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INCORPORATION FILING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John R. Westwood

Senate Sponsor: _____

LONG TITLE

General Description:

This bill relates to the process by which a town is incorporated.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ reorders the requirements that individuals must meet to file a town incorporation petition;
- ▶ requires the sponsors of a town incorporation petition to:
 - file an application with the lieutenant governor; and
 - conduct a public hearing before collecting signatures for the petition;
- ▶ requires that at least 50% of the voting-eligible population within a proposed town be registered voters;
- ▶ expands a provision to allow certain property owners to remove property from a proposed town incorporation;
- ▶ creates standards and a process by which the lieutenant governor may reject a town incorporation petition;
- ▶ modifies requirements related to the selection of a feasibility consultant; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 This bill provides a coordination clause.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **10-2a-302**, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and
33 amended by Laws of Utah 2015, Chapter 352

34 **10-2a-303**, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and
35 amended by Laws of Utah 2015, Chapter 352

36 **10-2a-304**, as last amended by Laws of Utah 2015, Chapters 96, 111, 157 and
37 renumbered and amended by Laws of Utah 2015, Chapter 352 and last amended by
38 Coordination Clause, Laws of Utah 2015, Chapter 352

39 **Utah Code Sections Affected by Coordination Clause:**

40 **10-2a-302**, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and
41 amended by Laws of Utah 2015, Chapter 352



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

44 Section 1. Section **10-2a-302** is amended to read:

45 **10-2a-302. Incorporation of a town -- Petition.**

46 (1) As used in this section:

47 (a) "Assessed value," with respect to agricultural land, means the value at which the
48 land would be assessed without regard to a valuation for agricultural use under Section
49 **59-2-503**.

50 [~~(b) "Feasibility consultant" means a person or firm;~~]

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

52 [~~(ii) who is independent of and not affiliated with a county or sponsor of a petition to~~
53 ~~incorporate.]~~

54 [~~(c) "Financial feasibility study" means a study described in Subsection (7).]~~

55 [~~(d)~~] (b) (i) "Municipal [service] services" means [a publicly provided service that is
56 not provided on a countywide basis.] any of the following that are publicly provided:

57 (A) culinary water;

58 (B) secondary water;

59 (C) sewer service;

60 (D) law enforcement service;

61 (E) fire protection;

62 (F) roads;

63 (G) refuse collection; or

64 (H) weed control.

65 (ii) "Municipal services" includes the physical facilities required to provide a service
66 described in Subsection (1)(b)(i).

67 ~~[(e)]~~ (c) "Nonurban" means ~~[having]~~ a geographical area that has a residential density
68 of less than one residential unit per acre.

69 (2) (a) ~~[(f) A]~~ Individuals who reside in a contiguous area of a county that is not within
70 a municipality~~[, with a population of at least 100 but less than 1,000,]~~ may incorporate as a
71 town as provided in this section~~[:]~~ if:

72 (i) the area has a population of at least 100 people, but less than 1,000 people; and

73 (ii) at least 50% of the voting eligible population in the area are registered voters.

74 ~~[(f)]~~ (b) An area within a county of the first class is not contiguous for purposes of
75 Subsection (2)(a)~~[(f)]~~ if:

76 ~~[(A)]~~ (i) the area includes a strip of land that connects geographically separate areas;
77 and

78 ~~[(B)]~~ (ii) the distance between the geographically separate areas is greater than the
79 average width of the strip of land connecting the geographically separate areas.

80 ~~[(b) The population figure under Subsection (2)(a) shall be determined:]~~

81 ~~[(i) as of the date the incorporation petition is filed; and]~~

82 ~~[(ii) by the Utah Population Estimates Committee within 20 days after the county~~
83 ~~clerk's certification under Subsection (6) of a petition filed under Subsection (4).]~~

84 ~~[(3) (a) The process to incorporate an area as a town is initiated by filing a petition to~~
85 ~~incorporate the area as a town with the Office of the Lieutenant Governor.]~~

86 ~~[(b) A petition under Subsection (3)(a) shall:]~~

87 ~~[(i) be signed by:]~~

88 (3) (a) Individuals described in Subsection (2)(a) may initiate the process of
89 incorporating a town by filing an application for an incorporation petition with the lieutenant

90 governor that contains:

