

Representative Melvin R. Brown proposes the following substitute bill:

INCORPORATION AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends language related to a request for a feasibility study;
- ▶ amends language related to the certification of a request for a feasibility study;
- ▶ amends provisions that require a city incorporation feasibility study;
- ▶ amends language related to a city incorporation petition;
- ▶ amends language related to an incorporation of a city election;
- ▶ amends provisions related to a town incorporation feasibility study;
- ▶ amends language related to a town incorporation petition;
- ▶ requires a county legislative body to hold a public hearing on a feasibility study;
- ▶ enacts provisions related to an incorporation of a town election;
- ▶ enacts provisions related to a town form of government and election of town officers;
- ▶ enacts provisions requiring notice of a town incorporation to the lieutenant

governor;



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

30 Money Appropriated in this Bill:

31 None

32 Other Special Clauses:

33 None

34 Utah Code Sections Affected:

35 AMENDS:

- 36 **10-2-101**, as last amended by Laws of Utah 2008, Chapter 360
- 37 **10-2-102**, as repealed and reenacted by Laws of Utah 1997, Chapter 389
- 38 **10-2-103**, as last amended by Laws of Utah 2000, Chapter 184
- 39 **10-2-105**, as last amended by Laws of Utah 1998, Chapter 13
- 40 **10-2-106**, as last amended by Laws of Utah 2007, Chapter 329
- 41 **10-2-107**, as last amended by Laws of Utah 2000, Chapter 184
- 42 **10-2-108**, as last amended by Laws of Utah 2010, Chapter 90
- 43 **10-2-109**, as last amended by Laws of Utah 2010, Chapter 378
- 44 **10-2-111**, as last amended by Laws of Utah 2009, Chapter 388
- 45 **10-2-116**, as last amended by Laws of Utah 2009, Chapter 388
- 46 **10-2-125**, as last amended by Laws of Utah 2010, Chapters 90, 122 and last amended
- 47 by Coordination Clause, Laws of Utah 2010, Chapter 90
- 48 **17-27a-302**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 49 **20A-1-102**, as last amended by Laws of Utah 2011, Chapters 17, 40, 310, and 335
- 50 **20A-1-203**, as last amended by Laws of Utah 2011, Chapter 371
- 51 **20A-1-204**, as last amended by Laws of Utah 2008, Chapters 16 and 382

52 ENACTS:

- 53 **10-2-126**, Utah Code Annotated 1953
- 54 **10-2-127**, Utah Code Annotated 1953
- 55 **10-2-128**, Utah Code Annotated 1953
- 56 **10-2-129**, Utah Code Annotated 1953

57 REPEALS AND REENACTS:

58 **10-2-124**, as enacted by Laws of Utah 1997, Chapter 389

59

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

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

62 **10-2-101. Definitions.**

63 (1) As used in this part:

64 ~~[(a) "Commission" means a boundary commission established under Section 10-2-409~~

65 ~~for the county in which the property that is proposed to be incorporated is located.]~~

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

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

68 ~~(ii) who is independent of and not affiliated with a county or sponsor of a petition to~~

69 ~~incorporate.~~

70 ~~[(c)] (b) "Private," with respect to real property, means [not owned by the United States~~

71 ~~or any agency of the federal government, the state, a county, a municipality, a school district, a~~

72 ~~local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a~~

73 ~~special service district under Title 17D, Chapter 1, Special Service District Act, or any other~~

74 ~~political subdivision or governmental entity of the state] taxable property.~~

75 (2) For purposes of this part:

76 (a) the owner of real property shall be the record title owner according to the records of

77 the county recorder on the date of the filing of the request or petition; and

78 (b) the value of private real property shall be determined according to the last

79 assessment roll for county taxes before the filing of the request or petition.

80 (3) For purposes of each provision of this part that requires the owners of private real

81 property covering a percentage or fraction of the total private land area within an area to sign a

82 request or petition:

83 (a) a parcel of real property may not be included in the calculation of the required

84 percentage or fraction unless the request or petition is signed by:

85 (i) except as provided in Subsection (3)(a)(ii), owners representing a majority

86 ownership interest in that parcel; or

87 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number

88 of owners of that parcel;

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

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

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

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

97 Section 2. Section **10-2-102** is amended to read:

98 **10-2-102. Incorporation of a contiguous area -- Governing provisions of city or**
99 **town incorporation.**

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

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

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

105 Section 3. Section **10-2-103** is amended to read:

106 **10-2-103. Request for incorporation -- Requirements -- Limitations.**

107 (1) The process to incorporate a contiguous area of a county as a city is initiated by a
108 request for a feasibility study filed with the clerk of the county in which the area is located.

109 (2) ~~[Each]~~ A request under Subsection (1) shall:

110 (a) be signed by the owners of private real property that~~[(i)]~~ is located within the area
111 proposed to be incorporated;

112 ~~[(ii) covers at least 10% of the total private land area within the area; and]~~

113 ~~[(iii) is equal in value to at least 7% of the value of all private real property within the~~
114 ~~area;]~~

115 (b) indicate the typed or printed name and current residence address of each owner
116 signing the request;

117 (c) describe the contiguous area proposed to be incorporated as a city;

118 (d) designate up to five signers of the request as sponsors, one of whom shall be

119 designated as the contact sponsor, with the mailing address and telephone number of each;

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

122 (f) request the county legislative body to commission a study to determine the
123 feasibility of incorporating the area as a city.

124 (3) A request for a feasibility study under this section may not propose for
125 incorporation an area that includes some or all of an area that is the subject of a completed
126 feasibility study or supplemental feasibility study [~~whose results comply with Subsection~~
127 ~~10-2-109(3)~~] unless:

128 (a) the proposed incorporation that is the subject of the completed feasibility study or
129 supplemental feasibility study has been defeated by the voters at an election under Section
130 10-2-111; or

131 (b) the time provided under Subsection 10-2-109(1) for filing an incorporation petition
132 based on the completed feasibility study or supplemental feasibility study has elapsed without
133 the filing of a petition.

134 (4) (a) Except as provided in Subsection (4)(b), a request under this section may not
135 propose for incorporation an area that includes some or all of an area proposed for annexation
136 in an annexation petition under Section 10-2-403 that:

- 137 (i) was filed before the filing of the request; and
- 138 (ii) is still pending on the date the request is filed.

139 (b) Notwithstanding Subsection (4)(a), a request may propose for incorporation an area
140 that includes some or all of an area proposed for annexation in an annexation petition described
141 in Subsection (4)(a) if:

- 142 (i) the proposed annexation area that is part of the area proposed for incorporation does
143 not exceed 20% of the area proposed for incorporation;
- 144 (ii) the request complies with Subsections (2) and (3) with respect to the area proposed
145 for incorporation excluding the proposed annexation area; and
- 146 (iii) excluding the area proposed for annexation from the area proposed for
147 incorporation would not cause the area proposed for incorporation to lose its contiguousness.

148 (c) Except as provided in Section 10-2-107, [~~each~~] a request to which Subsection (4)(b)
149 applies shall be considered as not proposing the incorporation of the area proposed for

150 annexation.

