

## HB0415S01 compared with HB0415

~~text~~ shows text that was in HB0415 but was deleted in HB0415S01.

Inserted text shows text that was not in HB0415 but was inserted into HB0415S01.

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Representative John R. Westwood proposes the following substitute bill:

### INCORPORATION FILING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John R. Westwood**

Senate Sponsor: \_\_\_\_\_

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#### 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;

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- ▶ 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;
- ▶ provides repeal dates for certain provisions that this bill makes obsolete; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a coordination clause.

### Utah Code Sections Affected:

AMENDS:

10-2-403, as last amended by Laws of Utah 2015, Chapter 352

10-2a-106, as enacted by Laws of Utah 2015, Chapter 157 and further amended by Revisor Instructions, Laws of Utah 2015, Chapters 157 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 352, and 352

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

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

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

20A-11-101, as last amended by Laws of Utah 2016, Chapter 95

63I-2-210, as last amended by Laws of Utah 2016, Chapter 14

63I-2-220, as last amended by Laws of Utah 2016, Chapters 28 and 348

ENACTS:

10-2a-302.5, Utah Code Annotated 1953

### Utah Code Sections Affected by Coordination Clause:

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

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amended by Laws of Utah 2015, Chapter 352

10-2a-302.5, Utah Code Annotated 1953

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

Section 1. Section 10-2-403 is amended to read:

**10-2-403. Annexation petition -- Requirements -- Notice required before filing.**

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1) with respect to the proposed annexation of an area located in a county of the first class, the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

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(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether or not to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection

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(2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the city recorder or town clerk, as the case may be, of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of rural real property as that term is defined in Section 17B-2a-1107 within the area proposed for annexation; and

(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection Areas, or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

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

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) if the area proposed to be annexed is located in a county of the first class, contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

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- There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

- If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located, be accompanied by a copy of the resolution, required under Subsection 10-2-402(6), of the legislative body of the county in which the area is located; and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) A petition under Subsection (1) proposing the annexation of an area located in a county of the first class may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2a-202 or a petition under Section 10-2a-302 if or 10-2a-302.5:

(a) the request or petition was filed before the filing of the annexation petition; and

(b) the request, a petition under Section 10-2a-208 based on that request, or a petition under Section 10-2a-302 or 10-2a-302.5 is still pending on the date the annexation petition is filed.

(6) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type

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services;

- (c) to facilitate the consolidation of overlapping functions of local government;
- (d) to promote the efficient delivery of services; and
- (e) to encourage the equitable distribution of community resources and obligations.

(7) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

(8) A property owner who signs an annexation petition proposing to annex an area located in a county of the first class may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

### Section 2. Section 10-2a-106 is amended to read:

#### **10-2a-106. Feasibility study or petition to incorporate filed before May 12, 2015.**

(1) If a request for a feasibility study to incorporate a city is filed under Section 10-2a-202 before May 12, 2015, the request and a subsequent feasibility study, petition, public hearing, election, and any other city incorporation action applicable to that request shall be filed with and be acted upon, held, processed, or paid for by the county legislative body or county clerk, as applicable, as designated, directed, or authorized before Laws of Utah 2015, Chapter 157, takes effect.

(2) If a petition to incorporate a town is filed under Section 10-2a-302 or 10-2a-302.5 before May 12, 2015, the petition and a subsequent feasibility study, petition, public hearing, election, and any other town incorporation action applicable to that petition to incorporate shall be filed with and be acted upon, held, processed, or paid for by the county legislative body or county clerk, as applicable, as designated, directed, or authorized before Laws of Utah 2015, Chapter 157, takes effect.

Section ~~10-2a-302~~3. Section **10-2a-302** is amended to read:

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

(1) As used in this section:

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

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

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

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

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

~~(d)~~~~(b)(i)~~ "Municipal ~~service~~ ~~services~~" means ~~a~~ publicly provided service that is not provided on a countywide basis.~~(d)~~

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

(2) (a) This section applies to individuals who seek to initiate the process of incorporating a town before May 9, 2017.

