

Representative Steve Waldrip proposes the following substitute bill:

MUNICIPAL BOUNDARY MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends provisions related to municipal boundaries.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a municipality from annexing an area proposed for incorporation after a certain period of time;
- ▶ establishes a procedure for filing an annexation petition proposing a cross-county annexation;
- ▶ extends certain notice requirements and signatory rights applicable to annexation to all other counties;
- ▶ allows an owner of private real property located in a mining protection area to file a protest to an annexation petition;
- ▶ requires a municipal legislative body to exclude private real property located in a mining protection area from an annexation petition unless the property owner consents;
- ▶ prohibits an incorporation from excluding part of a parcel of real property unless the property owner consents;



- 26 ▶ modifies certain landowner notification requirements for incorporation;
- 27 ▶ allows an owner of real property located in a mining protection area to exclude the
- 28 owner's property from a proposed incorporation;
- 29 ▶ extends the time period for certain property owners to exclude property from a
- 30 proposed incorporation after receiving notice of the proposed incorporation;
- 31 ▶ establishes a second opportunity for certain property owners to exclude property
- 32 from a proposed incorporation under certain circumstances;
- 33 ▶ allows for a feasibility study to be modified if property is subsequently annexed or
- 34 excluded from the proposed incorporation;
- 35 ▶ modifies provisions relating to the public hearings required for incorporation;
- 36 ▶ requires a county clerk to prepare a voter information pamphlet before an
- 37 incorporation election is held; and
- 38 ▶ makes technical and conforming changes.

39 Money Appropriated in this Bill:

40 None

41 Other Special Clauses:

42 This bill provides a special effective date.

43 Utah Code Sections Affected:

44 AMENDS:

- 45 **10-2-401**, as last amended by Laws of Utah 2015, Chapter 352
- 46 **10-2-401.5**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15
- 47 **10-2-402**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 7
- 48 **10-2-403**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15
- 49 **10-2-405**, as last amended by Laws of Utah 2015, Chapter 352
- 50 **10-2-407**, as last amended by Laws of Utah 2019, Chapter 255
- 51 **10-2-408**, as last amended by Laws of Utah 2015, Chapter 352
- 52 **10-2-414**, as last amended by Laws of Utah 2015, Chapter 352
- 53 **10-2a-201.5**, as enacted by Laws of Utah 2019, Chapter 165
- 54 **10-2a-203**, as last amended by Laws of Utah 2019, Chapter 165
- 55 **10-2a-206**, as last amended by Laws of Utah 2019, Chapter 165
- 56 **10-2a-207**, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended

57 by Coordination Clause, Laws of Utah 2019, Chapter 165

58 [10-2a-210](#), as last amended by Laws of Utah 2020, Chapter 22

59 ENACTS:

60 [10-2-402.5](#), Utah Code Annotated 1953

61

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

63 Section 1. Section **10-2-401** is amended to read:

64 **10-2-401. Definitions -- Property owner provisions.**

65 (1) As used in this part:

66 (a) "Affected entity" means:

67 (i) a county of the first or second class in whose unincorporated area the area proposed
68 for annexation is located;

69 (ii) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the
70 area proposed for annexation is located, if the area includes residents or commercial or
71 industrial development;

72 (iii) a local district under Title 17B, Limited Purpose Local Government Entities -
73 Local Districts, or special service district under Title 17D, Chapter 1, Special Service District
74 Act, whose boundary includes any part of an area proposed for annexation;

75 (iv) a school district whose boundary includes any part of an area proposed for
76 annexation, if the boundary is proposed to be adjusted as a result of the annexation; and

77 (v) a municipality whose boundaries are within 1/2 mile of an area proposed for
78 annexation.

79 (b) "Annexation petition" means a petition under Section [10-2-403](#) proposing the
80 annexation to a municipality of a contiguous, unincorporated area that is contiguous to the
81 municipality.

82 (c) "Commission" means a boundary commission established under Section [10-2-409](#)
83 for the county in which the property that is proposed for annexation is located.

84 (d) "Expansion area" means the unincorporated area that is identified in an annexation
85 policy plan under Section [10-2-401.5](#) as the area that the municipality anticipates annexing in
86 the future.

87 (e) "Feasibility consultant" means a person or firm with expertise in the processes and

88 economics of local government.

89 (f) "Mining protection area" means the same as that term is defined in Section
90 17-41-101.

91 [~~(f)~~] (g) "Municipal selection committee" means a committee in each county composed
92 of the mayor of each municipality within that county.

93 [~~(g)~~] (h) "Planning advisory area" means the same as that term is defined in Section
94 17-27a-306.

95 [~~(h)~~] (i) "Private," with respect to real property, means not owned by the United States
96 or any agency of the federal government, the state, a county, a municipality, a school district, a
97 local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a
98 special service district under Title 17D, Chapter 1, Special Service District Act, or any other
99 political subdivision or governmental entity of the state.

100 (j) "Rural real property" means the same as that term is defined in Section
101 17B-2a-1107.

102 [~~(i)~~] (k) "Specified county" means a county of the second, third, fourth, fifth, or sixth
103 class.

104 [~~(j)~~] (l) "Unincorporated peninsula" means an unincorporated area:

105 (i) that is part of a larger unincorporated area;

106 (ii) that extends from the rest of the unincorporated area of which it is a part;

107 (iii) that is surrounded by land that is within a municipality, except where the area
108 connects to and extends from the rest of the unincorporated area of which it is a part; and

109 (iv) whose width, at any point where a straight line may be drawn from a place where it
110 borders a municipality to another place where it borders a municipality, is no more than 25% of
111 the boundary of the area where it borders a municipality.

112 [~~(k)~~] (m) "Urban development" means:

113 (i) a housing development with more than 15 residential units and an average density
114 greater than one residential unit per acre; or

115 (ii) a commercial or industrial development for which cost projections exceed
116 \$750,000 for all phases.

117 (2) For purposes of this part:

118 (a) the owner of real property shall be:

119 (i) except as provided in Subsection (2)(a)(ii), the record title owner according to the
120 records of the county recorder on the date of the filing of the petition or protest; or

121 (ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed
122 for annexation includes military land that is within a project area described in a project area
123 plan adopted by the military installation development authority under Title 63H, Chapter 1,
124 Military Installation Development Authority Act; and

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

127 (3) For purposes of each provision of this part that requires the owners of private real
128 property covering a percentage or majority of the total private land area within an area to sign a
129 petition or protest:

130 (a) a parcel of real property may not be included in the calculation of the required
131 percentage or majority unless the petition or protest is signed by:

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

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

136 (b) the signature of a person signing a petition or protest in a representative capacity on
137 behalf of an owner is invalid unless:

138 (i) the person's representative capacity and the name of the owner the person represents
139 are indicated on the petition or protest with the person's signature; and

140 (ii) the person provides documentation accompanying the petition or protest that
141 substantiates the person's representative capacity; and

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

144 Section 2. Section 10-2-401.5 is amended to read:

145 **10-2-401.5. Annexation policy plan.**

146 (1) [~~After December 31, 2002, no~~] No municipality may annex an unincorporated area
147 located within a specified county unless the municipality has adopted an annexation policy plan
148 as provided in this section.

