

Senator Karen Mayne proposes the following substitute bill:

INCORPORATION AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: Curtis S. Bramble

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;



- 26 ▶ enacts provisions requiring notice of a town incorporation to the lieutenant
- 27 governor;
- 28 ▶ enacts provisions related to the effective date of a town incorporation;
- 29 ▶ amends language related to the duties of a planning commission of a township;
- 30 ▶ amends the definition of "ballot proposition"; and
- 31 ▶ makes technical corrections.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 **AMENDS:**

- 38 **10-2-101**, as last amended by Laws of Utah 2008, Chapter 360
- 39 **10-2-102**, as repealed and reenacted by Laws of Utah 1997, Chapter 389
- 40 **10-2-104**, as last amended by Laws of Utah 2003, Chapter 129
- 41 **10-2-105**, as last amended by Laws of Utah 1998, Chapter 13
- 42 **10-2-106**, as last amended by Laws of Utah 2007, Chapter 329
- 43 **10-2-108**, as last amended by Laws of Utah 2010, Chapter 90
- 44 **10-2-109**, as last amended by Laws of Utah 2010, Chapter 378
- 45 **10-2-111**, as last amended by Laws of Utah 2009, Chapter 388
- 46 **10-2-116**, as last amended by Laws of Utah 2009, Chapter 388
- 47 **10-2-125**, as last amended by Laws of Utah 2010, Chapters 90, 122 and last amended
- 48 by Coordination Clause, Laws of Utah 2010, Chapter 90
- 49 **17-27a-302**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 50 **20A-1-102**, as last amended by Laws of Utah 2011, Chapters 17, 40, 310, and 335
- 51 **20A-1-203**, as last amended by Laws of Utah 2011, Chapter 371
- 52 **20A-1-204**, as last amended by Laws of Utah 2008, Chapters 16 and 382

53 **ENACTS:**

- 54 **10-2-126**, Utah Code Annotated 1953
- 55 **10-2-127**, Utah Code Annotated 1953
- 56 **10-2-128**, Utah Code Annotated 1953

57 10-2-129, Utah Code Annotated 1953

58 REPEALS AND REENACTS:

59 10-2-124, as enacted by Laws of Utah 1997, Chapter 389



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

62 Section 1. Section 10-2-101 is amended to read:

63 **10-2-101. Definitions.**

64 (1) As used in this part:

65 ~~[(a) "Commission" means a boundary commission established under Section 10-2-409~~
66 ~~for the county in which the property that is proposed to be incorporated is located.]~~

67 ~~[(b)]~~ (a) "Feasibility consultant" means a person or firm:

68 (i) with expertise in the processes and economics of local government~~[-]; and~~

69 (ii) who is independent of and not affiliated with a county or sponsor of a petition to
70 incorporate.

71 ~~[(c)]~~ (b) "Private," with respect to real property, means ~~[not owned by the United States~~
72 ~~or any agency of the federal government, the state, a county, a municipality, a school district, a~~
73 ~~local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a~~
74 ~~special service district under Title 17D, Chapter 1, Special Service District Act, or any other~~
75 ~~political subdivision or governmental entity of the state]~~ taxable property.

76 (2) For purposes of this part:

77 (a) the owner of real property shall be the record title owner according to the records of
78 the county recorder on the date of the filing of the request or petition; and

79 (b) the value of private real property shall be determined according to the last
80 assessment roll for county taxes before the filing of the request or petition.

81 (3) For purposes of each provision of this part that requires the owners of private real
82 property covering a percentage or fraction of the total private land area within an area to sign a
83 request or petition:

84 (a) a parcel of real property may not be included in the calculation of the required
85 percentage or fraction unless the request or petition is signed by:

86 (i) except as provided in Subsection (3)(a)(ii), owners representing a majority
87 ownership interest in that parcel; or

88 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number
89 of owners of that parcel;

90 (b) the signature of a person signing a request or petition in a representative capacity on
91 behalf of an owner is invalid unless:

92 (i) the person's representative capacity and the name of the owner the person represents
93 are indicated on the request or petition with the person's signature; and

94 (ii) the person provides documentation accompanying the request or petition that
95 substantiates the person's representative capacity; and

96 (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a
97 request or petition on behalf of a deceased owner.

98 Section 2. Section 10-2-102 is amended to read:

99 **10-2-102. Incorporation of a contiguous area -- Governing provisions of city or**
100 **town incorporation.**

101 (1) A contiguous area of a county not within a municipality may incorporate as a
102 municipality as provided in this part.

103 (2) (a) Incorporation as a city is governed by Sections 10-2-103 through 10-2-124.

104 (b) Incorporation as a town is governed by ~~[Section]~~ Sections 10-2-125 through
105 10-2-129.

106 Section 3. Section 10-2-104 is amended to read:

107 **10-2-104. Notice to owner of property -- Exclusion of property from proposed**
108 **boundaries.**

109 (1) As used in this section:

110 (a) "Assessed value" with respect to property means the value at which the property
111 would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

112 (b) "Owner" means a person having an interest in real property, including an affiliate,
113 subsidiary, or parent company.

114 (c) "Urban" means an area with a residential density of greater than one unit per acre.

115 ~~[(+)]~~ (2) Within seven calendar days of the date on which a request under Section
116 10-2-103 is filed, the county clerk shall ~~[notify]~~ send written notice of the proposed
117 incorporation to each record owner of real property owning more than:

118 (a) 1% of the assessed value of all property in the proposed incorporation

119 boundaries[-]; or

120 (b) 10% of the total private land area within the proposed incorporation boundaries.

121 ~~[(2)(a)] (3) [A property owner within the boundaries of a proposed municipality,~~

122 ~~owning] If an owner owns, controls, or manages~~ more than 1% of the assessed value of all

123 property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more

124 of the total private land area in the proposed incorporation boundaries, the owner may exclude

125 all or part of the property ~~[owner's property]~~ owned, controlled, or managed by the owner from

126 the proposed boundaries by filing a Notice of Exclusion with the county legislative body within

127 ~~[+0]~~ 15 calendar days of receiving the clerk's notice under Subsection ~~[(+)]~~ (2).

128 ~~[(b)]~~ (4) The county legislative body shall exclude the property identified by an owner

129 in the Notice of Exclusion from the proposed incorporation boundaries ~~[only if the property:]~~

130 unless the county legislative body finds by clear and convincing evidence in the record that:

131 (a) the exclusion will leave an unincorporated island within the proposed municipality;

132 and

133 (b) the property to be excluded:

134 (i) is urban; and

135 ~~[(i) is currently nonurban;]~~

136 (ii) [does not or will not require municipal provision of] currently receives from the

137 county a majority of municipal-type services including:

138 (A) culinary or irrigation water;

139 (B) sewage collection or treatment;

140 (C) storm drainage or flood control;

141 (D) recreational facilities or parks;

142 (E) electric generation or transportation;

143 (F) construction or maintenance of local streets and roads;

144 (G) curb and gutter or sidewalk maintenance;

145 (H) garbage and refuse collection; and

146 (I) street lighting~~[-and]~~.

147 ~~[(iii) exclusion will not leave an unincorporated island within the proposed~~

148 ~~municipality.]~~

149 ~~[(3)]~~ (5) This section applies only to counties of the first or second class.

150 [~~(4)~~] (6) If the county legislative body excludes property from the proposed boundaries
151 under Subsection [~~(2)(b)~~] (4), the county legislative body shall, within five days of the
152 exclusion, send written notice of [~~its action~~] the exclusion to the contact sponsor.

153 Section 4. Section **10-2-105** is amended to read:

154 **10-2-105. Processing a request for incorporation -- Certification or rejection by**
155 **county clerk -- Processing priority -- Limitations -- Township planning commission**
156 **recommendation.**

157 (1) Within 45 days of the filing of a request under Section 10-2-103, the county clerk
158 shall:

159 (a) with the assistance of other county officers from whom the clerk requests
160 assistance, determine whether the request complies with Section 10-2-103; and

161 (b) (i) if the clerk determines that the request complies with Section 10-2-103:

162 (A) certify the request and deliver the certified request to the county legislative body;
163 and

164 (B) mail or deliver written notification of the certification to:

165 (I) the contact sponsor; and

166 (II) the chair of the planning commission of each township in which any part of the
167 area proposed for incorporation is located; or

168 (ii) if the clerk determines that the request fails to comply with [~~any of those~~] Section
169 10-2-103 requirements, reject the request and notify the contact sponsor in writing of the
170 rejection and the reasons for the rejection.

171 (2) The county clerk shall certify or reject requests under Subsection (1) in the order in
172 which they are filed.

173 (3) (a) (i) If the county clerk rejects a request under Subsection (1)(b)(ii), the request
174 may be amended to correct the deficiencies for which it was rejected and then refiled with the
175 county clerk.

176 (ii) A signature on a request under Section 10-2-103 may be used toward fulfilling the
177 signature requirement of Subsection 10-2-103(2)(a) for the request as modified under
178 Subsection (3)(a)(i).

179 (b) If a request is amended and refiled under Subsection (3)(a) after having been
180 rejected by the county clerk under Subsection (1)(b)(ii), it shall be considered as a newly filed

181 request, and its processing priority is determined by the date on which it is refiled.

