

Municipal Incorporation Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tiara Auxier

Senate Sponsor:

LONG TITLE**General Description:**

This bill modifies the process to incorporate as a preliminary municipality.

Highlighted Provisions:

This bill:

- defines terms and modifies definitions;
- modifies potential uses of the Municipal Incorporation Expendable Special Revenue Fund;
- modifies the process for a person to apply to incorporate an area as a preliminary

municipality by:

- requiring the person to consult with the county in which the proposed preliminary municipality area is located;
- requiring a feasibility study to consider any existing land use entitlements within the proposed preliminary municipality area; and

• requiring a feasibility consultant to consider information provided to the feasibility consultant by the county;

- authorizes a county to audit a feasibility study or supplemental feasibility study;
- provides a process for the lieutenant governor to hire a consultant to evaluate a feasibility study and an audit of a feasibility study;

▸ modifies the requirements to file a petition for incorporation of a preliminary municipality, including:

- modifying the requirements for a bond, cash deposit, or letter of credit;
- requiring a property owner to include an executed improvement warranty; and
- requiring a certification that the preliminary municipality will be developed in accordance with the description in the certified feasibility request;

▸ authorizes a county to commission a traffic study before the lieutenant governor issues a certificate of incorporation for the preliminary municipality; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2a-220 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 518

10-2a-501 (Effective 05/06/26) (Repealed 01/01/31), as last amended by Laws of Utah 2025, Chapter 399

10-2a-502 (Effective 05/06/26) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

10-2a-503 (Effective 05/06/26) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

10-2a-504 (Effective 05/06/26) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

10-2a-505 (Effective 05/06/26) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

10-2a-506 (Effective 05/06/26) (Repealed 01/01/31), as last amended by Laws of Utah 2025, Chapter 399

10-2a-507 (Effective 05/06/26) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

10-2a-508 (Effective 05/06/26) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

10-2a-509 (Effective 05/06/26) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

ENACTS:

10-2a-502.5 (Effective 05/06/26), Utah Code Annotated 1953

10-2a-505.5 (Effective 05/06/26), Utah Code Annotated 1953

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

Section 1. Section **10-2a-220** is amended to read:

10-2a-220 (Effective 05/06/26). Costs of incorporation -- Fees established by lieutenant governor.

(1)(a) There is created an expendable special revenue fund known as the "Municipal Incorporation Expendable Special Revenue Fund."

(b) The fund shall consist of:

- (i) appropriations from the Legislature;
- (ii) payments that feasibility request sponsors make to the lieutenant governor under Subsections 10-2a-205(1)(b) and 10-2a-206(1)(f); and
- (iii) fees the lieutenant governor collects and remits to the fund under this section.

(c) The lieutenant governor shall deposit all money collected under this section into the fund.

(2)(a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504 for a cost incurred by the lieutenant governor or the county for an incorporation proceeding, including:

- (i) a request certification;
- (ii) a petition certification;
- (iii) publication of notices;
- (iv) retaining a consultant under Section 10-2a-505.5;
- ~~[(iv)]~~ (v) public hearings;
- ~~[(v)]~~ (vi) all other incorporation activities occurring after the elections; and
- ~~[(vi)]~~ (vii) any other cost incurred by the lieutenant governor or county in relation to an incorporation proceeding.

(b) A cost under Subsection (2)(a) does not include a cost incurred by a county for holding an election under Section 10-2a-210.

(3) Subject to Subsections 10-2a-205(1)(b) and 10-2a-206(1)(f), the lieutenant governor shall pay for a cost described in Subsection (2)(a) using funds from the Municipal Incorporation Expendable Special Revenue Fund.

(4)(a) A newly incorporated municipality shall:

- (i) pay to the lieutenant governor each fee established under Subsection (2) for each cost described in Subsection (2)(a) incurred by the lieutenant governor or the county;
- (ii) pay the county for a cost described in Subsection (2)(b); and
- (iii) reimburse feasibility request sponsors the cost the feasibility request sponsors paid for:
 - (A) a feasibility study under Section 10-2a-205; and
 - (B) any supplemental feasibility study under Section 10-2a-206.

(b) The lieutenant governor shall execute a payback agreement with each new municipality for the new municipality to pay the fees described in Subsection (4)(a)

over a period that, except as provided in Subsection (4)(c), may not exceed five years.

(c) If necessary, the lieutenant governor may extend a fee payment deadline beyond the deadline described in Subsection (4)(b) by amending the payback agreement described in Subsection (4)(b).

(d) The lieutenant governor shall deposit each fee the lieutenant governor collects under Subsection (4)(a)(i) into the Municipal Incorporation Expendable Special Revenue Fund.

(5) If the lieutenant governor expends funds from the Municipal Incorporation Expendable Special Revenue Fund that are not repaid to the lieutenant governor under Subsection (4)(a)(i) because an area did not incorporate as a municipality, the Legislature shall appropriate money to the fund in an amount equal to the funds that are not repaid.

Section 2. Section **10-2a-501** is amended to read:

10-2a-501 (Effective 05/06/26) (Repealed 01/01/31). Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Applicant" means an individual or person who applies to incorporate an area as a preliminary municipality by filing a feasibility request.

~~[(2)]~~ (3) "Board," in relation to a preliminary municipality, means the same as a council described in Section 10-3b-402.

~~[(3)]~~ (4) "Board chair," in relation to a preliminary municipality, means the same as a mayor described in Section 10-3b-402.

(5) "Certified feasibility request" means the document that is certified by the lieutenant governor under Section 10-2a-503.

~~[(4)]~~ (6) "Contiguous" means the same as that term is defined in Section 10-2a-102.

~~[(5)]~~ (7) "Feasibility consultant" means a person or firm:

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

(b) who is independent of, and not affiliated with, a county or a sponsor of a petition to incorporate a preliminary municipality under this part.

