

**MUNICIPAL BOUNDARY MODIFICATIONS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Waldrip**

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

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**LONG TITLE**

**General Description:**

This bill amends provisions related to municipal boundaries.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ 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;
- ▶ prohibits the annexation of an area included in a certified incorporation petition;
- ▶ extends certain landowner notification requirements for incorporation;
- ▶ establishes a second opportunity for a property owner to exclude the owner's property from a proposed incorporation under certain circumstances;
- ▶ allows for a feasibility study to be modified if property is subsequently excluded from the proposed incorporation;
- ▶ modifies provisions relating to the public hearings required for incorporation; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **10-2-402**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 7

32 **10-2-403**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15

33 **10-2a-203**, as last amended by Laws of Utah 2019, Chapter 165

34 **10-2a-206**, as last amended by Laws of Utah 2019, Chapter 165

35 **10-2a-207**, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended

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

37 ENACTS:

38 **10-2-402.5**, Utah Code Annotated 1953



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

41 Section 1. Section **10-2-402** is amended to read:

42 **10-2-402. Annexation -- Limitations.**

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

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

47 (i) it is a contiguous area;

48 (ii) it is contiguous to the municipality;

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

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

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

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

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

- 59 (i) the area is within the annexing municipality's expansion area;
- 60 (ii) the specified county in which the area is located and the annexing municipality
- 61 agree to the annexation;
- 62 (iii) the area is not within the area of another municipality's annexation policy plan,
- 63 unless the other municipality agrees to the annexation; and
- 64 (iv) the annexation is for the purpose of providing municipal services to the area.

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

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

67 (3) (a) An annexation under this part may not include part of a parcel of real property

68 and exclude part of that same parcel unless the owner of that parcel has signed the annexation

69 petition under Section 10-2-403.

70 (b) A piece of real property that has more than one parcel number is considered to be a

71 single parcel for purposes of Subsection (3)(a) if owned by the same owner.

72 (4) A municipality may not annex an unincorporated area in a specified county for the

73 sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to

74 annex the same or a related area unless the municipality has the ability and intent to benefit the

75 annexed area by providing municipal services to the annexed area.

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

- 77 (i) for a specified county, urban development within a city or town's expansion area; or
- 78 (ii) for a county of the first class, urban development within a city or town's expansion
- 79 area that:

80 (A) consists of 50 or more acres;

81 (B) requires the county to change the zoning designation of the land on which the

82 urban development is located; and

83 (C) does not include commercial or industrial development that is located within a

84 mining protection area as defined in Section 17-41-101, regardless of whether the commercial

85 or industrial development is for a mining use as defined in Section 17-41-101.

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

87 unless:

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

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

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

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

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

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

102 ~~[(7)]~~ (6) (a) As used in this Subsection ~~[(7)]~~ (6), "airport" means an area that the  
103 Federal Aviation Administration has, by a record of decision, approved for the construction or  
104 operation of a Class I, II, or III commercial service airport, as designated by the Federal  
105 Aviation Administration in 14 C.F.R. Part 139.

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

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

114 ~~[(8)]~~ (7) (a) As used in this ~~[subsection]~~ Subsection (7), "project area" means a project  
115 area as defined in Section 63H-1-102 that is in a project area plan as defined in Section  
116 63H-1-102 adopted by the Military Installation Development Authority under Title 63H,  
117 Chapter 1, Military Installation Development Authority Act.

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

120 (c) (i) Except as provided in Subsection ~~[(8)]~~ (7)(c)(ii), the Military Installation

121 Development Authority may petition for annexation of the following areas to a municipality as  
122 if it was the sole private property owner within the area:

123 (A) an area within a project area;

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

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

127 (D) an area that is contiguous to an area owned by the Military Installation

128 Development Authority that the Military Installation Development Authority plans to add to an  
129 existing project area.

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

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

133 (B) the provisions of [~~Subsection 10-2-402(6)~~] [Section 10-2-502.5](#) do not apply.

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

135 **10-2-402.5. Cross-county annexation -- Requirements.**

136 (1) As used in this section:

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

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

140 (i) located in an affected county; and

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

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

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

146 (e) "Specified public utility" means the same as that term is defined in Section  
147 [10-9a-103](#).