182 ~~[(4) (a) A township planning commission may recommend to the legislative body of~~
183 ~~the county in which the township is located that, for purposes of Subsection~~
184 ~~10-2-106(4)(a)(xiii), the county legislative body support or oppose a proposed incorporation~~
185 ~~under this part of an area located within the township.]~~

186 ~~[(b) (i) Except as provided in Subsection (4)(b)(ii), the township planning commission~~
187 ~~shall communicate each recommendation under Subsection (4)(a) in writing to the county~~
188 ~~legislative body within 60 days of the county clerk's certification under Subsection (1)(b)(i).]~~

189 ~~[(ii) Notwithstanding Subsection (4)(b)(i), if the county clerk's certification under~~
190 ~~Subsection (1)(b)(i) is before July 17, 1997, the township planning commission shall~~
191 ~~communicate its recommendation under Subsection (4)(a) in writing to the county legislative~~
192 ~~body within 60 days of the county clerk's certification under Subsection (1)(b)(i) or August 31,~~
193 ~~1997, whichever is later, but no later than:]~~

194 ~~[(A) 75 days after the county legislative body has engaged the feasibility consultant~~
195 ~~under Subsection 10-2-106(1); or]~~

196 ~~[(B) the completion of the feasibility study.]~~

197 ~~[(iii) At the time the recommendation under Subsection (4)(b)(i) is delivered to the~~
198 ~~county legislative body, the township planning commission shall mail or deliver a copy of the~~
199 ~~recommendation to the contact sponsor.]~~

200 Section 5. Section **10-2-106** is amended to read:

201 **10-2-106. Feasibility study -- Feasibility study consultant.**

202 (1) Within 60 days of receipt of a certified request under Subsection 10-2-105(1)(b)(i),
203 the county legislative body shall engage the feasibility consultant chosen under Subsection (2)
204 to conduct a feasibility study.

205 ~~[(2) The feasibility consultant shall be chosen by a majority vote of a selection~~
206 ~~committee consisting of:]~~

207 ~~[(a) a person designated by the county legislative body;]~~

208 ~~[(b) a person designated by the sponsors of the request for a feasibility study; and]~~

209 ~~[(c) a person designated by the governor.]~~

210 (2) The feasibility consultant shall be chosen:

211 (a) (i) by the contact sponsor of the incorporation petition with the consent of the

212 county; or

213 (ii) by the county if the designated sponsors state, in writing, that the contact sponsor
214 defers selection of the feasibility consultant to the county; and

215 (b) in accordance with applicable county procurement procedures.

216 (3) The county legislative body shall require the feasibility consultant to:

217 (a) complete the feasibility study and submit the written results to the county legislative
218 body and the contact sponsor no later than 90 days after the feasibility consultant is engaged to
219 conduct the study;

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

222 (c) attend the public hearings under Subsection 10-2-108(1) and present the feasibility
223 study results and respond to questions from the public at those hearings.

224 [~~(4) (a) The feasibility study shall consider:~~]

225 [~~(i) the population and population density within the area proposed for incorporation~~
226 ~~and the surrounding area;]~~

227 [~~(ii) the history, geography, geology, and topography of and natural boundaries within~~
228 ~~the area proposed to be incorporated and the surrounding area;]~~

229 [~~(iii) whether the proposed boundaries eliminate or create an unincorporated island or~~
230 ~~peninsula;]~~

231 [~~(iv) whether the proposed incorporation will hinder or prevent a future and more~~
232 ~~logical and beneficial incorporation or a future logical and beneficial annexation;]~~

233 [~~(v) the fiscal impact on unincorporated areas, other municipalities, local districts,~~
234 ~~special service districts, and other governmental entities in the county;]~~

235 [~~(vi) current and five-year projections of demographics and economic base in the~~
236 ~~proposed city and surrounding area, including household size and income, commercial and~~
237 ~~industrial development, and public facilities;]~~

238 [~~(vii) projected growth in the proposed city and in adjacent areas during the next five~~
239 ~~years;]~~

240 [~~(viii) subject to Subsection (4)(c), the present and five-year projections of the cost,~~
241 ~~including overhead, of governmental services in the proposed city;]~~

242 [~~(ix) the present and five-year projected revenue for the proposed city;]~~

243 ~~[(x) the projected impact the incorporation will have over the following five years on~~
244 ~~the amount of taxes that property owners within the proposed city and in the remaining~~
245 ~~unincorporated county will pay;]~~

246 ~~[(xi) past expansion in terms of population and construction in the proposed city and~~
247 ~~the surrounding area;]~~

248 ~~[(xii) the extension of the boundaries of other nearby municipalities during the past 10~~
249 ~~years, the willingness of those municipalities to annex the area proposed for incorporation, and~~
250 ~~the probability that those municipalities would annex territory within the area proposed for~~
251 ~~incorporation within the next five years except for the incorporation; and]~~

252 ~~[(xiii) whether the legislative body of the county in which the area proposed to be~~
253 ~~incorporated favors the incorporation proposal.]~~

254 ~~[(b) For purposes of Subsection (4)(a)(ix), the feasibility consultant shall assume ad~~
255 ~~valorem property tax rates on residential property within the proposed city at the same level at~~
256 ~~which they would have been without the incorporation.]~~

257 ~~[(c) For purposes of Subsection (4)(a)(viii):]~~

258 ~~[(i) the feasibility consultant shall assume a level and quality of governmental services~~
259 ~~to be provided to the proposed city in the future that fairly and reasonably approximate the~~
260 ~~level and quality of governmental services being provided to the proposed city at the time of~~
261 ~~the feasibility study;]~~

262 ~~[(ii) in determining the present cost of a governmental service, the feasibility~~
263 ~~consultant shall consider:]~~

264 ~~[(A) the amount it would cost the proposed city itself to provide the service after~~
265 ~~incorporation;]~~

266 ~~[(B) if the county is currently providing the service to the proposed city, the county's~~
267 ~~cost of providing the service; and]~~

268 ~~[(C) if the county is not currently providing the service to the proposed city, the~~
269 ~~amount the proposed city can reasonably expect to pay for the service under a contract for the~~
270 ~~service; and]~~

271 ~~[(iii) the five-year projected cost of a governmental service shall be based on the~~
272 ~~amount calculated under Subsection (4)(c)(ii), taking into account inflation and anticipated~~
273 ~~growth.]~~

274 ~~[(5) If the results of the feasibility study or revised feasibility study do not meet the~~
275 ~~requirements of Subsection 10-2-109(3), the feasibility consultant shall, as part of the~~
276 ~~feasibility study or revised feasibility study and if requested by the sponsors of the request,~~
277 ~~make recommendations as to how the boundaries of the proposed city may be altered so that~~
278 ~~the requirements of Subsection 10-2-109(3) may be met.]~~

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

280 (i) population and population density within the area proposed for incorporation and
281 the surrounding area;

282 (ii) current and five-year projections of demographics and economic base in the
283 proposed city and surrounding area, including household size and income, commercial and
284 industrial development, and public facilities;

285 (iii) projected growth in the proposed city and in adjacent areas during the next five
286 years;

287 (iv) subject to Subsection (4)(b), the present and five-year projections of the cost,
288 including overhead, of governmental services in the proposed city, including:

289 (A) culinary water;

290 (B) secondary water;

291 (C) sewer;

292 (D) law enforcement;

293 (E) fire protection

294 (F) roads and public works;

295 (G) garbage

296 (H) weeds; and

297 (I) government offices;

298 (v) assuming the same tax categories and tax rates as currently imposed by the county
299 and all other current service providers, the present and five-year projected revenue for the
300 proposed city;

301 (vi) a projection of any new taxes per household that may be levied within the
302 incorporated area within five years of incorporation; and

303 (vii) the fiscal impact on unincorporated areas, other municipalities, local districts,
304 special service districts, and other governmental entities in the county.

305 (b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a
306 level and quality of governmental services to be provided to the proposed city in the future that
307 fairly and reasonably approximate the level and quality of governmental services being
308 provided to the proposed city at the time of the feasibility study.

309 (ii) In determining the present cost of a governmental service, the feasibility consultant
310 shall consider:

311 (A) the amount it would cost the proposed city to provide governmental service for the
312 first five years after incorporation; and

313 (B) the county's present and five-year projected cost of providing governmental
314 service.

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

317 (5) If the five year projected revenues under Subsection (4)(a)(v) exceed the five year
318 projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall
319 project and report the expected annual revenue surplus to the contact sponsor and the lieutenant
320 governor.

321 (6) If the results of the feasibility study or revised feasibility study do not meet the
322 requirements of Subsection 10-2-109(3), the feasibility consultant shall, as part of the
323 feasibility study or revised feasibility study and if requested by the sponsors of the request,
324 make recommendations as to how the boundaries of the proposed city may be altered so that
325 the requirements of Subsection 10-2-109(3) may be met.

326 ~~[(6)]~~ (7) (a) For purposes of this Subsection [(6)] (7), "pending" means that the process
327 to incorporate an unincorporated area has been initiated by the filing of a request for feasibility
328 study under Section 10-2-103 but that, as of [the date this Subsection (6) becomes effective]
329 May 8, 2012, a petition under Section 10-2-109 has not yet been filed.

330 (b) The amendments to Subsection (4) that become effective upon the effective date of
331 this Subsection [(6)] (7):

332 (i) apply to each pending proceeding proposing the incorporation of an unincorporated
333 area; and

334 (ii) do not apply to a municipal incorporation proceeding under this part in which a
335 petition under Section 10-2-109 has been filed.

336 (c) (i) If, in a pending incorporation proceeding, the feasibility consultant has, as of
337 ~~[the effective date of this Subsection (6)]~~ May 8, 2012, already completed the feasibility study,
338 the county legislative body shall, within 20 days after the effective date of this Subsection ~~[(6)]~~
339 (7) and except as provided in Subsection ~~[(6)]~~ (7)(c)(iii), engage the feasibility consultant to
340 revise the feasibility study to take into account the amendments to Subsection (4) that became
341 effective on the effective date of this Subsection ~~[(6)]~~ (7).

342 (ii) Except as provided in Subsection ~~[(6)]~~ (7)(c)(iii), the county legislative body shall
343 require the feasibility consultant to complete the revised feasibility study under Subsection
344 ~~[(6)]~~ (7)(c)(i) within 20 days after being engaged to do so.

