

HB0115S03 compared with HB0115S02

~~deleted text~~ shows text that was in HB0115S02 but was deleted in HB0115S03.

inserted text shows text that was not in HB0115S02 but was inserted into HB0115S03.

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Representative Steve Waldrip proposes the following substitute bill:

MUNICIPAL BOUNDARY MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: _____

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

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-2-401, as last amended by Laws of Utah 2015, Chapter 352

10-2-401.5, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15

10-2-402, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 7

10-2-403, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15

10-2-405, as last amended by Laws of Utah 2015, Chapter 352

10-2-407, as last amended by Laws of Utah 2019, Chapter 255

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10-2-408, as last amended by Laws of Utah 2015, Chapter 352

10-2-414, as last amended by Laws of Utah 2015, Chapter 352

10-2a-201.5, as enacted by Laws of Utah 2019, Chapter 165

10-2a-203, as last amended by Laws of Utah 2019, Chapter 165

10-2a-206, as last amended by Laws of Utah 2019, Chapter 165

10-2a-207, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 165

10-2a-210, as last amended by Laws of Utah 2020, Chapter 22

ENACTS:

10-2-402.5, Utah Code Annotated 1953

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

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

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

(1) As used in this part:

(a) "Affected entity" means:

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

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

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

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

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

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

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

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

(e) "Feasibility consultant" means a person or firm with expertise in the processes and economics of local government.

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

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

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

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

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

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

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

- (i) that is part of a larger unincorporated area;
- (ii) that extends from the rest of the unincorporated area of which it is a part;
- (iii) that is surrounded by land that is within a municipality, except where the area connects to and extends from the rest of the unincorporated area of which it is a part; and
- (iv) whose width, at any point where a straight line may be drawn from a place where it borders a municipality to another place where it borders a municipality, is no more than 25% of the boundary of the area where it borders a municipality.

~~(k)~~ (m) "Urban development" means:

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

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

(2) For purposes of this part:

(a) the owner of real property shall be:

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

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

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

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

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

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

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

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

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

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

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

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

10-2-401.5. Annexation policy plan.

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

(2) To adopt an annexation policy plan:

(a) the planning commission shall:

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

(ii) hold a public meeting to allow affected entities to examine the proposed annexation policy plan and to provide input on it;

(iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected entity at least 14 days before the meeting;

(iv) accept and consider any additional written comments from affected entities until 10 days after the public meeting under Subsection (2)(a)(ii);

(v) before holding the public hearing required under Subsection (2)(a)(vi), make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on input provided at or within 10 days after the public meeting under Subsection (2)(a)(ii);

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

(vii) provide reasonable public notice, including notice to each affected entity, of the public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the hearing;

(viii) make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on public input provided at the public hearing; and

(ix) submit [~~its~~] the planning commission's recommended annexation policy plan to the municipal legislative body; and

(b) the municipal legislative body shall:

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

(ii) provide reasonable notice, including notice to each affected entity, of the public hearing at least 14 days before the date of the hearing;

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(iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the recommended annexation policy plan that the legislative body considers appropriate; and

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

(3) Each annexation policy plan shall include:

(a) a map of the expansion area which may include territory located outside the county in which the municipality is located;

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

(i) the character of the community;

(ii) the need for municipal services in developed and undeveloped unincorporated areas;

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

(iv) how the services will be financed;

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

(vi) the interests of all affected entities;

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

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

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

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

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

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

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

(ii) to expand the infrastructure, services, and facilities into the area being considered

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for inclusion in the expansion area;

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

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

(f) be guided by the principles set forth in Subsection 10-2-403~~(f)~~(5).