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

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

152           (A) the area proposed for cross-county annexation; and  
153           (B) the proposed annexing municipality;  
154           (ii) the applicant demonstrates, no sooner than 90 days after the day on which the  
155 applicant sends the written notice described in Subsection (2)(a)(i) to each affected  
156 municipality, that:  
157           (A) no affected municipalities responded in accordance with Subsection (2)(b); or  
158           (B) it is not feasible for any affected municipality to annex the area described in  
159 Subsection (2)(a)(i)(A);  
160           (iii) the proposed annexing municipality adopts or amends the municipality's  
161 annexation policy plan to include the area described in Subsection (2)(a)(i)(A) within the  
162 proposed annexing municipality's expansion area;  
163           (iv) the applicant files a request to approve the proposed cross-county annexation with  
164 the legislative body of the affected county; and  
165           (v) the legislative body of the affected county adopts a resolution approving the  
166 cross-county annexation in accordance with Subsection (3).  
167           (b) When an applicant sends a written notice described in Subsection (2)(a)(i) to an  
168 affected municipality, the affected municipality is presumed not interested in annexing the area  
169 proposed for cross-county annexation unless the affected municipality responds to the written  
170 notice within 90 days after the day on which the applicant sends the written notice.  
171           (3) (a) A county legislative body shall, within 30 days after the day on which the  
172 county legislative body receives the request described in Subsection (2)(a)(iv), hold a public  
173 hearing to:  
174           (i) adopt a resolution approving the proposed cross-county annexation; or  
175           (ii) reject the proposed cross-county annexation.  
176           (b) A county legislative body shall, at least 15 days before the day on which the public  
177 hearing described in Subsection (3)(a) occurs, send written notice of the public hearing to:  
178           (i) the applicant;  
179           (ii) each residence within, and to each owner of real property located within:  
180           (A) the area proposed for cross-county annexation; and  
181           (B) 300 feet of the area proposed for cross-county annexation;  
182           (iii) the legislative body of:

183           (A) the proposed annexing municipality; and  
184           (B) the county in which the proposed annexing municipality is located;  
185           (iv) each specified public utility that serves the area proposed for cross-county  
186 annexation;  
187           (v) each affected municipality; and  
188           (vi) each affected entity.  
189           (c) At the public hearing described in Subsection (3)(a), the county legislative body  
190 shall allow the individuals present to speak to the proposed cross-county annexation.  
191           (d) (i) In determining whether to approve a proposed cross-county annexation, a  
192 county legislative body shall consider:  
193           (A) the costs and efficiency of providing municipal services to the area proposed for  
194 cross-county annexation;  
195           (B) the best interests of property owners located within the area proposed for  
196 cross-county annexation;  
197           (C) the best interests of the greater community; and  
198           (D) the impact of the proposed cross-county annexation on facilities or services in the  
199 region.  
200           (ii) A county legislative body may not approve a proposed cross-county annexation  
201 unless the county legislative body determines that the requirements described in Subsection (2)  
202 have been met.  
203           (e) A county legislative body that rejects a proposed cross-county annexation under this  
204 section shall provide to the applicant a written explanation of the county legislative body's  
205 decision.  
206           (4) (a) A party adversely affected by a county legislative body's decision under  
207 Subsection (3) may, within 30 days after the day on which the county legislative body issues  
208 the county legislative body's decision, file a petition for review of the decision in the district  
209 court with jurisdiction in the affected county.  
210           (b) The district court shall affirm the county legislative body's decision under  
211 Subsection (3) unless the court determines that the decision is arbitrary and capricious.  
212           (5) Section 10-2-418 does not apply to a cross-county annexation.  
213           Section 3. Section **10-2-403** is amended to read:

214 **10-2-403. Annexation petition -- Requirements -- Notice required before filing.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

239 (A) be in writing;

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

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

242 Records show that you own property within an area that is intended to be included in a  
243 proposed annexation to (state the name of the proposed annexing municipality) or that is within  
244 300 feet of that area. If your property is within the area proposed for annexation, you may be



245 asked to sign a petition supporting the annexation. You may choose whether to sign the  
246 petition. By signing the petition, you indicate your support of the proposed annexation. If you  
247 sign the petition but later change your mind about supporting the annexation, you may  
248 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk  
249 of (state the name of the proposed annexing municipality) within 30 days after (state the name  
250 of the proposed annexing municipality) receives notice that the petition has been certified.