149 (2) To adopt an annexation policy plan:

150 (a) the planning commission shall:

151 (i) prepare a proposed annexation policy plan that complies with Subsection (3);

152 (ii) hold a public meeting to allow affected entities to examine the proposed annexation

153 policy plan and to provide input on it;

154 (iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected

155 entity at least 14 days before the meeting;

156 (iv) accept and consider any additional written comments from affected entities until

157 10 days after the public meeting under Subsection (2)(a)(ii);

158 (v) before holding the public hearing required under Subsection (2)(a)(vi), make any

159 modifications to the proposed annexation policy plan the planning commission considers

160 appropriate, based on input provided at or within 10 days after the public meeting under

161 Subsection (2)(a)(ii);

162 (vi) hold a public hearing on the proposed annexation policy plan;

163 (vii) provide reasonable public notice, including notice to each affected entity, of the

164 public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the

165 hearing;

166 (viii) make any modifications to the proposed annexation policy plan the planning

167 commission considers appropriate, based on public input provided at the public hearing; and

168 (ix) submit [its] the planning commission's recommended annexation policy plan to the

169 municipal legislative body; and

170 (b) the municipal legislative body shall:

171 (i) hold a public hearing on the annexation policy plan recommended by the planning

172 commission;

173 (ii) provide reasonable notice, including notice to each affected entity, of the public

174 hearing at least 14 days before the date of the hearing;

175 (iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the

176 recommended annexation policy plan that the legislative body considers appropriate; and

177 (iv) adopt the recommended annexation policy plan, with or without modifications.

178 (3) Each annexation policy plan shall include:

179 (a) a map of the expansion area which may include territory located outside the county

180 in which the municipality is located;

181 (b) a statement of the specific criteria that will guide the municipality's decision
182 whether or not to grant future annexation petitions, addressing matters relevant to those criteria
183 including:

184 (i) the character of the community;
185 (ii) the need for municipal services in developed and undeveloped unincorporated
186 areas;

187 (iii) the municipality's plans for extension of municipal services;

188 (iv) how the services will be financed;

189 (v) an estimate of the tax consequences to residents both currently within the municipal
190 boundaries and in the expansion area; and

191 (vi) the interests of all affected entities;

192 (c) justification for excluding from the expansion area any area containing urban
193 development within 1/2 mile of the municipality's boundary; and

194 (d) a statement addressing any comments made by affected entities at or within 10 days
195 after the public meeting under Subsection (2)(a)(ii).

196 (4) In developing, considering, and adopting an annexation policy plan, the planning
197 commission and municipal legislative body shall:

198 (a) attempt to avoid gaps between or overlaps with the expansion areas of other
199 municipalities;

200 (b) consider population growth projections for the municipality and adjoining areas for
201 the next 20 years;

202 (c) consider current and projected costs of infrastructure, urban services, and public
203 facilities necessary:

204 (i) to facilitate full development of the area within the municipality; and

205 (ii) to expand the infrastructure, services, and facilities into the area being considered
206 for inclusion in the expansion area;

207 (d) consider, in conjunction with the municipality's general plan, the need over the next
208 20 years for additional land suitable for residential, commercial, and industrial development;

209 (e) consider the reasons for including agricultural lands, forests, recreational areas, and
210 wildlife management areas in the municipality; and

211 (f) be guided by the principles set forth in Subsection [10-2-403](#)~~(6)~~(5).

212 (5) Within 30 days after adopting an annexation policy plan, the municipal legislative
213 body shall submit a copy of the plan to the legislative body of each county in which any of the
214 municipality's expansion area is located.

215 (6) Nothing in this chapter may be construed to prohibit or restrict two or more
216 municipalities in specified counties from negotiating and cooperating with respect to defining
217 each municipality's expansion area under an annexation policy plan.

218 Section 3. Section **10-2-402** is amended to read:

219 **10-2-402. Annexation -- Limitations.**

220 (1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be
221 annexed to the municipality as provided in this part.

222 (b) Except as provided in Subsection (1)(c), an unincorporated area may not be
223 annexed to a municipality unless:

224 (i) ~~[it]~~ the unincorporated area is a contiguous area;

225 (ii) ~~[it]~~ the unincorporated area is contiguous to the municipality;

226 (iii) annexation will not leave or create an unincorporated island or unincorporated
227 peninsula:

228 (A) except as provided in Subsection 10-2-418(3); or

229 (B) unless the county and municipality have otherwise agreed; and

230 (iv) for an area located in a specified county [~~with respect to an annexation that occurs~~
231 ~~after December 31, 2002~~], the area is within the proposed annexing municipality's expansion
232 area.

233 (c) A municipality may annex an unincorporated area within a specified county that
234 does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated
235 island or unincorporated peninsula, if:

236 (i) the area is within the annexing municipality's expansion area;

237 (ii) the specified county in which the area is located and the annexing municipality
238 agree to the annexation;

239 (iii) the area is not within the area of another municipality's annexation policy plan,
240 unless the other municipality agrees to the annexation; and

241 (iv) the annexation is for the purpose of providing municipal services to the area.

242 (2) Except as provided in Section 10-2-418, a municipality may not annex an

243 unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

244 (3) (a) An annexation under this part may not include part of a parcel of real property
245 and exclude part of that same parcel unless the owner of that parcel has signed the annexation
246 petition under Section 10-2-403.

247 (b) A piece of real property that has more than one parcel number is considered to be a
248 single parcel for purposes of Subsection (3)(a) if owned by the same owner.

249 (4) A municipality may not annex an unincorporated area in a specified county for the
250 sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to
251 annex the same or a related area unless the municipality has the ability and intent to benefit the
252 annexed area by providing municipal services to the annexed area.

253 (5) (a) As used in this subsection, "expansion area urban development" means:

254 (i) for a specified county, urban development within a city or town's expansion area; or

255 (ii) for a county of the first class, urban development within a city or town's expansion
256 area that:

257 (A) consists of 50 or more acres;

258 (B) requires the county to change the zoning designation of the land on which the
259 urban development is located; and

260 (C) does not include commercial or industrial development that is located within a
261 mining protection area as defined in Section 17-41-101, regardless of whether the commercial
262 or industrial development is for a mining use as defined in Section 17-41-101.

263 (b) A county legislative body may not approve expansion area urban development
264 unless:

265 (i) the county notifies the city or town of the proposed development; and

266 (ii) (A) the city or town consents in writing to the development;

267 (B) within 90 days after the county's notification of the proposed development, the city
268 or town submits to the county a written objection to the county's approval of the proposed
269 development and the county responds in writing to the city or town's objection; or

270 (C) the city or town fails to respond to the county's notification of the proposed
271 development within 90 days after the day on which the county provides the notice.

272 ~~[(6) (a) An annexation petition may not be filed under this part proposing the~~
273 ~~annexation of an area located in a county that is not the county in which the proposed annexing~~

274 ~~municipality is located unless the legislative body of the county in which the area is located has~~
275 ~~adopted a resolution approving the proposed annexation.]~~

276 ~~[(b) Each county legislative body that declines to adopt a resolution approving a~~
277 ~~proposed annexation described in Subsection (6)(a) shall provide a written explanation of its~~
278 ~~reasons for declining to approve the proposed annexation.]~~

279 ~~[(7)] (6) (a) As used in this Subsection [(7)] (6), "airport" means an area that the~~
280 ~~Federal Aviation Administration has, by a record of decision, approved for the construction or~~
281 ~~operation of a Class I, II, or III commercial service airport, as designated by the Federal~~
282 ~~Aviation Administration in 14 C.F.R. Part 139.~~

283 (b) A municipality may not annex an unincorporated area within 5,000 feet of the
284 center line of any runway of an airport operated or to be constructed and operated by another
285 municipality unless the legislative body of the other municipality adopts a resolution
286 consenting to the annexation.

287 (c) A municipality that operates or intends to construct and operate an airport and does
288 not adopt a resolution consenting to the annexation of an area described in Subsection [(7)]
289 (6)(b) may not deny an annexation petition proposing the annexation of that same area to that
290 municipality.

291 ~~[(8)] (7) (a) As used in this [subsection] Subsection (7), "project area" means a project~~
292 ~~area as defined in Section 63H-1-102 that is in a project area plan as defined in Section~~
293 ~~63H-1-102 adopted by the Military Installation Development Authority under Title 63H,~~
294 ~~Chapter 1, Military Installation Development Authority Act.~~

295 (b) A municipality may not annex an unincorporated area located within a project area
296 without the authority's approval.