151 (5) At the time of filing the request for a feasibility study with the county clerk, the
152 sponsors of the request shall mail or deliver a copy of the request to the chair of the planning
153 commission of each township in which any part of the area proposed for incorporation is
154 located, if any.

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

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

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

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

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

164 (A) certify the request and deliver the certified request to the county legislative body;
165 and

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

167 (I) the contact sponsor; and

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

170 (ii) if the clerk determines that the request fails to comply with ~~[any of those]~~ Section
171 10-2-103 requirements, reject the request and notify the contact sponsor in writing of the
172 rejection and the reasons for the rejection.

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

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

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

181 (b) If a request is amended and refiled under Subsection (3)(a) after having been
182 rejected by the county clerk under Subsection (1)(b)(ii), it shall be considered as a newly filed
183 request, and its processing priority is determined by the date on which it is refiled.

184 ~~[(4) (a) A township planning commission may recommend to the legislative body of
185 the county in which the township is located that, for purposes of Subsection
186 10-2-106(4)(a)(xiii), the county legislative body support or oppose a proposed incorporation
187 under this part of an area located within the township.]~~

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

191 ~~[(ii) Notwithstanding Subsection (4)(b)(i), if the county clerk's certification under
192 Subsection (1)(b)(i) is before July 17, 1997, the township planning commission shall
193 communicate its recommendation under Subsection (4)(a) in writing to the county legislative
194 body within 60 days of the county clerk's certification under Subsection (1)(b)(i) or August 31,
195 1997, whichever is later, but no later than:]~~

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

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

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

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

203 **10-2-106. Feasibility study -- Feasibility study consultant.**

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

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

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

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

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

212 (2) The feasibility consultant shall be chosen:

213 (a) by the contact sponsor of the incorporation petition in consultation with the county;

214 or

215 (b) by the county if the designated sponsors state, in writing, that the contact sponsor

216 defers selection of the feasibility consultant to the county.

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

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

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

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

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

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

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

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

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

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

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

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

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

243 ~~[(ix) the present and five-year projected revenue for the proposed city;]~~
244 ~~[(x) the projected impact the incorporation will have over the following five years on~~
245 ~~the amount of taxes that property owners within the proposed city and in the remaining~~
246 ~~unincorporated county will pay;]~~
247 ~~[(xi) past expansion in terms of population and construction in the proposed city and~~
248 ~~the surrounding area;]~~
249 ~~[(xii) the extension of the boundaries of other nearby municipalities during the past 10~~
250 ~~years, the willingness of those municipalities to annex the area proposed for incorporation, and~~
251 ~~the probability that those municipalities would annex territory within the area proposed for~~
252 ~~incorporation within the next five years except for the incorporation; and]~~
253 ~~[(xiii) whether the legislative body of the county in which the area proposed to be~~
254 ~~incorporated favors the incorporation proposal.]~~
255 ~~[(b) For purposes of Subsection (4)(a)(ix), the feasibility consultant shall assume ad~~
256 ~~valorem property tax rates on residential property within the proposed city at the same level at~~
257 ~~which they would have been without the incorporation.]~~
258 ~~[(c) For purposes of Subsection (4)(a)(viii):]~~
259 ~~[(i) the feasibility consultant shall assume a level and quality of governmental services~~
260 ~~to be provided to the proposed city in the future that fairly and reasonably approximate the~~
261 ~~level and quality of governmental services being provided to the proposed city at the time of~~
262 ~~the feasibility study;]~~
263 ~~[(ii) in determining the present cost of a governmental service, the feasibility~~
264 ~~consultant shall consider:]~~
265 ~~[(A) the amount it would cost the proposed city itself to provide the service after~~
266 ~~incorporation;]~~
267 ~~[(B) if the county is currently providing the service to the proposed city, the county's~~
268 ~~cost of providing the service; and]~~
269 ~~[(C) if the county is not currently providing the service to the proposed city, the~~
270 ~~amount the proposed city can reasonably expect to pay for the service under a contract for the~~
271 ~~service; and]~~
272 ~~[(iii) the five-year projected cost of a governmental service shall be based on the~~
273 ~~amount calculated under Subsection (4)(c)(ii), taking into account inflation and anticipated~~

274 growth.]

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

280 (4) (a) The feasibility study shall consider the:

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

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

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

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

290 (A) culinary water;

291 (B) secondary water;

292 (C) sewer;

293 (D) law enforcement;

294 (E) fire protection

295 (F) roads and public works;

296 (G) garbage

297 (H) weeds; and

298 (I) government offices;

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

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

304 (b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a

305 level and quality of governmental services to be provided to the proposed city in the future that
306 fairly and reasonably approximate the level and quality of governmental services being
307 provided to the proposed city at the time of the feasibility study.

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

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

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

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

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

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

324 (b) The amendments to Subsection (4) that become effective upon the effective date of
325 this Subsection [~~(6)~~] (5):

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

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

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

336 (ii) Except as provided in Subsection (6)(c)(iii), the county legislative body shall
337 require the feasibility consultant to complete the revised feasibility study under Subsection
338 (6)(c)(i) within 20 days after being engaged to do so.

339 (iii) Notwithstanding Subsections (6)(c)(i) and (ii), a county legislative body is not
340 required to engage the feasibility consultant to revise the feasibility study if, within 15 days
341 after the effective date of this Subsection (6), the request sponsors file with the county clerk a
342 written withdrawal of the request signed by all the request sponsors.

343 (d) All provisions of this part that set forth the incorporation process following the
344 completion of a feasibility study shall apply with equal force following the completion of a
345 revised feasibility study under this Subsection (6), except that, if a petition under Section
346 10-2-109 has already been filed based on the feasibility study that is revised under this
347 Subsection (6):

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

351 (ii) a signer of the petition may withdraw the signer's signature by filing with the
352 county clerk a written withdrawal within 30 days after the final notice under Subsection
353 10-2-108(2) has been given with respect to the revised feasibility study; and

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

357 Section 6. Section **10-2-107** is amended to read:

358 **10-2-107. Modified request for feasibility study -- Supplemental feasibility study.**

359 (1) (a) (i) The sponsors of a request may modify the request to alter the boundaries of
360 the proposed city and then refile the request, as modified, with the county clerk if:

361 [~~(A)~~ the results of the feasibility study do not meet the requirements of Subsection
362 ~~10-2-109(3)~~; or]

363 [~~(B)~~ ~~(F)~~ (A) the request meets the conditions of Subsection 10-2-103(4)(b);

364 [~~(H)~~ (B) the annexation petition that proposed the annexation of an area that is part of
365 the area proposed for incorporation has been denied; and

366 [~~(H)~~ (C) an incorporation petition based on the request has not been filed.

367 ~~[(ii)(A) A modified request under Subsection (1)(a)(i)(A) may not be filed more than~~
368 ~~90 days after the feasibility consultant's submission of the results of the study.]~~

369 ~~[(B)]~~ (ii) A modified request under Subsection (1)(a)(i)~~[(B)]~~ may not be filed more
370 than 18 months after the filing of the original request under Section 10-2-103.