91 (i) the name and residential address of at least five sponsors of the petition who meet
92 the qualifications described in Subsection (3)(b) for a sponsor and Subsection (7) for a petition
93 signer;

94 (ii) a statement certifying that each of the sponsors:

95 (A) is a resident of the state; and

96 (B) has voted in a regular general election or municipal general election in the state
97 within the last three years;

98 (iii) the signature of each sponsor, attested to by a notary public;

99 (iv) the name of a sponsor who is designated as the contact sponsor;

100 (v) consistent with the requirements described in Subsection (3)(c), an accurate map or
101 plat, prepared by a licensed surveyor, showing a legal description of the boundary of the
102 proposed town; and

103 (vi) a statement indicating whether persons may be paid for gathering signatures for the
104 petition.

105 (b) Sponsors may not file a petition under this section if the cumulative private real
106 property that the petition sponsors own exceeds 40% of the total private land area within the
107 boundaries of the proposed town.

108 (c) A map described in Subsection (3)(a)(v) may not include an area proposed for
109 annexation in an annexation petition described in Section [10-2-403](#) that is pending on the day
110 on which the application for the incorporation petition is filed.

111 (4) (a) If the lieutenant governor determines that an incorporation petition application
112 complies with the requirements described in Subsection (3)(a), the lieutenant governor shall
113 accept the application and mail or transmit written notification of the acceptance to:

114 (i) the contact sponsor; and

115 (ii) the Utah Population Estimates Committee.

116 (b) If the lieutenant governor determines that an application does not comply with the
117 requirements described in Subsection (3)(a), the lieutenant governor shall reject the application
118 and mail or transmit written notification of the rejection, including the reason for the rejection,
119 to the contact sponsor.

120 (5) (a) Within 20 days after the day on which the lieutenant governor accepts an

121 application under Subsection (4)(a), the Utah Population Estimates Committee shall:

122 (i) determine the population of the proposed town as of the date the application was
 123 filed under Subsection (3) for the proposed town; and

124 (ii) provide that determination to the lieutenant governor.

125 (b) If the Utah Population Estimates Committee determines that the population of the
 126 proposed town does not meet the requirements described in Subsection (2)(a)(i), the lieutenant
 127 governor shall rescind the acceptance described in Subsection (4)(a) and reject the application
 128 in accordance with Subsection (4)(b).

129 (6) Within 30 days after the day on which the lieutenant governor receives the
 130 determination described in Subsection (5)(b) but before collecting signatures under Subsection
 131 (7), the sponsors of the incorporation petition shall hold a public hearing at which the public
 132 may:

133 (a) review the map or plat of the proposed town described in Subsection (3)(a)(v);

134 (b) ask questions and receive information about the incorporation of the proposed
 135 town; and

136 (c) express views about the proposed incorporation, including views regarding the
 137 boundary of the proposed town.

138 (7) (a) If, after holding the public hearing described in Subsection (6), the sponsors
 139 wish to proceed with the proposed incorporation, the sponsors shall circulate an incorporation
 140 petition that, in order to be declared sufficient under Subsection (8)(b)(i), must be signed by:

141 ~~[(A)]~~ (i) the owners of private real property that:

142 ~~[(F)]~~ (A) is located within the [area proposed to be incorporated] boundaries of the
 143 proposed town; and

144 ~~[(H)]~~ (B) is collectively greater than or equal [in] to 20% of the assessed value [to more
 145 than 1/5 of the assessed value] of all private real property within the [area] boundaries of the
 146 proposed town; and

147 ~~[(B) 1/5 of all]~~ (ii) 20% of the registered voters residing within the [area proposed to
 148 be incorporated as a town, according to the official voter registration list maintained by the
 149 county on the date] boundaries of the proposed town, as of the day on which the petition is
 150 filed[;].

