

Michael L. Kohler proposes the following substitute bill:

**Municipal Incorporation Modifications**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael L. Kohler**

Senate Sponsor: Ronald M. Winterton

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to the incorporation of a preliminary municipality.

**Highlighted Provisions:**

This bill:

▸ provides that:

• a person may not apply to incorporate an area as a preliminary municipality after February 15, 2025, until April 1, 2026;

• a person who applies to incorporate an area as a preliminary municipality by filing a feasibility request on or before February 15, 2025, may proceed in accordance with Title 10, Chapter 2a, Part 5, Incorporation of a Preliminary Municipality, after February 15, 2025;

• a preliminary municipality may not annex an unincorporated area; and  
 • a municipality may not annex an area if the area was included in a feasibility request to incorporate the area into a preliminary municipality; and

▸ requires:

• a proposed preliminary municipality to agree that initial landowners will fully compensate the county for damages to county property or infrastructure before the preliminary municipality can transition into a town;

• a preliminary municipality located in the fourth through sixth class to comply with terms, conditions, or restrictions that were established in a development agreement between the initial landowners and the county before the feasibility request was filed;

• a preliminary municipality to comply with county standards for infrastructure; and  
 • that a petition to transition a preliminary municipality into a town shall certify that damages to county property or infrastructure have been paid in full.

**Money Appropriated in this Bill:**

None

30 **Other Special Clauses:**

31 This bill provides retrospective operation.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **10-2-402 (Effective 05/07/25)**, as last amended by Laws of Utah 2023, Chapters 224, 47835 **10-2a-502 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31)**, as

36 enacted by Laws of Utah 2024, Chapter 534

37 **10-2a-505 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31)**, as

38 enacted by Laws of Utah 2024, Chapter 534

39 **10-2a-507 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31)**, as

40 enacted by Laws of Utah 2024, Chapter 534

41 **10-2a-509 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31)**, as

42 enacted by Laws of Utah 2024, Chapter 534

43 **10-2a-510 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31)**, as

44 enacted by Laws of Utah 2024, Chapter 534

45

46 *Be it enacted by the Legislature of the state of Utah:*47 Section 1. Section **10-2-402** is amended to read:48 **10-2-402 (Effective 05/07/25). Annexation -- Limitations.**

49 (1)(a) A contiguous, unincorporated area that is contiguous to a municipality may be

50 annexed to the municipality as provided in this part.

51 (b) Except as provided in Subsection (1)(c), an unincorporated area may not be annexed

52 to a municipality unless:

53 (i) the unincorporated area is a contiguous area;

54 (ii) the unincorporated area is contiguous to the municipality;

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

56 peninsula:

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

58 (B) except where an unincorporated island or peninsula existed before the

59 annexation, if the annexation will reduce the size of the unincorporated island

60 or peninsula; or

61 (C) unless the county and municipality have otherwise agreed; and

62 (iv) for an area located in a specified county, the area is within the proposed annexing

63 municipality's expansion area.

- 64 (c) A municipality may annex an unincorporated area within a specified county that does  
65 not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated  
66 island or unincorporated peninsula, if:
- 67 (i) the area is within the annexing municipality's expansion area;
  - 68 (ii) the specified county in which the area is located and the annexing municipality  
69 agree to the annexation;
  - 70 (iii) the area is not within the area of another municipality's annexation policy plan,  
71 unless the other municipality agrees to the annexation; and
  - 72 (iv) the annexation is for the purpose of providing municipal services to the area.
- 73 (2) Except as provided in Section 10-2-418, a municipality may not annex an  
74 unincorporated area unless a petition under Section 10-2-403 is filed requesting  
75 annexation.
- 76 (3)(a) An annexation under this part may not include part of a parcel of real property and  
77 exclude part of that same parcel unless the owner of that parcel has signed the  
78 annexation petition under Section 10-2-403.
- 79 (b) A piece of real property that has more than one parcel number is considered to be a  
80 single parcel for purposes of Subsection (3)(a) if owned by the same owner.
- 81 (4) A municipality may not annex an unincorporated area in a specified county for the sole  
82 purpose of acquiring municipal revenue or to retard the capacity of another municipality  
83 to annex the same or a related area unless the municipality has the ability and intent to  
84 benefit the annexed area by providing municipal services to the annexed area.
- 85 (5)(a) As used in this subsection, "expansion area urban development" means:
- 86 (i) for a specified county, urban development within a city or town's expansion area;  
87 or
  - 88 (ii) for a county of the first class, urban development within a city or town's  
89 expansion area that:
    - 90 (A) consists of 50 or more acres;
    - 91 (B) requires the county to change the zoning designation of the land on which the  
92 urban development is located; and
    - 93 (C) does not include commercial or industrial development that is located within a  
94 mining protection area as defined in Section 17-41-101, regardless of whether  
95 the commercial or industrial development is for a mining use as defined in  
96 Section 17-41-101.
- 97 (b) A county legislative body may not approve expansion area urban development