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

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

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

10-2-402. Annexation -- Limitations.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

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

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

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

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

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

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

(A) consists of 50 or more acres;

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

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

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

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

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

(B) within 90 days after the county's notification of the proposed development, the city

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or town submits to the county a written objection to the county's approval of the proposed development and the county responds in writing to the city or town's objection; or

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

~~[(6)(a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation.]~~

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

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

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

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

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

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

(c) (i) Except as provided in Subsection ~~[(8)]~~ (7)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as

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if [†] the Military Installation Development Authority was the sole private property owner within the area:

(A) an area within a project area;

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

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

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

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

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

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

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

(a) the area is proposed for incorporation in:

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

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

(b) the lieutenant governor completes the first public hearing on the proposed incorporation under Subsection 10-2a-207(4); and

(c) the time period for a specified landowner, as defined in Section 10-2a-203, to request that the lieutenant governor exclude the specified landowner's property from the proposed incorporation under Subsection 10-2a-207(5)(a) has expired.

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

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

(1) As used in this section:

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

(b) "Affected municipality" means a municipality:

(i) located in an affected county; and

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

(c) "Applicant" means a person intending to file an annexation petition proposing a

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cross-county annexation.

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

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

(2) An applicant may not file a petition under Section 10-2-403 proposing a cross-county annexation unless:

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

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

(ii) the proposed annexing municipality;

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

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

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

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

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

(e) the legislative body of the affected county:

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

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

(3) (a) Within ~~30~~60 days after the day on which a legislative body of an affected county receives the request described in Subsection (2)(c), or within a time period longer than ~~30~~60 days if agreed to by the legislative body of the affected county and the applicant, the legislative body of the affected county and the applicant shall jointly select and engage a feasibility consultant to:

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

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(ii) submit written results of the feasibility study to the legislative body of the affected county and the applicant no later than ~~30~~90 days after the day on which the feasibility consultant is engaged to conduct the feasibility study.

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

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

(i) whether the proposed cross-county annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;

(ii) the fiscal impact of the proposed cross-county annexation on:

(A) the affected county;

(B) affected municipalities;

(C) specified public utilities that serve the area proposed for cross-county annexation;

and

(D) affected entities;

(iii) the estimated cost that the proposed annexing municipality would incur to provide governmental services in the area proposed for cross-county annexation during the current fiscal year;

(iv) the estimated revenue that the proposed annexing municipality would receive from the area proposed for cross-county annexation during the current fiscal year; and

(v) (A) each entity that has provided municipal-type services in the area proposed for cross-county annexation;

(B) the methods under which each entity described in Subsection (3)(c)(v)(A) has provided municipal-type services in the area proposed for cross-county annexation; and

(C) the feasibility of the proposed annexing municipality providing municipal-type services in the area proposed for cross-county annexation.

(d) For purposes of Subsection (3)(c)(iv), the feasibility consultant shall assume that the ad valorem property tax rate on property within the area proposed for cross-county annexation is the same property tax rate that the proposed annexing municipality currently imposes on property within the municipality.

(e) The applicant and the affected county shall share equally the feasibility consultant fees and expenses.

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(4) (a) A legislative body of an affected county shall hold, within 30 days after the day on which the legislative body receives the written results of the feasibility study under Subsection (3)(a) or waives the requirement for a feasibility study under Subsection (3)(b), a public hearing to:

(i) determine whether the requirements described in Subsections (2)(a) and (b) have been met;

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

(iii) (A) adopt a resolution approving the proposed cross-county annexation; or

(B) adopt a resolution rejecting the proposed cross-county annexation.

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

(i) the applicant;

(ii) each residence within, and to each owner of real property located within:

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

(B) 300 feet of the area proposed for cross-county annexation;

(iii) the legislative body of:

(A) the proposed annexing municipality; and

(B) the county in which the proposed annexing municipality is located;

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

(v) each affected municipality; and

(vi) each affected entity.

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

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

(i) the requirements described in Subsections (2)(a) and (b) have not been met; or

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(ii) the results of the feasibility study under Subsection (3)(a) show that:

(A) the proposed cross-county annexation would impose a substantial burden on the affected county;

(B) the estimated revenue under Subsection (3)(c)(iv) exceeds the estimated cost to provide governmental services under Subsection (3)(c)(iii) by more than 5%; ~~and~~ or

(C) it would not be feasible for the proposed annexing municipality to provide municipal-type services in the area proposed for cross-county annexation.