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

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

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

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

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

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

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

(3) (a) ~~The~~ Individuals may initiate the process to incorporate an area as a town ~~is initiated by filing a~~ by circulating a petition to incorporate the area as a town.

(b) The individuals must file the petition with the Office of the Lieutenant Governor no later than January 2, 2018 for the petition to be valid.

~~(b)~~ (c) A petition under Subsection (3)~~(a)~~(b) shall:

(i) be signed by:

(A) the owners of private real property that:

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

(II) is equal in assessed value to more than 1/5 of the assessed value of all private real property within the area; and



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

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

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

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

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

To the Honorable Lieutenant Governor:

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

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

(i) was filed before the filing of the petition; and

(ii) is still pending on the date the petition is filed.

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

[(e)] (f) A signer of a petition under this Subsection (3) may withdraw or, after

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withdrawn, reinstate the signer's signature on the petition:

(i) at any time until the lieutenant governor certifies the petition under Subsection (5):

and

(ii) by filing a signed, written withdrawal or reinstatement with the lieutenant governor.

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

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

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

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

(i) with the lieutenant governor; and

(ii) within 10 calendar days after receiving the clerk's notice under Subsection (4)(a).

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

(i) the property:

(A) is nonurban; and

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

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

(d) If the lieutenant governor excludes property from the area proposed to be incorporated as a town, the lieutenant governor shall send written notice of the exclusion to the contact sponsor within five days after the exclusion.

(5) No later than 20 days after the filing of a petition under Subsection (3), the lieutenant governor shall:

(a) with the assistance of other county officers of the county in which the incorporation is proposed from whom the lieutenant governor requests assistance, determine whether the petition complies with the requirements of Subsection (3); and

(b) (i) if the lieutenant governor determines that the petition complies with those requirements:

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(A) certify the petition; and

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

(I) the contact sponsor; and

(II) the Utah Population Estimates Committee; or

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

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

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

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

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

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

(7) (a) (i) If a petition is filed under Subsection (4) and certified under Subsection [(6)] (5), the lieutenant governor shall commission and pay for a financial feasibility study.

(ii) The feasibility consultant shall be chosen:

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

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

(B) in accordance with applicable county procurement procedure.

(iii) The lieutenant governor shall require the feasibility consultant to complete the financial feasibility study and submit written results of the study to the lieutenant governor no later than 30 days after the feasibility consultant is engaged to conduct the financial feasibility study.

(b) The financial feasibility study shall consider the:

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

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the surrounding area:

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

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

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

(A) culinary water;

(B) secondary water;

(C) sewer;

(D) law enforcement;

(E) fire protection;

(F) roads and public works;

(G) garbage;

(H) weeds; and

(I) government offices;

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

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

(c) (i) For purposes of Subsection (7)(b)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed town in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed town at the time of the feasibility study.

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

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

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

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service.

(iii) The costs calculated under Subsection (7)(b)(iv), shall take into account inflation and anticipated growth.

(d) If the five year projected revenues under Subsection (7)(b)(v) exceed the five-year projected costs under Subsection (7)(b)(iv) by more than 10%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(e) The lieutenant governor shall post a copy of the feasibility study on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.

(f) The lieutenant governor shall approve a certified petition proposing the incorporation of a town and hold a public hearing as provided in Section 10-2a-303.

Section 4. Section 10-2a-302.5 is enacted to read:

### 10-2a-302.5. Incorporation of a town -- Petition.

(1) As used in this section:

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

(b) (i) "Municipal services" means any of the following that are publicly provided:

(A) culinary water;

(B) secondary water;

(C) sewer service;

(D) law enforcement service;

(E) fire protection;

(F) roads;

(G) refuse collection; or

(H) weed control.

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

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

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~~———— (2)(a) [(i) A] }~~ (2)(a) This section applies to individuals who seek to initiate the process of incorporating a town on or after May 9, 2017.