~~[(6)]~~ (8) "Feasibility request" means a request, described in Section 10-2a-502, for a feasibility study for the proposed incorporation of a preliminary municipality.

(9) "Feasibility study" means an analysis of a certified feasibility request, as described in Section 10-2a-504, conducted by a feasibility consultant.

(10) "Full-time" means 183 days a year or more.

~~[(7)]~~ (11) "Initial landowners" means the persons who owned the land within the proposed preliminary municipality area when the ~~[person]~~ applicant filed the feasibility request under Section 20A-1-501.

~~[(8)]~~ (12) "Municipal service" means the same as that term is defined in Section 10-2a-102.

~~[(9)]~~ (13) "Pending annexation area" means an area proposed for annexation in an annexation petition described in Section 10-2-806 that is filed before, and is still pending when, a person files the applicable request for a feasibility study under Section 10-2a-502.

(14) "Population" means the number of human beings who are full-time residents of a defined area.

~~[(10)]~~ (15) "Primary sponsor contact" means:

(a) in relation to a feasibility request:

(i) the individual designated as the primary sponsor contact for a feasibility request under Subsection 10-2a-502(5)(c); or

(ii) an individual designated, in writing, by the initial landowners if a replacement primary sponsor contact is needed; or

(b) in relation to a petition for incorporation of a preliminary municipality:

(i) the individual designated as the primary sponsor contact for a petition for incorporation of a preliminary municipality under Subsection 10-2a-507(1)(d); or

(ii) an individual designated, in writing, by the initial landowners if a replacement primary sponsor contact is needed.

~~[(11)]~~ (16) "Private," in relation to real property, means taxable real property.

~~[(12)]~~ (17) "Proposed preliminary municipality area" means the area proposed for incorporation as a preliminary municipality in a feasibility request.

~~[(13)]~~ (18) "System infrastructure" means, as shown on the map or plat described in Subsection 10-2a-502(5)(e) for the proposed preliminary municipal area:

(a) the main thoroughfares within the proposed preliminary municipal area, including:

(i) the roads that connect the proposed preliminary municipality area to an existing road outside the proposed preliminary municipality area; and

(ii) any fill and grading required before paved roads can be placed;

(b) the main lines that will connect a utility, including culinary water and wastewater treatment services, to the proposed preliminary municipality area, including the stubs that will connect the main lines to the development in the proposed preliminary

municipality area[-] ; and

(c) construction of culinary water facilities, wastewater treatment facilities, or both, if no services exist that would meet the requirements of the proposed preliminary municipality area.

(19) "Utah Population Committee" means the committee created in Section 63C-20-103.

Section 3. Section **10-2a-502** is amended to read:

10-2a-502 (Effective 05/06/26) (Repealed 01/01/31). Incorporation of a preliminary municipality -- Feasibility request -- Requirements.

(1)(a) ~~[A person-]~~ An individual may apply to incorporate an area as a preliminary municipality by filing a feasibility request in accordance with this section.

(b) A person may apply to incorporate an area as a preliminary municipality by filing a feasibility request in accordance with this section if the person designates an individual in the application who:

(i) has the authority to represent the person; and

(ii) will serve as the point of contact for the application.

(2) Subject to Subsection (6), ~~[a person]~~ an applicant may file a feasibility request in relation to an area that the ~~[person]~~ applicant seeks to incorporate as a preliminary municipality if:

(a) the area is contiguous;

(b) no part of the area is within a county of the first class or second class;

(c) no part of the area is within, or within .25 miles of, a municipality;

(d) on the day on which the ~~[person]~~ applicant files the feasibility request:

(i) the area is owned by no more than three persons, all of whom consent to incorporation as a preliminary municipality; and

(ii) at least 50% of the area is undeveloped;

(e) the persons who sign the feasibility request intend to and, if the preliminary municipality is incorporated, shall develop the area to the point that:

(i) at least 100 individuals reside full-time in the area;

(ii) the area will have an average population density of no less than seven individuals per square mile, unless:

(A) a population density of less than seven individuals per square mile is necessary in order to connect separate areas that share a demonstrable community interest; and

(B) the average population of the area has a population density of no less than seven individuals per square mile if the land necessary to connect the separate

- 201 areas described in Subsection (2)(e)(ii)(A) is not included in the calculation;
202 and
- 203 (iii) at least 10% of the housing in the preliminary municipality is affordable housing;
- 204 (f) the area does not include land owned by the United States government unless:
- 205 (i) the area, including the land owned by the United States government, is
206 contiguous; and
- 207 (ii)(A) incorporating the land is necessary to connect separate areas that share a
208 demonstrable community interest; or
- 209 (B) excluding the land from the area would create an unincorporated island within
210 the proposed preliminary municipality;
- 211 (g) the area is entirely within one county;
- 212 (h) the applicant has complied with the county consultation requirements of Section
213 10-2a-502.5; and
- 214 ~~[(h)]~~ (i) the feasibility request complies with Subsection (3).
- 215 (3)(a) A proposed preliminary municipality area may not include all or part of a pending
216 annexation area, unless:
- 217 (i) the portion of the pending annexation area included in the proposed preliminary
218 municipality area does not exceed 20% of the proposed preliminary municipality
219 area; and
- 220 (ii) the feasibility request would comply with the requirements of this section
221 regardless of whether the portion of the pending annexation area included in the
222 proposed preliminary municipality area is excluded from, or remains included in,
223 the proposed preliminary municipality area.
- 224 (b) A proposed preliminary municipality area may not include all or part of an area that
225 is the subject of a completed feasibility study or supplemental feasibility study that
226 qualifies to proceed under Subsection 10-2a-205(5)(a), unless ~~[:]~~
- 227 ~~[(i) the proposed incorporation that is the subject of the completed feasibility study or~~
228 ~~supplemental feasibility study has been defeated by the voters at an election under~~
229 ~~Section 10-2a-210; or]~~
- 230 ~~[(ii)]~~ the time described in Subsection 10-2a-208(1) for filing an incorporation
231 petition based on the completed feasibility study or supplemental feasibility study
232 has elapsed without the sponsors filing an incorporation petition under Section
233 10-2a-208.
- 234 (c) A proposed preliminary municipality area may not include all or part of an area that

is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-504(4), unless the time described in Subsection 10-2a-507(1) for filing a petition for incorporation based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing a petition for incorporation under Section 10-2a-507.