- 98 unless:
- 99 (i) the county notifies the city or town of the proposed development; and
- 100 (ii)(A) the city or town consents in writing to the development;
- 101 (B) within 90 days after the county's notification of the proposed development, the
- 102 city or town submits to the county a written objection to the county's approval
- 103 of the proposed development and the county responds in writing to the city or
- 104 town's objection; or
- 105 (C) the city or town fails to respond to the county's notification of the proposed
- 106 development within 90 days after the day on which the county provides the
- 107 notice.
- 108 (6)(a) As used in this Subsection (6), "airport" means an area that the Federal Aviation
- 109 Administration has, by a record of decision, approved for the construction or
- 110 operation of a Class I, II, or III commercial service airport, as designated by the
- 111 Federal Aviation Administration in 14 C.F.R. Part 139.
- 112 (b) A municipality may not annex an unincorporated area within 5,000 feet of the center
- 113 line of any runway of an airport operated or to be constructed and operated by
- 114 another municipality unless the legislative body of the other municipality adopts a
- 115 resolution consenting to the annexation.
- 116 (c) A municipality that operates or intends to construct and operate an airport and does
- 117 not adopt a resolution consenting to the annexation of an area described in Subsection
- 118 (6)(b) may not deny an annexation petition proposing the annexation of that same
- 119 area to that municipality.
- 120 (7)(a) As used in this Subsection (7), "project area" means a project area as defined in
- 121 Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102
- 122 adopted by the Military Installation Development Authority under Title 63H, Chapter
- 123 1, Military Installation Development Authority Act.
- 124 (b) A municipality may not annex an unincorporated area located within a project area
- 125 without the authority's approval.
- 126 (c)(i) Except as provided in Subsection (7)(c)(ii), the Military Installation
- 127 Development Authority may petition for annexation of the following areas to a
- 128 municipality as if the Military Installation Development Authority was the sole
- 129 private property owner within the area:
- 130 (A) an area within a project area;
- 131 (B) an area that is contiguous to a project area and within the boundaries of a

- 132 military installation;
- 133 (C) an area owned by the Military Installation Development Authority; and
- 134 (D) an area that is contiguous to an area owned by the Military Installation
- 135 Development Authority that the Military Installation Development Authority
- 136 plans to add to an existing project area.
- 137 (ii) If any portion of an area annexed under a petition for annexation filed by the
- 138 Military Installation Development Authority is located in a specified county:
- 139 (A) the annexation process shall follow the requirements for a specified county;
- 140 and
- 141 (B) the provisions of Section 10-2-402.5 do not apply.
- 142 (8) A municipality may not annex an unincorporated area if:
- 143 (a)(i) the area is proposed for incorporation in:
- 144 ~~[(+)]~~ (A) a feasibility study conducted under Section 10-2a-205; or
- 145 ~~[(+)]~~ (B) a supplemental feasibility study conducted under Section 10-2a-206; and
- 146 ~~[(+)]~~ (ii) the county clerk completes the second public hearing on the proposed
- 147 incorporation under Subsection 10-2a-207(4)~~[-]~~ ; or
- 148 (b) the area was included in a feasibility request filed to incorporate the area as a
- 149 preliminary municipality in accordance with Section 10-2a-502.
- 150 Section 2. Section **10-2a-502** is amended to read:
- 151 **10-2a-502 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31).**
- 152 **Incorporation of a preliminary municipality -- Feasibility request -- Requirements.**
- 153 (1)(a) ~~[A]~~ Except as provided in Subsection (1)(b), a person may apply to incorporate an
- 154 area as a preliminary municipality by filing a feasibility request in accordance with
- 155 this section.
- 156 (b) A person may not file a feasibility request to incorporate an area as a preliminary
- 157 municipality after February 15, 2025, until April 1, 2026.
- 158 (c) Subject to Subsection (6)(b), a person who, on or before February 15, 2025, files a
- 159 feasibility request under this section may:
- 160 (i) modify the request after February 15, 2025, in accordance with Section 10-2a-505;
- 161 or
- 162 (ii) proceed in accordance with this part after February 15, 2025.
- 163 (2) Subject to ~~[Subsection]~~ Subsections (1) and (6), a person may file a feasibility request in
- 164 relation to an area that the person seeks to incorporate as a preliminary municipality if:
- 165 (a) the area is contiguous;