(b) Individuals who reside in a contiguous area of a county that is not within a municipality ~~ff, with a population of at least 100 but less than 1,000,ff~~ may incorporate as a town as provided in this section ~~ff,ff~~ if:

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

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

~~ff(ii)ff~~ ~~(fb)c~~ An area within a county of the first class is not contiguous for purposes of Subsection (2) ~~(fa)b~~ ~~ff(i)ff~~ if:

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

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

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

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

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

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

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

~~———— [(i) be signed by:]~~

† (3)(a) Individuals described in Subsection (2) ~~ff(a)ff~~ may initiate the process of incorporating a town by filing an application for an incorporation petition with the lieutenant governor that contains:

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

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

(A) is a resident of the state; and

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

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

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

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

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

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

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

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

(i) the contact sponsor; and

(ii) the Utah Population Estimates Committee.

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

(5) (a) Within 20 days after the day on which the lieutenant governor accepts an application under Subsection (4)(a), the Utah Population Estimates Committee shall:

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

(ii) provide that determination to the lieutenant governor.

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

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

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

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

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

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

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

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

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

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

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

~~[(iii) be]]~~.

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

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

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



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form:

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

To the Honorable Lieutenant Governor:

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

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

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

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

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

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

~~—— [(i) at any time until] }"~~

(c) An individual who signs a petition described in this Subsection (7) may withdraw or reinstate the individual's signature by filing a written, signed statement with the lieutenant governor before the lieutenant governor certifies the petition signatures under Subsection ~~{(5): and} (8):~~

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

~~{(8):~~

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

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

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

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

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

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

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

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

~~——— [(i) the property:]~~

~~——— [(A) is nonurban; and]~~

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

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

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

~~——— [(5)](8) No later than 20 days after ~~the filing of a~~ the day on which the sponsors submit the petition to the lieutenant governor under Subsection ~~[(3)](7)(d)~~, the lieutenant governor shall:~~

~~——— (a) ~~with the assistance of other county officers of the county in which the incorporation is proposed from whom the lieutenant governor requests assistance.~~~~

(a) determine whether the petition complies with the requirements ~~of~~ described in Subsection ~~[(3)](7)~~; and

(b) (i) if the lieutenant governor determines that the petition complies with ~~those~~

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~~the requirements described in Subsection (7);~~

~~(A) certify the petition as sufficient; and~~

~~(B) mail or deliver written notification of the certification to ~~the~~ the contact~~

~~sponsor; ~~and~~ or~~

~~the Utah Population Estimates Committee; or~~

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

~~(A) reject the petition; and~~

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

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

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

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

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

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

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

~~(ii) The feasibility consultant shall be chosen:~~

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

~~(II) by the lieutenant governor if the contact sponsor states, in writing, that the sponsor defers selection of the feasibility consultant to the lieutenant governor; and~~

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

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

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

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

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

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

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

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

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

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

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

~~{ (i) the property is nonurban;~~

~~{ (iii)i) the property does not require, and is not expected to require, a municipal service that the proposed town will provide; and~~

~~{ (iii)ii) exclusion of the property will not leave an unincorporated island within the proposed town.~~

(c) (i) To request exclusion under this Subsection (10), a person described in Subsection (10)(a) shall file a written request with the lieutenant governor within 10 days after the day on which the person receives the notice described in Subsection (10)(a).

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

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

(ii) Within five days after the lieutenant governor excludes the property, the lieutenant

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governor shall mail or transmit written notice of the exclusion to the person who filed the request and to the contact sponsor.

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

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

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

(ii) is not affiliated with:

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

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

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

~~[(b)]~~ (d) The

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

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

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

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

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

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

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

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- ~~— [(C) sewer;]~~
- ~~— [(D) law enforcement;]~~
- ~~— [(E) fire protection;]~~
- ~~— [(F) roads and public works;]~~
- ~~— [(G) garbage;]~~
- ~~— [(H) weeds; and]~~
- ~~— [(I) government offices;]~~

~~‡~~

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

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

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

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

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

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

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

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

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(iii) ~~ffThe costs calculated under Subsection (7)(b)(iv).ff~~ In calculating the costs described in Subsection (11)(d)(iii), the feasibility consultant shall ~~fftake intoff~~ account for inflation and anticipated growth.