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

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

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

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

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

Section 5. 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.

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(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;

(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 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

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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 (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 applicable city recorder or town clerk 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;

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(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, Industrial, or Critical Infrastructure Materials 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 in accordance with Section 17-23-20, 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:

- 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~~] a cross-county annexation, as defined in Section 10-2-402.5, 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~~] described in Subsection 10-2-402.5(4)(a)(iii)(A); 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.

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(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) Except as provided in Subsection (5)(b), an annexation petition under Subsection (1) 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 if:]~~

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

~~[(ii) the request, or a petition under Section 10-2a-208 based on that request, is still pending on the date the annexation petition is filed.]~~

~~[(b) Subsection (5)(a) does not apply to an annexation petition if:]~~

~~[(i) the annexation petition proposes the annexation of an area included in a notice of intent described in Subsection (5)(c); or]~~

~~[(ii) the annexation petition:]~~

~~[(A) is filed on or after November 15, 2020; and]~~

~~[(B) proposes the annexation of an area located in a county other than the first class.]~~

~~[(c) (i) A person intending to file a petition for annexation of an area located in a county other than a first class county may, on or before August 5, 2020, file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition for annexation.]~~

~~[(ii) The notice of intent described in Subsection (5)(c)(i) shall include an accurate map of the area that is proposed to be annexed.]~~

~~[(6)] (5) 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 services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

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(e) to encourage the equitable distribution of community resources and obligations.

~~[(7)]~~ (6) 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)]~~ (7) 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 6. Section **10-2-405** is amended to read:

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

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

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

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

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

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

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

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

(i) the contact sponsor; and

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

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

(a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the area proposed for annexation is located the records the city recorder or town clerk needs to

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determine whether the petition meets the requirements of Subsections 10-2-403(3)~~]~~ and (4)~~;~~ and (5)];

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

(c) (i) if the city recorder or town clerk determines that the petition meets those requirements, certify the petition and mail or deliver written notification of the certification to the municipal legislative body, the contact sponsor, and the county legislative body; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) an owner of private real property located in a mining protection area.

(2) Each protest under Subsection (1) shall:

(a) be filed:

(i) 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); and

(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

(B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

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(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

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

(i) the contact sponsor of the annexation petition;

(ii) the commission; and

(iii) each entity that filed a protest.

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

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

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

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

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

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

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

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

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

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

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

(a) deny the annexation petition; or

(b) subject to Subsection (2), if the commission approves the annexation, approve the annexation petition consistent with the commission's decision.

(2) A municipal legislative body shall exclude:

(a) rural real property, [~~as that term is defined in Section 17B-2a-1107,~~] unless the owner of the rural real property gives written consent to include the rural real property[~~;~~]; and

(b) private real property located in a mining protection area, unless the owner of the private real property gives written consent to include the private real property.

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

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

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

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

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

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

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

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

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

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

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

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

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

10-2a-201.5. Qualifications for incorporation.

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

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

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

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(i) subject to Subsection (1)(c), is contiguous;

(ii) has a population of 1,000 people or more; and

(iii) is not already part of a municipality.

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

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

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

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

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

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

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

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

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

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

(4) (a) Except as provided in Subsection (4)(b), an area incorporating under this part may not include 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 request for a feasibility study, described in Section 10-2a-202, relating to the incorporating area; and

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

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

(i) the proposed annexation area that is part of the area proposed for incorporation does

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not exceed 20% of the area proposed for incorporation;

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

~~[(3) If an owner owns, controls, or manages more than 1% of the assessed value of all property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation boundaries, the owner may request~~

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~~that the lieutenant governor exclude all or part of the property owned, controlled, or managed by the owner from the proposed boundaries by filing a notice of exclusion with the Office of the Lieutenant Governor:]~~

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

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

~~(c) "Specified landowner" means a record owner of real property:~~

~~(i) who owns more than:~~

~~(A) 1% of the assessed value of all property within the boundaries of a proposed incorporation; or~~

