subsection (3)(e)(i)(B)(II)(Bb) and the first publishing of notice required under Subsection
173 (3)(e)(i)(B)(II)(Aa), if applicable, shall occur no later than ten days after the clerk determines
174 that a request complies with the requirements of Subsection (3)(b).

175 (iii) Each public hearing under Subsection (3)(e)(i)(A) shall be conducted by the chair
176 of the county commission or council, or the chair's designee, to:

177 (A) introduce the concept of the proposed incorporation to the public;

178 (B) allow the public to review the map or plat of the boundary of the proposed town;

179 (C) allow the public to ask questions and become informed about the proposed
180 incorporation; and

181 (D) allow the public to express their views about the proposed incorporation, including
182 their views about the boundary of the area proposed to be incorporated.

183 (4) (a) At any time within three months after the public hearing under Subsection
184 (3)(e), a petition to incorporate the area as a town may be filed with the clerk of the county in
185 which the area is located.

186 (b) Each petition under Subsection ~~[(3)]~~ (4)(a) shall:

187 (i) be signed by:

188 (A) the owners of private real property that:

189 ~~[(A)]~~ (I) is located within the area proposed to be incorporated;

190 ~~[(B)]~~ (II) covers a majority of the total private land area within the area; ~~[and]~~

191 ~~[(C)]~~ (III) is equal in assessed value to ~~[at least 1/3]~~ more than 1/2 of the assessed value
192 of all private real property within the area; and

193 ~~[(ii) state the legal description of the boundaries of the area proposed to be~~
194 ~~incorporated as a town;]~~

195 (IV) consists, in number of parcels, of at least 1/3 of the number of all parcels of
196 private real property within the area proposed to be incorporated; and

197 (B) a majority of all registered voters within the area proposed to be incorporated as a
198 town, according to the official voter registration list maintained by the county on the date the
199 petition is filed;

200 ~~[(iii)]~~ (ii) designate ~~[up to]~~ as sponsors at least five ~~[signers]~~ of the property owners
201 who have signed the petition ~~[as sponsors]~~, one of whom shall be designated as the contact
202 sponsor, with the mailing address of each owner signing as a sponsor;

203 ~~[(iv)]~~ (iii) be accompanied by and circulated with an accurate map or plat, prepared by
204 a licensed surveyor, showing a legal description of the ~~[boundaries]~~ boundary of the proposed
205 town; and

206 ~~[(v)]~~ (iv) substantially comply with and be circulated in the following form:

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

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

211 We, the undersigned owners of real property and registered voters within the area

212 described in this petition, respectfully petition the county legislative body for the area described
213 in this petition to be incorporated as a town. Each of the undersigned affirms that each has
214 personally signed this petition and is an owner of real property or a registered voter residing
215 within the described area, and that the current residence address of each is correctly written
216 after the signer's name. The area proposed to be incorporated as a town is described as follows:
217 (insert an accurate description of the area proposed to be incorporated).

218 (c) A petition under this ~~[section]~~ Subsection (4) may not describe an area that includes
219 some or all of an area proposed for annexation in an annexation petition under Section
220 10-2-403 that:

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

223 ~~[(4) Section 10-2-104 applies to a petition for incorporation as a town in any county;~~
224 ~~except that the notice under Subsection 10-2-104(1) shall be sent within seven calendar days~~
225 ~~after the filing of a petition under Subsection (3).]~~

226 (d) A petition may not be filed under this section if the private real property owned by
227 the petition sponsors, designated under Subsection (4)(b)(ii), cumulatively exceeds 40% of the
228 total private land area within the area proposed to be incorporated as a town.

229 (e) A signer of a petition under this Subsection (4) may withdraw or, after withdrawn,
230 reinstate the signer's signature on the petition:

- 231 (i) at any time until the county clerk certifies the petition under Subsection (6); and
- 232 (ii) by filing a signed, written withdrawal or reinstatement with the county clerk.

233 (5) (a) If a petition is filed under Subsection (4)(a) proposing to incorporate as a town
234 an area located within a county of the first class, the county clerk shall deliver written notice of
235 the proposed incorporation:

- 236 (i) to each owner of private real property owning more than 1% of the assessed value
237 of all private real property within the area proposed to be incorporated as a town; and
- 238 (ii) within seven calendar days after the date on which the petition is filed.