297 (c) (i) Except as provided in Subsection [(8)] (7)(c)(ii), the Military Installation
298 Development Authority may petition for annexation of the following areas to a municipality as
299 if [it] the Military Installation Development Authority was the sole private property owner
300 within the area:

301 (A) an area within a project area;

302 (B) an area that is contiguous to a project area and within the boundaries of a military
303 installation;

304 (C) an area owned by the Military Installation Development Authority; and

305 (D) an area that is contiguous to an area owned by the Military Installation
306 Development Authority that the Military Installation Development Authority plans to add to an
307 existing project area.

308 (ii) If any portion of an area annexed under a petition for annexation filed by the
309 Military Installation Development Authority is located in a specified county:

310 (A) the annexation process shall follow the requirements for a specified county; and

311 (B) the provisions of [~~Subsection 10-2-402(6)~~] Section 10-2-402.5 do not apply.

312 (8) A municipality may not annex an unincorporated area if:

313 (a) the area is proposed for incorporation in:

314 (i) a feasibility study conducted under Section 10-2a-205; or

315 (ii) a supplemental feasibility study conducted under Section 10-2a-206;

316 (b) the lieutenant governor completes the first public hearing on the proposed

317 incorporation under Subsection 10-2a-207(4); and

318 (c) the time period for a specified landowner, as defined in Section 10-2a-203, to

319 request that the lieutenant governor exclude the specified landowner's property from the

320 proposed incorporation under Subsection 10-2a-207(5)(a) has expired.

321 Section 4. Section ~~10-2-402.5~~ is enacted to read:

322 **10-2-402.5. Cross-county annexation -- Requirements.**

323 (1) As used in this section:

324 (a) "Affected county" means the county in which an area proposed for cross-county
325 annexation is located.

326 (b) "Affected municipality" means a municipality:

327 (i) located in an affected county; and

328 (ii) whose expansion area includes the area proposed for cross-county annexation.

329 (c) "Applicant" means a person intending to file an annexation petition proposing a
330 cross-county annexation.

331 (d) "Cross-county annexation" means the annexation of an area located in a county that
332 is not the county in which the proposed annexing municipality is located.

333 (e) "Specified public utility" means the same as that term is defined in Section
334 10-9a-103.

335 (2) An applicant may not file a petition under Section 10-2-403 proposing a cross-

336 county annexation unless:

337 (a) the applicant sends a written notice of intent to file a petition proposing a
338 cross-county annexation to the legislative body of each affected municipality describing:

339 (i) the area proposed for cross-county annexation; and

340 (ii) the proposed annexing municipality;

341 (b) the proposed annexing municipality adopts or amends the municipality's annexation
342 policy plan under Section 10-2-401.5 to include the area proposed for cross-county annexation
343 within the proposed annexing municipality's expansion area;

344 (c) the applicant files a request to approve the proposed cross-county annexation with
345 the legislative body of the affected county:

346 (i) no sooner than 90 days after the day on which the applicant sends the written notice
347 described in Subsection (2)(a) to each affected municipality; and

348 (ii) no later than 180 days after the day on which the applicant sends the written notice
349 described in Subsection (2)(a) to each affected municipality;

350 (d) a feasibility consultant conducts a feasibility study in accordance with Subsection
351 (3), unless the feasibility study is waived under Subsection (3)(b); and

352 (e) the legislative body of the affected county:

353 (i) holds a public hearing in accordance with Subsection (4); and

354 (ii) adopts the resolution described in Subsection (4)(a)(iii)(A).

355 (3) (a) Within 60 days after the day on which a legislative body of an affected county
356 receives the request described in Subsection (2)(c), or within a time period longer than 60 days
357 if agreed to by the legislative body of the affected county and the applicant, the legislative body
358 of the affected county and the applicant shall jointly select and engage a feasibility consultant
359 to:

360 (i) conduct a feasibility study on the proposed cross-county annexation; and

361 (ii) submit written results of the feasibility study to the legislative body of the affected
362 county and the applicant no later than 90 days after the day on which the feasibility consultant
363 is engaged to conduct the feasibility study.

364 (b) The legislative body of the affected county may waive the requirement for a
365 feasibility study under Subsection (3)(a).

366 (c) The feasibility study under Subsection (3)(a) shall determine:

367 (i) whether the proposed cross-county annexation eliminates, leaves, or creates an
368 unincorporated island or unincorporated peninsula;
369 (ii) the fiscal impact of the proposed cross-county annexation on:
370 (A) the affected county;
371 (B) affected municipalities;
372 (C) specified public utilities that serve the area proposed for cross-county annexation;
373 and
374 (D) affected entities;
375 (iii) the estimated cost that the proposed annexing municipality would incur to provide
376 governmental services in the area proposed for cross-county annexation during the current
377 fiscal year;
378 (iv) the estimated revenue that the proposed annexing municipality would receive from
379 the area proposed for cross-county annexation during the current fiscal year; and
380 (v) (A) each entity that has provided municipal-type services in the area proposed for
381 cross-county annexation;
382 (B) the methods under which each entity described in Subsection (3)(c)(v)(A) has
383 provided municipal-type services in the area proposed for cross-county annexation; and
384 (C) the feasibility of the proposed annexing municipality providing municipal-type
385 services in the area proposed for cross-county annexation.
386 (d) For purposes of Subsection (3)(c)(iv), the feasibility consultant shall assume that
387 the ad valorem property tax rate on property within the area proposed for cross-county
388 annexation is the same property tax rate that the proposed annexing municipality currently
389 imposes on property within the municipality.
390 (e) The applicant and the affected county shall share equally the feasibility consultant
391 fees and expenses.
392 (4) (a) A legislative body of an affected county shall hold, within 30 days after the day
393 on which the legislative body receives the written results of the feasibility study under
394 Subsection (3)(a) or waives the requirement for a feasibility study under Subsection (3)(b), a
395 public hearing to:
396 (i) determine whether the requirements described in Subsections (2)(a) and (b) have
397 been met;

398 (ii) consider the results of the feasibility study under Subsection (3)(a), unless the
399 feasibility study is waived under Subsection (3)(b); and

400 (iii) (A) adopt a resolution approving the proposed cross-county annexation; or
401 (B) adopt a resolution rejecting the proposed cross-county annexation.

402 (b) The legislative body of the affected county shall send, at least 15 days before the
403 day on which the public hearing described in Subsection (4)(a) occurs, written notice of the
404 public hearing to:

405 (i) the applicant;
406 (ii) each residence within, and to each owner of real property located within:
407 (A) the area proposed for cross-county annexation; and
408 (B) 300 feet of the area proposed for cross-county annexation;

409 (iii) the legislative body of:
410 (A) the proposed annexing municipality; and
411 (B) the county in which the proposed annexing municipality is located;

412 (iv) each specified public utility that serves the area proposed for cross-county
413 annexation;

414 (v) each affected municipality; and
415 (vi) each affected entity.

416 (c) At the public hearing described in Subsection (4)(a), the legislative body of the
417 affected county shall allow the individuals present to speak to the proposed cross-county
418 annexation.

419 (d) A legislative body of an affected county may not adopt a resolution rejecting a
420 proposed cross-county annexation under this section unless the legislative body determines
421 that:

422 (i) the requirements described in Subsections (2)(a) and (b) have not been met; or
423 (ii) the results of the feasibility study under Subsection (3)(a) show that:
424 (A) the proposed cross-county annexation would impose a substantial burden on the
425 affected county;
426 (B) the estimated revenue under Subsection (3)(c)(iv) exceeds the estimated cost to
427 provide governmental services under Subsection (3)(c)(iii) by more than 5%; or
428 (C) it would not be feasible for the proposed annexing municipality to provide

429 municipal-type services in the area proposed for cross-county annexation.