(4) Except as provided in Section 10-2a-505, the lieutenant governor shall consider each feasibility request that includes an area described in Subsection (3)(a) as if the request does not include the area described in Subsection (3)(a).

(5)(a) ~~[A person]~~ An applicant who files a feasibility request under this section shall file the feasibility request with the lieutenant governor, including in the feasibility request:

~~[(a)]~~ (i) the signatures of all owners of real property included in the proposed preliminary municipality area, showing that the owners consent to including the real property in the proposed preliminary municipality area;

~~[(b)]~~ (ii) the name, address, and phone number of each owner signing the feasibility request;

~~[(c)]~~ (iii) a designation of one individual who signs the feasibility request as the primary sponsor contact for the feasibility request;

~~[(d)]~~ (iv) a description of the proposed preliminary municipality area;

~~[(e)]~~ (v) an accurate map or plat, prepared by a licensed surveyor, showing:

~~[(i)]~~ (A) a legal description of the boundaries of the proposed preliminary municipality area and each phase of the proposed preliminary municipality area;

~~[(ii)]~~ (B) all development planned for the proposed preliminary municipality area;[
and]

~~[(iii)]~~ (C) that the first phase of the proposed preliminary municipality area is projected to have at least 100 full-time residents when completed;

(D) that at least 10% of all housing available at the end of each phase is affordable housing; and

(E) that no more than 10% of all housing available at the end of each phase be utilized for short-term rentals;

(vi) confirmation that the person has complied with the consultation requirements of Section 10-2a-502.5; and

~~[(f)]~~ (vii) a request that the lieutenant governor commission a study to determine the feasibility of incorporating the area as a preliminary municipality.

(b) An applicant may provide development plans in the alternative in the feasibility request, indicating which plan is the primary plan and which plans may be used in the event of market shifts or other market developments, if each plan meets the requirements of Subsection (5)(a).

(c) A feasibility request described in Subsection (5)(a) may not include a material change from the written explanation of the planned preliminary municipality provided to the county under Section 10-2a-502.5.

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

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

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

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

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

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

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

(c) the process to incorporate is prohibited from proceeding under Subsection [~~10-2a-504(5)(a)~~] 10-2a-504(6)(a) and the sponsors:

(i) do not timely file a modified feasibility request under Subsection 10-2a-505(1)(b)(i); or

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

Section 4. Section **10-2a-502.5** is enacted to read:

10-2a-502.5 (Effective 05/06/26). Consultation with county.

(1) Before an applicant may apply to incorporate an area as a preliminary municipality by filing a feasibility request in accordance with Section 10-2a-502, the applicant shall comply with the county consultation requirements of this section.

(2) At least 120 days before the day on which an applicant files a feasibility request, the applicant shall provide to the county a written explanation of the planned preliminary municipality.

(3)(a) The written explanation described in Subsection (2) shall be reasonably similar in

scope and content to the feasibility request that will be filed as described in Subsection 10-2a-502(5) but is not required to be identical to the feasibility request.

(b) If an applicant intends to file a feasibility request with a material change from the written explanation of the planned preliminary municipality described in Subsection (2), the applicant shall:

(i) notify the county that the applicant is withdrawing the original written request; and

(ii) submit a new written explanation to the county, as described in Subsection (2).

(c) Notwithstanding Subsection (3)(b), a change is not a material change:

(i) if an applicant makes a change to the planned preliminary municipality described in a written explanation before filing a feasibility request in response to, or in order to address, information or concerns shared by the county as described in Subsection (4); or

(ii) by virtue of being included in an alternative plan, as described in Subsection 10-21-502(5)(b).

(4) Upon receiving a written explanation under Subsection (2), a county shall:

(a) provide a meaningful opportunity for the applicant to consult with county staff and officials about the planned preliminary municipality; and

(b) provide the applicant with a written response by no later than 90 days after the day on which the county receives the request, offering any information the county determines is useful.

(5) If the county fails to meet the requirements of Subsection (4), the applicant shall so indicate in a feasibility request made under Section 10-2a-502.

(6) An applicant that fails to comply with the requirements of this section may not file a feasibility request under Section 10-2a-502.

Section 5. Section **10-2a-503** is amended to read:

10-2a-503 (Effective 05/06/26) (Repealed 01/01/31). Processing a feasibility request -- Certification or rejection -- Processing priority -- Determination by the Utah Population Committee.

(1) Within 45 days after the day on which an individual files a feasibility request under Section 10-2a-502, the lieutenant governor shall:

(a) determine whether the feasibility request complies with Section 10-2a-502; and

(b) notify the clerk of the county where the proposed preliminary municipality area is located, in writing, of the determination made under Subsection (1)(a) and the grounds for the determination.