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

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

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

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

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

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

276 (3) Each petition under Subsection (1) shall:  
277 (a) be filed with the applicable city recorder or town clerk of the proposed annexing  
278 municipality;  
279 (b) contain the signatures of, if all the real property within the area proposed for  
280 annexation is owned by a public entity other than the federal government, the owners of all the  
281 publicly owned real property, or the owners of private real property that:  
282 (i) is located within the area proposed for annexation;  
283 (ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area  
284 within the area proposed for annexation;  
285 (B) covers 100% of rural real property as that term is defined in Section [17B-2a-1107](#)  
286 within the area proposed for annexation; and  
287 (C) covers 100% of the private land area within the area proposed for annexation, if the  
288 area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture,  
289 Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production  
290 area created under Title 23, Chapter 28, Migratory Bird Production Area; and  
291 (iii) is equal in value to at least 1/3 of the value of all private real property within the  
292 area proposed for annexation;  
293 (c) be accompanied by:  
294 (i) an accurate and recordable map, prepared by a licensed surveyor, of the area  
295 proposed for annexation; and  
296 (ii) a copy of the notice sent to affected entities as required under Subsection  
297 (2)(a)(i)(B) and a list of the affected entities to which notice was sent;  
298 (d) ~~[if the area proposed to be annexed is located in a county of the first class,]~~ contain  
299 on each signature page a notice in bold and conspicuous terms that states substantially the  
300 following:  
301 "Notice:  
302 • There will be no public election on the annexation proposed by this petition because  
303 Utah law does not provide for an annexation to be approved by voters at a public election.  
304 • If you sign this petition and later decide that you do not support the petition, you may  
305 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk  
306 of (state the name of the proposed annexing municipality). If you choose to withdraw your

307 signature, you shall do so no later than 30 days after (state the name of the proposed annexing  
308 municipality) receives notice that the petition has been certified.";

309 (e) if the petition proposes [~~the annexation of an area located in a county that is not the~~  
310 ~~county in which the proposed annexing municipality is located]~~ a cross-county annexation, as  
311 defined in Section 10-2-402.5, be accompanied by a copy of the resolution[~~, required under~~  
312 ~~Subsection 10-2-402(6), of the legislative body of the county in which the area is located]~~  
313 described in Subsection 10-2-402.5(2)(a)(v); and

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

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

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

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

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

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

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

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

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

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

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

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

337 (5) An annexation petition under Subsection (1) may not propose the annexation of an

338 area that includes some or all of an area proposed to be incorporated in an incorporation  
339 petition if:

340 (a) the lieutenant governor certified the incorporation petition under Section  
341 10-2a-209; and

342 (b) the incorporation petition is still pending on the date the annexation petition is  
343 filed.

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

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

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

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

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

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

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

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

362 Section 4. Section 10-2a-203 is amended to read:

363 **10-2a-203. Notice to owner of property -- Exclusion of property from proposed**  
364 **municipality.**

365 (1) As used in this section:

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

368 (b) "Owner" means a person having an interest in real property, including an affiliate,

369 subsidiary, or parent company.

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

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

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

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

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

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

385 (c) "Specified landowner" means a record owner of real property who owns more than:

386 (i) 1% of the assessed value of all property within the boundaries of a proposed  
387 incorporation; or

388 (ii) 10% of the total private land area within the boundaries of a proposed  
389 incorporation.

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

394 (a) the proposed incorporation boundaries; and

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

396 (3) A specified landowner may, within 15 calendar days after the day on which the  
397 specified landowner receives notice under Subsection (2), request that the lieutenant governor  
398 exclude all or part of the property owned by the specified landowner from the proposed  
399 incorporation by filing a notice of exclusion with the Office of the Lieutenant Governor that

400 describes the property for which the specified landowner requests exclusion.

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

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

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

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

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

414 (b) the contact sponsor.

415 Section 5. Section **10-2a-206** is amended to read:

416 **10-2a-206. Modified request for feasibility study -- Supplemental feasibility**  
417 **study.**

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

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

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

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

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

427 (iii) (A) the lieutenant governor completes the first public hearing described in

428 Subsection **10-2a-207(3)**; and

429 (B) property is excluded from the proposed municipality in accordance with Subsection

430 **10-2a-207(4)(b)**.

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

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

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

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

441 (ii) Notwithstanding Subsection (1)(c)(i), a signature on a request filed under Section  
442 10-2a-202 may be used toward fulfilling the signature requirement of Subsection  
443 10-2a-202(1)(a) for the request as modified under Subsection (1)(a), unless the modified  
444 request proposes the incorporation of an area that is more than 20% larger or smaller than the  
445 area described by the original request in terms of:

- 446 (A) private land area; or  
447 (B) value of private real property.

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

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

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

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

459 (a) submit a draft of the supplemental feasibility study to each applicable person with  
460 whom the feasibility consultant is required to consult under Subsection 10-2a-205(4)(c) within  
461 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental

462 study;

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

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

467 (i) the lieutenant governor;

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

469 (iii) the contact sponsor; and

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

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

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

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

479 Section 6. Section 10-2a-207 is amended to read:

480 **10-2a-207. Public hearings on feasibility study results -- Exclusions of property**  
481 **from proposed municipality -- Notice of hearings.**

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

484 [~~(1)~~] (2) If the results of the feasibility study or supplemental feasibility study comply  
485 with Subsection 10-2a-205(6)(a), the lieutenant governor shall, after receipt of the results of the  
486 feasibility study or supplemental feasibility study, conduct [~~at least~~] two public hearings[~~;~~] in  
487 accordance with this section.