151 ~~[(ii) designate as sponsors at least five of the property owners who have signed the~~

152 ~~petition, one of whom shall be designated as the contact sponsor, with the mailing address of~~
153 ~~each owner signing as a sponsor;]~~

154 ~~[(iii) be]~~

155 (b) The petition sponsors shall ensure that the petition is:

156 (i) accompanied by and circulated with [an accurate map or plat, prepared by a licensed
157 surveyor, showing a legal description of the boundary of the proposed town] a copy of the map
158 described in Subsection (3)(a)(v); and

159 ~~[(iv)]~~ (ii) printed in substantially ~~[comply with and be circulated in]~~ the following
160 form:

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

163 To the Honorable Lieutenant Governor:

164 We, the undersigned [owners of real property and registered voters within the area
165 described in this petition], respectfully petition the lieutenant governor to direct the county
166 [legislative body] to submit to the registered voters residing within the area described in this
167 petition, [at the next regular general] in an election, the question of whether the area should
168 incorporate as a town. Each of the undersigned affirms that each has personally signed this
169 petition and is an owner of real property located within, or is a registered voter residing within,
170 the described area, and that the current residence address of each is correctly written after the
171 signer's name. The area [proposed to be incorporated] we propose for incorporation as a town
172 is described as follows: (insert an accurate description of the area proposed to be
173 incorporated)."

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

176 ~~[(i) was filed before the filing of the petition; and]~~

177 ~~[(ii) is still pending on the date the petition is filed.]~~

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

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

183 ~~[(i) at any time until]~~

184 ~~(c) An individual who signs a petition described in this Subsection (7) may withdraw~~
185 ~~or reinstate the individual's signature by filing a written, signed statement with the lieutenant~~
186 ~~governor before the lieutenant governor certifies the petition signatures under Subsection [(5);~~
187 ~~and] (8).~~

188 ~~[(ii) by filing a signed, written withdrawal or reinstatement with the lieutenant~~
189 ~~governor.]~~

190 ~~(d) The petition sponsors shall submit a completed petition to the lieutenant governor~~
191 ~~no later than 316 days after the day on which the sponsors submit the application described in~~
192 ~~Subsection (3)(a) to the lieutenant governor.~~

193 ~~[(4) (a) If a petition is filed under Subsection (3)(a) proposing to incorporate as a town~~
194 ~~an area located within a county of the first class, the lieutenant governor shall deliver written~~
195 ~~notice of the proposed incorporation:]~~

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

198 ~~[(ii) within seven calendar days after the date on which the petition is filed:]~~

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

202 ~~[(i) with the lieutenant governor; and]~~

203 ~~[(ii) within 10 calendar days after receiving the clerk's notice under Subsection (4)(a):]~~

204 ~~[(c) The lieutenant governor shall exclude from the area proposed to be incorporated as~~
205 ~~a town the property identified in the notice of exclusion under Subsection (4)(b) if:]~~

206 ~~[(i) the property:]~~

207 ~~[(A) is nonurban; and]~~

208 ~~[(B) does not and will not require a municipal service; and]~~

209 ~~[(ii) exclusion will not leave an unincorporated island within the proposed town:]~~

210 ~~[(d) If the lieutenant governor excludes property from the area proposed to be~~
211 ~~incorporated as a town, the lieutenant governor shall send written notice of the exclusion to the~~
212 ~~contact sponsor within five days after the exclusion:]~~

213 ~~[(5)] (8) No later than 20 days after [the filing of a] the day on which the sponsors~~

214 submit the petition to the lieutenant governor under Subsection ~~[(3)]~~ (7)(d), the lieutenant
215 governor shall:

216 (a) ~~[with the assistance of other county officers of the county in which the~~
217 ~~incorporation is proposed from whom the lieutenant governor requests assistance;]~~ determine
218 whether the petition complies with the requirements ~~[of]~~ described in Subsection ~~[(3)]~~ (7); and

219 (b) (i) if the lieutenant governor determines that the petition complies with ~~[those]~~ the
220 requirements described in Subsection (7):

221 (A) certify the petition as sufficient; and

222 (B) mail or deliver written notification of the certification to ~~[-(F)]~~ the contact sponsor;
223 [and] or

224 ~~[(H) the Utah Population Estimates Committee; or]~~

225 (ii) if the lieutenant governor determines that the petition ~~[fails to]~~ does not comply
226 with ~~[any of those]~~ the requirements~~[-]~~ described in Subsection (7):

227 (A) reject the petition; and

228 (B) notify the contact sponsor in writing of the rejection and the reasons for the
229 rejection.