- 166 (b) no part of the area is within a county of the first class or second class;
- 167 (c) no part of the area is within, or within .25 miles of, a municipality;
- 168 (d) on the day on which the person files the feasibility request:
- 169 (i) the area is owned by no more than three persons, all of whom consent to
- 170 incorporation as a preliminary municipality; and
- 171 (ii) at least 50% of the area is undeveloped;
- 172 (e) the persons who sign the feasibility request intend to develop the area to the point
- 173 that:
- 174 (i) at least 100 individuals reside in the area;
- 175 (ii) the area will have an average population density of no less than seven individuals
- 176 per square mile, unless:
- 177 (A) a population density of less than seven individuals per square mile is
- 178 necessary in order to connect separate areas that share a demonstrable
- 179 community interest; and
- 180 (B) the average population of the area has a population density of no less than
- 181 seven individuals per square mile if the land necessary to connect the separate
- 182 areas described in Subsection (2)(e)(ii)(A) is not included in the calculation;
- 183 and
- 184 (iii) at least 10% of the housing in the preliminary municipality is affordable housing;
- 185 (f) the area does not include land owned by the United States government unless:
- 186 (i) the area, including the land owned by the United States government, is
- 187 contiguous; and
- 188 (ii)(A) incorporating the land is necessary to connect separate areas that share a
- 189 demonstrable community interest; or
- 190 (B) excluding the land from the area would create an unincorporated island within
- 191 the proposed preliminary municipality;
- 192 (g) the area is entirely within one county; and
- 193 (h) the feasibility request complies with Subsection (3).
- 194 (3)(a) A proposed preliminary municipality area may not include all or part of a pending
- 195 annexation area, unless:
- 196 (i) the portion of the pending annexation area included in the proposed preliminary
- 197 municipality area does not exceed 20% of the proposed preliminary municipality
- 198 area; and
- 199 (ii) the feasibility request would comply with the requirements of this section

- 200           regardless of whether the portion of the pending annexation area included in the  
201           proposed preliminary municipality area is excluded from, or remains included in,  
202           the proposed preliminary municipality area.
- 203       (b) A proposed preliminary municipality area may not include all or part of an area that  
204           is the subject of a completed feasibility study or supplemental feasibility study that  
205           qualifies to proceed under Subsection 10-2a-205(5)(a), unless:
- 206           (i) the proposed incorporation that is the subject of the completed feasibility study or  
207                supplemental feasibility study has been defeated by the voters at an election under  
208                Section 10-2a-210; or
- 209           (ii) the time described in Subsection 10-2a-208(1) for filing an incorporation petition  
210                based on the completed feasibility study or supplemental feasibility study has  
211                elapsed without the sponsors filing an incorporation petition under Section  
212                10-2a-208.
- 213       (c) A proposed preliminary municipality area may not include all or part of an area that  
214           is the subject of a completed feasibility study or supplemental feasibility study whose  
215           results comply with Subsection 10-2a-504(4), unless the time described in Subsection  
216           10-2a-507(1) for filing a petition for incorporation based on the completed feasibility  
217           study or supplemental feasibility study has elapsed without the sponsors filing a  
218           petition for incorporation under Section 10-2a-507.
- 219       (4) Except as provided in Section 10-2a-505, the lieutenant governor shall consider each  
220           feasibility request that includes an area described in Subsection (3)(a) as if the request  
221           does not include the area described in Subsection (3)(a).
- 222       (5) A person who files a feasibility request under this section shall file the feasibility  
223           request with the lieutenant governor, including in the feasibility request:
- 224           (a) the signatures of all owners of real property included in the proposed preliminary  
225                municipality area, showing that the owners consent to including the real property in  
226                the proposed preliminary municipality area;
- 227           (b) the name, address, and phone number of each owner signing the feasibility request;
- 228           (c) a designation of one individual who signs the feasibility request as the primary  
229                sponsor contact for the feasibility request;
- 230           (d) a description of the proposed preliminary municipality area;
- 231           (e) an accurate map or plat, prepared by a licensed surveyor, showing:
- 232                (i) a legal description of the boundaries of the proposed preliminary municipality area  
233                and each phase of the proposed preliminary municipality area;