371 (b) (i) Subject to Subsection (1)(b)(ii), ~~[each]~~ a modified request under Subsection
372 (1)(a)(i) shall comply with the requirements of Subsections 10-2-103(2), (3), (4), and (5).

373 (ii) Notwithstanding Subsection (1)(b)(i), a signature on a request filed under Section
374 10-2-103 may be used toward fulfilling the signature requirement of Subsection
375 10-2-103(2)(a)(i) for the request as modified under Subsection (1)(a), unless the modified
376 request proposes the incorporation of an area that is more than 20% greater or smaller than the
377 area described by the original request in terms of:

378 (A) private land area; or

379 (B) value of private real property.

380 (2) Within 20 days after the county clerk's receipt of the modified request, the county
381 clerk shall follow the same procedure for the modified request as provided under Subsection
382 10-2-105(1) for an original request.

383 (3) The timely filing of a modified request under Subsection (1) gives the modified
384 request the same processing priority under Subsection 10-2-105(2) as the original request.

385 (4) Within 10 days after the county legislative body's receipt of a certified modified
386 request under Subsection (1)(a)(i)~~[(A) or a certified modified request under Subsection~~
387 ~~(1)(a)(i)(B)]~~ that was filed after the completion of a feasibility study on the original request, the
388 county legislative body shall commission the feasibility consultant who conducted the
389 feasibility study to supplement the feasibility study to take into account the information in the
390 modified request that was not included in the original request.

391 (5) The county legislative body shall require the feasibility consultant to complete the
392 supplemental feasibility study and to submit written results of the supplemental study to the
393 county legislative body and to the contact sponsor no later than 30 days after the feasibility
394 consultant is commissioned to conduct the supplemental feasibility study.

395 ~~[(6)(a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study~~
396 ~~do not meet the requirements of Subsection 10-2-109(3):]~~

397 ~~[(i) the sponsors may file a further modified request as provided in Subsection (1); and]~~

398 ~~[(ii) Subsections (2), (4), and (5) apply to a further modified request under Subsection~~
399 ~~(6)(a)(i).]~~

400 ~~[(b) A further modified request under Subsection (6)(a) shall, for purposes of its~~
401 ~~processing priority, be considered as an original request for a feasibility study under Section~~
402 ~~10-2-103.]~~

403 Section 7. Section **10-2-108** is amended to read:

404 **10-2-108. Public hearings on feasibility study results -- Notice of hearings.**

405 (1) ~~[If the results of the feasibility study or supplemental feasibility study meet the~~
406 ~~requirements of Subsection 10-2-109(3), the]~~ A county legislative body shall, at its next regular
407 meeting after receipt of the results of the feasibility study or supplemental feasibility study,
408 schedule at least two public hearings to be held:

409 (a) within the following 60 days;

410 (b) at least seven days apart;

411 (c) in geographically diverse locations within the proposed city; and

412 (d) for the purpose of allowing:

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

414 (ii) the public to become informed about the feasibility study results and to ask
415 questions about those results of the feasibility consultant.

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

417 (a) provide a map or plat of the boundary of the proposed city;

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

419 (c) allow the public to express its views about the proposed incorporation, including its
420 view about the proposed boundary.

421 ~~[(2)] (3) (a) (i)~~ The county clerk shall publish notice of the public hearings required
422 under Subsection (1):

423 (A) at least once a week for three successive weeks in a newspaper of general
424 circulation within the proposed city; and

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

426 (ii) The last publication of notice required under Subsection ~~[(2)] (3)(a)(i)(A)~~ shall be
427 at least three days before the first public hearing required under Subsection (1).

428 (b) (i) If, under Subsection ~~[(2)] (3)(a)(i)(A)~~, there is no newspaper of general

429 circulation within the proposed city, the county clerk shall post at least one notice of the
430 hearings per 1,000 population in conspicuous places within the proposed city that are most
431 likely to give notice of the hearings to the residents of the proposed city.

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

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

437 Section 8. Section **10-2-109** is amended to read:

438 **10-2-109. Incorporation petition -- Requirements and form.**

439 (1) At any time within [~~18 months~~] one year of the completion of the public hearings
440 required under Subsection 10-2-108(1), a petition for incorporation of the area proposed to be
441 incorporated as a city may be filed in the office of the clerk of the county in which the area is
442 located.

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

444 (a) be signed by:

445 (i) the owners of private real property that:

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

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

448 [~~(iii)~~] (B) is equal in value to at least [~~1/3~~] 1/8 of the value of all private real property
449 within the area; and

450 (ii) 1/8 of all registered voters within the area proposed to be incorporated as a city,
451 according to the official voter registration list maintained by the county on the date the petition
452 is filed;

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

455 (c) describe the area proposed to be incorporated as a city, as described in the
456 feasibility study request [~~or modified request that meets the requirements of Subsection (3)] for
457 incorporation;~~

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

459 (e) designate five signers of the petition as petition sponsors, one of whom shall be

460 designated as the contact sponsor, with the mailing address and telephone number of each;

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

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

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

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

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

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

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

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

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

485 [(4)] (3) A signature on a request under Section 10-2-103 or a modified request under
486 Section 10-2-107 may be used toward fulfilling the signature requirement of Subsection (2)(a):

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

490 (b) unless the signer files with the county clerk a written withdrawal of the signature

491 before the petition under this section is filed with the clerk.

492 Section 9. Section **10-2-111** is amended to read:

493 **10-2-111. Incorporation election.**

494 (1) (a) At the next [~~special election~~] regular general election date under Section
495 [~~20A-1-204~~] 20A-1-201 more than [45] 60 days after the county legislative body's receipt of
496 the certified petition or certified modified petition under Subsection 10-2-110(1)(b)(i), the
497 county legislative body shall hold an election on the proposed incorporation.

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

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

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

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

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

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

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

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

509 and

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

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

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

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

521 (3) If a majority of those casting votes within the area boundaries of the proposed city

522 vote to incorporate as a city, the area shall incorporate.

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

524 **10-2-116. Election of officers of new city.**

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

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

528 (b) hold a final election.

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

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

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

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

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

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

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

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

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

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

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

547 (a) after the primary election; or

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

550 [~~(5) Notwithstanding Subsections (3) and (4), the county legislative body may hold the~~
551 ~~primary and final elections required under Subsection (1) on the dates provided for the next~~
552 ~~municipal primary election under Section 20A-9-404 and the next municipal general election~~

553 ~~under Section 20A-1-202, respectively, after the incorporation election, if:]~~

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

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

558 ~~[(6)] (5) (a) (i) The county clerk shall publish notice of an election under this section:~~

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

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

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

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

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

570 ~~[(7)] (6) Until the city is incorporated, the county clerk is the election officer for all~~
 571 ~~purposes in an election of officers of the city approved at an incorporation election.~~

572 Section 11. Section **10-2-124** is repealed and reenacted to read:

573 **10-2-124. Incorporation petition before May 8, 2012.**

574 (1) A party with petition in process as of January 1, 2012 and not yet filed for final
 575 certification with the county clerk in accordance with Section 10-2-110 as of May 8, 2012,
 576 shall file a request for a feasibility study under Section 10-2-103 and comply with the
 577 provisions of this chapter as enacted on May 8, 2012.