230 ~~[(6) (a) (i) A petition that is rejected under Subsection (5)(b)(ii) may be amended to~~
231 ~~correct a deficiency for which it was rejected and then refiled with the lieutenant governor.]~~

232 ~~[(ii) A valid signature on a petition filed under Subsection (3)(a) may be used toward~~
233 ~~fulfilling the signature requirement of Subsection (3)(b) for the same petition that is amended~~
234 ~~under Subsection (6)(a)(i) and then refiled with the lieutenant governor.]~~

235 ~~[(b) If a petition is amended and refiled under Subsection (6)(a)(i) after having been~~
236 ~~rejected by the lieutenant governor under Subsection (5)(b)(ii):]~~

237 ~~[(i) the amended petition shall be considered as a newly filed petition; and]~~

238 ~~[(ii) the amended petition's processing priority is determined by the date on which it is~~
239 ~~refiled:]~~

240 ~~[(7) (a) (i) If a petition is filed under Subsection (4) and certified under Subsection (6),~~
241 ~~the lieutenant governor shall commission and pay for a financial feasibility study.]~~

242 ~~[(ii) The feasibility consultant shall be chosen:]~~

243 ~~[(A) (I) by the contact sponsor of the incorporation petition, as described in Subsection~~
244 ~~(3)(b)(ii), with the consent of the lieutenant governor; or]~~

245 ~~[(H) by the lieutenant governor if the contact sponsor states, in writing, that the sponsor~~
246 ~~defers selection of the feasibility consultant to the lieutenant governor; and]~~

247 ~~[(B) in accordance with applicable county procurement procedure.]~~

248 (9) (a) Petition sponsors may amend a petition that the lieutenant governor rejected
249 under Subsection (8)(b)(ii) by:

250 (i) correcting the reason for which the lieutenant governor rejects the petition; and

251 (ii) submitting an amended petition to the lieutenant governor no later than the deadline
252 described in Subsection (7)(d).

253 (b) A valid signature on a petition that the lieutenant governor rejects under Subsection
254 (8)(b)(ii) is valid for an amended petition that the petition sponsors submit to the lieutenant
255 governor under Subsection (9)(a).

256 (c) The lieutenant governor shall review an amended petition in accordance with
257 Subsection (8).

258 (d) The sponsors of an incorporation petition may not amend the petition more than
259 once.

260 (10) (a) If the lieutenant governor certifies an incorporation petition as sufficient under
261 Subsection (8), the lieutenant governor shall, within seven days after the day on which the
262 lieutenant governor certifies the petition, mail or transmit written notice of the proposed
263 incorporation to each person who owns private real property that:

264 (i) is located within the boundaries of the proposed town; and

265 (ii) has a value that is greater than or equal to 1% of the assessed value of all private
266 real property within the boundaries of the proposed town.

267 (b) A person described in Subsection (10)(a) may request that the lieutenant governor
268 exclude all or part of the person's property from boundaries of the proposed town if:

269 (i) the property is nonurban;

270 (ii) the property does not require, and is not expected to require, a municipal service
271 that the proposed town will provide; and

272 (iii) exclusion of the property will not leave an unincorporated island within the
273 proposed town.

274 (c) (i) To request exclusion under this Subsection (10), a person described in
275 Subsection (10)(a) shall file a written request with the lieutenant governor within 10 days after

276 the day on which the person receives the notice described in Subsection (10)(a).

277 (ii) The notice shall describe the property for which the person requests exclusion.

278 (d) (i) The lieutenant governor shall exclude property from the boundaries of the
279 proposed town if the property is described in a written request filed under Subsection (10)(c)
280 and meets the requirements described in Subsection (10)(b).

281 (ii) Within five days after the lieutenant governor excludes the property, the lieutenant
282 governor shall mail or transmit written notice of the exclusion to the person who filed the
283 request and to the contact sponsor.

284 (11) (a) If the lieutenant governor certifies an incorporation petition as sufficient under
285 Subsection (8), the lieutenant governor shall, in accordance with Title 63G, Chapter 6a, Utah
286 Procurement Code, procure the services of a feasibility consultant to conduct a financial
287 feasibility study on the proposed incorporation.

288 (b) The lieutenant governor shall ensure that a feasibility consultant selected under
289 Subsection (11)(a):

290 (i) has expertise in the processes and economics of local government; and

291 (ii) is not affiliated with:

292 (A) a sponsor of the incorporation petition to which the feasibility study relates; or

293 (B) the county in which the proposed town is located.