430 (e) A legislative body of an affected county that adopts a resolution rejecting a
431 proposed cross-county annexation under this section shall provide to the applicant a written
432 explanation of the legislative body's decision.

433 (f) A legislative body of an affected county may adopt a resolution approving a
434 proposed cross-county annexation under this section regardless of the results of a feasibility
435 study under Subsection (3)(a).

436 (5) (a) A party adversely affected by a legislative body of an affected county's decision
437 under Subsection (4)(a) may, within 30 days after the day on which the legislative body issues
438 the legislative body's decision, file a petition for review of the decision in the district court with
439 jurisdiction in the affected county.

440 (b) The district court shall defer to the legislative body of the affected county's decision
441 under Subsection (4)(a) unless the court determines that the decision is arbitrary, capricious, or
442 unlawful.

443 (6) Section 10-2-418 does not apply to a cross-county annexation.

444 Section 5. Section 10-2-403 is amended to read:

445 **10-2-403. Annexation petition -- Requirements -- Notice required before filing.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

470 (A) be in writing;

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

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

473 Records show that you own property within an area that is intended to be included in a
474 proposed annexation to (state the name of the proposed annexing municipality) or that is within
475 300 feet of that area. If your property is within the area proposed for annexation, you may be
476 asked to sign a petition supporting the annexation. You may choose whether to sign the
477 petition. By signing the petition, you indicate your support of the proposed annexation. If you
478 sign the petition but later change your mind about supporting the annexation, you may
479 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk
480 of (state the name of the proposed annexing municipality) within 30 days after (state the name
481 of the proposed annexing municipality) receives notice that the petition has been certified.

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

487 You may obtain more information on the proposed annexation by contacting (state the
488 name, mailing address, telephone number, and email address of the official or employee of the
489 proposed annexing municipality designated to respond to questions about the proposed
490 annexation), (state the name, mailing address, telephone number, and email address of the

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

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

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

501 (c) (i) After receiving the certificate from the county as provided in Subsection
502 (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons
503 who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for
504 the annexation proposed in the notice of intent.

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

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

508 (a) be filed with the applicable city recorder or town clerk of the proposed annexing
509 municipality;

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

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

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

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

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

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

524 (c) be accompanied by:

525 (i) an accurate and recordable map, prepared by a licensed surveyor in accordance with
526 Section 17-23-20, of the area proposed for annexation; and

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

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

532 "Notice:

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

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

540 (e) if the petition proposes [~~the annexation of an area located in a county that is not the~~
541 ~~county in which the proposed annexing municipality is located]~~ a cross-county annexation, as
542 defined in Section 10-2-402.5, be accompanied by a copy of the resolution[~~, required under~~
543 ~~Subsection 10-2-402(6), of the legislative body of the county in which the area is located]~~
544 described in Subsection 10-2-402.5(4)(a)(iii)(A); and

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

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

550 [~~(5)(a) Except as provided in Subsection (5)(b), an annexation petition under~~
551 ~~Subsection (1) may not propose the annexation of an area that includes some or all of an area~~
552 ~~proposed to be incorporated in a request for a feasibility study under Section 10-2a-202 if:]~~

553 ~~[(i) the request was filed before the filing of the annexation petition; and]~~
554 ~~[(ii) the request, or a petition under Section 10-2a-208 based on that request, is still~~
555 ~~pending on the date the annexation petition is filed.]~~
556 ~~[(b) Subsection (5)(a) does not apply to an annexation petition if:]~~
557 ~~[(i) the annexation petition proposes the annexation of an area included in a notice of~~
558 ~~intent described in Subsection (5)(c); or]~~
559 ~~[(ii) the annexation petition:]~~
560 ~~[(A) is filed on or after November 15, 2020; and]~~
561 ~~[(B) proposes the annexation of an area located in a county other than the first class.]~~
562 ~~[(c) (i) A person intending to file a petition for annexation of an area located in a~~
563 ~~county other than a first class county may, on or before August 5, 2020, file with the city~~
564 ~~recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition~~
565 ~~for annexation.]~~
566 ~~[(ii) The notice of intent described in Subsection (5)(c)(i) shall include an accurate map~~
567 ~~of the area that is proposed to be annexed.]~~
568 ~~[(6)] (5) If practicable and feasible, the boundaries of an area proposed for annexation~~
569 ~~shall be drawn:~~
570 (a) along the boundaries of existing local districts and special service districts for
571 sewer, water, and other services, along the boundaries of school districts whose boundaries
572 follow city boundaries or school districts adjacent to school districts whose boundaries follow
573 city boundaries, and along the boundaries of other taxing entities;
574 (b) to eliminate islands and peninsulas of territory that is not receiving municipal-type
575 services;
576 (c) to facilitate the consolidation of overlapping functions of local government;
577 (d) to promote the efficient delivery of services; and
578 (e) to encourage the equitable distribution of community resources and obligations.
579 ~~[(7)] (6) On the date of filing, the petition sponsors shall deliver or mail a copy of the~~
580 ~~petition to the clerk of the county in which the area proposed for annexation is located.~~
581 ~~[(8)] (7) A property owner who signs an annexation petition [proposing to annex an~~
582 ~~area located in a county of the first class] may withdraw the owner's signature by filing a~~
583 ~~written withdrawal, signed by the property owner, with the city recorder or town clerk no later~~

584 than 30 days after the municipal legislative body's receipt of the notice of certification under
585 Subsection 10-2-405(2)(c)(i).

586 Section 6. Section 10-2-405 is amended to read:

587 **10-2-405. Acceptance or denial of an annexation petition -- Petition certification**
588 **process -- Modified petition.**

589 (1) (a) (i) A municipal legislative body may:

590 (A) subject to Subsection (1)(a)(ii), deny a petition filed under Section 10-2-403; or

591 (B) accept the petition for further consideration under this part.

592 (ii) A petition shall be considered to have been accepted for further consideration under
593 this part if a municipal legislative body fails to act to deny or accept the petition under
594 Subsection (1)(a)(i):

595 (A) in the case of a city of the first or second class, within 14 days after the filing of the
596 petition; or

597 (B) in the case of a city of the third, fourth, or fifth class, a town, or a metro township,
598 at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days
599 after the date the petition was filed.

600 (b) If a municipal legislative body denies a petition under Subsection (1)(a)(i), it shall,
601 within five days after the denial, mail written notice of the denial to:

602 (i) the contact sponsor; and

603 (ii) the clerk of the county in which the area proposed for annexation is located.

604 (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i) or is
605 considered to have accepted the petition under Subsection (1)(a)(ii), the city recorder or town
606 clerk, as the case may be, shall, within 30 days after that acceptance:

607 (a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the
608 area proposed for annexation is located the records the city recorder or town clerk needs to
609 determine whether the petition meets the requirements of Subsections 10-2-403(3)[;] and (4)[;
610 ~~and (5)~~];

611 (b) with the assistance of the municipal attorney, determine whether the petition meets
612 the requirements of Subsections 10-2-403(3)[;] and (4)[; ~~and (5)~~]; and

613 (c) (i) if the city recorder or town clerk determines that the petition meets those
614 requirements, certify the petition and mail or deliver written notification of the certification to

615 the municipal legislative body, the contact sponsor, and the county legislative body; or

616 (ii) if the city recorder or town clerk determines that the petition fails to meet any of
617 those requirements, reject the petition and mail or deliver written notification of the rejection
618 and the reasons for the rejection to the municipal legislative body, the contact sponsor, and the
619 county legislative body.

620 (3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection (2)(c)(ii),
621 the petition may be modified to correct the deficiencies for which it was rejected and then
622 refiled with the city recorder or town clerk, as the case may be.

623 (ii) A signature on an annexation petition filed under Section 10-2-403 may be used
624 toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as
625 modified under Subsection (3)(a)(i).