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

580 Section 12. Section **10-2-125** is amended to read:

581 **10-2-125. Incorporation of a town -- Petition.**

582 (1) As used in this section:

583 (a) "Assessed value," with respect to agricultural land, means the value at which the

584 land would be assessed without regard to a valuation for agricultural use under Section
585 59-2-503.

586 (b) "Financial feasibility study" means a study [~~to determine:~~] described in Subsection
587 (8).

588 [~~(i) the projected revenues for the proposed town during the first three years after~~
589 ~~incorporation; and]~~

590 [~~(ii) the projected costs, including overhead, that the proposed town will incur in~~
591 ~~providing governmental services during the first three years after incorporation.]~~

592 (c) "Feasibility consultant" means a person or firm:

593 (i) with expertise in the processes and economics of local government; and

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

596 [~~(c)~~] (d) "Municipal service" means a publicly provided service that is not provided on
597 a countywide basis.

598 [~~(d)~~] (e) "Nonurban" means having a residential density of less than one unit per acre.

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

601 (ii) An area within a county of the first class is not contiguous for purposes of
602 Subsection (2)(a)(i) if:

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

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

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

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

608 (ii) by the Utah Population Estimates Committee within 20 days after the county clerk's
609 certification under Subsection (6) of a petition filed under Subsection (4).

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

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

614 [~~(i) be signed by the owners of at least five separate parcels of private real property,~~

615 each owned by a different owner, located within the area proposed to be incorporated; and]
616 ~~[(ii) be accompanied by an accurate map or plat depicting the boundary of the proposed~~
617 ~~town;]~~

618 ~~[(c) Within 10 days after a request for a public hearing is filed under Subsection (3)(a),~~
619 ~~the county clerk shall, with the assistance of other county officers from whom the clerk~~
620 ~~requests assistance, determine whether the petition complies with the requirements of~~
621 ~~Subsection (3)(b);]~~

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

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

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

628 ~~[(F) (Aa) at a public facility located within the boundary of the proposed town; or]~~
629 ~~[(Bb) if there is no public facility within the boundary of the proposed town, at another~~
630 ~~nearby public facility or at the county seat; and]~~

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

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

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

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

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

643 ~~[(H) publishing notice of the public hearing on the Utah Public Notice Website created~~
644 ~~in Section 63F-1-701;]~~

645 ~~[(ii) Each public hearing under Subsection (3)(e)(i)(A) shall be conducted by the chair~~

646 of the county commission or council, or the chair's designee, to:]
647 [~~(A) introduce the concept of the proposed incorporation to the public;~~]
648 [~~(B) allow the public to review the map or plat of the boundary of the proposed town;~~]
649 [~~(C) allow the public to ask questions and become informed about the proposed~~
650 ~~incorporation; and]~~
651 [~~(D) allow the public to express their views about the proposed incorporation,~~
652 ~~including their views about the boundary of the area proposed to be incorporated.]~~
653 [~~(4) (a) At any time within three months after the public hearing under Subsection~~
654 ~~(3)(e), a petition to incorporate the area as a town may be filed with the clerk of the county in~~
655 ~~which the area is located.]~~
656 (b) [~~Each~~] A petition under Subsection [~~(4)~~] (3)(a) shall:
657 (i) be signed by:
658 (A) the owners of private real property that:
659 (I) is located within the area proposed to be incorporated; and
660 [~~(H) covers a majority of the total private land area within the area;~~]
661 [~~(HH)~~] (II) is equal in assessed value to more than [~~1/2~~] 1/5 of the assessed value of all
662 private real property within the area; and
663 [~~(IV) consists, in number of parcels, of at least 1/3 of the number of all parcels of~~
664 ~~private real property within the area proposed to be incorporated; and]~~
665 (B) [~~a majority~~] 1/5 of all registered voters within the area proposed to be incorporated
666 as a town, according to the official voter registration list maintained by the county on the date
667 the petition is filed;
668 (ii) designate as sponsors at least five of the property owners who have signed the
669 petition, one of whom shall be designated as the contact sponsor, with the mailing address of
670 each owner signing as a sponsor;
671 (iii) be accompanied by and circulated with an accurate map or plat, prepared by a
672 licensed surveyor, showing a legal description of the boundary of the proposed town; and
673 (iv) substantially comply with and be circulated in the following form:
674 PETITION FOR INCORPORATION OF (insert the proposed name of the proposed
675 town)
676 To the Honorable County Legislative Body of (insert the name of the county in which

677 the proposed town is located) County, Utah:

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

687 (c) A petition under this Subsection [~~(4)~~] (3) may not describe an area that includes
 688 some or all of an area proposed for annexation in an annexation petition under Section
 689 10-2-403 that:

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

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

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

- 697 (i) at any time until the county clerk certifies the petition under Subsection [~~(6)~~] (5);
- 698 and
- 699 (ii) by filing a signed, written withdrawal or reinstatement with the county clerk.

700 [~~(5)~~] (4) (a) If a petition is filed under Subsection [~~(4)~~] (3)(a) proposing to incorporate
 701 as a town an area located within a county of the first class, the county clerk shall deliver written
 702 notice of the proposed incorporation:

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

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

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

708 a notice of exclusion:

709 (i) with the county clerk; and

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

711 ~~(4)~~(a).

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

714 (i) the property:

715 (A) is nonurban; and

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

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

718 (d) If the county legislative body excludes property from the area proposed to be

719 incorporated as a town, the county legislative body shall send written notice of the exclusion to
720 the contact sponsor within five days after the exclusion.

721 [~~6~~ Within] (5) No later than 20 days after the filing of a petition under Subsection
722 [~~4~~] (3), the county clerk shall:

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

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

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

728 and

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

730 (I) the contact sponsor;

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

733 (III) the Utah Population Estimates Committee; or

734 (ii) if the clerk determines that the petition fails to comply with any of those
735 requirements, reject the petition and notify the contact sponsor in writing of the rejection and
736 the reasons for the rejection.

737 [~~7~~] (6) (a) (i) A petition that is rejected under Subsection [~~6~~] (5)(b)(ii) may be
738 amended to correct a deficiency for which it was rejected and then refiled with the county

739 clerk.

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

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

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

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

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

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

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

755 (ii) The feasibility consultant shall be chosen:

756 (A) by the contact sponsor of the incorporation petition, as described in Subsection
757 (3)(b)(ii), in consultation with the county; or

758 (B) by the county if the contact sponsor states, in writing, that the sponsor defers
759 selection of the feasibility consultant to the county.

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

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

765 (i) population and population density within the area proposed for incorporation and
766 the surrounding area;

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

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

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

774 (A) culinary water;

775 (B) secondary water;

776 (C) sewer;

777 (D) law enforcement;

778 (E) fire protection

779 (F) roads and public works;

780 (G) garbage

781 (H) weeds; and

782 (I) government offices;

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

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

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

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

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

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

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

800 (d) If the five year projected revenues under Subsection (8)(b)(v) exceed the five year

801 projected costs under Subsection (8)(b)(iv) by more than 5%, the feasibility consultant shall
802 project and report the expected annual revenue surplus to the contact sponsor and the lieutenant
803 governor.