239 (b) A private real property owner described in Subsection (5)(a)(i) may exclude all or
240 part of the owner's property from the area proposed to be incorporated as a town by filing a
241 notice of exclusion:

- 242 (i) with the county clerk; and

243 (ii) within ten calendar days after receiving the clerk's notice under Subsection (5)(a).
244 (c) The county legislative body shall exclude from the area proposed to be incorporated
245 as a town the property identified in the notice of exclusion under Subsection (5)(b) if:
246 (i) the property:
247 (A) is nonurban; and
248 (B) does not and will not require a municipal service; and
249 (ii) exclusion will not leave an unincorporated island within the proposed town.
250 (d) If the county legislative body excludes property from the area proposed to be
251 incorporated as a town, the county legislative body shall send written notice of the exclusion to
252 the contact sponsor within five days after the exclusion.
253 (6) Within 20 days after the filing of a petition under Subsection (4), the county clerk
254 shall:
255 (a) with the assistance of other county officers from whom the clerk requests
256 assistance, determine whether the petition complies with the requirements of Subsection (4);
257 and
258 (b) (i) if the clerk determines that the petition complies with those requirements:
259 (A) certify the petition and deliver the certified petition to the county legislative body;
260 and
261 (B) mail or deliver written notification of the certification to:
262 (I) the contact sponsor;
263 (II) if applicable, the chair of the planning commission of each township in which any
264 part of the area proposed for incorporation is located; and
265 (III) the Utah Population Estimates Committee; or
266 (ii) if the clerk determines that the petition fails to comply with any of those
267 requirements, reject the petition and notify the contact sponsor in writing of the rejection and
268 the reasons for the rejection.
269 (7) (a) (i) A petition that is rejected under Subsection (6)(b)(ii) may be amended to
270 correct a deficiency for which it was rejected and then refiled with the county clerk.
271 (ii) A valid signature on a petition filed under Subsection (4)(a) may be used toward
272 fulfilling the signature requirement of Subsection (4)(b) for the same petition that is amended
273 under Subsection (7)(a)(i) and then refiled with the county clerk.

274 (b) If a petition is amended and refiled under Subsection (7)(a)(i) after having been
275 rejected by the county clerk under Subsection (6)(b)(ii):

276 (i) the amended petition shall be considered as a newly filed petition; and

277 (ii) the amended petition's processing priority is determined by the date on which it is
278 refiled.

279 ~~[(5)]~~ (8) (a) (i) The legislative body of [each] a county with which a [base] petition is
280 filed under [this section shall] Subsection (4) may, at its option and upon the petition being
281 certified under Subsection (5), commission and pay for a financial feasibility study [as
282 provided in Section 10-2-103].

283 (ii) If the county legislative body chooses to commission a financial feasibility study,
284 the county legislative body shall:

285 (A) within 20 days after the incorporation petition is certified, select and engage a
286 feasibility consultant; and

287 (B) require the feasibility consultant to complete the financial feasibility study and
288 submit written results of the study to the county legislative body no later than 30 days after the
289 feasibility consultant is engaged to conduct the financial feasibility study.

290 ~~[(ii) If]~~ (b) The county legislative body shall approve a petition proposing the
291 incorporation of a town and hold an election for town officers, as provided in Subsection (9),
292 if:

293 (i) the county clerk has certified the petition under Subsection (6); and

294 (ii) (A) (I) the county legislative body has commissioned a financial feasibility study
295 under Subsection (8)(a); and

296 (II) the results of the financial feasibility study [under Subsection (5)(a)(i) meet the
297 requirements of Subsection 10-2-109(3), the county legislative body shall grant the petition.]
298 show that the average annual amount of revenues described in Subsection (1)(b)(i) does not
299 exceed the average annual amount of costs described in Subsection (1)(b)(ii) by more than
300 10%; or

301 (B) the county legislative body chooses not to commission a financial feasibility study.

302 ~~[(iii) If]~~ (c) (i) If the county legislative body commissions a financial feasibility study
303 under Subsection (8)(a) and the results of the financial feasibility study [under Subsection
304 (5)(a)(i) do not meet the requirements of Subsection 10-2-109(3)] show that the average annual