294 ~~[(iii)]~~ (c) The lieutenant governor shall require the feasibility consultant to complete
295 the financial feasibility study and submit written results of the study to the lieutenant governor
296 no later than [30] 60 days after the day on which the lieutenant governor procures the services
297 of the feasibility consultant [is engaged to conduct the financial feasibility study].

298 ~~[(b)]~~ (d) The financial consultant shall ensure that the financial feasibility study [shall
299 consider the] includes:

300 (i) an analysis of the population and population density within the [area proposed for
301 incorporation] boundaries of the proposed town and the surrounding area;

302 (ii) the current and projected five-year [projections of] demographics of, and
303 [economic] tax base [in the] within, the boundaries of the proposed town and the surrounding
304 area, including household size and income, commercial and industrial development, and public
305 facilities;

306 ~~[(iii) projected growth in the proposed town and in adjacent areas during the next five~~

307 years;]

308 ~~[(iv) subject to Subsection (7)(c), the present and five-year projections of the cost,~~
309 ~~including overhead, of governmental services in the proposed town, including:]~~

310 ~~[(A) culinary water;]~~

311 ~~[(B) secondary water;]~~

312 ~~[(C) sewer;]~~

313 ~~[(D) law enforcement;]~~

314 ~~[(E) fire protection;]~~

315 ~~[(F) roads and public works;]~~

316 ~~[(G) garbage;]~~

317 ~~[(H) weeds; and]~~

318 ~~[(I) government offices;]~~

319 (iii) subject to Subsection (11)(e), the current and five-year projected cost of providing
320 municipal services to the proposed town, including administrative costs;

321 ~~[(v)]~~ (iv) assuming the same tax categories and tax rates as currently imposed by the
322 county and all other current [service] municipal services providers, the present and five-year
323 projected revenue for the proposed town; [and]

324 ~~[(vi)]~~ (v) a projection of [any new taxes] the tax burden per household of any new taxes
325 that may be levied within the [incorporated area] proposed town within five years of the town's
326 incorporation[-]; and

327 (vi) if the lieutenant governor excludes property from the proposed town under
328 Subsection (10)(d), an update to the map and legal description described in Subsection
329 (3)(a)(v).

330 ~~[(c)]~~ (e) (i) For purposes of Subsection [(7)(b)(iv)] (11)(d)(iii), the feasibility
331 consultant shall assume that the proposed town will provide a level and quality of
332 [governmental services to be provided to the proposed town in the future] municipal services
333 that fairly and reasonably approximate the level and quality of [governmental services being]
334 municipal services that are provided to the proposed town at the time [of] the feasibility
335 consultant conducts the feasibility study.

336 (ii) In determining the present cost of [a governmental service] municipal services, the
337 feasibility consultant shall consider:

338 (A) the amount it would cost the proposed town to provide ~~[governmental service]~~ the
 339 municipal services for the first five years after the town's incorporation; and

340 (B) the ~~[county's]~~ current municipal services provider's present and five-year projected
 341 cost of providing ~~[governmental service]~~ the municipal services.

342 (iii) ~~[The costs calculated under Subsection (7)(b)(iv);]~~ In calculating the costs
 343 described in Subsection (11)(d)(iii), the feasibility consultant shall [take into] account for
 344 inflation and anticipated growth.

345 ~~[(d)]~~ (f) If the five-year projected revenues ~~[under]~~ described in Subsection [(7)(b)(v)]
 346 (11)(d)(iv) exceed the five-year projected costs ~~[under]~~ described in Subsection [(7)(b)(iv)]
 347 (11)(d)(iii) by more than 10%, the feasibility consultant shall project and report the expected
 348 annual revenue surplus to the contact sponsor and the lieutenant governor.

349 ~~[(e)]~~ (g) The lieutenant governor shall ~~[post a copy of]~~ publish the feasibility study on
 350 the lieutenant governor's website and make a copy of the feasibility study available for public
 351 review at the Office of the Lieutenant Governor.

352 ~~[(f) The lieutenant governor shall approve a certified petition proposing the~~
 353 ~~incorporation of a town and]~~

354 (12) After the lieutenant governor conducts the feasibility study, the lieutenant
 355 governor shall hold a public hearing [as provided] in accordance with Section 10-2a-303.