345 (iii) Notwithstanding Subsections ~~[(6)]~~ (7)(c)(i) and (ii), a county legislative body is
346 not required to engage the feasibility consultant to revise the feasibility study if, within 15 days
347 after the effective date of this Subsection ~~[(6)]~~ (7), the request sponsors file with the county
348 clerk a written withdrawal of the request signed by all the request sponsors.

349 (d) All provisions of this part that set forth the incorporation process following the
350 completion of a feasibility study shall apply with equal force following the completion of a
351 revised feasibility study under this Subsection ~~[(6)]~~ (7), except that, if a petition under Section
352 10-2-109 has already been filed based on the feasibility study that is revised under this
353 Subsection ~~[(6)]~~ (7):

354 (i) the notice required by Section 10-2-108 for the revised feasibility study shall
355 include a statement informing signers of the petition of their right to withdraw their signatures
356 from the petition and of the process and deadline for withdrawing a signature from the petition;

357 (ii) a signer of the petition may withdraw the signer's signature by filing with the
358 county clerk a written withdrawal within 30 days after the final notice under Subsection
359 10-2-108~~[(2)]~~(3) has been given with respect to the revised feasibility study; and

360 (iii) unless withdrawn, a signature on the petition may be used toward fulfilling the
361 signature requirements under Subsection 10-2-109(2)(a) for a petition based on the revised
362 feasibility study.

363 Section 6. Section **10-2-108** is amended to read:

364 **10-2-108. Public hearings on feasibility study results -- Notice of hearings.**

365 (1) If the results of the feasibility study or supplemental feasibility study meet the
366 requirements of Subsection 10-2-109(3), the county legislative body shall, at its next regular

367 meeting after receipt of the results of the feasibility study or supplemental feasibility study,
368 schedule at least two public hearings to be held:

- 369 (a) within the following 60 days;
- 370 (b) at least seven days apart;
- 371 (c) in geographically diverse locations within the proposed city; and
- 372 (d) for the purpose of allowing:
 - 373 (i) the feasibility consultant to present the results of the study; and
 - 374 (ii) the public to become informed about the feasibility study results and to ask

375 questions about those results of the feasibility consultant.

376 (2) At a public hearing described in Subsection (1), the county legislative body shall:

- 377 (a) provide a map or plat of the boundary of the proposed city;
- 378 (b) provide a copy of the feasibility study for public review; and
- 379 (c) allow the public to express its views about the proposed incorporation, including its
- 380 view about the proposed boundary.

381 [~~2~~] (3) (a) (i) The county clerk shall publish notice of the public hearings required
382 under Subsection (1):

- 383 (A) at least once a week for three successive weeks in a newspaper of general
- 384 circulation within the proposed city; and
- 385 (B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks.
- 386 (ii) The last publication of notice required under Subsection [~~2~~] (3)(a)(i)(A) shall be
- 387 at least three days before the first public hearing required under Subsection (1).

388 (b) (i) If, under Subsection [~~2~~] (3)(a)(i)(A), there is no newspaper of general
389 circulation within the proposed city, the county clerk shall post at least one notice of the
390 hearings per 1,000 population in conspicuous places within the proposed city that are most
391 likely to give notice of the hearings to the residents of the proposed city.

392 (ii) The clerk shall post the notices under Subsection [~~2~~] (3)(b)(i) at least seven days
393 before the first hearing under Subsection (1).

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

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

398 **10-2-109. Incorporation petition -- Requirements and form.**

399 (1) At any time within [~~+8 months~~] one year of the completion of the public hearings
400 required under Subsection 10-2-108(1), a petition for incorporation of the area proposed to be
401 incorporated as a city may be filed in the office of the clerk of the county in which the area is
402 located.

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

404 (a) be signed by [~~the owners of private real property that~~]:

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

406 [~~(ii) covers at least 1/3 of the total private land area within the area; and~~]

407 [~~(iii) is equal in value to at least 1/3 of the value of all private real property within the~~
408 ~~area;~~]

409 (i) 10% of all registered voters within the area proposed to be incorporated as a city,
410 according to the official voter registration list maintained by the county on the date the petition
411 is filed; and

412 (ii) 10% of all registered voters within, subject to Subsection (5), 90% of the voting
413 precincts within the area proposed to be incorporated as a city, according to the official voter
414 registration list maintained by the county on the date the petition is filed;

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

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

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

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

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

424 (i) selecting the number of commission or council members the new city will have; and

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

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

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

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

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

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

442 (3) A petition for incorporation of a city under Subsection (1) may not be filed unless
443 the results of the feasibility study or supplemental feasibility study show that the average
444 annual amount of revenue under Subsection 10-2-106(4)(a)[~~(ix)~~](v) does not exceed the
445 average annual amount of cost under Subsection 10-2-106(4)(a)[~~(viii)~~](iv) by more than 5%.

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

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

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

453 (5) (a) A signature does not qualify as a signature to meet the requirement described in
454 Subsection (2)(a)(ii) if the signature is gathered from a voting precinct that:

455 (i) is not located entirely within the boundaries of the proposed city; or

456 (ii) includes less than 50 registered voters.

457 (b) A voting precinct that is not located entirely within the boundaries of the proposed
458 city does not qualify as a voting precinct to meet the precinct requirements of Subsection
459 (2)(a)(ii).

460 Section 8. Section **10-2-111** is amended to read:

461 **10-2-111. Incorporation election.**

462 (1) (a) At the next [~~special election~~] regular general election date under Section
463 [~~20A-1-204~~] 20A-1-201 more than [45] 60 days after the county legislative body's receipt of
464 the certified petition or certified modified petition under Subsection 10-2-110(1)(b)(i), the
465 county legislative body shall hold an election on the proposed incorporation.

466 (b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102,
467 within the boundaries of the proposed city, the person may not vote on the proposed
468 incorporation.

469 (2) (a) The county clerk shall publish notice of the election:

470 (i) in a newspaper of general circulation within the area proposed to be incorporated at
471 least once a week for three successive weeks; and

472 (ii) in accordance with Section 45-1-101 for three weeks.

473 (b) The notice required by Subsection (2)(a) shall contain:

474 (i) a statement of the contents of the petition;

475 (ii) a description of the area proposed to be incorporated as a city;

476 (iii) a statement of the date and time of the election and the location of polling places;

477 and

478 (iv) the feasibility study summary under Subsection 10-2-106(3)(b) and a statement
479 that a full copy of the study is available for inspection and copying at the office of the county
480 clerk.

481 (c) The last publication of notice required under Subsection (2)(a) shall occur at least
482 one day but no more than seven days before the election.

483 (d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general
484 circulation within the proposed city, the county clerk shall post at least one notice of the
485 election per 1,000 population in conspicuous places within the proposed city that are most
486 likely to give notice of the election to the voters of the proposed city.

487 (ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before
488 the election under Subsection (1).

489 (3) If a majority of those casting votes within the area boundaries of the proposed city
490 vote to incorporate as a city, the area shall incorporate.

491 Section 9. Section **10-2-116** is amended to read:

492 **10-2-116. Election of officers of new city.**

493 (1) For the election of city officers, the county legislative body shall:

494 (a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary
495 election; and

496 (b) hold a final election.

497 (2) Each election under Subsection (1) shall be:

498 (a) appropriate to the form of government chosen by the voters at the incorporation
499 election;

500 (b) consistent with the voters' decision about whether to elect commission or council
501 members by district and, if applicable, consistent with the boundaries of those districts as
502 determined by the petition sponsors; and

503 (c) consistent with the sponsors' determination of the number of commission or council
504 members to be elected and the length of their initial term.

505 (3) (a) Subject to Subsection (3)(b) [~~and except as provided in Subsection (5)~~], the
506 primary election under Subsection (1)(a) shall be held at the earliest of the next:

507 (i) regular general election under Section 20A-1-201;

508 (ii) municipal primary election under Section 20A-9-404;

509 (iii) municipal general election under Section 20A-1-202; or

510 (iv) special election under Section 20A-1-204.

511 (b) Notwithstanding Subsection (3)(a), the primary election under Subsection (1)(a)
512 may not be held until 75 days after the incorporation election under Section 10-2-111.

513 (4) [~~Except as provided in Subsection (5), the~~] The final election under Subsection
514 (1)(b) shall be held at the next special election date under Section 20A-1-204:

515 (a) after the primary election; or

516 (b) if there is no primary election, more than 75 days after the incorporation election
517 under Section 10-2-111.

518 [~~(5) Notwithstanding Subsections (3) and (4), the county legislative body may hold the~~
519 ~~primary and final elections required under Subsection (1) on the dates provided for the next~~
520 ~~municipal primary election under Section 20A-9-404 and the next municipal general election~~
521 ~~under Section 20A-1-202, respectively, after the incorporation election, if:]~~

522 ~~[(a) with the results under Subsection 10-2-114(1)(d), the petition sponsors submit to~~
523 ~~the county legislative body a written request to that effect; and]~~

524 ~~[(b) the incorporation election under Section 10-2-111 took place in February or May~~
525 ~~of an odd-numbered year.]~~

526 [(6)] (5) (a) (i) The county clerk shall publish notice of an election under this section:

527 (A) at least once a week for two successive weeks in a newspaper of general circulation
528 within the future city; and

529 (B) in accordance with Section 45-1-101 for two weeks.

530 (ii) The later notice under Subsection [(6)] (5)(a)(i) shall be at least one day but no
531 more than seven days before the election.

532 (b) (i) In accordance with Subsection [(6)] (5)(a)(i)(A), if there is no newspaper of
533 general circulation within the future city, the county clerk shall post at least one notice of the
534 election per 1,000 population in conspicuous places within the future city that are most likely
535 to give notice of the election to the voters.