- (2)(a) A county clerk shall comply with a request by the lieutenant governor to provide information or a record to the lieutenant governor or to a sponsor of the feasibility request, to assist in complying with this part, within five calendar days after the day on which the lieutenant governor makes the request.
- (b) If a county determines an applicant making a feasibility request failed to comply with Section 10-2a-502.5 before making the request, or that the feasibility request contains a material change from the written explanation the applicant provided to the county, the county clerk shall provide the lieutenant governor with the basis for the determination.
- (3) If the lieutenant governor determines that the feasibility request complies with Section 10-2a-502, the lieutenant governor shall:
- (a) certify the feasibility request; and
 - (b) transmit written notification of the certification to:
 - (i) the primary sponsor contact[;] ;
 - (ii) the county clerk[;] ; and
 - (iii) the Utah Population Committee.
- (4) If the lieutenant governor determines that the feasibility request fails to comply with Section 10-2a-502, the lieutenant governor shall reject the feasibility request and notify the primary sponsor contact and the county clerk, in writing, of the rejection and the grounds for the rejection.
- (5)(a) Within 20 days after the day on which the lieutenant governor transmits written notification under Subsection (3)(b), the Utah Population Committee shall:
- (i) determine whether, based on the map or plat described in Subsection 10-2a-502(5)(e), the proposed preliminary municipality will, when all phases of the map or plat are completed, likely comply with the population, population density, and contiguity requirements described in Section 10-2a-502; and
 - (ii) provide notice of the determination to the lieutenant governor and the county clerk.
- (b) If the Utah Population Committee determines, under Subsection (5)(a)(i), that, when all phases of the plan or plat are completed, the proposed preliminary municipality will not likely comply with the population, population density, and contiguity requirements described in Section 10-2a-502, the lieutenant governor shall rescind the certification described in Subsection (3) and reject the feasibility request.
- (6) The lieutenant governor shall certify or reject feasibility requests in the order in which

the requests are filed.

(7)(a) If the lieutenant governor determines, under Subsection (4), that the feasibility request fails to comply with Section 10-2a-502, or rejects the feasibility request under Subsection (5)(b), the sponsors may, subject to Section 10-2a-505, amend the feasibility request to correct the deficiencies and refile the feasibility request with the lieutenant governor.

(b) Except as provided in Subsection (7)(c), the sponsors may submit an amended feasibility request within 90 days after the day on which the lieutenant governor makes the determination or rejection described in Subsection (7)(a).

(c) The sponsors may not submit an amended feasibility request more than once.

(d) The lieutenant governor shall consider a feasibility request that is amended and refiled under Subsection (7)(a) as a newly filed feasibility request and process the feasibility request in accordance with this section.

(8) Any individual in the Office of the Lieutenant Governor or on the Utah Population Committee who plays a role in the preliminary municipality approval process described in this part shall be independent of and not affiliated with an applicant or a sponsor of a petition to incorporate a preliminary municipality.

Section 6. Section **10-2a-504** is amended to read:

**10-2a-504 (Effective 05/06/26) (Repealed 01/01/31). Feasibility study --
Feasibility study consultant -- Qualifications for proceeding with incorporation.**

(1)(a) Unless the lieutenant governor rescinds the certification under Subsection 10-2a-503(5)(b), the lieutenant governor shall, within 90 days after the day on which the lieutenant governor certifies a feasibility request under Subsection 10-2a-503(3)(a), in accordance with Subsection (2), engage a feasibility consultant to conduct a feasibility study on the proposed preliminary municipality, as the proposed preliminary municipality is described in the certified feasibility request.

(b) If the primary sponsor desires that the feasibility study described in this section be based off a plan that is materially different than what is described in the certified feasibility request:

(i) the primary sponsor shall notify the lieutenant governor and the lieutenant governor shall rescind the certification of the feasibility request;

(ii) the primary sponsor shall submit a new written explanation to the county, as described in Section 10-2a-502.5; and

(iii) the primary sponsor shall submit a new feasibility request as described in Section

10-2a-502.

(2) The lieutenant governor shall:

- (a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code;
- (b) ensure that the feasibility consultant:
 - (i) has expertise in the processes and economics of local government; ~~and~~
 - (ii) is not affiliated with a sponsor of the feasibility request or the county in which the proposed municipality is located; and
 - (iii) considers data, information, and analysis provided to the feasibility consultant by the county, as described in Subsection (4); and
- (c) require the feasibility consultant to:
 - (i) submit a draft of the feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection (3)(c) within 90 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study;
 - (ii) allow each person to whom the consultant provides a draft under Subsection (2)(c)(i) to review and provide comment on the draft;
 - (iii) submit on the same day a completed feasibility study, including a one-page summary of the results, to the following within 120 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the feasibility study:
 - (A) the lieutenant governor;
 - (B) the county legislative body of the county in which the proposed preliminary municipality area is located;
 - (C) the primary sponsor contact; and
 - (D) each person to whom the consultant provided a draft under Subsection (2)(c)(i);and
 - (iv) attend the public hearings described in Section 10-2a-506 to present the feasibility study results and respond to questions from the public.
- (3)(a) The feasibility study shall include:
 - (i) an analysis of:
 - (A) the likely population and population density within the proposed preliminary municipality area when all phases of the map or plat for the proposed preliminary municipality area are completed; ~~and~~