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

~~ff(e)ff~~(g) The lieutenant governor shall ~~ffpost a copy offff~~ publish the feasibility study on the lieutenant governor's website and make a copy of the feasibility study available for public review at the Office of the Lieutenant Governor.

~~ff—ff~~ ~~ff(f) The lieutenant governor shall approve a certified petition proposing the incorporation of a town andff~~

~~ff~~ (12) After the lieutenant governor conducts the feasibility study, the lieutenant governor shall hold a public hearing ~~ffas providedff~~ in accordance with Section 10-2a-303.

Section ~~ff2ff~~5. Section **10-2a-303** is amended to read:

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

(1) If, in accordance with Section 10-2a-302 or 10-2a-302.5, the lieutenant governor certifies a petition for incorporation or an amended petition for incorporation, the lieutenant governor shall, after completion of the feasibility study, schedule a public hearing ~~fftoff~~:

(a) ~~ffbe heldff~~ that takes place no later than 60 days after the day on which the feasibility study is completed; and

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

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

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

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

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

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in Section 63F-1-701.

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

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

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

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

(b) allow the public to:

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

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

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

(4) A county under the direction of the lieutenant governor may not hold an election on the incorporation of a town in accordance with Section 10-2a-304 if the results of the feasibility study show that the five-year projected revenues under Subsection 10-2a-302~~(7)(b)(v)~~ or 10-2a-302.5(11)(d)(iv) exceed the five-year projected costs under Subsection 10-2a-302~~(7)(b)(iv)~~ or 10-2a-302.5(11)(d)(iii) by more than 10%.

Section ~~3~~6. Section **10-2a-304** is amended to read:

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

(1) (a) Upon ~~[receipt of a certified petition or a certified amended petition under Section 10-2a-302]~~ the completion of a feasibility study described in ~~{Subsection}~~Section 10-2a-302~~(11)~~ or 10-2a-302.5 and the public hearing described in Section 10-2a-303, the lieutenant governor shall~~[(i) determine and set an election date for the]~~ schedule an incorporation election [that is: (A) on] for the proposed town on:

(i) the date of a regular general election [date under] described in Section 20A-1-201 or on the date of a local special election [date under] described in Section 20A-1-203; and

~~[(B)]~~ (ii) a date that is at least 65 days after the day [that the legislative body receives the certified petition; and] on which the lieutenant governor certifies the petition under Subsection 10-2a-302~~(11)~~ or 10-2a-302.5.

~~[(ii)]~~ (b) The lieutenant governor shall direct the county [legislative body of the county]



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in which the [~~incorporation is~~] proposed town is located to hold the incorporation election on the date [~~determined by~~] that the lieutenant governor [~~in accordance with~~] schedules under Subsection (1)(a)[~~(i)~~].

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

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

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

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

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

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

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

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

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

and

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

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

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

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

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

Shall the area described as (insert a description of the proposed town) be incorporated

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as the town of (insert the proposed name of the proposed town)?

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

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

Section ~~{4}~~7. Section 20A-11-101 is amended to read:

### 20A-11-101. Definitions.

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Agent of a reporting entity" means:

(a) a person acting on behalf of a reporting entity at the direction of the reporting entity;

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues

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committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist;

or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.

(7) "Coordinated with" means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate's or political party's prior knowledge, if the candidate or political party does not object;

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(b) by agreement with the candidate or political party;

(c) in coordination with the candidate or political party; or

(d) using official logos, slogans, and similar elements belonging to a candidate or political party.

(8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance, except to the extent that the name or address of the individual or source is unknown;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

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(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

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(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city, town, or metro township.

(21) "Incorporation election" means the election authorized by Section 10-2a-210, 10-2a-304, or 10-2a-404.

(22) "Incorporation petition" means a petition authorized by Section 10-2a-208 [or], 10-2a-302, or 10-2a-302.5.

(23) "Individual" means a natural person.