536 (ii) The county clerk shall post the notices under Subsection [(6)] (5)(b)(i) at least
537 seven days before each election under Subsection (1).

538 [(7)] (6) Until the city is incorporated, the county clerk is the election officer for all
539 purposes in an election of officers of the city approved at an incorporation election.

540 Section 10. Section **10-2-124** is repealed and reenacted to read:

541 **10-2-124. Incorporation petition or feasibility study before May 8, 2012.**

542 (1) A party with petition in process as of January 1, 2012, and not yet filed for final
543 certification with the county clerk in accordance with Section 10-2-110 as of May 8, 2012,
544 shall comply with the provisions of this chapter as enacted on May 8, 2012, except as provided
545 in Subsection (3).

546 (2) A party described in Subsection (1) may use a signature on a petition in process as
547 of May 8, 2012, to fulfill the requirements of this chapter enacted on May 8, 2012.

548 (3) If on or before May 8, 2012, a feasibility study has been completed for a party
549 described in Subsection (1):

550 (a) the completed feasibility study shall fulfill the requirements of this section; and

551 (b) the party is not required to request a new feasibility study.

552 Section 11. Section **10-2-125** is amended to read:

553 **10-2-125. Incorporation of a town -- Petition.**

554 (1) As used in this section:

555 (a) "Assessed value," with respect to agricultural land, means the value at which the
556 land would be assessed without regard to a valuation for agricultural use under Section
557 59-2-503.558 (b) "Financial feasibility study" means a study [~~to determine:~~] described in Subsection
559 (8).560 [~~(i) the projected revenues for the proposed town during the first three years after~~
561 ~~incorporation; and]~~562 [~~(ii) the projected costs, including overhead, that the proposed town will incur in~~
563 ~~providing governmental services during the first three years after incorporation.]~~564 (c) "Feasibility consultant" means a person or firm:565 (i) with expertise in the processes and economics of local government; and566 (ii) who is independent of and not affiliated with a county or sponsor of a petition to
567 incorporate.568 [~~(d)~~] (d) "Municipal service" means a publicly provided service that is not provided on
569 a countywide basis.570 [~~(e)~~] (e) "Nonurban" means having a residential density of less than one unit per acre.571 (2) (a) (i) A contiguous area of a county not within a municipality, with a population of
572 at least 100 but less than 1,000, may incorporate as a town as provided in this section.573 (ii) An area within a county of the first class is not contiguous for purposes of
574 Subsection (2)(a)(i) if:

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

576 (B) the distance between the geographically separate areas is greater than the average
577 width of the strip of land connecting the geographically separate areas.

578 (b) The population figure under Subsection (2)(a) shall be determined:

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

580 (ii) by the Utah Population Estimates Committee within 20 days after the county clerk's
581 certification under Subsection (6) of a petition filed under Subsection (4).582 (3) (a) The process to incorporate an area as a town is initiated by filing a [~~request for a~~
583 ~~public hearing with the clerk of the county in which the area is located]~~ petition to incorporate

584 the area as a town with the clerk of the county in which the area is located.

585 ~~[(b) Each request for a public hearing under Subsection (3)(a) shall:]~~

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

588 ~~[(ii) be accompanied by an accurate map or plat depicting the boundary of the proposed~~
589 ~~town.]~~

590 ~~[(c) Within 10 days after a request for a public hearing is filed under Subsection (3)(a),~~
591 ~~the county clerk shall, with the assistance of other county officers from whom the clerk~~
592 ~~requests assistance, determine whether the petition complies with the requirements of~~
593 ~~Subsection (3)(b).]~~

594 ~~[(d) If the clerk determines that a request under Subsection (3)(a) fails to comply with~~
595 ~~the requirements of Subsection (3)(b), the clerk shall reject the request and deliver written~~
596 ~~notice of the rejection to the signers of the request.]~~

597 ~~[(e) (i) If the clerk determines that a request under Subsection (3)(a) complies with the~~
598 ~~requirements of Subsection (3)(b), the clerk shall:]~~

599 ~~[(A) schedule and arrange for a public hearing to be held:]~~

600 ~~[(F) (Aa) at a public facility located within the boundary of the proposed town; or]~~

601 ~~[(Bb) if there is no public facility within the boundary of the proposed town, at another~~
602 ~~nearby public facility or at the county seat; and]~~

603 ~~[(H) within 20 days after the clerk provides the last notice required under Subsection~~
604 ~~(3)(e)(i)(B); and]~~

605 ~~[(B) no later than 10 days after the clerk determines that a request complies with the~~
606 ~~requirements of Subsection (3)(b), give notice of the public hearing on the proposed~~
607 ~~incorporation by:]~~

608 ~~[(F) posting notice of the public hearing on the county's Internet website, if the county~~
609 ~~has an Internet website;]~~

610 ~~[(H) (Aa) publishing notice of the public hearing at least once a week for two~~
611 ~~consecutive weeks in a newspaper of general circulation within the proposed town; or]~~

612 ~~[(Bb) if there is no newspaper of general circulation within the proposed town, posting~~
613 ~~notice of the public hearing in at least five conspicuous public places within the proposed~~
614 ~~town; and]~~

615 ~~[(HH) publishing notice of the public hearing on the Utah Public Notice Website created~~
 616 ~~in Section 63F-1-701.]~~

617 ~~[(ii) Each public hearing under Subsection (3)(c)(i)(A) shall be conducted by the chair~~
 618 ~~of the county commission or council, or the chair's designee, to:]~~

619 ~~[(A) introduce the concept of the proposed incorporation to the public;]~~

620 ~~[(B) allow the public to review the map or plat of the boundary of the proposed town;]~~

621 ~~[(C) allow the public to ask questions and become informed about the proposed~~
 622 ~~incorporation; and]~~

623 ~~[(D) allow the public to express their views about the proposed incorporation,~~
 624 ~~including their views about the boundary of the area proposed to be incorporated.]~~

625 ~~[(4) (a) At any time within three months after the public hearing under Subsection~~
 626 ~~(3)(c), a petition to incorporate the area as a town may be filed with the clerk of the county in~~
 627 ~~which the area is located.]~~

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

629 (i) be signed by:

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

631 (I) is located within the area proposed to be incorporated; and

632 ~~[(H) covers a majority of the total private land area within the area;]~~

633 ~~[(HH) (II) is equal in assessed value to more than [1/2] 1/5 of the assessed value of all~~
 634 ~~private real property within the area; and~~

635 ~~[(IV) consists, in number of parcels, of at least 1/3 of the number of all parcels of~~
 636 ~~private real property within the area proposed to be incorporated; and]~~

637 (B) ~~[a majority]~~ 1/5 of all registered voters within the area proposed to be incorporated
 638 as a town, according to the official voter registration list maintained by the county on the date
 639 the petition is filed;

640 (ii) designate as sponsors at least five of the property owners who have signed the
 641 petition, one of whom shall be designated as the contact sponsor, with the mailing address of
 642 each owner signing as a sponsor;

643 (iii) be accompanied by and circulated with an accurate map or plat, prepared by a
 644 licensed surveyor, showing a legal description of the boundary of the proposed town; and

645 (iv) substantially comply with and be circulated in the following form:

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

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

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

659 (c) A petition under this Subsection [~~(4)~~] (3) may not describe an area that includes
660 some or all of an area proposed for annexation in an annexation petition under Section
661 10-2-403 that:

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

664 (d) A petition may not be filed under this section if the private real property owned by
665 the petition sponsors, designated under Subsection [~~(4)~~] (3)(b)(ii), cumulatively exceeds 40%
666 of the total private land area within the area proposed to be incorporated as a town.

667 (e) A signer of a petition under this Subsection [~~(4)~~] (3) may withdraw or, after
668 withdrawn, reinstate the signer's signature on the petition:

- 669 (i) at any time until the county clerk certifies the petition under Subsection [~~(6)~~] (5);
- 670 and

- 671 (ii) by filing a signed, written withdrawal or reinstatement with the county clerk.

672 [~~(5)~~] (4) (a) If a petition is filed under Subsection [~~(4)~~] (3)(a) proposing to incorporate
673 as a town an area located within a county of the first class, the county clerk shall deliver written
674 notice of the proposed incorporation:

- 675 (i) to each owner of private real property owning more than 1% of the assessed value
- 676 of all private real property within the area proposed to be incorporated as a town; and

677 (ii) within seven calendar days after the date on which the petition is filed.

678 (b) A private real property owner described in Subsection [~~(5)~~] (4)(a)(i) may exclude
679 all or part of the owner's property from the area proposed to be incorporated as a town by filing
680 a notice of exclusion:

681 (i) with the county clerk; and

682 (ii) within 10 calendar days after receiving the clerk's notice under Subsection [~~(5)~~]

683 (4)(a).

684 (c) The county legislative body shall exclude from the area proposed to be incorporated
685 as a town the property identified in the notice of exclusion under Subsection [~~(5)~~] (4)(b) if:

686 (i) the property:

687 (A) is nonurban; and

688 (B) does not and will not require a municipal service; and

689 (ii) exclusion will not leave an unincorporated island within the proposed town.

690 (d) If the county legislative body excludes property from the area proposed to be
691 incorporated as a town, the county legislative body shall send written notice of the exclusion to
692 the contact sponsor within five days after the exclusion.