- 439 (B) the population and population density of the area surrounding the proposed
440 preliminary municipality area on the day on which the feasibility request was
441 submitted; and
442 (C) any land use entitlements already established within the proposed preliminary
443 municipality area;
444 (ii) an analysis of the following, determined as if, at the time of the analysis, the
445 proposed [-]preliminary municipality area is incorporated as a town with a
446 population of 100 [~~people~~] individuals:
447 (A) the initial and projected five-year demographics and tax base within the
448 boundaries of the proposed preliminary municipality area and the surrounding
449 area, including household size and income, commercial and industrial
450 development, and public facilities;
451 (B) subject to Subsection (3)(b), the initial and five-year projected cost of
452 providing all municipal services to the proposed preliminary municipality area,
453 including administrative costs and the costs of public infrastructure required to
454 provide each municipal service to the proposed preliminary municipality area;
455 (C) assuming the same tax categories and tax rates as imposed by the county and
456 all other current service providers at the time during which the feasibility
457 consultant prepares the feasibility study, the initial and five-year projected
458 revenue for the proposed preliminary municipality area;
459 (D) the risks and opportunities that might affect the actual costs described in
460 Subsection (3)(a)(ii)(B) or the revenues described in Subsection (3)(a)(ii)(C) of
461 the proposed preliminary municipality area;
462 (E) new revenue sources that may be available to the proposed preliminary
463 municipality area that are not available before the area incorporates, including
464 an analysis of the amount of revenues the proposed preliminary municipality
465 area might obtain from those revenue sources;
466 (F) the projected tax burden per household of any new taxes that may be levied
467 within the proposed preliminary municipality area within five years after
468 incorporation as a town; and
469 (G) the fiscal impact of the proposed preliminary municipality area's incorporation
470 as a town on unincorporated areas, other municipalities, special districts,
471 special service districts, and other governmental entities in the county; [~~and~~]
472 (iii) an analysis regarding whether sufficient water will be available to support the

- 473 proposed preliminary municipality area when the development of the area is
474 complete[-] ; and
- 475 (iv) if applicable, a separate analysis of any data, information, and analysis provided
476 by the county as described in Subsection (4).
- 477 (b)(i) In calculating the projected costs under Subsection (3)(a)(ii)(B), the feasibility
478 consultant shall assume the proposed preliminary municipality area will provide a
479 level and quality of municipal services that fairly and reasonably approximate the
480 level and quality of municipal services that are provided to the area surrounding
481 the proposed preliminary municipality area at the time the feasibility consultant
482 conducts the feasibility study.
- 483 (ii) In calculating the current cost of a municipal service under Subsection
484 (3)(a)(ii)(B), the feasibility consultant shall consider:
- 485 (A) the amount it would cost the proposed preliminary municipality area to
486 provide the municipal service for the first five years after the area incorporates
487 as a town; and
- 488 (B) the proposed or current municipal service provider's initial and five-year
489 projected cost of providing the municipal service after the proposed
490 preliminary municipality area incorporates as a town.
- 491 (iii) In calculating costs under Subsection (3)(a)(ii)(B), the feasibility consultant shall
492 account for inflation and anticipated growth.
- 493 (c) In conducting the feasibility study, the feasibility consultant shall consult with the
494 following before submitting a draft of the feasibility study under Subsection (2)(c)(iii):
- 495 (i) if the proposed preliminary municipality will include lands owned by the United
496 States federal government, the entity within the United States federal government
497 that has jurisdiction over the land;
- 498 (ii) if the proposed preliminary municipality will include lands owned by the state,
499 the entity within state government that has jurisdiction over the land;
- 500 (iii) each entity that provides, or is proposed to provide, a municipal service to a
501 portion of the proposed preliminary municipality area;[-and]
- 502 (iv) each other special service district that provides, or is proposed to provide,
503 services to a portion of the proposed preliminary municipality area[-] ; and
- 504 (v) the legislative body of the county in which the preliminary municipality area is
505 located.
- 506 (d)(i) The analysis required by this Subsection (3) shall be based on data that is

objective, reliable, and grounded in area-specific information from the preceding 10 years, professional or market-based studies, including market absorption, pricing, and existing available lots in the area.

(ii) The feasibility consultant shall:

(A) only use data provided by a sponsor if the feasibility consultant determines the data can be independently verified to meet the requirements of Subsection (3)(d)(i); and

(B) if the feasibility consultant uses data provided by a sponsor, provide an explanation of the determination described in Subsection (3)(d)(ii)(A) in the feasibility study.

(4)(a) The legislative body of the county in which the preliminary municipality area is located may provide the feasibility consultant with data, information, and analysis the legislative body considers relevant to the feasibility study.

(b) Data, information, and analysis described in Subsection (4)(a) may include information about:

(i) projected needs for future property tax increases;

(ii) projected county costs in regard to development of the proposed preliminary municipality area, including development costs outside but adjacent to the proposed preliminary municipality area;

(iii) deferred maintenance costs in or near the proposed preliminary municipality area; and

(iv) unique factors about the county or the proposed preliminary municipality or both that may create a strain on county resources in the future.

(c) The feasibility consultant shall consider data, information, and analysis provided by the county under Subsection (4)(a) and:

(i) use the data, information, and analysis in the feasibility study; or

(ii) if the feasibility consultant determines that any or all of the data, information, or analysis provided by the county is not relevant to the feasibility study, provide a thorough explanation of the determination in the draft feasibility report.

[(4)] (5) If the five-year projected revenues calculated under Subsection (3)(a)(ii)(C) exceed the five-year projected costs calculated under Subsection (3)(a)(ii)(B) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to:

(a) the primary sponsor contact;

(b) the legislative body of the county in which the preliminary municipality area is

located; and

(c) the lieutenant governor.

~~[(5)]~~ (6)(a) Except as provided in Subsection ~~[(5)(b)]~~ (6)(b), if the results of the feasibility study, or a supplemental feasibility study described in Section 10-2a-505, show that the average annual amount of revenue calculated under Subsection (3)(a)(ii)(C) does not exceed the average annual cost calculated under Subsection (3)(a)(ii)(B) by more than 5%, the process to incorporate the area that is the subject of the feasibility study or supplemental feasibility study may not proceed.

(b) Except as provided in Subsection 10-2a-505(3), the process to incorporate an area described in Subsection ~~[(5)(a)]~~ (6)(a) may proceed if a subsequent supplemental feasibility study conducted under Section 10-2a-505 for the proposed incorporation demonstrates [compliance with Subsection (5)(a)] that the average annual amount of revenue calculated under Subsection (3)(a)(ii)(C) does exceed the average annual cost calculated under Subsection (3)(a)(ii)(B) by more than 5%.