626 (b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city
627 recorder or town clerk under Subsection (2)(c)(ii), the refiled petition shall be treated as a
628 newly filed petition under Subsection 10-2-403(1).

629 (4) Each county assessor, clerk, surveyor, and recorder shall provide copies of records
630 that a city recorder or town clerk requests under Subsection (2)(a).

631 Section 7. Section 10-2-407 is amended to read:

632 **10-2-407. Protest to annexation petition -- Planning advisory area planning**
633 **commission recommendation -- Petition requirements -- Disposition of petition if no**
634 **protest filed.**

635 (1) A protest to an annexation petition under Section 10-2-403 may be filed by:

636 (a) the legislative body or governing board of an affected entity;

637 (b) ~~the~~ an owner of rural real property [~~as defined in Section 17B-2a-1107; or~~];

638 (c) for a proposed annexation of an area within a county of the first class, [~~the owners~~]
639 an owner of private real property that:

640 (i) is located in the unincorporated area within 1/2 mile of the area proposed for
641 annexation;

642 (ii) covers at least 25% of the private land area located in the unincorporated area
643 within 1/2 mile of the area proposed for annexation; and

644 (iii) is equal in value to at least 15% of all real property located in the unincorporated
645 area within 1/2 mile of the area proposed for annexation~~[-]; or~~ or

646 (d) an owner of private real property located in a mining protection area.
647 (2) Each protest under Subsection (1) shall:
648 (a) be filed:
649 (i) no later than 30 days after the municipal legislative body's receipt of the notice of
650 certification under Subsection 10-2-405(2)(c)(i); and
651 (ii) (A) in a county that has already created a commission under Section 10-2-409, with
652 the commission; or
653 (B) in a county that has not yet created a commission under Section 10-2-409, with the
654 clerk of the county in which the area proposed for annexation is located;
655 (b) state each reason for the protest of the annexation petition and, if the area proposed
656 to be annexed is located in a specified county, justification for the protest under the standards
657 established in this chapter;
658 (c) if the area proposed to be annexed is located in a specified county, contain other
659 information that the commission by rule requires or that the party filing the protest considers
660 pertinent; and
661 (d) contain the name and address of a contact person who is to receive notices sent by
662 the commission with respect to the protest proceedings.
663 (3) The party filing a protest under this section shall on the same date deliver or mail a
664 copy of the protest to the city recorder or town clerk of the proposed annexing municipality.
665 (4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:
666 (a) immediately notify the county legislative body of the protest; and
667 (b) deliver the protest to the boundary commission within five days after:
668 (i) receipt of the protest, if the boundary commission has previously been created; or
669 (ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the
670 boundary commission has not previously been created.
671 (5) (a) If a protest is filed under this section:
672 (i) the municipal legislative body may, at its next regular meeting after expiration of
673 the deadline under Subsection (2)(a)(i), deny the annexation petition; or
674 (ii) if the municipal legislative body does not deny the annexation petition under
675 Subsection (5)(a)(i), the municipal legislative body may take no further action on the
676 annexation petition until after receipt of the commission's notice of its decision on the protest

677 under Section 10-2-416.

678 (b) If a municipal legislative body denies an annexation petition under Subsection
679 (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of
680 the denial in writing to:

- 681 (i) the contact sponsor of the annexation petition;
- 682 (ii) the commission; and
- 683 (iii) each entity that filed a protest.

684 (6) If no timely protest is filed under this section, the municipal legislative body may,
685 subject to Subsection (7), approve the petition.

686 (7) Before approving an annexation petition under Subsection (6), the municipal
687 legislative body shall hold a public hearing and publish notice of the public hearing:

688 (a) (i) at least seven days before the day of the public hearing in a newspaper of general
689 circulation within the municipality and the area proposed for annexation;

690 (ii) if there is no newspaper of general circulation in the combined area described in
691 Subsection (7)(a)(i), at least seven days before the day of the public hearing, by posting one
692 notice, and at least one additional notice per 2,000 population within the combined area, in
693 places within the combined area that are most likely to give notice to the residents within, and
694 the owners of real property located within, the combined area; or

695 (iii) at least 10 days before the day of the public hearing by mailing the notice to each
696 residence within, and to each owner of real property located within, the combined area
697 described in Subsection (7)(a)(i);

698 (b) on the Utah Public Notice Website created in Section 63F-1-701, for seven days
699 before the day of the public hearing;

700 (c) in accordance with Section 45-1-101, for seven days before the day of the public
701 hearing; and

702 (d) if the municipality has a website, on the municipality's website for seven days
703 before the day of the public hearing.

704 Section 8. Section 10-2-408 is amended to read:

705 **10-2-408. Denying or approving the annexation petition -- Notice of approval.**

706 (1) After receipt of the commission's decision on a protest under Subsection
707 10-2-416(2), a municipal legislative body may:

708 (a) deny the annexation petition; or
709 (b) subject to Subsection (2), if the commission approves the annexation, approve the
710 annexation petition consistent with the commission's decision.

711 (2) A municipal legislative body shall exclude:
712 (a) rural real property, [~~as that term is defined in Section 17B-2a-1107,~~] unless the
713 owner of the rural real property gives written consent to include the rural real property[:]; and
714 (b) private real property located in a mining protection area, unless the owner of the
715 private real property gives written consent to include the private real property.

716 Section 9. Section 10-2-414 is amended to read:

717 **10-2-414. Modified annexation petition -- Supplemental feasibility study.**

718 (1) (a) (i) If the results of the feasibility study with respect to a proposed annexation of
719 an area located in a county of the first class do not meet the requirements of Subsection
720 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility
721 consultant's submission of the results of the study, file with the city recorder or town clerk of
722 the proposed annexing municipality a modified annexation petition altering the boundaries of
723 the proposed annexation.

724 (ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the
725 sponsors of the annexation petition shall deliver or mail a copy of the modified annexation
726 petition to the clerk of the county in which the area proposed for annexation is located.

727 (b) Each modified annexation petition under Subsection (1)(a) shall comply with the
728 requirements of Subsections 10-2-403(3)[:] and (4)[~~and (5)~~].

729 (2) (a) Within 20 days of the city recorder or town clerk's receipt of the modified
730 annexation petition, the city recorder or town clerk, as the case may be, shall follow the same
731 procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and
732 (3)(a) for an original annexation petition.

733 (b) If the city recorder or town clerk certifies the modified annexation petition under
734 Subsection 10-2-405(2)(c)(i), the city recorder or town clerk, as the case may be, shall send
735 written notice of the certification to:

- 736 (i) the commission;
- 737 (ii) each entity that filed a protest to the annexation petition; and
- 738 (iii) if a protest was filed under Subsection 10-2-407(1)(c), the contact person.

739 (c) (i) If the modified annexation petition proposes the annexation of an area that
740 includes part or all of a local district, special service district, or school district that was not
741 included in the area proposed for annexation in the original petition, the city recorder or town
742 clerk, as the case may be, shall also send notice of the certification of the modified annexation
743 petition to the board of the local district, special service district, or school district.

744 (ii) If the area proposed for annexation in the modified annexation petition is within
745 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the
746 area proposed for annexation in the original annexation petition, the city recorder or town
747 clerk, as the case may be, shall also send notice of the certification of the modified annexation
748 petition to the legislative body of that municipality.

749 (3) Within 10 days of the commission's receipt of the notice under Subsection (2)(b),
750 the commission shall engage the feasibility consultant that conducted the feasibility study to
751 supplement the feasibility study to take into account the information in the modified
752 annexation petition that was not included in the original annexation petition.

753 (4) The commission shall require the feasibility consultant to complete the
754 supplemental feasibility study and to submit written results of the supplemental study to the
755 commission no later than 30 days after the feasibility consultant is engaged to conduct the
756 supplemental feasibility study.