(24) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant

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whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(29) "Officeholder" means a person who holds a public office.

(30) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(31) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(32) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(33) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(34) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

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(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(35) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (35)(a), where the person:

(i) has already been paid, with money or other consideration;

(ii) expects to be paid in the future, with money or other consideration; or

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(36) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(37) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.



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(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee; or

(vi) a group of individuals who:

(A) associate together for the purpose of challenging or supporting a single ballot proposition, ordinance, or other governmental action by a county, city, town, local district, special service district, or other local political subdivision of the state;

(B) have a common liberty, property, or financial interest that is directly impacted by the ballot proposition, ordinance, or other governmental action;

(C) do not associate together, for the purpose described in Subsection (37)(b)(vi)(A), via a legal entity;

(D) do not receive funds for challenging or supporting the ballot proposition, ordinance, or other governmental action from a person other than an individual in the group; and

(E) do not expend a total of more than \$5,000 for the purpose described in Subsection (37)(b)(vi)(A).

(38) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

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(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(39) (a) "Political issues expenditure" means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(40) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or

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against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election; or

(b) judge standing for retention at any election.

(41) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(42) "Primary election" means any regular primary election held under the election laws.

(43) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

(44) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(45) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

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(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(46) "Receipts" means contributions and public service assistance.

(47) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(48) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(49) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(50) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(51) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

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(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(52) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(53) "School board office" means the office of state school board.

(54) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(55) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(56) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(57) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(58) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 8. Section **63I-2-210** is amended to read:

**63I-2-210. Repeal dates -- Title 10.**

(1) Subsection 10-2a-106(2), the language that states ", including a township incorporation procedure as defined in Section 10-2a-105," is repealed July 1, 2016.

(2) On July 1, 2018, the following are repealed:

(a) in Subsection 10-2-403(5), the language that states "10-2a-302 or";

(b) in Subsection 10-2-403(5)(b), the language that states "10-2a-302 or"

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(c) in Subsection 10-2a-106(2), the language that states "10-2a-302 or";

(d) Section 10-2a-302;

(e) Subsection 10-2a-302.5(2)(a);

(f) in Subsection 10-2a-303(1), the language that states "10-2a-302 or";

(g) in Subsection 10-2a-303(4), the language that states "10-2a-302 (7)(b)(v) or" and "10-2a-302 (7)(b)(iv) or";

(h) in Subsection 10-2a-304(1)(a), the language that states "10-2a-302 or"; and

(i) in Subsection 10-2a-304(1)(a)(ii), the language that states "10-2a-302(5) or".

[2] (3) Subsection 10-2a-410(3)(d)(ii) is repealed January 1, 2017.

[3] (4) Section 10-2a-105 is repealed July 1, 2016.

[4] (5) Subsection 10-9a-304(2) is repealed June 1, 2016.

Section 9. Section **63I-2-220** is amended to read:

**63I-2-220. Repeal dates, Title 20A.**

[On January 1, 2017:]

[(1) in Subsection 20A-1-102(71), the language that states "State Board of Education and" is repealed;]

[(2) in Subsection 20A-9-201(4)(a), the language that states "and State Board of Education candidates" is repealed;]

[(3) Subsection 20A-9-201(9) is repealed;]

[(4) in Subsection 20A-9-403(4)(c), the language that states "State Board of Education and" is repealed;]

[(5) in Subsection 20A-9-403(5)(a), the language that states "State Board of Education or" is repealed; and]

[(6) Section 20A-14-104 is repealed;]

On July 1, 2018, in Subsection 20A-11-101(21), the language that states ", 10-2a-302," is repealed.

Section 10. Coordinating H.B. 415 with H.B. 335 -- Technical amendments.

If this H.B. 415 and H.B. 335, Utah Population Estimates Production, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the terminology in ~~{Section}~~ Sections 10-2a-302 and 10-2a-302.5 from "Utah Population Estimates Committee"

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to "Utah Population Committee."

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**Legislative Review Note**

**Office of Legislative Research and General Counsel†**