- 234 (ii) all development planned for the proposed preliminary municipality area; and  
 235 (iii) that the first phase of the proposed preliminary municipality area is projected to  
 236 have at least 100 residents when completed; and  
 237 (f) a request that the lieutenant governor commission a study to determine the feasibility  
 238 of incorporating the area as a preliminary municipality.

239 (6)(a) The provisions of this part, providing for the incorporation of a preliminary  
 240 municipality, is a pilot project that ends on January 1, 2031.

241 (b) Except as provided in Subsection (7), a person may not file a feasibility request  
 242 under this part in a calendar year during which two or more requests have already  
 243 been filed in the state.

244 (7) A feasibility request does not count towards the limit described in Subsection (6)(b) if:

245 (a) the sponsors who file the request withdraw the request;

246 (b) the lieutenant governor rejects the feasibility request under Subsection 10-2a-503(4)  
 247 or (5)(b), and the sponsors:

248 (i) do not timely amend the feasibility request under Subsection 10-2a-503(7)(b); or

249 (ii) are prohibited from amending the feasibility request under Subsection 10-2a-503  
 250 (7)(c); or

251 (c) the process to incorporate is prohibited from proceeding under Subsection 10-2a-504  
 252 (5)(a) and the sponsors:

253 (i) do not timely file a modified feasibility request under Subsection 10-2a-505

254 (1)(b)(i); or

255 (ii) are prohibited from filing a modified feasibility request under Subsection  
 256 10-2a-505(3).

257 Section 3. Section **10-2a-505** is amended to read:

258 **10-2a-505 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31).**

259 **Modified feasibility request -- Supplemental feasibility study.**

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

263 (i) the results of the feasibility study do not comply with Subsection 10-2a-504(5)(a);  
 264 or

265 (ii)(A) the feasibility request complies with Subsection 10-2a-502(3)(a);

266 (B) the annexation petition described in Subsection 10-2a-502(3)(a) that proposed  
 267 the annexation of an area that is part of the proposed preliminary municipality

- 268 area has been denied; and  
269 (C) a petition for incorporation described in Section 10-2a-507, based on the  
270 feasibility request, has not been filed.
- 271 (b)(i) The sponsors of a feasibility request may not file a modified request under  
272 Subsection (1)(a)(i) more than 90 days after the day on which the feasibility  
273 consultant submits the final results of the feasibility study under Subsection  
274 10-2a-504(2)(c)(iii).
- 275 (ii) The sponsors of a feasibility request may not file a modified request under  
276 Subsection (1)(a)(ii) more than 18 months after filing the original feasibility  
277 request under Section 10-2a-502.
- 278 (c) A modified feasibility request under Subsection (1)(a) shall comply with Subsections [  
279 ~~10-2a-502(1)~~] 10-2a-502(2) through (4).
- 280 (d) Within 20 days after the day on which the lieutenant governor receives the modified  
281 request, the lieutenant governor shall follow the same procedure described in  
282 Subsections 10-2a-503(1) through (4) for the modified feasibility request as for an  
283 original feasibility request.
- 284 (2) The timely filing of a modified feasibility request under Subsection (1) gives the  
285 modified feasibility request the same processing priority under Subsection 10-2a-503(6)  
286 as the original feasibility request.
- 287 (3) The sponsors of a feasibility request may not file a modified feasibility request under  
288 Subsection (1)(a)(i) more than once.
- 289 (4) Within 10 days after the day on which the county clerk receives a modified feasibility  
290 request under Subsection (1)(a) that relates to a request for which a feasibility study has  
291 already been completed, the lieutenant governor shall commission the feasibility  
292 consultant who conducted the feasibility study to conduct a supplemental feasibility  
293 study that accounts for the modified feasibility request.
- 294 (5) The lieutenant governor shall require the feasibility consultant to:
- 295 (a) submit a draft of the supplemental feasibility study to each applicable person with  
296 whom the feasibility consultant is required to consult under Subsection 10-2a-504  
297 (3)(c) within 30 days after the day on which the feasibility consultant is engaged to  
298 conduct the supplemental study;
- 299 (b) allow each person to whom the consultant provided a draft under Subsection (5)(a) to  
300 review and provide comment on the draft; and
- 301 (c) submit a completed supplemental feasibility study, to the following within 45 days