693 [~~(6)~~ Within] (5) No later than 20 days after the filing of a petition under Subsection
694 [~~(4)~~] (3), the county clerk shall:

695 (a) with the assistance of other county officers from whom the clerk requests
696 assistance, determine whether the petition complies with the requirements of Subsection [~~(4)~~]
697 (3); and

698 (b) (i) if the clerk determines that the petition complies with those requirements:

699 (A) certify the petition and deliver the certified petition to the county legislative body;

700 and

701 (B) mail or deliver written notification of the certification to:

702 (I) the contact sponsor;

703 (II) if applicable, the chair of the planning commission of each township in which any
704 part of the area proposed for incorporation is located; and

705 (III) the Utah Population Estimates Committee; or

706 (ii) if the clerk determines that the petition fails to comply with any of those

707 requirements, reject the petition and notify the contact sponsor in writing of the rejection and

708 the reasons for the rejection.

709 ~~[(7)]~~ (6) (a) (i) A petition that is rejected under Subsection ~~[(6)]~~ (5)(b)(ii) may be
710 amended to correct a deficiency for which it was rejected and then refiled with the county
711 clerk.

712 (ii) A valid signature on a petition filed under Subsection ~~[(4)]~~ (3)(a) may be used
713 toward fulfilling the signature requirement of Subsection ~~[(4)]~~ (3)(b) for the same petition that
714 is amended under Subsection ~~[(7)]~~ (6)(a)(i) and then refiled with the county clerk.

715 (b) If a petition is amended and refiled under Subsection ~~[(7)]~~ (6)(a)(i) after having
716 been rejected by the county clerk under Subsection ~~[(6)]~~ (5)(b)(ii):

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

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

720 (8) (a) (i) The legislative body of a county with which a petition is filed under
721 Subsection (4) ~~[may, at its option and upon the petition being]~~ and certified under Subsection
722 ~~(6)[,]~~ shall commission and pay for a financial feasibility study.

723 ~~[(ii) If the county legislative body chooses to commission a financial feasibility study,
724 the county legislative body shall:]~~

725 ~~[(A) within 20 days after the incorporation petition is certified, select and engage a
726 feasibility consultant; and]~~

727 (ii) The feasibility consultant shall be chosen:

728 (A) (I) by the contact sponsor of the incorporation petition, as described in Subsection
729 (3)(b)(ii), with the consent of the county; or

730 (II) by the county if the contact sponsor states, in writing, that the sponsor defers
731 selection of the feasibility consultant to the county; and

732 (B) in accordance with applicable county procurement procedure.

733 ~~[(B)]~~ (iii) The county legislative body shall require the feasibility consultant to
734 complete the financial feasibility study and submit written results of the study to the county
735 legislative body no later than 30 days after the feasibility consultant is engaged to conduct the
736 financial feasibility study.

737 (b) The financial feasibility study shall consider the:

738 (i) population and population density within the area proposed for incorporation and

739 the surrounding area;

740 (ii) current and five-year projections of demographics and economic base in the
741 proposed town and surrounding area, including household size and income, commercial and
742 industrial development, and public facilities;

743 (iii) projected growth in the proposed town and in adjacent areas during the next five
744 years;

745 (iv) subject to Subsection (8)(c), the present and five-year projections of the cost,
746 including overhead, of governmental services in the proposed town, including:

747 (A) culinary water;

748 (B) secondary water;

749 (C) sewer;

750 (D) law enforcement;

751 (E) fire protection

752 (F) roads and public works;

753 (G) garbage

754 (H) weeds; and

755 (I) government offices;

756 (v) assuming the same tax categories and tax rates as currently imposed by the county
757 and all other current service providers, the present and five-year projected revenue for the
758 proposed town; and

759 (vi) a projection of any new taxes per household that may be levied within the
760 incorporated area within five years of incorporation.

761 (c) (i) For purposes of Subsection (8)(b)(iv), the feasibility consultant shall assume a
762 level and quality of governmental services to be provided to the proposed town in the future
763 that fairly and reasonably approximate the level and quality of governmental services being
764 provided to the proposed town at the time of the feasibility study.

765 (ii) In determining the present cost of a governmental service, the feasibility consultant
766 shall consider:

767 (A) the amount it would cost the proposed town to provide governmental service for
768 the first five years after incorporation; and

769 (B) the county's present and five-year projected cost of providing governmental

770 service.

771 (iii) The costs calculated under Subsection (8)(b)(iv), shall take into account inflation
772 and anticipated growth.

773 (d) If the five year projected revenues under Subsection (8)(b)(v) exceed the five year
774 projected costs under Subsection (8)(b)(iv) by more than 10%, the feasibility consultant shall
775 project and report the expected annual revenue surplus to the contact sponsor and the lieutenant
776 governor.

777 ~~[(b) If the county legislative body has commissioned a financial feasibility study under~~
778 ~~Subsection (8)(a)(i), the]~~

779 (e) The county legislative body shall approve a certified petition proposing the
780 incorporation of a town and hold [an election for town officers,] a public hearing as provided in
781 [Subsection (9), if:] Section 10-2-126.

782 ~~[(i) the county clerk has certified the petition under Subsection (6); and]~~

783 ~~[(ii) (A) the results of the financial feasibility study described in Subsection (8)(a)(i)~~
784 ~~show that the average annual amount of revenues described in Subsection (1)(b)(i) does not~~
785 ~~exceed the average annual amount of costs described in Subsection (1)(b)(ii) by more than~~
786 ~~15%; or]~~

787 ~~[(B) the results of the financial feasibility study described in Subsection (8)(a)(i) show~~
788 ~~that the average annual amount of costs described in Subsection (1)(b)(ii) does not exceed the~~
789 ~~average annual amount of revenues described in Subsection (1)(b)(i) by more than 15%.]~~

790 ~~[(c) (i) If the results of the financial feasibility study described in Subsection (8)(a)(i)~~
791 ~~show that the average annual amount of revenues described in Subsection (1)(b)(i) exceeds the~~
792 ~~average annual amount of costs described in Subsection (1)(b)(ii) by more than 15%, the~~
793 ~~county legislative body may:]~~

794 ~~[(A) deny the petition, in accordance with Subsection (8)(c)(iii), if the results of the~~
795 ~~financial feasibility study show that the average annual amount of revenues described in~~
796 ~~Subsection (1)(b)(i) exceeds the average annual amount of costs described in Subsection~~
797 ~~(1)(b)(ii) by more than 15%; or]~~

798 ~~[(B) (f) with the consent of the petition sponsors:]~~

799 ~~[(Aa) impose conditions to prevent the average annual amount of revenues described in~~
800 ~~Subsection (1)(b)(i) from exceeding the average annual amount of costs described in~~

801 ~~Subsection (1)(b)(ii) by more than 15%; or]~~

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

806 ~~[(H) approve the incorporation petition and hold an election for town officers, as~~
807 ~~provided in Subsection (9).]~~

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

812 ~~[(A) approve the petition;]~~

813 ~~[(B) deny the petition in accordance with Subsection (8)(c)(iii); or]~~

814 ~~[(C) (I) with the consent of the petition sponsors:]~~

815 ~~[(Aa) impose conditions to prevent the average annual amount of costs described in~~
816 ~~Subsection (1)(b)(ii) from exceeding the average annual amount of revenues described in~~
817 ~~Subsection (1)(b)(i) by more than 15%; or]~~

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

822 ~~[(H) approve the incorporation petition and hold an election for town officers, as~~
823 ~~provided in Subsection (9).]~~

824 ~~[(iii) A county legislative body intending to deny a petition under Subsection~~
825 ~~(8)(c)(i)(A) or (8)(c)(ii)(B) shall deny the petition within 20 days after the feasibility consultant~~
826 ~~submits the written results of the financial feasibility study.]]~~

827 ~~[(d) Each town that incorporates pursuant to a petition approved after the county~~
828 ~~legislative body imposes conditions under Subsection (8)(c)(i)(B)(I)(Aa) or (8)(c)(ii)(C)(I)(Aa)~~
829 ~~shall comply with those conditions.]]~~

830 ~~[(9) (a) The legislative body of the county in which the proposed new town is located~~
831 ~~shall hold the election for town officers provided for in Subsection (8) within:]~~

832 ~~[(i) 45 days after the day on which the feasibility consultant submits the written results~~
833 ~~of the financial feasibility study, for an election under Subsection (8)(b); or]~~

834 ~~[(ii) 60 days after the day on which the feasibility consultant submits the written results~~
835 ~~of the financial feasibility study, for an election under Subsection (8)(c)(i)(B)(H) or~~
836 ~~(8)(c)(ii)(B)(H).]~~

837 ~~[(b) The officers elected at an election under Subsection (9)(a) shall take office:]~~

838 ~~[(i) at noon on the first Monday in January next following the election, if the election is~~
839 ~~held on a regular general or municipal general election date; or]~~

840 ~~[(ii) at noon on the first day of the month next following the effective date of the~~
841 ~~incorporation under Subsection (12), if the election of officers is held on any other date.]~~

842 ~~[(10) Each newly incorporated town shall operate under the five-member council form~~
843 ~~of government as defined in Section 10-3b-102.]~~

844 ~~[(11) The mayor-elect of the future town shall:]~~

845 ~~[(a) within 30 days after the canvass of the election of town officers under Subsection~~
846 ~~(9), file with the lieutenant governor:]~~

847 ~~[(i) a copy of a notice of an impending boundary action, as defined in Section~~
848 ~~67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and]~~

849 ~~[(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and]~~

850 ~~[(b) upon the lieutenant governor's issuance of a certificate of incorporation under~~
851 ~~Section 67-1a-6.5:]~~

852 ~~[(i) if the town is located within the boundary of a single county, submit to the recorder~~
853 ~~of that county the original:]~~

854 ~~[(A) notice of an impending boundary action;]~~

855 ~~[(B) certificate of incorporation; and]~~

856 ~~[(C) approved final local entity plat; or]~~

857 ~~[(ii) if the town is located within the boundaries of more than a single county, submit~~
858 ~~the original of the documents listed in Subsections (11)(b)(i)(A), (B), and (C) to one of those~~
859 ~~counties and a certified copy of those documents to each other county.]~~

860 ~~[(12) (a) A new town is incorporated:]~~

861 ~~[(i) on December 31 of the year in which the lieutenant governor issues a certificate of~~
862 ~~incorporation under Section 67-1a-6.5, if the election of town officers under Subsection (9) is~~

863 held on a regular general or municipal general election date; or]

864 [(ii) on the last day of the month during which the lieutenant governor issues a
865 certificate of incorporation under Section 67-1a-6.5, if the election of town officers under
866 Subsection (9) is held on any other date:]

867 [(b) (i) The effective date of an incorporation for purposes of assessing property within
868 the new town is governed by Section 59-2-305.5:]

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

871 [(A) levy or collect a property tax on property within the town;]

872 [(B) levy or collect an assessment on property within the town; or]

873 [(C) charge or collect a fee for service provided to property within the town.]