~~[(6)]~~ (7) If the results of the feasibility study or revised feasibility study do not comply with Subsection ~~[(5)]~~ (6), and if requested by the sponsors of the request, the feasibility consultant shall, as part of the feasibility study or revised feasibility study, make recommendations regarding how the proposed preliminary municipality area may be altered to comply with Subsection ~~[(5)]~~ (6), unless the sponsors are precluded from modifying the feasibility request under Subsection 10-2a-505(3).

~~[(7)]~~ (8) The lieutenant governor shall post a copy of the feasibility study, and any supplemental feasibility study described in Section 10-2a-505, on the lieutenant governor's website and make a copy available for public review at the lieutenant governor's office.

Section 7. Section **10-2a-505** is amended to read:

10-2a-505 (Effective 05/06/26) (Repealed 01/01/31). Modified feasibility request -- Supplemental feasibility study.

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

(i) the results of the feasibility study do not comply with Subsection ~~[10-2a-504(5)(a)]~~ 10-2a-504(6)(a); or

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

(B) the annexation petition described in Subsection 10-2a-502(3)(a) that proposed

- 575 the annexation of an area that is part of the proposed preliminary municipality
576 area has been denied; and
- 577 (C) a petition for incorporation described in Section 10-2a-507, based on the
578 feasibility request, has not been filed.
- 579 (b)(i) The sponsors of a feasibility request may not file a modified request under
580 Subsection (1)(a)(i) more than 90 days after the day on which the feasibility
581 consultant submits the final results of the feasibility study under Subsection
582 10-2a-504(2)(c)(iii).
- 583 (ii) The sponsors of a feasibility request may not file a modified request under
584 Subsection (1)(a)(ii) more than 18 months after filing the original feasibility
585 request under Section 10-2a-502.
- 586 (c) A modified feasibility request under Subsection (1)(a) shall comply with Subsections
587 10-2a-502(1) through (4).
- 588 (d) Within 20 days after the day on which the lieutenant governor receives the modified
589 request, the lieutenant governor shall follow the same procedure described in
590 Subsections 10-2a-503(1) through (4) for the modified feasibility request as for an
591 original feasibility request.
- 592 (2) The timely filing of a modified feasibility request under Subsection (1) gives the
593 modified feasibility request the same processing priority under Subsection 10-2a-503(6)
594 as the original feasibility request.
- 595 (3) The sponsors of a feasibility request may not file a modified feasibility request under
596 Subsection (1)(a)(i) more than once.
- 597 (4) Within 10 days after the day on which the county clerk receives a modified feasibility
598 request under Subsection (1)(a) that relates to a request for which a feasibility study has
599 already been completed, the lieutenant governor shall commission the feasibility
600 consultant who conducted the feasibility study to conduct a supplemental feasibility
601 study that accounts for the modified feasibility request.
- 602 (5) The lieutenant governor shall require the feasibility consultant to:
- 603 (a) comply with the requirement to consider data provided by the county as described in
604 Subsection 10-2a-504(4);
- 605 (b) submit a draft of the supplemental feasibility study to each applicable person with
606 whom the feasibility consultant is required to consult under Subsection
607 10-2a-504(3)(c) within 30 days after the day on which the feasibility consultant is
608 engaged to conduct the supplemental study;

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

[~~(e)~~] (d) submit on the same day a completed supplemental feasibility study, to the following within 45 days after the day on which the feasibility consultant is engaged to conduct the feasibility study:

- (i) the lieutenant governor;
- (ii) the county legislative body of the county in which the incorporation is proposed;
- (iii) the primary sponsor contact; and
- (iv) each person to whom the consultant provided a draft under Subsection [~~(5)(a)~~] ~~(5)(b)~~.

(6)(a) Subject to Subsections (3) and (6)(b), if the results of the supplemental feasibility study do not comply with Subsection [~~10-2a-504(4)~~] 10-2a-504(5), the sponsors may further modify the request in accordance with Subsection (1).

(b) Subsections (1)(d), (4), and (5) apply to a modified feasibility request described in Subsection (6)(a).

(c) The lieutenant governor shall consider a modified feasibility request described in Subsection (6)(a) as an original feasibility request for purposes of determining the modified feasibility request's processing priority under Subsection 10-2a-503(6).

Section 8. Section **10-2a-505.5** is enacted to read:

10-2a-505.5 (Effective 05/06/26). County audit of a feasibility study or supplemental feasibility study -- Third party evaluation.

(1) Upon receipt of a complete feasibility study under Section 10-2a-504 or a complete supplemental feasibility study under Section 10-2a-505, the county shall post the study or a summary of the study on the county website within one business day of receipt.

(2) The county may, at the county's own cost, hire a consultant to:

(a) audit the feasibility study or supplemental feasibility study; and

(b) provide a written report on the feasibility study or supplemental feasibility study that confirms or disputes the results of the study.