- 302 after the day on which the feasibility consultant is engaged to conduct the feasibility  
303 study:
- 304 (i) the lieutenant governor;
  - 305 (ii) the county legislative body of the county in which the incorporation is proposed;
  - 306 (iii) the primary sponsor contact; and
  - 307 (iv) each person to whom the consultant provided a draft under Subsection (5)(a).
- 308 (6)(a) Subject to Subsections (3) and (6)(b), if the results of the supplemental feasibility  
309 study do not comply with Subsection 10-2a-504(4), the sponsors may further modify  
310 the request in accordance with Subsection (1).
- 311 (b) Subsections (1)(d), (4), and (5) apply to a modified feasibility request described in  
312 Subsection (6)(a).
- 313 (c) The lieutenant governor shall consider a modified feasibility request described in  
314 Subsection (6)(a) as an original feasibility request for purposes of determining the  
315 modified feasibility request's processing priority under Subsection 10-2a-503(6).

316 Section 4. Section **10-2a-507** is amended to read:

317 **10-2a-507 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31).**

318 **Petition for incorporation -- Requirements and form.**

- 319 (1) At any time within one year after the day on which the lieutenant governor completes  
320 the public hearings required under Section 10-2a-506, the owners of the property who  
321 filed the feasibility request under Section 10-2a-502 for the proposed preliminary  
322 municipality area may proceed with the incorporation process by filing a petition for  
323 incorporation of the proposed preliminary municipality that:
- 324 (a) includes the typed or printed name, signature, address, and phone number of the  
325 initial landowners;
  - 326 (b) describes the proposed preliminary municipality area, as described in the feasibility  
327 request or the modified feasibility request;
  - 328 (c) demonstrates compliance with Subsection 10-2a-504(4);
  - 329 (d) states the proposed name for the proposed preliminary municipality;
  - 330 (e) designates the primary sponsor contact for the proposed preliminary municipality;
  - 331 (f) designates the board chair and three of the four board members who will serve as a  
332 five member council form of government for the preliminary municipality, described  
333 in Section 10-3b-402, for the preliminary municipality;
  - 334 (g) is accompanied by an accurate map or plat, prepared by a licensed surveyor, showing:
    - 335 (i) the boundaries of the proposed preliminary municipality;

- 336 (ii) a single development plan for the proposed municipality, depicting each phase of  
 337 the development;
- 338 (h) is accompanied by a bond, cash deposit, or letter of credit that:
- 339 (i) is posted by the initial landowners;
- 340 (ii) is in favor of the proposed preliminary municipality, to guarantee that the initial  
 341 landowners will complete the system infrastructure no later than six years after the  
 342 day on which the initial landowners file the petition for incorporation described in  
 343 this section; and
- 344 (iii) will be refunded to the initial landowners in percentages that reflect the progress  
 345 toward completing the system infrastructure; [~~and~~]
- 346 (i) is accompanied by payment in full, from the initial landowners, of the costs incurred  
 347 by the lieutenant governor for the feasibility study, the public notices, the hearings,  
 348 and the other expenses incurred by the lieutenant governor to comply with the  
 349 requirements of this part in relation to the proposed preliminary municipality[-]; and
- 350 (j) is accompanied by an agreement by the initial landowners that, before the preliminary  
 351 municipality can transition into a town, the county will be fully compensated for any  
 352 damages to county property or infrastructure that are directly attributable to  
 353 development of the area.
- 354 (2) If, within six years after the day on which the initial landowners file a petition for  
 355 incorporation under Subsection (1), the system infrastructure for the preliminary  
 356 municipality is not completed, the portion of the bond, cash deposit, or letter of credit  
 357 described in Subsection (1)(h) that has not been refunded to the initial landowners shall  
 358 forfeit to the preliminary municipality.
- 359 (3) If, within four years after the day on which the first residential certificate of occupancy  
 360 is issued for the development described in Subsection [~~10-2a-503(5)(e)~~] 10-2a-502(5)(e),  
 361 or six years after the day on which the initial landowners file a petition for incorporation  
 362 under Subsection (1), the preliminary municipality has not transitioned to a town:
- 363 (a) the lieutenant governor shall issue a certificate dissolving the preliminary  
 364 municipality;
- 365 (b) all roads and infrastructure within the preliminary municipality revert to the county  
 366 in which the preliminary municipality is located;
- 367 (c) the area within the proposed municipality falls under the jurisdiction of the county  
 368 and is no longer incorporated; and
- 369 (d) the initial landowners are liable to the county for damages caused to the county due