874 [(13) For each petition filed before March 5, 2008:]

875 [(a) the petition is subject to and governed by the law in effect at the time the petition
876 was filed; and]

877 [(b) the law in effect at the time the petition was filed governs in all administrative and
878 judicial proceedings relating to the petition:]

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

880 **10-2-126. Incorporation of town -- Public hearing on feasibility.**

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

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

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

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

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

892 (b) (i) publishing notice of the public hearing at least once a week for two consecutive
893 weeks in a newspaper of general circulation within the proposed town; or

894 (ii) if there is no newspaper of general circulation within the proposed town, posting
895 notice of the public hearing in at least five conspicuous public places within the proposed
896 town; and

897 (c) publishing notice of the public hearing on the Utah Public Notice Website created
898 in Section 63F-1-701.

899 (3) At the public hearing scheduled in accordance with Subsection (1), the county
900 legislative body shall:

901 (a) (i) provide a copy of the feasibility study; and

902 (ii) present the results of the feasibility study to the public; and

903 (b) allow the public to:

904 (i) review the map or plat of the boundary of the proposed town;

905 (ii) ask questions and become informed about the proposed incorporation; and

906 (iii) express its views about the proposed incorporation, including their views about the
907 boundary of the area proposed to be incorporated.

908 (4) A county may not hold an election on the incorporation of a town in accordance
909 with Section 10-2-127 if the results of the feasibility study show that the five year projected
910 revenues under Subsection 10-2-125(8)(b)(v) exceed the five year projected costs under
911 Subsection (8)(b)(iv) by more than 10%.

912 Section 13. Section **10-2-127** is enacted to read:

913 **10-2-127. Incorporation of town -- Election to incorporate -- Ballot form.**

914 (1) (a) At the next regular general election, as defined in Section 20A-1-102, more than
915 60 days after the public hearing described in Section 10-2-126, the county legislative body shall
916 hold an election on the proposed incorporation unless prohibited under the provisions of
917 Section 10-2-126.

918 (b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102,
919 within the boundaries of the proposed town, the person may not vote on the proposed
920 incorporation.

921 (2) (a) The county clerk shall publish notice of the election:

922 (i) in a newspaper of general circulation, within the area proposed to be incorporated,
923 at least once a week for three successive weeks; and

924 (ii) in accordance with Section 45-1-101 for three weeks.

925 (b) The notice required by Subsection (2)(a) shall contain:
926 (i) a statement of the contents of the petition;
927 (ii) a description of the area proposed to be incorporated as a town;
928 (iii) a statement of the date and time of the election and the location of polling places;

929 and

930 (iv) the county Internet website address, if applicable, and the address of the county
931 office where the feasibility study is available for review.

932 (c) The last publication of notice required under Subsection (2)(a) shall occur at least
933 one day but no more than seven days before the election.

934 (d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general
935 circulation within the proposed town, the county clerk shall post at least one notice of the
936 election per 100 population in conspicuous places within the proposed town that are most
937 likely to give notice of the election to the voters of the proposed town.

938 (ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before
939 the election under Subsection (1)(a).

940 (3) The ballot at the incorporation election shall pose the incorporation question
941 substantially as follows:

942 Shall the area described as (insert a description of the proposed town) be incorporated
943 as the town of (insert the proposed name of the proposed town)?

944 (4) The ballot shall provide a space for the voter to answer yes or no to the question in
945 Subsection (3).

946 (5) If a majority of those casting votes within the area boundaries of the proposed town
947 vote to incorporate as a town, the area shall incorporate.

948 Section 14. Section **10-2-128** is enacted to read:

949 **10-2-128. Form of government -- Election of officers of new town.**

950 (1) A newly incorporated town shall operate under the five-member council form of
951 government as defined in Section 10-3b-102.

952 (2) (a) The county legislative body of the county in which a newly incorporated town is
953 located shall hold an election for town officers at the next special election after the regular
954 general election in which the town incorporation is approved.

955 (b) The officers elected at an election described in Subsection (2)(a) shall take office at

956 noon on the first Monday in January next following the special election described in
957 Subsection (2)(a).

958 Section 15. Section **10-2-129** is enacted to read:

959 **10-2-129. Notice to lieutenant governor -- Effective date of incorporation -- Effect**
960 **of recording documents.**

961 (1) The mayor-elect of the future town shall:

962 (a) within 30 days after the canvass of the election of town officers under Section
963 10-2-128, file with the lieutenant governor:

964 (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5,
965 that meets the requirements of Subsection 67-1a-6.5(3); and

966 (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

967 (b) upon the lieutenant governor's issuance of a certificate of incorporation under
968 Section 67-1a-6.5:

969 (i) if the town is located within the boundary of a single county, submit to the recorder
970 of that county the original:

971 (A) notice of an impending boundary action;

972 (B) certificate of incorporation; and

973 (C) approved final local entity plat; or

974 (ii) if the town is located within the boundaries of more than a single county, submit
975 the original of the documents listed in Subsections (1)(b)(i)(A), (B), and (C) to one of those
976 counties and a certified copy of those documents to each other county.

977 (2) (a) A new town is incorporated:

978 (i) on December 31 of the year in which the lieutenant governor issues a certificate of
979 incorporation under Section 67-1a-6.5, if the election of town officers under Section 10-2-128
980 is held on a regular general or municipal general election date; or

981 (ii) on the last day of the month during which the lieutenant governor issues a
982 certificate of incorporation under Section 67-1a-6.5, if the election of town officers under
983 Section 10-2-128 is held on any other date.

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

986 (ii) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the

987 recorder of each county in which the property is located, a newly incorporated town may not:

988 (A) levy or collect a property tax on property within the town;

989 (B) levy or collect an assessment on property within the town; or

990 (C) charge or collect a fee for service provided to property within the town.

991 Section 16. Section **17-27a-302** is amended to read:

992 **17-27a-302. Planning commission powers and duties.**

993 (1) Each countywide or township planning commission shall, with respect to the

994 unincorporated area of the county, or the township, make a recommendation to the county

995 legislative body for:

996 (a) a general plan and amendments to the general plan;

997 (b) land use ordinances, zoning maps, official maps, and amendments;

998 (c) an appropriate delegation of power to at least one designated land use authority to

999 hear and act on a land use application;

1000 (d) an appropriate delegation of power to at least one appeal authority to hear and act

1001 on an appeal from a decision of the land use authority; and

1002 (e) application processes that:

1003 (i) may include a designation of routine land use matters that, upon application and

1004 proper notice, will receive informal streamlined review and action if the application is

1005 uncontested; and

1006 (ii) shall protect the right of each:

1007 (A) applicant and third party to require formal consideration of any application by a

1008 land use authority;

1009 (B) applicant, adversely affected party, or county officer or employee to appeal a land

1010 use authority's decision to a separate appeal authority; and

1011 (C) participant to be heard in each public hearing on a contested application.

1012 (2) The planning commission of a township under this part may recommend to the

1013 legislative body of the county in which the township is located~~[-(a) that the legislative body~~

1014 ~~support or oppose a proposed incorporation of an area located within the township, as provided~~

1015 ~~in Subsection 10-2-105(4); or (b)] that the legislative body file a protest to a proposed~~

1016 annexation of an area located within the township, as provided in Subsection 10-2-407(1)(b).

1017 Section 17. Section **20A-1-102** is amended to read:

1018 **20A-1-102. Definitions.**

1019 As used in this title:

1020 (1) "Active voter" means a registered voter who has not been classified as an inactive
1021 voter by the county clerk.

1022 (2) "Automatic tabulating equipment" means apparatus that automatically examines
1023 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

1024 (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic,
1025 upon which a voter records the voter's votes.

1026 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy
1027 envelopes.

1028 (4) "Ballot sheet":

1029 (a) means a ballot that:

1030 (i) consists of paper or a card where the voter's votes are marked or recorded; and

1031 (ii) can be counted using automatic tabulating equipment; and

1032 (b) includes punch card ballots and other ballots that are machine-countable.

1033 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

1034 (a) contain the names of offices and candidates and statements of ballot propositions to
1035 be voted on; and

1036 (b) are used in conjunction with ballot sheets that do not display that information.

1037 (6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
1038 on the ballot for their approval or rejection including:

1039 (a) an opinion question specifically authorized by the Legislature;

1040 (b) a constitutional amendment;

1041 (c) an initiative;

1042 (d) a referendum;

1043 (e) a bond proposition;

1044 (f) a judicial retention question; ~~[or]~~

1045 (g) an incorporation of a city or town; or

1046 ~~[(g)]~~ (h) any other ballot question specifically authorized by the Legislature.

1047 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
1048 20A-4-306 to canvass election returns.

1049 (8) "Bond election" means an election held for the purpose of approving or rejecting
1050 the proposed issuance of bonds by a government entity.

1051 (9) "Book voter registration form" means voter registration forms contained in a bound
1052 book that are used by election officers and registration agents to register persons to vote.