(3)(a) Except as provided in Subsection (3)(b), a county that hires a consultant as described in Subsection (2) shall:

(i) notify the lieutenant governor and the sponsors of the intent to dispute no later than 60 days after the day on which the county receives the results of the study;
and

(ii) no later than 90 days after the day on which the county receives the complete

- feasibility study, file a dispute with the lieutenant governor that:
- (A) explains the basis for the county's objection to the results of the feasibility study or supplemental feasibility study; and
 - (B) if applicable, includes a copy of an auditing consultant's written report that identifies any weaknesses in methodology, assumptions, conclusions, or data strength in the feasibility study or supplemental feasibility study.
- (b) If the lieutenant governor has conducted an initial public hearing under Section 10-2a-506 before the lieutenant governor and county legislative body receive the results of a supplemental feasibility study that comply with Subsection 10-2a-504(5), a county that hires a consultant as described in Subsection (2) shall:
- (i) notify the lieutenant governor and the sponsors of the intent to dispute no later than 20 days after the day on which the county receives the results of the complete supplemental study; and
 - (ii) no later than 45 days after the day on which the county receives the complete supplemental study, file a dispute with the lieutenant governor that:
 - (A) explains the basis for the county's objection to the results of the supplemental feasibility study; and
 - (B) if applicable, includes a copy of an auditing consultant's written report that identifies any weaknesses in methodology, assumptions, conclusions, or data strength in the supplemental feasibility study.
- (c) A county that has complied with Subsection (3)(a) may, but is not required to, comply with Subsection (3)(b).
- (d) A county that did not file a timely notice of intent or a dispute under Subsection (3)(a) may file a notice of intent or a dispute under Subsection (3)(b).
- (4)(a) As used in this Subsection (4), "feasibility threshold result" means the finding that the five-year projected revenues calculated under Subsection 10-2a-504(3)(a)(ii)(C) exceed the five-year projected costs calculated under Subsection 10-2a-504(3)(a)(ii)(B) by more than 5%.
- (b) Within 15 days of receiving a timely submitted written report, the lieutenant governor shall:
- (i) evaluate the written report; and
 - (ii) if the lieutenant governor determines that, on the face of the report, it is more likely than not that the feasibility study or supplemental feasibility study is flawed enough to put the feasibility threshold result in doubt:

- 677 (A) hire a third party to evaluate the feasibility study or supplemental feasibility
678 study and the written report as described in Subsection (4)(c); and
679 (B) toll the preliminary municipality incorporation process, as described in
680 Subsection (4)(e).
- 681 (c)(i) The lieutenant governor shall select three potential evaluators:
682 (A) with expertise in statistical analysis; and
683 (B) in accordance with Title 63G, Chapter 6a, Utah Procurement Code.
684 (ii) The sponsor of the feasibility request and county, in order designated by the
685 lieutenant governor's coin flip, may each eliminate one of the evaluators described
686 in Subsection (4)(c)(i).
- 687 (iii) The evaluator that remains after the eliminations described in Subsection
688 (4)(c)(ii) shall:
689 (A) analyze the complete feasibility study or supplemental feasibility study and
690 the written report; and
691 (B) within 45 days, determine if the feasibility study or supplemental feasibility
692 study sufficiently supports the feasibility threshold result and provide the
693 lieutenant governor with the determination.
- 694 (d) The lieutenant governor shall provide the evaluator's determination to the county and
695 sponsor of the feasibility request within three business days of receiving the
696 determination.
- 697 (e) If the lieutenant governor tolls the process, the deadlines for public hearings in
698 Section 10-2a-506 and for filing a petition for incorporation of the proposed
699 preliminary municipality in Section 10-2a-507 are paused and restart the day the
700 lieutenant governor notifies the county and sponsor of the feasibility request of the
701 evaluator's determination, if the determination is that the feasibility study or
702 supplemental feasibility study supports the feasibility threshold result.
- 703 (f) If the evaluator described in Subsection (4)(c)(iii) determines the feasibility study or
704 supplemental feasibility study does not sufficiently support the feasibility threshold
705 result:
706 (i) the lieutenant governor may not complete the public hearings required under
707 Section 10-2a-506; and
708 (ii) the sponsor of the feasibility request may make a modified feasibility request as
709 described in Section 10-2a-505.

710 Section 9. Section **10-2a-506** is amended to read:

10-2a-506 (Effective 05/06/26) (Repealed 01/01/31). Public hearings on feasibility study results -- Notice of hearings.

- (1) If the results of the feasibility study or supplemental feasibility study comply with Subsection [~~10-2a-504(4),~~] 10-2a-504(5), and the tolling provisions of Subsection 10-2a-505.5(4)(e) or 10-2a-505.6(3)(a) do not apply, the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct public hearings in accordance with this section.
- (2)(a) If a portion of the proposed preliminary municipality area is approved for annexation after the feasibility study or supplemental feasibility study is conducted but before the lieutenant governor conducts a public hearing under Subsection (4), the lieutenant governor may not conduct the public hearing under Subsection (4) unless:
- (i) the sponsors of the feasibility study file a modified feasibility request in accordance with Section 10-2a-505; and
 - (ii) the results of the supplemental feasibility study comply with Subsection 10-2a-504(4).
- (b) For purposes of Subsection (2)(a), an area is approved for annexation if a municipal legislative body:
- (i) approves an annexation petition proposing the annexation of an area that is part of the proposed preliminary municipality area under Section 10-2-810 or 10-2-811; or
 - (ii) adopts an ordinance approving the annexation of an area that is part of the proposed preliminary municipality area under Section 10-2-812.
- (3) The lieutenant governor shall conduct a public hearing:
- (a) within 60 days after the day on which the lieutenant governor receives the results under Subsection (1) or (2)(a)(ii);
 - (b) at a location within or near the proposed preliminary municipality; and
 - (c) to allow the feasibility consultant to present the results of the feasibility study and inform the public about the results.
- (4) The lieutenant governor shall:
- (a) conduct an additional public hearing following each occasion when, after the day of the initial public hearing, the lieutenant governor receives the results of a supplemental feasibility study that comply with Subsection 10-2a-504(4); and
 - (b) hold the public hearing described in Subsection (4)(a):
 - (i) within 30 days after the day on which the lieutenant governor receives the results