370 to the dissolution of the preliminary municipality.

371 Section 5. Section **10-2a-509** is amended to read:

372 **10-2a-509 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31).**

373 **Governance of preliminary municipality -- Utilities -- Road maintenance.**

374 (1)(a) Within 30 days after the day on which the lieutenant governor issues a certificate  
375 of incorporation described in Subsection 10-2a-508(1)(b)(i), the county in which the  
376 preliminary municipality is located shall appoint one board member for the  
377 preliminary municipality.

378 (b) If the county fails to timely comply with Subsection (1)(a), the board chair and the  
379 three board members appointed under Subsection 10-2a-508(1)(b)(i) shall, by  
380 majority vote, appoint the final board member.

381 (2) The board chair and board members, described in Subsection (1), of a preliminary  
382 municipality:

383 (a) are not required to be residents of the preliminary municipality; and

384 (b) shall serve as the board for the preliminary municipality until replaced by election  
385 under Section 10-2a-510.

386 (3)(a) Within 14 days after the day on which the first residential certificate of occupancy  
387 is issued for the development described in Subsection [~~10-2a-503(5)(e)~~]  
388 10-2a-502(5)(e), the engineer described in Subsection [~~10-2a-509(6)~~] (8), shall notify  
389 the county and the lieutenant governor, in writing:

390 (i) that the first residential certificate of occupancy has been issued for the  
391 preliminary municipality;

392 (ii) of the date on which the first residential certificate of occupancy was issued; and

393 (iii) of the physical address for which the first residential certificate of occupancy  
394 was issued.

395 (b) No later than the next municipal general election, or regular general election, that is  
396 at least 30 days after the date described in Subsection (3)(a)(ii), the initial landowners  
397 shall:

398 (i) replace the board chair or a board member with an individual who is a resident of  
399 the preliminary municipality; and

400 (ii) notify the county and the lieutenant governor of the appointment, in writing.

401 (4)(a) Subject to Subsection (4)(b), a preliminary municipality has all the powers and  
402 duties of a municipality.

403 (b) A preliminary municipality:

- 404 (i) may not impose a tax;
- 405 (ii) may enter into an interlocal agreement with a special district to provide utility  
406 services to the preliminary municipality;
- 407 (iii) has the same authority as another municipality to make decisions regarding  
408 zoning and land use;
- 409 (iv) may not receive an allocation of sales tax or gas tax;[-and]
- 410 (v) may not exercise eminent domain authority[-] ;
- 411 (vi) may not annex an unincorporated area under Chapter 2, Part 4, Annexation; and
- 412 (vii) if the preliminary municipality is located in a county of the fourth, fifth, or sixth  
413 class:
- 414 (A) shall comply with terms, conditions, or restrictions that were established in a  
415 development agreement between the initial landowners and the county before  
416 the feasibility request was filed; and
- 417 (B) may not modify or terminate any terms, conditions, or restrictions described in  
418 Subsection (4)(b)(vii)(A) without the county's approval.
- 419 (5) As needed, the county shall provide all services and utility connections to the  
420 preliminary municipality that the county provides other areas in the county if the  
421 preliminary municipality:
- 422 (a) pays the uniformly assessed rates for the services and utilities and reasonable  
423 connection fees; and
- 424 (b) complies with the county's established regulations and specifications for the  
425 construction and connection of the local improvements.
- 426 (6)(a) The preliminary municipality shall ensure that the preliminary municipality's  
427 system infrastructure complies with county standards for that infrastructure.
- 428 (b) The county may, at the county's expense, inspect a preliminary municipality's system  
429 infrastructure to verify compliance with county standards for that infrastructure.
- 430 ~~[(6)]~~ (7) The preliminary municipality shall maintain and repair any roadway that, on the  
431 day on which the individual filed the feasibility request under Section 10-2a-502:
- 432 (a) existed within the preliminary municipality;
- 433 (b) was within a public right of way that abuts the preliminary municipality; or
- 434 (c) was within 1/2 mile of the preliminary municipality and connected to, or was  
435 proposed in the feasibility request to be connected to, the preliminary municipality.
- 436 ~~[(7)]~~ (8) Before the preliminary municipality submits a petition to transition to a town, the  
437 preliminary municipality shall select an independent third-party engineer to review and