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

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

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

810 ~~[(ii) (A) the results of the financial feasibility study described in Subsection (8)(a)(i)~~
811 ~~show that the average annual amount of revenues described in Subsection (1)(b)(i) does not~~
812 ~~exceed the average annual amount of costs described in Subsection (1)(b)(ii) by more than~~
813 ~~15%; or]~~

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

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

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

825 ~~[(B) (I) with the consent of the petition sponsors:]~~

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

829 ~~[(Bb) alter the boundaries of the area proposed to be incorporated as a town to~~
830 ~~approximate the boundaries necessary to prevent the average annual amount of revenues~~
831 ~~described in Subsection (1)(b)(i) from exceeding the average annual amount of costs described~~

832 in Subsection (1)(b)(ii) by more than 15%; and]

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

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

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

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

841 [~~(C) (I) with the consent of the petition sponsors;]~~

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

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

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

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

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

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

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

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

863 ~~(8)(c)(ii)(B)(H).]~~

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

865 ~~[(i) at noon on the first Monday in January next following the election, if the election is~~

866 ~~held on a regular general or municipal general election date; or]~~

867 ~~[(ii) at noon on the first day of the month next following the effective date of the~~

868 ~~incorporation under Subsection (12), if the election of officers is held on any other date.]~~

869 ~~[(10) Each newly incorporated town shall operate under the five-member council form~~

870 ~~of government as defined in Section 10-3b-102.]~~

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

872 ~~[(a) within 30 days after the canvass of the election of town officers under Subsection~~

873 ~~(9), file with the lieutenant governor:]~~

874 ~~[(i) a copy of a notice of an impending boundary action, as defined in Section~~

875 ~~67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and]~~

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

877 ~~[(b) upon the lieutenant governor's issuance of a certificate of incorporation under~~

878 ~~Section 67-1a-6.5:]~~

879 ~~[(i) if the town is located within the boundary of a single county, submit to the recorder~~

880 ~~of that county the original:]~~

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

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

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

884 ~~[(ii) if the town is located within the boundaries of more than a single county, submit~~

885 ~~the original of the documents listed in Subsections (11)(b)(i)(A), (B), and (C) to one of those~~

886 ~~counties and a certified copy of those documents to each other county.]~~

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

888 ~~[(i) on December 31 of the year in which the lieutenant governor issues a certificate of~~

889 ~~incorporation under Section 67-1a-6.5, if the election of town officers under Subsection (9) is~~

890 ~~held on a regular general or municipal general election date; or]~~

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

892 ~~certificate of incorporation under Section 67-1a-6.5, if the election of town officers under~~

893 ~~Subsection (9) is held on any other date.]~~

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

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

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

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

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

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

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

904 ~~[(b) the law in effect at the time the petition was filed governs in all administrative and~~
905 ~~judicial proceedings relating to the petition.]~~

906 Section 13. Section **10-2-126** is enacted to read:

907 **10-2-126. Incorporation of town -- Public hearing on feasibility.**

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

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

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

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

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

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

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

924 (c) publishing notice of the public hearing on the Utah Public Notice Website created

925 in Section 63F-1-701.

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

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

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

930 (b) allow the public to:

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

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

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

935 Section 14. Section **10-2-127** is enacted to read:

936 **10-2-127. Incorporation of town -- Election to incorporate -- Ballot form.**

937 (1) (a) At the next regular general election, as defined in Section 20A-1-102, more than
938 60 days after the public hearing described in Section 10-2-126, the county legislative body shall
939 hold an election on the proposed incorporation.

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

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

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

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

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

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

949 (ii) a description of the area proposed to be incorporated as a town;

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

951 and

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

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

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

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

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

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

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

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

970 Section 15. Section **10-2-128** is enacted to read:

971 **10-2-128. Form of government -- Election of officers of new town.**

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

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

977 (b) The officers elected at an election described in Subsection (2)(a) shall take office at
978 noon on the first Monday in January next following the special election described in
979 Subsection (2)(a).

980 Section 16. Section **10-2-129** is enacted to read:

981 **10-2-129. Notice to lieutenant governor -- Effective date of incorporation -- Effect**
982 **of recording documents.**

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

984 (a) within 30 days after the canvass of the election of town officers under Section
985 10-2-128, file with the lieutenant governor:

986 (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5,

987 that meets the requirements of Subsection 67-1a-6.5(3); and

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

989 (b) upon the lieutenant governor's issuance of a certificate of incorporation under

990 Section 67-1a-6.5:

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

993 (A) notice of an impending boundary action;

994 (B) certificate of incorporation; and

995 (C) approved final local entity plat; or

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

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

1000 (i) on December 31 of the year in which the lieutenant governor issues a certificate of
1001 incorporation under Section 67-1a-6.5, if the election of town officers under Section 10-2-128
1002 is held on a regular general or municipal general election date; or

1003 (ii) on the last day of the month during which the lieutenant governor issues a
1004 certificate of incorporation under Section 67-1a-6.5, if the election of town officers under
1005 Section 10-2-128 is held on any other date.

1006 (b) (i) The effective date of an incorporation for purposes of assessing property within
1007 the new town is governed by Section 59-2-305.5.

1008 (ii) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the
1009 recorder of each county in which the property is located, a newly incorporated town may not:

1010 (A) levy or collect a property tax on property within the town;

1011 (B) levy or collect an assessment on property within the town; or

1012 (C) charge or collect a fee for service provided to property within the town.

1013 Section 17. Section **17-27a-302** is amended to read:

1014 **17-27a-302. Planning commission powers and duties.**

1015 (1) Each countywide or township planning commission shall, with respect to the
1016 unincorporated area of the county, or the township, make a recommendation to the county
1017 legislative body for:

- 1018 (a) a general plan and amendments to the general plan;
- 1019 (b) land use ordinances, zoning maps, official maps, and amendments;
- 1020 (c) an appropriate delegation of power to at least one designated land use authority to
- 1021 hear and act on a land use application;
- 1022 (d) an appropriate delegation of power to at least one appeal authority to hear and act
- 1023 on an appeal from a decision of the land use authority; and
- 1024 (e) application processes that:
 - 1025 (i) may include a designation of routine land use matters that, upon application and
 - 1026 proper notice, will receive informal streamlined review and action if the application is
 - 1027 uncontested; and
 - 1028 (ii) shall protect the right of each:
 - 1029 (A) applicant and third party to require formal consideration of any application by a
 - 1030 land use authority;
 - 1031 (B) applicant, adversely affected party, or county officer or employee to appeal a land
 - 1032 use authority's decision to a separate appeal authority; and
 - 1033 (C) participant to be heard in each public hearing on a contested application.