1053 (10) "By-mail voter registration form" means a voter registration form designed to be
1054 completed by the voter and mailed to the election officer.

1055 (11) "Canvass" means the review of election returns and the official declaration of
1056 election results by the board of canvassers.

1057 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
1058 the canvass.

1059 (13) "Contracting election officer" means an election officer who enters into a contract
1060 or interlocal agreement with a provider election officer.

1061 (14) "Convention" means the political party convention at which party officers and
1062 delegates are selected.

1063 (15) "Counting center" means one or more locations selected by the election officer in
1064 charge of the election for the automatic counting of ballots.

1065 (16) "Counting judge" means a poll worker designated to count the ballots during
1066 election day.

1067 (17) "Counting poll watcher" means a person selected as provided in Section
1068 20A-3-201 to witness the counting of ballots.

1069 (18) "Counting room" means a suitable and convenient private place or room,
1070 immediately adjoining the place where the election is being held, for use by the poll workers
1071 and counting judges to count ballots during election day.

1072 (19) "County officers" means those county officers that are required by law to be
1073 elected.

1074 (20) "Date of the election" or "election day" or "day of the election":

1075 (a) means the day that is specified in the calendar year as the day that the election
1076 occurs; and

1077 (b) does not include:

1078 (i) deadlines established for absentee voting; or

1079 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early

1080 Voting.

1081 (21) "Elected official" means:

1082 (a) a person elected to an office under Section 20A-1-303;

1083 (b) a person who is considered to be elected to a municipal office in accordance with

1084 Subsection 20A-1-206(1)(c)(ii); or

1085 (c) a person who is considered to be elected to a local district office in accordance with

1086 Subsection 20A-1-206(3)(c)(ii).

1087 (22) "Election" means a regular general election, a municipal general election, a

1088 statewide special election, a local special election, a regular primary election, a municipal

1089 primary election, and a local district election.

1090 (23) "Election Assistance Commission" means the commission established by Public

1091 Law 107-252, the Help America Vote Act of 2002.

1092 (24) "Election cycle" means the period beginning on the first day persons are eligible to
1093 file declarations of candidacy and ending when the canvass is completed.

1094 (25) "Election judge" means a poll worker that is assigned to:

1095 (a) preside over other poll workers at a polling place;

1096 (b) act as the presiding election judge; or

1097 (c) serve as a canvassing judge, counting judge, or receiving judge.

1098 (26) "Election officer" means:

1099 (a) the lieutenant governor, for all statewide ballots and elections;

1100 (b) the county clerk for:

1101 (i) a county ballot and election; and

1102 (ii) a ballot and election as a provider election officer as provided in Section

1103 20A-5-400.1 or 20A-5-400.5;

1104 (c) the municipal clerk for:

1105 (i) a municipal ballot and election; and

1106 (ii) a ballot and election as a provider election officer as provided in Section

1107 20A-5-400.1 or 20A-5-400.5;

1108 (d) the local district clerk or chief executive officer for:

1109 (i) a local district ballot and election; and

1110 (ii) a ballot and election as a provider election officer as provided in Section

1111 20A-5-400.1 or 20A-5-400.5; or

1112 (e) the business administrator or superintendent of a school district for:

1113 (i) a school district ballot and election; and

1114 (ii) a ballot and election as a provider election officer as provided in Section

1115 20A-5-400.1 or 20A-5-400.5.

1116 (27) "Election official" means:

1117 (a) for an election other than a bond election, the count of votes cast in the election and
1118 the election returns requested by the board of canvassers; or

1119 (b) any election officer, election judge, or poll worker.

1120 (28) "Election results" means:

1121 (a) for an election other than a bond election, the count of votes cast in the election and
1122 the election returns requested by the board of canvassers; or

1123 (b) for bond elections, the count of those votes cast for and against the bond
1124 proposition plus any or all of the election returns that the board of canvassers may request.

1125 (29) "Election returns" includes the pollbook, all affidavits of registration, the military
1126 and overseas absentee voter registration and voting certificates, one of the tally sheets, any
1127 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
1128 spoiled ballots, the ballot disposition form, and the total votes cast form.

1129 (30) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
1130 device or other voting device that records and stores ballot information by electronic means.

1131 (31) "Electronic signature" means an electronic sound, symbol, or process attached to
1132 or logically associated with a record and executed or adopted by a person with the intent to sign
1133 the record.

1134 (32) (a) "Electronic voting device" means a voting device that uses electronic ballots.

1135 (b) "Electronic voting device" includes a direct recording electronic voting device.

1136 (33) "Inactive voter" means a registered voter who has:

1137 (a) been sent the notice required by Section 20A-2-306; and

1138 (b) failed to respond to that notice.

1139 (34) "Inspecting poll watcher" means a person selected as provided in this title to
1140 witness the receipt and safe deposit of voted and counted ballots.

1141 (35) "Judicial office" means the office filled by any judicial officer.

1142 (36) "Judicial officer" means any justice or judge of a court of record or any county
1143 court judge.

1144 (37) "Local district" means a local government entity under Title 17B, Limited Purpose
1145 Local Government Entities - Local Districts, and includes a special service district under Title
1146 17D, Chapter 1, Special Service District Act.

1147 (38) "Local district officers" means those local district officers that are required by law
1148 to be elected.

1149 (39) "Local election" means a regular municipal election, a local special election, a
1150 local district election, and a bond election.

1151 (40) "Local political subdivision" means a county, a municipality, a local district, or a
1152 local school district.

1153 (41) "Local special election" means a special election called by the governing body of a
1154 local political subdivision in which all registered voters of the local political subdivision may
1155 vote.

1156 (42) "Municipal executive" means:

1157 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;
1158 or

1159 (b) the mayor in the council-manager form of government defined in Subsection
1160 10-3b-103(6).

1161 (43) "Municipal general election" means the election held in municipalities and local
1162 districts on the first Tuesday after the first Monday in November of each odd-numbered year
1163 for the purposes established in Section 20A-1-202.

1164 (44) "Municipal legislative body" means the council of the city or town in any form of
1165 municipal government.

1166 (45) "Municipal office" means an elective office in a municipality.

1167 (46) "Municipal officers" means those municipal officers that are required by law to be
1168 elected.

1169 (47) "Municipal primary election" means an election held to nominate candidates for
1170 municipal office.

1171 (48) "Official ballot" means the ballots distributed by the election officer to the poll
1172 workers to be given to voters to record their votes.

- 1173 (49) "Official endorsement" means:
- 1174 (a) the information on the ballot that identifies:
- 1175 (i) the ballot as an official ballot;
- 1176 (ii) the date of the election; and
- 1177 (iii) the facsimile signature of the election officer; and
- 1178 (b) the information on the ballot stub that identifies:
- 1179 (i) the poll worker's initials; and
- 1180 (ii) the ballot number.
- 1181 (50) "Official register" means the official record furnished to election officials by the
- 1182 election officer that contains the information required by Section 20A-5-401.
- 1183 (51) "Paper ballot" means a paper that contains:
- 1184 (a) the names of offices and candidates and statements of ballot propositions to be
- 1185 voted on; and
- 1186 (b) spaces for the voter to record the voter's vote for each office and for or against each
- 1187 ballot proposition.
- 1188 (52) "Political party" means an organization of registered voters that has qualified to
- 1189 participate in an election by meeting the requirements of Chapter 8, Political Party Formation
- 1190 and Procedures.
- 1191 (53) (a) "Poll worker" means a person assigned by an election official to assist with an
- 1192 election, voting, or counting votes.
- 1193 (b) "Poll worker" includes election judges.
- 1194 (c) "Poll worker" does not include a watcher.
- 1195 (54) "Pollbook" means a record of the names of voters in the order that they appear to
- 1196 cast votes.
- 1197 (55) "Polling place" means the building where voting is conducted.
- 1198 (56) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
- 1199 in which the voter marks the voter's choice.
- 1200 (57) "Provider election officer" means an election officer who enters into a contract or
- 1201 interlocal agreement with a contracting election officer to conduct an election for the
- 1202 contracting election officer's local political subdivision in accordance with Section
- 1203 20A-5-400.1.

- 1204 (58) "Provisional ballot" means a ballot voted provisionally by a person:
- 1205 (a) whose name is not listed on the official register at the polling place;
- 1206 (b) whose legal right to vote is challenged as provided in this title; or
- 1207 (c) whose identity was not sufficiently established by a poll worker.
- 1208 (59) "Provisional ballot envelope" means an envelope printed in the form required by
- 1209 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
- 1210 verify a person's legal right to vote.
- 1211 (60) "Primary convention" means the political party conventions at which nominees for
- 1212 the regular primary election are selected.
- 1213 (61) "Protective counter" means a separate counter, which cannot be reset, that:
- 1214 (a) is built into a voting machine; and
- 1215 (b) records the total number of movements of the operating lever.
- 1216 (62) "Qualify" or "qualified" means to take the oath of office and begin performing the
- 1217 duties of the position for which the person was elected.
- 1218 (63) "Receiving judge" means the poll worker that checks the voter's name in the
- 1219 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
- 1220 after the voter has voted.
- 1221 (64) "Registration form" means a book voter registration form and a by-mail voter
- 1222 registration form.
- 1223 (65) "Regular ballot" means a ballot that is not a provisional ballot.
- 1224 (66) "Regular general election" means the election held throughout the state on the first
- 1225 Tuesday after the first Monday in November of each even-numbered year for the purposes
- 1226 established in Section 20A-1-201.
- 1227 (67) "Regular primary election" means the election on the fourth Tuesday of June of
- 1228 each even-numbered year, to nominate candidates of political parties and nonpolitical groups to
- 1229 advance to the regular general election.
- 1230 (68) "Resident" means a person who resides within a specific voting precinct in Utah.
- 1231 (69) "Sample ballot" means a mock ballot similar in form to the official ballot printed
- 1232 and distributed as provided in Section 20A-5-405.
- 1233 (70) "Scratch vote" means to mark or punch the straight party ticket and then mark or
- 1234 punch the ballot for one or more candidates who are members of different political parties.