438 approve all building permit applications within the preliminary municipality to ensure  
439 compliance with the law.

440 [(8)] (9) Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of  
441 Municipalities, does not apply to a preliminary municipality.

442 Section 6. Section **10-2a-510** is amended to read:

443 **10-2a-510 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31).**

444 **Transitioning from a preliminary municipality to a town -- Petition -- Election of officers.**

445 (1) Within 30 days after the day on which the population of a preliminary municipality  
446 exceeds 99 people, a person who filed the application to incorporate as a preliminary  
447 municipality or a resident of the preliminary municipality shall file with the lieutenant  
448 governor a petition to transition the preliminary municipality into a town.

449 (2) A petition to transition a preliminary municipality into a town shall include:

- 450 (a) a request that the lieutenant governor certify the transition of the preliminary  
451 municipality to, and the incorporation of the preliminary municipality as, a town;
- 452 (b) the name, address, and phone number of the person filing the request;
- 453 (c) the map or plat of the preliminary municipality;
- 454 (d) a legal description of the boundaries of the preliminary municipality;
- 455 (e) information regarding the preliminary municipality, including:
- 456 (i) the number of residences in the preliminary municipality;
- 457 (ii) the population of the preliminary municipality;
- 458 (iii) the number of adults and the number of children who reside in the preliminary  
459 municipality; and
- 460 (iv) information regarding the providers of municipal services and emergency  
461 services to the preliminary municipality;
- 462 (f) the proposed name for the town; ~~and~~
- 463 (g) a signature sheet containing the names, addresses, and signatures of a majority of the  
464 adult residents of the preliminary municipality, supporting the proposed name for the  
465 town[-] ;
- 466 (h) certification that:
- 467 (i) all damages to county property or infrastructure resulting from development of the  
468 area have been assessed and paid in full; or
- 469 (ii) no damages described in Subsection (2)(h)(i) exist; and
- 470 (i) an agreement by the initial landowners to accept liability for any damages to county  
471 property or infrastructure that:

- 472           (i) occurred before the preliminary municipality's transition into a town but are  
473           discovered after the transition; and  
474           (ii) are directly attributable to development of the area.
- 475       (3) Within 30 days after the day on which a person files a petition to transition a  
476       preliminary municipality into a town, the lieutenant governor shall:
- 477       (a) determine whether the preliminary municipality has a population of more than 99  
478       people;
- 479       (b) examine the petition to determine whether the petition complies with Subsection (2);
- 480       (c) if the lieutenant governor determines that the preliminary municipality has a  
481       population of more than 99 people and that the petition complies with Subsection (2),  
482       proceed to transition the preliminary municipality as a town in accordance with  
483       Subsection (4);
- 484       (d) if the lieutenant governor determines that the preliminary municipality has a  
485       population of less than 100 people, deny the petition, inform the person who filed the  
486       petition of the determination, and request that the person refile the petition when the  
487       population exceeds 99 people; and
- 488       (e) if the lieutenant governor determines that the petition fails to comply with Subsection  
489       (2), deny the petition, inform the person who filed the petition of the denial and the  
490       reason for the denial, and request that the person correct and refile the petition.
- 491       (4) After making the determination described in Subsection (3)(c), the lieutenant governor  
492       shall:
- 493       (a) inform the person who filed the petition of the determination;
- 494       (b) inform the county in which the preliminary municipality is located of the  
495       determination; and
- 496       (c) direct the county to conduct an election for mayor and city council of the future  
497       town, to be held on the date of the next regular general election described in Section  
498       20A-1-201, or the next municipal general election described in Section 20A-1-202,  
499       that is at least 65 days after the day on which the lieutenant governor directs the  
500       county to hold the election.
- 501       (5) The county shall:
- 502       (a) comply with the direction given by the lieutenant governor under Subsection (4)(c);
- 503       (b) determine the initial terms of the mayor and municipal council members to ensure  
504       that:
- 505       (i) the mayor and two of the municipal county members are elected in the next