305 amount of revenues described in Subsection (1)(b)(i) exceeds the average annual amount of
 306 costs described in Subsection (1)(b)(ii) by more than 10%, the county legislative body may:
 307 (A) deny the petition, subject to Subsection (8)(c)(ii), if the results of the financial
 308 feasibility study show that the average annual amount of revenues described in Subsection
 309 (1)(b)(i) exceeds the average annual amount of costs described in Subsection (1)(b)(ii) by 25%
 310 or more;
 311 ~~[(B) grant the petition; or]~~
 312 (B) approve the petition and hold an election for town officers, as provided in
 313 Subsection (8); or
 314 (C) (I) with the consent of the petition sponsors~~[grant the petition, after]:~~
 315 ~~[(F) imposing]~~ (Aa) impose conditions to mitigate the fiscal inequities identified in the
 316 financial feasibility study; or
 317 ~~[(H) altering]~~ (Bb) alter the boundaries of the area proposed to be incorporated as a
 318 town to approximate the boundaries necessary to ~~[meet the requirements of Subsection~~
 319 ~~10-2-109(3):]~~ prevent the average annual amount of revenues described in Subsection (1)(b)(i)
 320 from exceeding the average annual amount of costs described in Subsection (1)(b)(ii); and
 321 (II) approve the incorporation petition and hold an election for town officers, as
 322 provided in Subsection (9).
 323 (ii) A county legislative body intending to deny a petition under Subsection (8)(c)(i)(A)
 324 shall deny the petition within 20 days after the feasibility consultant submits the written results
 325 of the financial feasibility study.
 326 ~~[(iv)]~~ (d) Each town that incorporates pursuant to a petition ~~[granted]~~ approved after
 327 the county legislative body imposes conditions under Subsection ~~[(5)(a)(iii)(C)(F)]~~
 328 (8)(c)(i)(C)(I) shall comply with those conditions.
 329 ~~[(b) The legislative body of each county of the second, third, fourth, fifth, or sixth class~~
 330 ~~with which a qualifying petition is filed shall grant the petition.]~~
 331 ~~[(6)(a) Upon the granting of a petition filed under this section, the]~~
 332 (9) (a) The legislative body of the county in which the proposed new town is located
 333 shall ~~[appoint a mayor and members of the town council from a list of qualified individuals~~
 334 ~~approved by the petition sponsors]~~ hold the election for town officers provided for in
 335 Subsection (8) within:

336 (i) 45 days after the petition is certified, for an election under Subsection
337 (8)(b)(i)(B)(II) or (8)(b)(ii);
338 (ii) 45 days after the feasibility consultant submits the written results of the financial
339 feasibility study, for an election under Subsection (8)(b)(i)(B)(I); or
340 (iii) 60 days after the feasibility consultant submits the written results of the financial
341 feasibility study, for an election under Subsection (8)(c).
342 (b) The officers elected at an election under Subsection (9)(a) shall take office:
343 (i) at noon on the first Monday in January next following the election, if the election is
344 held on a regular general or municipal general election date; or
345 (ii) at noon on the first day of the month next following the effective date of the
346 incorporation under Subsection (12), if the election of officers is held on any other date.
347 ~~[(b) The officers appointed under Subsection (6)(a) shall hold office until the next~~
348 ~~regular municipal election and until their successors are elected and qualified.]~~
349 ~~[(7)]~~ (10) Each newly incorporated town shall operate under the ~~[six-member]~~
350 five-member council form of government as described in Section 10-3-101.
351 ~~[(8)]~~ (11) (a) ~~[Each mayor appointed under Subsection (6) shall, within]~~ Within seven
352 days ~~[of appointment, file]~~ after the canvass of the election of town officers under Subsection
353 (9), the mayor-elect of the new town shall file at least three copies of the articles of
354 incorporation of the new town with the lieutenant governor.
355 (b) The articles of incorporation shall meet the requirements of Subsection
356 10-2-119(2).
357 ~~[(9) A town is incorporated upon the lieutenant governor's issuance of a certificate of~~
358 ~~entity creation under Section 67-1a-6.5.]~~
359 ~~[(10) The legislative body of the new town shall comply with the notice requirements~~
360 ~~of Section 10-1-116.]~~
361 (12) A new town is incorporated:
362 (a) on December 31 of the year in which the lieutenant governor issues a certificate of
363 entity creation for the town under Section 67-1a-6.5, if the election of town officers under
364 Subsection (9) is held on a regular general or municipal general election date; or
365 (b) on the last day of the month during which the lieutenant governor issues a
366 certificate of entity creation for the town under Section 67-1a-6.5, if the election of town

367 officers under Subsection (9) is held on any other date.

368 (13) For each petition filed before the effective date of this section:

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

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

373 Section 3. Section **20A-1-203** is amended to read:

374 **20A-1-203. Calling and purpose of special elections.**

375 (1) Statewide and local special elections may be held for any purpose authorized by
376 law.

377 (2) (a) Statewide special elections shall be conducted using the procedure for regular
378 general elections.

379 (b) Except as otherwise provided in this title, local special elections shall be conducted
380 using the procedures for regular municipal elections.