1235 (71) "Secrecy envelope" means the envelope given to a voter along with the ballot into
1236 which the voter places the ballot after the voter has voted it in order to preserve the secrecy of
1237 the voter's vote.

1238 (72) "Special election" means an election held as authorized by Section 20A-1-204.

1239 (73) "Spoiled ballot" means each ballot that:

1240 (a) is spoiled by the voter;

1241 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

1242 (c) lacks the official endorsement.

1243 (74) "Statewide special election" means a special election called by the governor or the
1244 Legislature in which all registered voters in Utah may vote.

1245 (75) "Stub" means the detachable part of each ballot.

1246 (76) "Substitute ballots" means replacement ballots provided by an election officer to
1247 the poll workers when the official ballots are lost or stolen.

1248 (77) "Ticket" means each list of candidates for each political party or for each group of
1249 petitioners.

1250 (78) "Transfer case" means the sealed box used to transport voted ballots to the
1251 counting center.

1252 (79) "Vacancy" means the absence of a person to serve in any position created by
1253 statute, whether that absence occurs because of death, disability, disqualification, resignation,
1254 or other cause.

1255 (80) "Valid voter identification" means:

1256 (a) a form of identification that bears the name and photograph of the voter which may
1257 include:

1258 (i) a currently valid Utah driver license;

1259 (ii) a currently valid identification card that is issued by:

1260 (A) the state; or

1261 (B) a branch, department, or agency of the United States;

1262 (iii) a currently valid Utah permit to carry a concealed weapon;

1263 (iv) a currently valid United States passport; or

1264 (v) a currently valid United States military identification card;

1265 (b) one of the following identification cards, whether or not the card includes a

- 1266 photograph of the voter:
- 1267 (i) a valid tribal identification card;
 - 1268 (ii) a Bureau of Indian Affairs card; or
 - 1269 (iii) a tribal treaty card; or
 - 1270 (c) two forms of identification not listed under Subsection (80)(a) or (b) but that bear
 - 1271 the name of the voter and provide evidence that the voter resides in the voting precinct, which
 - 1272 may include:
 - 1273 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
 - 1274 election;
 - 1275 (ii) a bank or other financial account statement, or a legible copy thereof;
 - 1276 (iii) a certified birth certificate;
 - 1277 (iv) a valid Social Security card;
 - 1278 (v) a check issued by the state or the federal government or a legible copy thereof;
 - 1279 (vi) a paycheck from the voter's employer, or a legible copy thereof;
 - 1280 (vii) a currently valid Utah hunting or fishing license;
 - 1281 (viii) certified naturalization documentation;
 - 1282 (ix) a currently valid license issued by an authorized agency of the United States;
 - 1283 (x) a certified copy of court records showing the voter's adoption or name change;
 - 1284 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
 - 1285 (xii) a currently valid identification card issued by:
 - 1286 (A) a local government within the state;
 - 1287 (B) an employer for an employee; or
 - 1288 (C) a college, university, technical school, or professional school located within the
 - 1289 state; or
 - 1290 (xiii) a current Utah vehicle registration.
 - 1291 (81) "Valid write-in candidate" means a candidate who has qualified as a write-in
 - 1292 candidate by following the procedures and requirements of this title.
 - 1293 (82) "Voter" means a person who:
 - 1294 (a) meets the requirements for voting in an election;
 - 1295 (b) meets the requirements of election registration;
 - 1296 (c) is registered to vote; and

- 1297 (d) is listed in the official register book.
- 1298 (83) "Voter registration deadline" means the registration deadline provided in Section
1299 20A-2-102.5.
- 1300 (84) "Voting area" means the area within six feet of the voting booths, voting
1301 machines, and ballot box.
- 1302 (85) "Voting booth" means:
- 1303 (a) the space or compartment within a polling place that is provided for the preparation
1304 of ballots, including the voting machine enclosure or curtain; or
- 1305 (b) a voting device that is free standing.
- 1306 (86) "Voting device" means:
- 1307 (a) an apparatus in which ballot sheets are used in connection with a punch device for
1308 piercing the ballots by the voter;
- 1309 (b) a device for marking the ballots with ink or another substance;
- 1310 (c) an electronic voting device or other device used to make selections and cast a ballot
1311 electronically, or any component thereof;
- 1312 (d) an automated voting system under Section 20A-5-302; or
- 1313 (e) any other method for recording votes on ballots so that the ballot may be tabulated
1314 by means of automatic tabulating equipment.
- 1315 (87) "Voting machine" means a machine designed for the sole purpose of recording
1316 and tabulating votes cast by voters at an election.
- 1317 (88) "Voting poll watcher" means a person appointed as provided in this title to
1318 witness the distribution of ballots and the voting process.
- 1319 (89) "Voting precinct" means the smallest voting unit established as provided by law
1320 within which qualified voters vote at one polling place.
- 1321 (90) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting
1322 poll watcher, and a testing watcher.
- 1323 (91) "Western States Presidential Primary" means the election established in Chapter 9,
1324 Part 8, Western States Presidential Primary.
- 1325 (92) "Write-in ballot" means a ballot containing any write-in votes.
- 1326 (93) "Write-in vote" means a vote cast for a person whose name is not printed on the
1327 ballot according to the procedures established in this title.

1328 Section 18. Section **20A-1-203** is amended to read:

1329 **20A-1-203. Calling and purpose of special elections -- Two-thirds vote**

1330 **limitations.**

1331 (1) Statewide and local special elections may be held for any purpose authorized by
1332 law.

1333 (2) (a) Statewide special elections shall be conducted using the procedure for regular
1334 general elections.

1335 (b) Except as otherwise provided in this title, local special elections shall be conducted
1336 using the procedures for regular municipal elections.

1337 (3) The governor may call a statewide special election by issuing an executive order
1338 that designates:

1339 (a) the date for the statewide special election; and

1340 (b) the purpose for the statewide special election.

1341 (4) The Legislature may call a statewide special election by passing a joint or
1342 concurrent resolution that designates:

1343 (a) the date for the statewide special election; and

1344 (b) the purpose for the statewide special election.

1345 (5) (a) The legislative body of a local political subdivision may call a local special
1346 election only for:

1347 (i) a vote on a bond or debt issue;

1348 (ii) a vote on a voted local levy authorized by Section 53A-17a-133;

1349 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

1350 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

1351 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
1352 legal boundaries should be changed;

1353 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

1354 (vii) a vote to elect members to school district boards for a new school district and a
1355 remaining school district, as defined in Section 53A-2-117, following the creation of a new
1356 school district under Section 53A-2-118.1; or

1357 (viii) an election of town officers of a newly incorporated town under [~~Subsection~~
1358 ~~10-2-125(9)~~] Section 10-2-128.

1359 (b) The legislative body of a local political subdivision may call a local special election
1360 by adopting an ordinance or resolution that designates:

- 1361 (i) the date for the local special election; and
- 1362 (ii) the purpose for the local special election.

1363 (c) A local political subdivision may not call a local special election unless the
1364 ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a
1365 two-thirds majority of all members of the legislative body, if the local special election is for:

- 1366 (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);
- 1367 (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or
- 1368 (iii) a vote authorized or required for a sales tax issue as described in Subsection
1369 (5)(a)(vi).

1370 Section 19. Section **20A-1-204** is amended to read:

1371 **20A-1-204. Date of special election -- Legal effect.**

1372 (1) (a) The governor, Legislature, or the legislative body of a local political subdivision
1373 calling a statewide special election or local special election under Section 20A-1-203 shall
1374 schedule the special election to be held on:

- 1375 (i) the fourth Tuesday in June;
- 1376 (ii) the first Tuesday after the first Monday in November; or
- 1377 (iii) for an election of town officers of a newly incorporated town under [~~Subsection~~
1378 ~~10-2-125(9)~~ Section 10-2-128, on any date that complies with the requirements of that
1379 subsection.

1380 (b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative
1381 body of a local political subdivision calling a statewide special election or local special election
1382 under Section 20A-1-203 may not schedule a special election to be held on any other date.

1383 (c) (i) Notwithstanding the requirements of Subsection (1)(b), the legislative body of a
1384 local political subdivision may call a local special election on a date other than those specified
1385 in this section if the legislative body:

1386 (A) determines and declares that there is a disaster, as defined in Section 63K-3-102,
1387 requiring that a special election be held on a date other than the ones authorized in statute;

1388 (B) identifies specifically the nature of the disaster, as defined in Section 63K-3-102,
1389 and the reasons for holding the special election on that other date; and

- 1390 (C) votes unanimously to hold the special election on that other date.
- 1391 (ii) The legislative body of a local political subdivision may not call a local special
1392 election for the date established in [~~Title 20A,~~] Chapter 9, Part 8, Western States Presidential
1393 Primary, for Utah's Western States Presidential Primary.
- 1394 (d) Nothing in this section prohibits:
- 1395 (i) the governor or Legislature from submitting a matter to the voters at the regular
1396 general election if authorized by law; or
- 1397 (ii) a local government from submitting a matter to the voters at the regular municipal
1398 election if authorized by law.
- 1399 (2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a
1400 special election within a county on the same day as:
- 1401 (i) another special election;
- 1402 (ii) a regular general election; or
- 1403 (iii) a municipal general election.
- 1404 (b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:
- 1405 (i) polling places;
- 1406 (ii) ballots;
- 1407 (iii) election officials; and
- 1408 (iv) other administrative and procedural matters connected with the election.