757 Section 10. Section **10-2a-201.5** is amended to read:

758 **10-2a-201.5. Qualifications for incorporation.**

759 (1) (a) An area may incorporate as a town in accordance with this part if the area:

- 760 (i) subject to Subsection (1)(c), is contiguous;
761 (ii) has a population of at least 100 people, but fewer than 1,000 people; and
762 (iii) is not already part of a municipality.

763 (b) An area may incorporate as a city in accordance with this part if the area:

- 764 (i) subject to Subsection (1)(c), is contiguous;
765 (ii) has a population of 1,000 people or more; and
766 (iii) is not already part of a municipality.

767 (c) An area is not contiguous for purposes of Subsection (1)(a)(i) or (b)(i) if:

- 768 (i) the area includes a strip of land that connects geographically separate areas; and
769 (ii) the distance between the geographically separate areas is greater than the average

770 width of the strip of land connecting the geographically separate areas.

771 (2) (a) An area may not incorporate under this part if:

772 (i) the area has a population of fewer than 100 people; or

773 (ii) except as provided in Subsection (2)(b), the area has an average population density
774 of fewer than seven people per square mile.

775 (b) Subject to Subsection (1)(c), an area that does not comply with Subsection (2)(a)(ii)
776 may incorporate under this part if the noncompliance is necessary to connect separate areas that
777 share a demonstrable community interest.

778 (3) Subject to Subsection (1)(c), an area incorporating under this part may not include
779 land owned by the United States federal government unless:

780 (a) incorporating the land is necessary to connect separate areas that share a
781 demonstrable community interest; or

782 (b) excluding the land from the incorporating area would create an unincorporated
783 island within the proposed municipality.

784 (4) (a) Except as provided in Subsection (4)(b), an area incorporating under this part
785 may not include some or all of an area proposed for annexation in an annexation petition under
786 Section 10-2-403 that:

787 (i) was filed before the filing of the request for a feasibility study, described in Section
788 10-2a-202, relating to the incorporating area; and

789 (ii) is still pending on the date the request for the feasibility study described in
790 Subsection (4)(a)(i) is filed.

791 (b) A request for a feasibility study may propose for incorporation an area that includes
792 some or all of an area proposed for annexation in an annexation petition described in
793 Subsection (4)(a) if:

794 (i) the proposed annexation area that is part of the area proposed for incorporation does
795 not exceed 20% of the area proposed for incorporation;

796 (ii) the request complies with Subsections 10-2a-202(1) and (2) with respect to
797 excluding the proposed annexation area from the area proposed for incorporation; and

798 (iii) excluding the area proposed for annexation from the area proposed for
799 incorporation would not cause the area proposed for incorporation to not be contiguous under
800 Subsection (1)(c).

801 (c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider
 802 each request to which Subsection (4)(b) applies as not proposing the incorporation of an area
 803 proposed for annexation.

804 (5) (a) An area incorporating under this part may not include part of a parcel of real
 805 property and exclude part of that same parcel unless the owner of the parcel gives written
 806 consent to exclude part of the parcel.

807 (b) A piece of real property that has more than one parcel number is considered to be a
 808 single parcel for purposes of Subsection (5)(a) if owned by the same owner.

809 Section 11. Section 10-2a-203 is amended to read:

810 **10-2a-203. Notice to owner of property -- Exclusion of property from proposed**
 811 **municipality.**

812 (1) As used in this section:

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

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

817 ~~[(2) Within seven calendar days after the day on which an individual files a request~~
 818 ~~under Section 10-2a-202, the lieutenant governor shall send written notice of the proposed~~
 819 ~~incorporation to each record owner of real property owning more than:]~~

820 ~~[(a) 1% of the assessed value of all property in the proposed incorporation boundaries;~~
 821 ~~or]~~

822 ~~[(b) 10% of the total private land area within the proposed incorporation boundaries.]~~

823 ~~[(3) If an owner owns, controls, or manages more than 1% of the assessed value of all~~
 824 ~~property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more~~
 825 ~~of the total private land area in the proposed incorporation boundaries, the owner may request~~
 826 ~~that the lieutenant governor exclude all or part of the property owned, controlled, or managed~~
 827 ~~by the owner from the proposed boundaries by filing a notice of exclusion with the Office of~~
 828 ~~the Lieutenant Governor:]~~

829 ~~[(a) that describes the property for which the owner requests exclusion; and]~~

830 ~~[(b) within 15 calendar days after the day on which the owner receives the notice~~
 831 ~~described in Subsection (2).]~~

- 832 (c) "Specified landowner" means a record owner of real property:
833 (i) who owns more than:
834 (A) 1% of the assessed value of all property within the boundaries of a proposed
835 incorporation; or
836 (B) 10% of the total private land area within the boundaries of a proposed
837 incorporation; or
838 (ii) located in a mining protection area as defined in Section 17-41-101.
839 (2) Within seven calendar days after the day on which an individual files a request for a
840 feasibility study under Section 10-2a-202, the lieutenant governor shall mail written notice of
841 the proposed incorporation to each residence within, and each owner of real property located
842 within:
843 (a) the proposed incorporation boundaries; and
844 (b) 300 feet of the proposed incorporation boundaries.
845 (3) A specified landowner may, within 30 calendar days after the day on which the
846 specified landowner receives notice under Subsection (2), request that the lieutenant governor
847 exclude all or part of the property owned by the specified landowner from the proposed
848 incorporation by filing a notice of exclusion with the Office of the Lieutenant Governor that
849 describes the property for which the specified landowner requests exclusion.
850 (4) The lieutenant governor shall exclude the property identified by [an owner] a
851 specified landowner under Subsection (3) from the proposed incorporation boundaries unless
852 the lieutenant governor finds by clear and convincing evidence that:
853 (a) the exclusion will leave an unincorporated island within the proposed municipality;
854 and
855 (b) the property receives from the county a majority of currently provided municipal
856 services.
857 (5) (a) Within five days after the day on which the lieutenant governor makes a
858 determination on whether to include or exclude a property under Subsection (4), the lieutenant
859 governor shall mail or transmit [~~to the owner that requested the property's exclusion and to the~~
860 ~~contact sponsor~~] written notice of whether the property is included or excluded from the
861 proposed incorporation boundaries[-] to:
862 (i) the specified landowner that requested the property's exclusion; and

863 (ii) the contact sponsor.

864 (b) If the lieutenant governor makes a determination to include a property under
865 Subsection (4), the lieutenant governor shall include, in the written notice described in
866 Subsection (5)(a), a detailed explanation of the lieutenant governor's determination.

867 Section 12. Section **10-2a-206** is amended to read:

868 **10-2a-206. Modified request for feasibility study -- Supplemental feasibility**
869 **study.**

870 (1) (a) The sponsors of a feasibility study request may modify the request to alter the
871 boundaries of the proposed municipality and refile the modified request with the lieutenant
872 governor if:

873 (i) the results of the feasibility study do not comply with Subsection [10-2a-205\(6\)\(a\)](#);

874 [or]

875 (ii) (A) the request complies with Subsection [10-2a-201.5\(4\)\(b\)](#);

876 (B) the annexation petition that proposed the annexation of an area that is part of the
877 area proposed for incorporation has been denied; and

878 (C) an incorporation petition based on the request has not been filed[-];

879 (iii) (A) the lieutenant governor completes the first public hearing described in
880 Subsection [10-2a-207\(4\)](#); and

881 (B) property is excluded from the proposed municipality in accordance with Subsection
882 [10-2a-207\(5\)\(b\)](#); or

883 (iv) before the time period for a specified landowner, as defined in Section [10-2a-203](#),
884 to request that the lieutenant governor exclude the specified landowner's property from the
885 proposed incorporation under Subsection [10-2a-207\(5\)\(a\)](#) has expired, a municipal legislative
886 body:

887 (A) approves an annexation petition proposing the annexation of an area that is part of
888 the area proposed for incorporation under Section [10-2-407](#) or [10-2-408](#); or

889 (B) adopts an ordinance approving the annexation of an area that is part of the area
890 proposed for incorporation under Section [10-2-418](#).