381 (3) The governor may call a statewide special election by issuing an executive order
382 that designates:

383 (a) the date for the statewide special election; and

384 (b) the purpose for the statewide special election.

385 (4) The Legislature may call a statewide special election by passing a joint or
386 concurrent resolution that designates:

387 (a) the date for the statewide special election; and

388 (b) the purpose for the statewide special election.

389 (5) (a) The legislative body of a local political subdivision may call a local special
390 election only for:

391 (i) a vote on a bond or debt issue;

392 (ii) a vote on a voted leeway program authorized by Section 53A-17a-133 or
393 53A-17a-134;

394 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedure;

395 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

396 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
397 legal boundaries should be changed;

398 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act; [or]

399 (vii) a vote to elect members to school district boards for a new school district and a
400 remaining school district, as defined in Section 53A-2-117, following the creation of a new
401 school district under Section 53A-2-118.1[-]; or

402 (viii) an election of town officers of a newly incorporated town under Subsection
403 10-2-125(9).

404 (b) The legislative body of a local political subdivision may call a local special election
405 by adopting an ordinance or resolution that designates:

406 (i) the date for the local special election; and

407 (ii) the purpose for the local special election.

408 Section 4. Section **20A-1-204** is amended to read:

409 **20A-1-204. Date of special election -- Legal effect.**

410 (1) (a) The governor, Legislature, or the legislative body of a local political subdivision
411 calling a statewide special election or local special election under Section 20A-1-203 shall
412 schedule the special election to be held on:

413 (i) the fourth Tuesday in June; [or]

414 (ii) the first Tuesday after the first Monday in November[-]; or

415 (iii) for an election of town officers of a newly incorporated town under Subsection
416 10-2-125(9), on any date that complies with the requirements of that subsection.

417 (b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative
418 body of a local political subdivision calling a statewide special election or local special election
419 under Section 20A-1-203 may not schedule a special election to be held on any other date.

420 (c) (i) Notwithstanding the requirements of Subsection (1)(b), the legislative body of a
421 local political subdivision may call a local special election on a date other than those specified
422 in this section if the legislative body:

423 (A) determines and declares that there is a disaster, as defined in Section 63-5-2,
424 requiring that a special election be held on a date other than the ones authorized in statute;

425 (B) identifies specifically the nature of the disaster, as defined in Section 63-5-2, and
426 the reasons for holding the special election on that other date; and

427 (C) votes unanimously to hold the special election on that other date.

428 (ii) The legislative body of a local political subdivision may not call a local special

429 election for the date established in Title 20A, Chapter 9, Part 8, Western States Presidential
430 Primary, for Utah's Western States Presidential Primary.

431 (d) Nothing in this section prohibits:

432 (i) the governor or Legislature from submitting a matter to the voters at the regular
433 general election if authorized by law; or

434 (ii) a local government from submitting a matter to the voters at the regular municipal
435 election if authorized by law.

436 (2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a
437 special election within a county on the same day as:

438 (i) another special election;

439 (ii) a regular general election; or

440 (iii) a municipal general election.

441 (b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

442 (i) polling places;

443 (ii) ballots;

444 (iii) election officials; and

445 (iv) other administrative and procedural matters connected with the election.

446 Section 5. **Effective date.**

447 If approved by two-thirds of all the members elected to each house, this bill takes effect
448 upon approval by the governor, or the day following the constitutional time limit of Utah
449 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
450 the date of veto override.

451 Section 6. **Revisor instructions.**

452 It is the intent of the Legislature that the Office of Legislative Research and General
453 Counsel, in preparing the Utah Code database for publication, replace the phrase "the effective
454 date of this section" in Subsection 10-2-125(13) of this bill with the actual effective date of this
455 bill.

455a **Ŝ→ Section 7. Coordinating H.B. 164 with S.B. 20 -- Technically merging amendments.**

455b **If this H.B. 164 and S.B. 20, Municipal Government Amendments, both pass, it is the**
455c **intent of the Legislature that the Office of Legislative Research and General Counsel, in**
455d **preparing the Utah Code database for publication, modify Subsection 10-2-125(10), as**
455e **amended in this bill, to read:**

455f **"~~[(7)]~~ (10) Each newly incorporated town shall operate under the ~~[six-member]~~**
455g **~~five-member~~ council form of government as ~~[described]~~ defined in Section ~~[10-3-101]~~**
455h **~~10-3b-102.~~" ←Ŝ**

H.B. 164 5th Sub. (Salmon) - Town Incorporation Process Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments. Enactment of this bill could increase the cost to petitioners looking to incorporate.