~~(B) 10% of the total private land area within the boundaries of a proposed incorporation; or~~

~~(ii) located in a mining protection area as defined in Section 17-41-101.~~

~~(2) Within seven calendar days after the day on which an individual files a request for a feasibility study under Section 10-2a-202, the lieutenant governor shall mail written notice of the proposed incorporation to each residence within, and each owner of real property located within:~~

~~(a) the proposed incorporation boundaries; and~~

~~(b) 300 feet of the proposed incorporation boundaries.~~

~~(3) A specified landowner may, within 30 calendar days after the day on which the specified landowner receives notice under Subsection (2), request that the lieutenant governor exclude all or part of the property owned by the specified landowner from the proposed incorporation by filing a notice of exclusion with the Office of the Lieutenant Governor that describes the property for which the specified landowner requests exclusion.~~

~~(4) The lieutenant governor shall exclude the property identified by [an owner] a specified landowner under Subsection (3) from the proposed incorporation boundaries unless the lieutenant governor finds by clear and convincing evidence that:~~

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

~~(b) the property receives from the county a majority of currently provided municipal services.~~

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(5) (a) Within five days after the day on which the lieutenant governor makes a determination on whether to include or exclude a property under Subsection (4), the lieutenant governor shall mail or transmit [~~to the owner that requested the property's exclusion and to the contact sponsor~~] written notice of whether the property is included or excluded from the proposed incorporation boundaries[-] to:

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

(ii) the contact sponsor.

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

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

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

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

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

(ii) (A) the request complies with Subsection 10-2a-201.5(4)(b);

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

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

(iii) (A) the lieutenant governor completes the first public hearing described in Subsection 10-2a-207(4); and

(B) property is excluded from the proposed municipality in accordance with Subsection 10-2a-207(5)(b); or

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

(A) approves an annexation petition proposing the annexation of an area that is part of

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the area proposed for incorporation under Section 10-2-407 or 10-2-408; or

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

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

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

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

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

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

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

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

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

(A) private land area; or

(B) value of private real property.

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

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

(4) Within 10 days after the day on which the lieutenant governor receives a modified request under Subsection (1)(a) that relates to a request for which a feasibility study has already

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been completed, the lieutenant governor shall commission the feasibility consultant who conducted the feasibility study to conduct a supplemental feasibility study that accounts for the modified request.

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

(a) submit a draft of the supplemental feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection 10-2a-205(4)(c) within 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental study;

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

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

(i) the lieutenant governor;

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

(iii) the contact sponsor; and

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

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

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

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

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

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

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

~~(1)~~ (2) If the results of the feasibility study or supplemental feasibility study comply with Subsection 10-2a-205(6)(a), the lieutenant governor shall, after receipt of the results of the

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feasibility study or supplemental feasibility study, conduct ~~[at least]~~ two public hearings~~[:]~~ in accordance with this section.

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

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

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

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

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

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

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

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

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

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

and

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

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

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

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

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

(c) (i) Within five days after the day on which the lieutenant governor determines whether to exclude property under Subsection (5)(b), the lieutenant governor shall mail or transmit written notice of whether the property is included or excluded from the proposed municipality to:

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

(B) the contact sponsor.

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

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

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

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

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

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

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

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

(b) within or near the proposed municipality; and

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) the lieutenant governor's website;
- (ii) the physical address of the Office of the Lieutenant Governor; and
- (iii) a mailing address and telephone number.

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

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

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

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

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

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

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

(ii) if there is no newspaper of general circulation in the area proposed to be incorporated, at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated; or

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

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

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

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

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

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

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

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

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

and

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

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

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

(i) the lieutenant governor's website;

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

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(iii) a mailing address and telephone number.

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

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

(ii) in consultation with the lieutenant governor; and

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

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

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

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

(ii) may include written statements, printed in the same font style and point size, from proponents and opponents of the proposed incorporation.

~~[(4)]~~ (5) 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 municipality.

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

Section ~~{14}~~15. **Effective date.**

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