891 (b) (i) The sponsors of a feasibility study request may not file a modified request under
892 Subsection (1)(a)(i) more than 90 days after the day on which the feasibility consultant submits
893 the final results of the feasibility study under Subsection [10-2a-205\(3\)\(c\)](#).

894 (ii) The sponsors of a request may not file a modified request under Subsection
895 (1)(a)(ii) more than 18 months after filing the original request under Section 10-2a-202.

896 (iii) The sponsors of a request may not file a modified request under Subsection
897 (1)(a)(iii) more than 90 days after the day on which the lieutenant governor mails or transmits
898 written notice under Subsection 10-2a-207(4)(c).

899 (iv) The sponsors of a request may not file a modified request under Subsection
900 (1)(a)(iv) more than 90 days after the day on which the municipal legislative body:

901 (A) approves the annexation petition under Section 10-2-407 or 10-2-408; or

902 (B) adopts the ordinance approving the annexation under Section 10-2-418.

903 (c) (i) Subject to Subsection (1)(c)(ii), each modified request under Subsection (1)(a)
904 shall comply with Subsections 10-2a-202(1) and (2) and Subsection 10-2a-201.5(4).

905 (ii) Notwithstanding Subsection (1)(c)(i), a signature on a request filed under Section
906 10-2a-202 may be used toward fulfilling the signature requirement of Subsection
907 10-2a-202(1)(a) for the request as modified under Subsection (1)(a), unless the modified
908 request proposes the incorporation of an area that is more than 20% larger or smaller than the
909 area described by the original request in terms of:

910 (A) private land area; or

911 (B) value of private real property.

912 (2) Within 20 days after the lieutenant governor's receipt of the modified request, the
913 lieutenant governor shall follow the same procedure under Subsection 10-2a-204(1) for the
914 modified request as for an original request.

915 (3) The timely filing of a modified request under Subsection (1) gives the modified
916 request the same processing priority under Subsection 10-2a-204(3) as the original request.

917 (4) Within 10 days after the day on which the lieutenant governor receives a modified
918 request under Subsection (1)(a) that relates to a request for which a feasibility study has already
919 been completed, the lieutenant governor shall commission the feasibility consultant who
920 conducted the feasibility study to conduct a supplemental feasibility study that accounts for the
921 modified request.

922 (5) The lieutenant governor shall require the feasibility consultant to:

923 (a) submit a draft of the supplemental feasibility study to each applicable person with
924 whom the feasibility consultant is required to consult under Subsection 10-2a-205(4)(c) within

925 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental
926 study;

927 (b) allow each person to whom the consultant provided a draft under Subsection (5)(a)
928 to review and provide comment on the draft; and

929 (c) submit a completed supplemental feasibility study, to the following within 45 days
930 after the day on which the feasibility consultant is engaged to conduct the study:

931 (i) the lieutenant governor;

932 (ii) the county legislative body of the county in which the incorporation is proposed;

933 (iii) the contact sponsor; and

934 (iv) each person to whom the consultant provided a draft under Subsection (5)(a).

935 (6) (a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study
936 do not comply with Subsection 10-2a-205(6)(a), the sponsors may further modify the request in
937 accordance with Subsection (1).

938 (b) Subsections (2), (4), and (5) apply to a modified request described in Subsection
939 (6)(a).

940 (c) The lieutenant governor shall consider a modified request described in Subsection
941 (6)(a) as an original request for a feasibility study for purposes of determining the modified
942 request's processing priority under Subsection 10-2a-204(3).

943 Section 13. Section 10-2a-207 is amended to read:

944 **10-2a-207. Public hearings on feasibility study results -- Exclusions of property**
945 **from proposed municipality -- Notice of hearings.**

946 (1) As used in this section, "specified landowner" means the same as that term is
947 defined in Section 10-2a-203.

948 [(+)] (2) If the results of the feasibility study or supplemental feasibility study comply
949 with Subsection 10-2a-205(6)(a), the lieutenant governor shall, after receipt of the results of the
950 feasibility study or supplemental feasibility study, conduct [at least] two public hearings[:] in
951 accordance with this section.

952 (3) (a) If an area proposed for incorporation is approved for annexation after the
953 feasibility study or supplemental feasibility study is conducted but before the lieutenant
954 governor conducts the first public hearing under Subsection (4), the lieutenant governor may
955 not conduct the first public hearing under Subsection (4) unless:

956 (i) the sponsors of the feasibility study file a modified request for a feasibility study in
957 accordance with Section 10-2a-206; and

958 (ii) the results of the supplemental feasibility study comply with Subsection
959 10-2a-205(6)(a).

960 (b) For purposes of Subsection (3)(a), an area is approved for annexation if a condition
961 described in Subsection 10-2a-206(1)(a)(iv) occurs.

962 (4) The lieutenant governor shall conduct the first public hearing:

963 (a) within 60 days after the day on which the lieutenant governor receives the results
964 under Subsection (2) or (3)(a)(ii);

965 ~~[(b) at least seven days apart;]~~

966 ~~[(c) except in a proposed municipality that will be a city of the fifth class or a town, in~~
967 ~~geographically diverse locations;]~~

968 ~~[(d)]~~ (b) within or near the proposed municipality;

969 ~~[(e)]~~ (c) to allow the feasibility consultant to present the results of the feasibility study;
970 and

971 ~~[(f)]~~ (d) to inform the public about the results of the feasibility study.

972 (5) (a) Within 30 calendar days after the day on which the lieutenant governor
973 completes the first public hearing under Subsection (4), a specified landowner may request that
974 the lieutenant governor exclude all or part of the property owned by the specified landowner
975 from the proposed incorporation by filing a notice of exclusion with the Office of the
976 Lieutenant Governor that describes the property for which the specified landowner requests
977 exclusion.

978 (b) The lieutenant governor shall exclude the property identified by a specified
979 landowner under Subsection (5)(a) from the proposed incorporation boundaries unless the
980 lieutenant governor finds by clear and convincing evidence that:

981 (i) the exclusion will leave an unincorporated island within the proposed municipality;
982 and

983 (ii) the property receives from the county a majority of currently provided municipal
984 services.

985 (c) (i) Within five days after the day on which the lieutenant governor determines
986 whether to exclude property under Subsection (5)(b), the lieutenant governor shall mail or

987 transmit written notice of whether the property is included or excluded from the proposed
988 municipality to:

989 (A) the specified landowner that requested the property's exclusion; and

990 (B) the contact sponsor.

991 (ii) If the lieutenant governor makes a determination to include a property under
992 Subsection (5)(b), the lieutenant governor shall include, in the written notice described in
993 Subsection (5)(c)(i), a detailed explanation of the lieutenant governor's determination.

994 (d) (i) If the lieutenant governor excludes property from the proposed municipality
995 under Subsection (5)(b), or if an area proposed for incorporation is approved for annexation
996 within the time period for a specified landowner to request an exclusion under Subsection
997 (5)(a), the lieutenant governor may not conduct the second public hearing under Subsection (6),
998 unless:

999 (A) the sponsors of the feasibility study file a modified request for a feasibility study in
1000 accordance with Section [10-2a-206](#); and

1001 (B) the results of the supplemental feasibility study comply with Subsection
1002 [10-2a-205\(6\)\(a\)](#).

1003 (ii) For purposes of Subsection (5)(d)(i), an area is approved for annexation if a
1004 condition described in Subsection [10-2a-206\(1\)\(a\)\(iv\)](#) occurs.