1034 (2) The planning commission of a township under this part may recommend to the
1035 legislative body of the county in which the township is located[~~-(a) that the legislative body~~
1036 ~~support or oppose a proposed incorporation of an area located within the township, as provided~~
1037 ~~in Subsection 10-2-105(4); or (b)] that the legislative body file a protest to a proposed
1038 annexation of an area located within the township, as provided in Subsection 10-2-407(1)(b).~~

1039 Section 18. Section **20A-1-102** is amended to read:

1040 **20A-1-102. Definitions.**

1041 As used in this title:

- 1042 (1) "Active voter" means a registered voter who has not been classified as an inactive
- 1043 voter by the county clerk.
- 1044 (2) "Automatic tabulating equipment" means apparatus that automatically examines
- 1045 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.
- 1046 (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic,
- 1047 upon which a voter records the voter's votes.
- 1048 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy

- 1049 envelopes.
- 1050 (4) "Ballot sheet":
- 1051 (a) means a ballot that:
- 1052 (i) consists of paper or a card where the voter's votes are marked or recorded; and
- 1053 (ii) can be counted using automatic tabulating equipment; and
- 1054 (b) includes punch card ballots and other ballots that are machine-countable.
- 1055 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that:
- 1056 (a) contain the names of offices and candidates and statements of ballot propositions to
- 1057 be voted on; and
- 1058 (b) are used in conjunction with ballot sheets that do not display that information.
- 1059 (6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
- 1060 on the ballot for their approval or rejection including:
- 1061 (a) an opinion question specifically authorized by the Legislature;
- 1062 (b) a constitutional amendment;
- 1063 (c) an initiative;
- 1064 (d) a referendum;
- 1065 (e) a bond proposition;
- 1066 (f) a judicial retention question; ~~(g)~~
- 1067 (g) an incorporation of a city or town; or
- 1068 ~~(g)~~ (h) any other ballot question specifically authorized by the Legislature.
- 1069 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
- 1070 20A-4-306 to canvass election returns.
- 1071 (8) "Bond election" means an election held for the purpose of approving or rejecting
- 1072 the proposed issuance of bonds by a government entity.
- 1073 (9) "Book voter registration form" means voter registration forms contained in a bound
- 1074 book that are used by election officers and registration agents to register persons to vote.
- 1075 (10) "By-mail voter registration form" means a voter registration form designed to be
- 1076 completed by the voter and mailed to the election officer.
- 1077 (11) "Canvass" means the review of election returns and the official declaration of
- 1078 election results by the board of canvassers.
- 1079 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at

1080 the canvass.

1081 (13) "Contracting election officer" means an election officer who enters into a contract
1082 or interlocal agreement with a provider election officer.

1083 (14) "Convention" means the political party convention at which party officers and
1084 delegates are selected.

1085 (15) "Counting center" means one or more locations selected by the election officer in
1086 charge of the election for the automatic counting of ballots.

1087 (16) "Counting judge" means a poll worker designated to count the ballots during
1088 election day.

1089 (17) "Counting poll watcher" means a person selected as provided in Section
1090 20A-3-201 to witness the counting of ballots.

1091 (18) "Counting room" means a suitable and convenient private place or room,
1092 immediately adjoining the place where the election is being held, for use by the poll workers
1093 and counting judges to count ballots during election day.

1094 (19) "County officers" means those county officers that are required by law to be
1095 elected.

1096 (20) "Date of the election" or "election day" or "day of the election":

1097 (a) means the day that is specified in the calendar year as the day that the election
1098 occurs; and

1099 (b) does not include:

1100 (i) deadlines established for absentee voting; or

1101 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early
1102 Voting.

1103 (21) "Elected official" means:

1104 (a) a person elected to an office under Section 20A-1-303;

1105 (b) a person who is considered to be elected to a municipal office in accordance with
1106 Subsection 20A-1-206(1)(c)(ii); or

1107 (c) a person who is considered to be elected to a local district office in accordance with
1108 Subsection 20A-1-206(3)(c)(ii).

1109 (22) "Election" means a regular general election, a municipal general election, a
1110 statewide special election, a local special election, a regular primary election, a municipal

1111 primary election, and a local district election.

1112 (23) "Election Assistance Commission" means the commission established by Public
1113 Law 107-252, the Help America Vote Act of 2002.

1114 (24) "Election cycle" means the period beginning on the first day persons are eligible to
1115 file declarations of candidacy and ending when the canvass is completed.

1116 (25) "Election judge" means a poll worker that is assigned to:

1117 (a) preside over other poll workers at a polling place;

1118 (b) act as the presiding election judge; or

1119 (c) serve as a canvassing judge, counting judge, or receiving judge.

1120 (26) "Election officer" means:

1121 (a) the lieutenant governor, for all statewide ballots and elections;

1122 (b) the county clerk for:

1123 (i) a county ballot and election; and

1124 (ii) a ballot and election as a provider election officer as provided in Section
1125 20A-5-400.1 or 20A-5-400.5;

1126 (c) the municipal clerk for:

1127 (i) a municipal ballot and election; and

1128 (ii) a ballot and election as a provider election officer as provided in Section
1129 20A-5-400.1 or 20A-5-400.5;

1130 (d) the local district clerk or chief executive officer for:

1131 (i) a local district ballot and election; and

1132 (ii) a ballot and election as a provider election officer as provided in Section
1133 20A-5-400.1 or 20A-5-400.5; or

1134 (e) the business administrator or superintendent of a school district for:

1135 (i) a school district ballot and election; and

1136 (ii) a ballot and election as a provider election officer as provided in Section
1137 20A-5-400.1 or 20A-5-400.5.

1138 (27) "Election official" means:

1139 (a) for an election other than a bond election, the count of votes cast in the election and
1140 the election returns requested by the board of canvassers; or

1141 (b) any election officer, election judge, or poll worker.

1142 (28) "Election results" means:

1143 (a) for an election other than a bond election, the count of votes cast in the election and
1144 the election returns requested by the board of canvassers; or

1145 (b) for bond elections, the count of those votes cast for and against the bond
1146 proposition plus any or all of the election returns that the board of canvassers may request.

1147 (29) "Election returns" includes the pollbook, all affidavits of registration, the military
1148 and overseas absentee voter registration and voting certificates, one of the tally sheets, any
1149 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
1150 spoiled ballots, the ballot disposition form, and the total votes cast form.

1151 (30) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
1152 device or other voting device that records and stores ballot information by electronic means.

1153 (31) "Electronic signature" means an electronic sound, symbol, or process attached to
1154 or logically associated with a record and executed or adopted by a person with the intent to sign
1155 the record.

1156 (32) (a) "Electronic voting device" means a voting device that uses electronic ballots.

1157 (b) "Electronic voting device" includes a direct recording electronic voting device.

1158 (33) "Inactive voter" means a registered voter who has:

1159 (a) been sent the notice required by Section 20A-2-306; and

1160 (b) failed to respond to that notice.

1161 (34) "Inspecting poll watcher" means a person selected as provided in this title to
1162 witness the receipt and safe deposit of voted and counted ballots.

1163 (35) "Judicial office" means the office filled by any judicial officer.

1164 (36) "Judicial officer" means any justice or judge of a court of record or any county
1165 court judge.

1166 (37) "Local district" means a local government entity under Title 17B, Limited Purpose
1167 Local Government Entities - Local Districts, and includes a special service district under Title
1168 17D, Chapter 1, Special Service District Act.