- 506                   municipal general election;
- 507                   (ii) the remaining municipal council members are elected at elections that result in
- 508                   the staggering of council member terms; and
- 509                   (iii) the council members who receive the highest number of votes are assigned the
- 510                   longer initial terms; and
- 511                   (c) provide notice of the election for the preliminary municipality as a class B notice
- 512                   under Section 63G-30-102, for at least three weeks before the day of the election.
- 513 (6) The notice described in Subsection (5)(c) shall include:
- 514                   (a) a statement of the contents of the petition to transition the preliminary municipality
- 515                   to a town;
- 516                   (b) a description of the area to be incorporated as a town;
- 517                   (c) the name of the town;
- 518                   (d) information about the deadline for an individual to file a declaration of candidacy to
- 519                   become a candidate for mayor or municipal council;
- 520                   (e) information about the initial terms of office;
- 521                   (f) a statement of the date and time of the election and the location of polling places; and
- 522                   (g) a statement that the purpose of the election is to elect a mayor and a council to
- 523                   govern the town upon the town's incorporation.
- 524 (7)(a) In addition to the notice described in Subsection (6), the county clerk shall publish
- 525                   and distribute, before the election is held, a voter information pamphlet:
- 526                   (i) in accordance with the procedures and requirements of Section 20A-7-402;
- 527                   (ii) in consultation with the lieutenant governor; and
- 528                   (iii) in a manner that the county clerk determines is adequate.
- 529                   (b) The voter information pamphlet described in Subsection (7)(a):
- 530                   (i) shall inform the public of the election and the purpose of the election; and
- 531                   (ii) may include additional information regarding the election of the elected officials
- 532                   and the incorporation of the town.
- 533 (8) An individual may not vote in the election described in this section unless the individual
- 534                   is a registered voter who is a resident, as defined in Section 20A-1-102, within the
- 535                   boundaries of the preliminary municipality.
- 536 (9) The town, incorporated under Subsection (10)(b), shall pay to the county the cost of
- 537                   running the election described in this section.
- 538 (10) On the day after the day on which the canvass for the election is completed:
- 539                   (a) the elected mayor and council members shall take office and replace the board chair

- 540 and board members of the preliminary municipality;
- 541 (b) the lieutenant governor shall issue a certification that the preliminary municipality
- 542 has transitioned to, and is incorporated as, a town; and
- 543 (c) subject to Subsection (14), the town holds all authority and power of a town.
- 544 (11) The former mayor and council members for the preliminary municipality shall assist
- 545 the newly-elected mayor of the town and the newly-elected council members of the
- 546 town with the transition to a town and the transfer of power to the elected government of
- 547 the town.
- 548 (12) The initial government of a town incorporated under this section is the five member
- 549 council form of government described in Chapter 3b, Part 4, Five-Member Council
- 550 Form of Municipal Government, with the mayor and council members elected at large.
- 551 (13) Within 30 days after the day on which the mayor takes office under Subsection (10)(a),
- 552 the mayor shall record the certification described in Subsection (10)(b), and a copy of
- 553 the plat for the municipality, with the county recorder.
- 554 (14) Until the mayor complies with Subsection (13), the municipality may not:
- 555 (a) levy or collect a property tax on property within the municipality;
- 556 (b) levy or collect an assessment on property within the municipality; or
- 557 (c) charge or collect a fee for a service provided to property within the municipality.
- 558 (15) Section 10-2a-220 applies to a town incorporated under this section.

559 **Section 7. Effective Date.**

560 This bill takes effect on May 7, 2025.

561 **Section 8. Retrospective operation.**

- 562 (1) Except as provided in Subsection (2), this bill has retrospective operation to February
- 563 15, 2025.
- 564 (2) Section 10-2-402 (Effective 05/07/25) has no retrospective operation.