356 Section 2. Section **10-2a-303** is amended to read:

357 **10-2a-303. Incorporation of a town -- Public hearing on feasibility.**

358 (1) If, in accordance with Section **10-2a-302**, the lieutenant governor certifies a petition
 359 for incorporation or an amended petition for incorporation, the lieutenant governor shall, after
 360 completion of the feasibility study, schedule a public hearing ~~[to]~~:

361 (a) ~~[be held]~~ that takes place no later than 60 days after the day on which the feasibility
 362 study is completed; and

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

365 (2) (a) The lieutenant governor shall give notice of the public hearing on the proposed
 366 incorporation by:

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

369 (B) if there is no newspaper of general circulation within the proposed town, posting
 370 notice of the public hearing in at least five conspicuous public places within the proposed
 371 town; and

372 (ii) publishing notice of the public hearing on the Utah Public Notice Website created
 373 in Section 63F-1-701.

374 (b) The county in which the incorporation is proposed shall post the notice described in
 375 Subsection (2)(a)(ii) on the county's website, if the county has a website, for at least two
 376 consecutive weeks before the day of the public hearing.

377 (3) At the public hearing scheduled in accordance with Subsection (1), the lieutenant
 378 governor shall:

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

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

381 (b) allow the public to:

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

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

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

386 (4) A county under the direction of the lieutenant governor may not hold an election on
 387 the incorporation of a town in accordance with Section 10-2a-304 if the results of the feasibility
 388 study show that the five-year projected revenues under Subsection

389 10-2a-302[(7)(b)(v)](11)(d)(iv) exceed the five-year projected costs under Subsection

390 10-2a-302[(7)(b)(iv)](11)(d)(iii) by more than 10%.

391 Section 3. Section 10-2a-304 is amended to read:

392 **10-2a-304. Incorporation of a town -- Election to incorporate -- Ballot form.**

393 (1) (a) Upon [~~receipt of a certified petition or a certified amended petition under~~
 394 ~~Section 10-2a-302~~] the completion of a feasibility study described in Subsection 10-2a-302(11)

395 and the public hearing described in Section 10-2a-303, the lieutenant governor shall[~~:(i)~~

396 ~~determine and set an election date for the~~] schedule an incorporation election [~~that is: (A) on~~

397 for the proposed town on:

398 (i) the date of a regular general election [~~date under~~] described in Section 20A-1-201 or

399 on the date of a local special election [~~date under~~] described in Section 20A-1-203; and

400 ~~[(B)]~~ (ii) a date that is at least 65 days after the day [that the legislative body receives
401 the certified petition; and] on which the lieutenant governor certifies the petition under
402 Subsection 10-2a-302(8).

403 ~~[(i)]~~ (b) The lieutenant governor shall direct the county ~~[legislative body of the county]~~
404 in which the ~~[incorporation is]~~ proposed town is located to hold the incorporation election on
405 the date ~~[determined by]~~ that the lieutenant governor ~~[in accordance with]~~ schedules under
406 Subsection (1)(a)[(i)].

407 ~~[(b)]~~ (c) The county described in Subsection (1)(b) shall hold the incorporation election
408 as directed by the lieutenant governor in accordance with Subsection (1)~~[(a)(i)]~~(b).

409 ~~[(c)]~~ (d) ~~[Unless a person]~~ An individual may not vote in an incorporation election
410 under this section unless the individual is a registered voter who resides, as defined in Section
411 20A-1-102, within the boundaries of the proposed town~~[-the person may not vote on the~~
412 ~~proposed incorporation].~~

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

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

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

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

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

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

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

421 and

422 (iv) the lieutenant governor's Internet website address, if applicable, and the address of
423 the Office of the Lieutenant Governor where the feasibility study is available for review.

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

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

430 (ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before

431 the election under Subsection (1)(a).

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

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

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

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

440 Section 4. **Coordinating H.B. 415 with H.B. 335 -- Technical amendments.**

441 If this H.B. 415 and H.B. 335, Utah Population Estimates Production, both pass and
442 become law, it is the intent of the Legislature that the Office of Legislative Research and
443 General Counsel, in preparing the Utah Code database for publication, change the terminology
444 in Section [10-2a-302](#) from "Utah Population Estimates Committee" to "Utah Population
445 Committee."

Legislative Review Note
Office of Legislative Research and General Counsel