1169 (38) "Local district officers" means those local district officers that are required by law
1170 to be elected.

1171 (39) "Local election" means a regular municipal election, a local special election, a
1172 local district election, and a bond election.

1173 (40) "Local political subdivision" means a county, a municipality, a local district, or a
1174 local school district.

1175 (41) "Local special election" means a special election called by the governing body of a
1176 local political subdivision in which all registered voters of the local political subdivision may
1177 vote.

1178 (42) "Municipal executive" means:

1179 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;
1180 or

1181 (b) the mayor in the council-manager form of government defined in Subsection
1182 10-3b-103(6).

1183 (43) "Municipal general election" means the election held in municipalities and local
1184 districts on the first Tuesday after the first Monday in November of each odd-numbered year
1185 for the purposes established in Section 20A-1-202.

1186 (44) "Municipal legislative body" means the council of the city or town in any form of
1187 municipal government.

1188 (45) "Municipal office" means an elective office in a municipality.

1189 (46) "Municipal officers" means those municipal officers that are required by law to be
1190 elected.

1191 (47) "Municipal primary election" means an election held to nominate candidates for
1192 municipal office.

1193 (48) "Official ballot" means the ballots distributed by the election officer to the poll
1194 workers to be given to voters to record their votes.

1195 (49) "Official endorsement" means:

1196 (a) the information on the ballot that identifies:

1197 (i) the ballot as an official ballot;

1198 (ii) the date of the election; and

1199 (iii) the facsimile signature of the election officer; and

1200 (b) the information on the ballot stub that identifies:

1201 (i) the poll worker's initials; and

1202 (ii) the ballot number.

1203 (50) "Official register" means the official record furnished to election officials by the

1204 election officer that contains the information required by Section 20A-5-401.

1205 (51) "Paper ballot" means a paper that contains:

1206 (a) the names of offices and candidates and statements of ballot propositions to be
1207 voted on; and

1208 (b) spaces for the voter to record the voter's vote for each office and for or against each
1209 ballot proposition.

1210 (52) "Political party" means an organization of registered voters that has qualified to
1211 participate in an election by meeting the requirements of Chapter 8, Political Party Formation
1212 and Procedures.

1213 (53) (a) "Poll worker" means a person assigned by an election official to assist with an
1214 election, voting, or counting votes.

1215 (b) "Poll worker" includes election judges.

1216 (c) "Poll worker" does not include a watcher.

1217 (54) "Pollbook" means a record of the names of voters in the order that they appear to
1218 cast votes.

1219 (55) "Polling place" means the building where voting is conducted.

1220 (56) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
1221 in which the voter marks the voter's choice.

1222 (57) "Provider election officer" means an election officer who enters into a contract or
1223 interlocal agreement with a contracting election officer to conduct an election for the
1224 contracting election officer's local political subdivision in accordance with Section
1225 20A-5-400.1.

1226 (58) "Provisional ballot" means a ballot voted provisionally by a person:

1227 (a) whose name is not listed on the official register at the polling place;

1228 (b) whose legal right to vote is challenged as provided in this title; or

1229 (c) whose identity was not sufficiently established by a poll worker.

1230 (59) "Provisional ballot envelope" means an envelope printed in the form required by
1231 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
1232 verify a person's legal right to vote.

1233 (60) "Primary convention" means the political party conventions at which nominees for
1234 the regular primary election are selected.

- 1235 (61) "Protective counter" means a separate counter, which cannot be reset, that:
1236 (a) is built into a voting machine; and
1237 (b) records the total number of movements of the operating lever.
- 1238 (62) "Qualify" or "qualified" means to take the oath of office and begin performing the
1239 duties of the position for which the person was elected.
- 1240 (63) "Receiving judge" means the poll worker that checks the voter's name in the
1241 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
1242 after the voter has voted.
- 1243 (64) "Registration form" means a book voter registration form and a by-mail voter
1244 registration form.
- 1245 (65) "Regular ballot" means a ballot that is not a provisional ballot.
- 1246 (66) "Regular general election" means the election held throughout the state on the first
1247 Tuesday after the first Monday in November of each even-numbered year for the purposes
1248 established in Section 20A-1-201.
- 1249 (67) "Regular primary election" means the election on the fourth Tuesday of June of
1250 each even-numbered year, to nominate candidates of political parties and nonpolitical groups to
1251 advance to the regular general election.
- 1252 (68) "Resident" means a person who resides within a specific voting precinct in Utah.
- 1253 (69) "Sample ballot" means a mock ballot similar in form to the official ballot printed
1254 and distributed as provided in Section 20A-5-405.
- 1255 (70) "Scratch vote" means to mark or punch the straight party ticket and then mark or
1256 punch the ballot for one or more candidates who are members of different political parties.
- 1257 (71) "Secrecy envelope" means the envelope given to a voter along with the ballot into
1258 which the voter places the ballot after the voter has voted it in order to preserve the secrecy of
1259 the voter's vote.
- 1260 (72) "Special election" means an election held as authorized by Section 20A-1-204.
- 1261 (73) "Spoiled ballot" means each ballot that:
1262 (a) is spoiled by the voter;
1263 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
1264 (c) lacks the official endorsement.
- 1265 (74) "Statewide special election" means a special election called by the governor or the

- 1266 Legislature in which all registered voters in Utah may vote.
- 1267 (75) "Stub" means the detachable part of each ballot.
- 1268 (76) "Substitute ballots" means replacement ballots provided by an election officer to
1269 the poll workers when the official ballots are lost or stolen.
- 1270 (77) "Ticket" means each list of candidates for each political party or for each group of
1271 petitioners.
- 1272 (78) "Transfer case" means the sealed box used to transport voted ballots to the
1273 counting center.
- 1274 (79) "Vacancy" means the absence of a person to serve in any position created by
1275 statute, whether that absence occurs because of death, disability, disqualification, resignation,
1276 or other cause.
- 1277 (80) "Valid voter identification" means:
- 1278 (a) a form of identification that bears the name and photograph of the voter which may
1279 include:
- 1280 (i) a currently valid Utah driver license;
- 1281 (ii) a currently valid identification card that is issued by:
- 1282 (A) the state; or
- 1283 (B) a branch, department, or agency of the United States;
- 1284 (iii) a currently valid Utah permit to carry a concealed weapon;
- 1285 (iv) a currently valid United States passport; or
- 1286 (v) a currently valid United States military identification card;
- 1287 (b) one of the following identification cards, whether or not the card includes a
1288 photograph of the voter:
- 1289 (i) a valid tribal identification card;
- 1290 (ii) a Bureau of Indian Affairs card; or
- 1291 (iii) a tribal treaty card; or
- 1292 (c) two forms of identification not listed under Subsection (80)(a) or (b) but that bear
1293 the name of the voter and provide evidence that the voter resides in the voting precinct, which
1294 may include:
- 1295 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
1296 election;