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

489 (a) within 60 days after the day on which the lieutenant governor receives the results;

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

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



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

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

495 and

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

497 (4) (a) Within 15 calendar days after the day on which the lieutenant governor

498 completes the first public hearing under Subsection (3), a specified landowner may request that

499 the lieutenant governor exclude all or part of the property owned by the specified landowner

500 from the proposed incorporation by filing a notice of exclusion with the Office of the

501 Lieutenant Governor that describes the property for which the specified landowner requests

502 exclusion.

503 (b) The lieutenant governor shall exclude the property identified by a specified

504 landowner under Subsection (4)(a) from the proposed incorporation boundaries unless the

505 lieutenant governor finds by clear and convincing evidence that:

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

507 and

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

509 services.

510 (c) Within five days after the day on which the lieutenant governor determines whether

511 to exclude property under Subsection (4)(b), the lieutenant governor shall mail or transmit

512 written notice of whether property is excluded from the proposed municipality to:

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

514 (ii) the contact sponsor.

515 (d) If the lieutenant governor excludes property from the proposed municipality under

516 Subsection (4)(b), the lieutenant governor may not conduct the second public hearing under

517 Subsection (5), unless:

518 (i) the sponsors of the feasibility study file a modified request for a feasibility study in

519 accordance with Section [10-2a-206](#); and

520 (ii) the results of the supplemental feasibility study comply with Subsection

521 [10-2a-205\(6\)\(a\)](#).

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

523 (a) within 30 days after the day on which the lieutenant governor:

524 (i) completes the first public hearing under Subsection (3), if no property is excluded  
525 under Subsection (4); or

526 (ii) receives the results of the supplemental feasibility study described in Subsection  
527 (4)(d)(ii), if property is excluded under Subsection (4);

528 (b) within or near the proposed municipality;

529 (c) to allow the feasibility consultant to present the results of:

530 (i) the feasibility study presented to the public in the first public hearing under  
531 Subsection (3), if no property is excluded under Subsection (4); or

532 (ii) the supplemental feasibility study described in Subsection (4)(d)(ii), if property is  
533 excluded under Subsection (4); and

534 (d) to inform the public about the results of the feasibility study described in  
535 Subsection (5)(c).

536 ~~[(2)]~~ (6) At each public hearing ~~[described in Subsection (1)]~~ required under this  
537 section, the lieutenant governor shall:

538 (a) provide a map or plat of the boundary of the proposed municipality;

539 (b) provide a copy of the applicable feasibility study for public review;

540 (c) allow members of the public to express views about the proposed incorporation,  
541 including views about the proposed boundaries; and

542 (d) allow the public to ask the feasibility consultant questions about the applicable  
543 feasibility study.

544 ~~[(3)]~~ (7) The lieutenant governor shall publish notice of ~~[the public hearings described~~  
545 ~~in Subsection (1)]~~ each public hearing required under this section:

546 (a) (i) at least once a week for three consecutive weeks before the ~~[first]~~ public hearing  
547 in a newspaper of general circulation within the proposed municipality;

548 (ii) if there is no newspaper of general circulation in the proposed municipality, at least  
549 three weeks before the day of the ~~[first]~~ public hearing, by posting one notice, and at least one  
550 additional notice per 2,000 population of the proposed municipality, in places within the  
551 proposed municipality that are most likely to give notice to the residents within, and the owners  
552 of real property located within, the proposed municipality; or

553 (iii) at least three weeks before the ~~[first]~~ public hearing, by mailing notice to each  
554 residence within, and each owner of real property located within, the proposed municipality;

555 (b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks  
556 before the day of the [first] public hearing;

557 (c) in accordance with Section 45-1-101, for three weeks before the day of the [first]  
558 public hearing; and

559 (d) on the lieutenant governor's website for three weeks before the day of the [first]  
560 public hearing.

561 ~~[(4)]~~ (8) The last notice required to be published under Subsection ~~[(3)]~~ (7)(a)(i) shall  
562 be at least three days before the [first] public hearing ~~[required under Subsection (1)]~~.

563 ~~[(5)]~~ (9) (a) Except as provided in Subsection ~~[(5)]~~ (9)(b), the notice described in  
564 Subsection ~~[(3)]~~ (7) shall include the feasibility study summary described in Subsection  
565 10-2a-205(3)(c) and shall indicate that a full copy of the study is available on the lieutenant  
566 governor's website and for inspection at the Office of the Lieutenant Governor.

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

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