1005 (6) The lieutenant governor shall conduct the second public hearing:

1006 (a) (i) within 30 days after the day on which the time period described in Subsection
1007 (5)(a) expires, if Subsection (5)(d) does not apply; or

1008 (ii) within 30 days after the day on which the lieutenant governor receives the results of
1009 the supplemental feasibility study described in Subsection (5)(d)(i)(B), if Subsection (5)(d)
1010 applies;

1011 (b) within or near the proposed municipality; and

1012 (c) to allow the feasibility consultant to present the results of and inform the public
1013 about:

1014 (i) the feasibility study presented to the public in the first public hearing under
1015 Subsection (4), if Subsection (5)(d) does not apply; or

1016 (ii) the supplemental feasibility study described in Subsection (5)(d)(i)(B), if
1017 Subsection (5)(d) applies.

1018 ~~[(2)]~~ (7) At each public hearing ~~[described in Subsection (1)]~~ required under this
1019 section, the lieutenant governor shall:

- 1020 (a) provide a map or plat of the boundary of the proposed municipality;
- 1021 (b) provide a copy of the applicable feasibility study for public review;
- 1022 (c) allow members of the public to express views about the proposed incorporation,
1023 including views about the proposed boundaries; and
- 1024 (d) allow the public to ask the feasibility consultant questions about the applicable
1025 feasibility study.

1026 ~~[(3)]~~ (8) The lieutenant governor shall publish notice of ~~[the public hearings described~~
1027 ~~in Subsection (1)]~~ each public hearing required under this section:

- 1028 (a) (i) at least once a week for three consecutive weeks before the ~~[first]~~ public hearing
1029 in a newspaper of general circulation within the proposed municipality;
- 1030 (ii) if there is no newspaper of general circulation in the proposed municipality, at least
1031 three weeks before the day of the ~~[first]~~ public hearing, by posting one notice, and at least one
1032 additional notice per 2,000 population of the proposed municipality, in places within the
1033 proposed municipality that are most likely to give notice to the residents within, and the owners
1034 of real property located within, the proposed municipality; or
- 1035 (iii) at least three weeks before the ~~[first]~~ public hearing, by mailing notice to each
1036 residence within, and each owner of real property located within, the proposed municipality;
- 1037 (b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks
1038 before the day of the ~~[first]~~ public hearing;
- 1039 (c) in accordance with Section 45-1-101, for three weeks before the day of the ~~[first]~~
1040 public hearing; and
- 1041 (d) on the lieutenant governor's website for three weeks before the day of the ~~[first]~~
1042 public hearing.

1043 ~~[(4)]~~ (9) The last notice required to be published under Subsection ~~[(3)]~~ (8)(a)(i) shall
1044 be at least three days before the ~~[first]~~ public hearing ~~[required under Subsection (1)]~~.

1045 ~~[(5)]~~ (10) (a) Except as provided in Subsection ~~[(5)]~~ (10)(b), the notice described in
1046 Subsection ~~[(3)]~~ (8) shall:

- 1047 (i) include the feasibility study summary described in Subsection 10-2a-205(3)(c) ~~[and~~
1048 ~~shall]~~;

1049 (ii) indicate that a full copy of the study is available on the lieutenant governor's
1050 website and for inspection at the Office of the Lieutenant Governor[-]; and

1051 (iii) indicate that under no circumstances may property be excluded or annexed from
1052 the proposed incorporation after the time period specified in Subsection (5)(a) has expired, if
1053 the notice is for the first public hearing under Subsection (4).

1054 (b) Instead of publishing the [~~feasability~~] feasibility summary under Subsection [~~(5)~~
1055 (10)(a)(i)], the lieutenant governor may publish a statement that specifies the following sources
1056 where a resident within, or the owner of real property located within, the proposed
1057 municipality, may view or obtain a copy of the [~~feasability~~] feasibility study:

1058 (i) the lieutenant governor's website;

1059 (ii) the physical address of the Office of the Lieutenant Governor; and

1060 (iii) a mailing address and telephone number.

1061 Section 14. Section **10-2a-210** is amended to read:

1062 **10-2a-210. Incorporation election -- Notice of election -- Voter information**
1063 **pamphlet.**

1064 (1) (a) If the lieutenant governor certifies a petition under Subsection ~~10-2a-209~~(1)(b),
1065 the lieutenant governor shall schedule an incorporation election for the proposed municipality
1066 described in the petition to be held on the date of the next regular general election described in
1067 Section ~~20A-1-201~~, or the next municipal general election described in Section ~~20A-1-202~~, that
1068 is at least 65 days after the day on which the lieutenant governor certifies the petition.

1069 (b) (i) The lieutenant governor shall direct the county legislative body of the county in
1070 which the proposed municipality is located to hold the election on the date that the lieutenant
1071 governor schedules under Subsection (1)(a).

1072 (ii) The county shall hold the election as directed by the lieutenant governor under
1073 Subsection (1)(b)(i).

1074 (2) The county clerk shall publish notice of the election:

1075 (a) (i) in a newspaper of general circulation within the area proposed to be incorporated
1076 at least once a week for three successive weeks before the election;

1077 (ii) if there is no newspaper of general circulation in the area proposed to be
1078 incorporated, at least three weeks before the day of the election, by posting one notice, and at
1079 least one additional notice per 2,000 population of the area proposed to be incorporated, in

1080 places within the area proposed to be incorporated that are most likely to give notice to the
1081 voters within the area proposed to be incorporated; or

1082 (iii) at least three weeks before the day of the election, by mailing notice to each
1083 registered voter in the area proposed to be incorporated;

1084 (b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks
1085 before the day of the election;

1086 (c) in accordance with Section 45-1-101, for three weeks before the day of the election;

1087 (d) if the proposed municipality has a website, on the proposed municipality's website
1088 for three weeks before the day of the election; and

1089 (e) on the county's website for three weeks before the day of the election.

1090 (3) (a) The notice required by Subsection (2) shall contain:

1091 (i) a statement of the contents of the petition;

1092 (ii) a description of the area proposed to be incorporated as a municipality;

1093 (iii) a statement of the date and time of the election and the location of polling places;

1094 and

1095 (iv) except as provided in Subsection (3)(c), the feasibility study summary described in
1096 Subsection 10-2a-205(3)(c) and a statement that a full copy of the study is available on the
1097 lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

1098 (b) The last notice required to be published under Subsection (2)(a)(i) shall be
1099 published at least one day, but no more than seven days, before the day of the election.

1100 (c) Instead of publishing the feasibility summary under Subsection (3)(a)(iv), the notice
1101 may include a statement that specifies the following sources where a registered voter in area
1102 proposed to be incorporated may view or obtain a copy the feasibility study:

1103 (i) the lieutenant governor's website;

1104 (ii) the physical address of the Office of the Lieutenant Governor; and

1105 (iii) a mailing address and telephone number.

1106 (4) (a) In addition to the notice required under Subsection (2), the county clerk shall
1107 publish and distribute, before the incorporation election is held, a voter information pamphlet:

1108 (i) in accordance with the procedures and requirements of Section 20A- 7-402;

1109 (ii) in consultation with the lieutenant governor; and

1110 (iii) in a manner that the county clerk determines is adequate, subject to Subsections

1111 (4)(a)(i) and (ii).

1112 (b) The voter information pamphlet described in Subsection (4)(a):

1113 (i) shall inform the public of the proposed incorporation; and

1114 (ii) may include written statements, printed in the same font style and point size, from

1115 proponents and opponents of the proposed incorporation.

1116 [~~4~~] (5) An individual may not vote in an incorporation election under this section
1117 unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within
1118 the boundaries of the proposed municipality.

1119 [~~5~~] (6) If a majority of those who vote in an incorporation election held under this
1120 section cast votes in favor of incorporation, the area shall incorporate.

1121 Section 15. **Effective date.**

1122 If approved by two-thirds of all the members elected to each house, this bill takes effect
1123 upon approval by the governor, or the day following the constitutional time limit of Utah
1124 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
1125 the date of veto override.