- 1297 (ii) a bank or other financial account statement, or a legible copy thereof;
- 1298 (iii) a certified birth certificate;
- 1299 (iv) a valid Social Security card;
- 1300 (v) a check issued by the state or the federal government or a legible copy thereof;
- 1301 (vi) a paycheck from the voter's employer, or a legible copy thereof;
- 1302 (vii) a currently valid Utah hunting or fishing license;
- 1303 (viii) certified naturalization documentation;
- 1304 (ix) a currently valid license issued by an authorized agency of the United States;
- 1305 (x) a certified copy of court records showing the voter's adoption or name change;
- 1306 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- 1307 (xii) a currently valid identification card issued by:
 - 1308 (A) a local government within the state;
 - 1309 (B) an employer for an employee; or
 - 1310 (C) a college, university, technical school, or professional school located within the
 - 1311 state; or
- 1312 (xiii) a current Utah vehicle registration.
- 1313 (81) "Valid write-in candidate" means a candidate who has qualified as a write-in
- 1314 candidate by following the procedures and requirements of this title.
- 1315 (82) "Voter" means a person who:
 - 1316 (a) meets the requirements for voting in an election;
 - 1317 (b) meets the requirements of election registration;
 - 1318 (c) is registered to vote; and
 - 1319 (d) is listed in the official register book.
- 1320 (83) "Voter registration deadline" means the registration deadline provided in Section
- 1321 20A-2-102.5.
- 1322 (84) "Voting area" means the area within six feet of the voting booths, voting
- 1323 machines, and ballot box.
- 1324 (85) "Voting booth" means:
 - 1325 (a) the space or compartment within a polling place that is provided for the preparation
 - 1326 of ballots, including the voting machine enclosure or curtain; or
 - 1327 (b) a voting device that is free standing.

1328 (86) "Voting device" means:

1329 (a) an apparatus in which ballot sheets are used in connection with a punch device for
1330 piercing the ballots by the voter;

1331 (b) a device for marking the ballots with ink or another substance;

1332 (c) an electronic voting device or other device used to make selections and cast a ballot
1333 electronically, or any component thereof;

1334 (d) an automated voting system under Section 20A-5-302; or

1335 (e) any other method for recording votes on ballots so that the ballot may be tabulated
1336 by means of automatic tabulating equipment.

1337 (87) "Voting machine" means a machine designed for the sole purpose of recording
1338 and tabulating votes cast by voters at an election.

1339 (88) "Voting poll watcher" means a person appointed as provided in this title to
1340 witness the distribution of ballots and the voting process.

1341 (89) "Voting precinct" means the smallest voting unit established as provided by law
1342 within which qualified voters vote at one polling place.

1343 (90) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting
1344 poll watcher, and a testing watcher.

1345 (91) "Western States Presidential Primary" means the election established in Chapter 9,
1346 Part 8, Western States Presidential Primary.

1347 (92) "Write-in ballot" means a ballot containing any write-in votes.

1348 (93) "Write-in vote" means a vote cast for a person whose name is not printed on the
1349 ballot according to the procedures established in this title.

1350 Section 19. Section **20A-1-203** is amended to read:

1351 **20A-1-203. Calling and purpose of special elections -- Two-thirds vote**
1352 **limitations.**

1353 (1) Statewide and local special elections may be held for any purpose authorized by
1354 law.

1355 (2) (a) Statewide special elections shall be conducted using the procedure for regular
1356 general elections.

1357 (b) Except as otherwise provided in this title, local special elections shall be conducted
1358 using the procedures for regular municipal elections.

1359 (3) The governor may call a statewide special election by issuing an executive order
1360 that designates:

1361 (a) the date for the statewide special election; and

1362 (b) the purpose for the statewide special election.

1363 (4) The Legislature may call a statewide special election by passing a joint or
1364 concurrent resolution that designates:

1365 (a) the date for the statewide special election; and

1366 (b) the purpose for the statewide special election.

1367 (5) (a) The legislative body of a local political subdivision may call a local special
1368 election only for:

1369 (i) a vote on a bond or debt issue;

1370 (ii) a vote on a voted local levy authorized by Section 53A-17a-133;

1371 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

1372 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

1373 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
1374 legal boundaries should be changed;

1375 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

1376 (vii) a vote to elect members to school district boards for a new school district and a
1377 remaining school district, as defined in Section 53A-2-117, following the creation of a new
1378 school district under Section 53A-2-118.1; or

1379 (viii) an election of town officers of a newly incorporated town under [~~Subsection~~
1380 ~~10-2-125(9)~~] Section 10-2-128.

1381 (b) The legislative body of a local political subdivision may call a local special election
1382 by adopting an ordinance or resolution that designates:

1383 (i) the date for the local special election; and

1384 (ii) the purpose for the local special election.

1385 (c) A local political subdivision may not call a local special election unless the
1386 ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a
1387 two-thirds majority of all members of the legislative body, if the local special election is for:

1388 (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

1389 (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

1390 (iii) a vote authorized or required for a sales tax issue as described in Subsection
1391 (5)(a)(vi).

1392 Section 20. Section **20A-1-204** is amended to read:

1393 **20A-1-204. Date of special election -- Legal effect.**

1394 (1) (a) The governor, Legislature, or the legislative body of a local political subdivision
1395 calling a statewide special election or local special election under Section 20A-1-203 shall
1396 schedule the special election to be held on:

1397 (i) the fourth Tuesday in June;

1398 (ii) the first Tuesday after the first Monday in November; or

1399 (iii) for an election of town officers of a newly incorporated town under [~~Subsection~~
1400 ~~10-2-125(9)~~] Section 10-2-128, on any date that complies with the requirements of that
1401 subsection.

1402 (b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative
1403 body of a local political subdivision calling a statewide special election or local special election
1404 under Section 20A-1-203 may not schedule a special election to be held on any other date.

1405 (c) (i) Notwithstanding the requirements of Subsection (1)(b), the legislative body of a
1406 local political subdivision may call a local special election on a date other than those specified
1407 in this section if the legislative body:

1408 (A) determines and declares that there is a disaster, as defined in Section 63K-3-102,
1409 requiring that a special election be held on a date other than the ones authorized in statute;

1410 (B) identifies specifically the nature of the disaster, as defined in Section 63K-3-102,
1411 and the reasons for holding the special election on that other date; and

1412 (C) votes unanimously to hold the special election on that other date.

1413 (ii) The legislative body of a local political subdivision may not call a local special
1414 election for the date established in [~~Title 20A,~~] Chapter 9, Part 8, Western States Presidential
1415 Primary, for Utah's Western States Presidential Primary.

1416 (d) Nothing in this section prohibits:

1417 (i) the governor or Legislature from submitting a matter to the voters at the regular
1418 general election if authorized by law; or

1419 (ii) a local government from submitting a matter to the voters at the regular municipal
1420 election if authorized by law.

- 1421 (2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a
1422 special election within a county on the same day as:
- 1423 (i) another special election;
 - 1424 (ii) a regular general election; or
 - 1425 (iii) a municipal general election.
- 1426 (b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:
- 1427 (i) polling places;
 - 1428 (ii) ballots;
 - 1429 (iii) election officials; and
 - 1430 (iv) other administrative and procedural matters connected with the election.