- 745 of the supplemental feasibility study;
- 746 (ii) at a location within or near the proposed preliminary municipality;
- 747 (iii) to inform the public that the feasibility presented to the public at the preceding
- 748 public hearing does not apply; and
- 749 (iv) to allow the feasibility consultant to present the results of the supplemental
- 750 feasibility study and inform the public about the results.
- 751 (5) At each public hearing required under this section, the lieutenant governor shall:
- 752 (a) provide a map or plat of the boundary of the proposed preliminary municipality;
- 753 (b) provide a copy of the applicable feasibility study for public review;
- 754 (c) allow members of the public to express views about the proposed preliminary
- 755 municipality, including views about the proposed boundaries; and
- 756 (d) allow the public to ask the feasibility consultant questions about the applicable
- 757 feasibility study.
- 758 (6) The lieutenant governor shall publish notice of each public hearing required under this
- 759 section for the proposed preliminary municipality area, as a class B notice under Section
- 760 63G-30-102, for at least three weeks before the day of the public hearing.
- 761 (7)(a) Except as provided in Subsection (7)(b), for a hearing described in this section,
- 762 the notice described in Subsection (6) shall:
- 763 (i) include the feasibility study summary described in Subsection 10-2a-504(2)(c)(iii);
- 764 and
- 765 (ii) indicate that a full copy of the feasibility study is available on the lieutenant
- 766 governor's website and for inspection at the lieutenant governor's office.
- 767 (b) Instead of publishing the feasibility summary under Subsection (7)(a)(i), the
- 768 lieutenant governor may publish a statement that specifies the following sources
- 769 where a person may view or obtain a copy of the feasibility study:
- 770 (i) the lieutenant governor's website;
- 771 (ii) the lieutenant governor's office; and
- 772 (iii) a mailing address and telephone number.

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

774 **10-2a-507 (Effective 05/06/26) (Repealed 01/01/31). Petition for incorporation --**

775 **Requirements and form.**

- 776 (1) At any time within one year after the day on which the lieutenant governor completes
- 777 the public hearings required under Section 10-2a-506, subject to any applicable tolling
- 778 period under Subsection 10-2a-505.5(4)(d), the owners of the property who filed the

779 feasibility request under Section 10-2a-502 for the proposed preliminary municipality
780 area may proceed with the incorporation process by filing a petition for incorporation of
781 the proposed preliminary municipality that:

- 782 (a) includes the typed or printed name, signature, address, and phone number of the
783 initial landowners;
- 784 (b) describes the proposed preliminary municipality area, as described in the feasibility
785 request or the modified feasibility request;
- 786 (c) demonstrates compliance with Subsection [~~10-2a-504(4)~~] 10-2a-504(5);
- 787 (d) states the proposed name for the proposed preliminary municipality;
- 788 (e) designates the primary sponsor contact for the proposed preliminary municipality;
- 789 (f) designates the board chair and three of the four board members who will serve as a
790 five member council form of government for the preliminary municipality, described
791 in Section 10-3b-402, for the preliminary municipality;
- 792 (g) is accompanied by an accurate map or plat, prepared by a licensed surveyor, that
793 conforms to the information, including planning and phasing, that was included in the
794 certified feasibility request showing:
- 795 (i) the boundaries of the proposed preliminary municipality;
- 796 (ii) a single development plan for the proposed municipality, depicting each phase of
797 the development; and
- 798 (iii) the structure that will serve as a municipal building or community center where
799 preliminary municipality or future incorporated town business or operations may
800 be conducted, which shall be completed in the first phase of the development;
- 801 (h) is accompanied by a bond, cash deposit, or letter of credit that:
- 802 (i) is posted by the initial landowners;
- 803 (ii) is in favor of the county in which the preliminary municipality area is located, up
804 and until the time the preliminary municipality is incorporated as a town, to
805 guarantee that the initial landowners will complete any infrastructure for which
806 construction has begun or which is necessary, under state law or county ordinance,
807 for any developed parcels;
- 808 [~~(ii)~~] (iii) is in favor of the town that is incorporated from the proposed preliminary
809 municipality, to guarantee that the initial landowners will complete the system
810 infrastructure no later than six years after the day on which the initial landowners
811 file the petition for incorporation described in this section;[and]
- 812 [~~(iii)~~] (iv) meets the requirements of Subsection (4);

- 813 (v) is held by an institution independent from the sponsor; and
 814 (vi) will be refunded to the initial landowners in percentages that reflect the progress
 815 toward completing the system infrastructure;[-and]
- 816 (i) is accompanied by an executed improvement warranty for the improvement warranty
 817 period, which may be a cash deposit, surety bond, letter of credit, or other similar
 818 security, as required by the county, in the amount of up to 10% of the lesser of the:
 819 (i) county engineer's estimated cost of completion; or
 820 (ii) the initial landowner's reasonable proven cost of completion;
- 821 (j) is accompanied by payment in full, from the initial landowners, of the costs incurred
 822 by the lieutenant governor for the feasibility study, the public notices, the hearings,
 823 and the other expenses incurred by the lieutenant governor to comply with the
 824 requirements of this part in relation to the proposed preliminary municipality[-:] ; and
- 825 (k) includes a signed certification indicating that the sponsor will develop the
 826 preliminary municipality in accordance with the description in the certified feasibility
 827 request, or an alternate description included in the certified feasibility request, subject
 828 to conditions identified in the final feasibility study, including the overall master plan
 829 layout, number of housing units, build schedule phasing, affordable housing
 830 requirements, and structure described in Subsection (1)(g)(iii).
- 831 (2)(a) If, within six years after the day on which the initial landowners file a petition for
 832 incorporation under Subsection (1), the system infrastructure for the preliminary
 833 municipality is not completed, the portion of the bond, cash deposit, or letter of credit
 834 described in Subsection (1)(h) that has not been refunded to the initial landowners
 835 shall forfeit to[-the preliminary municipality] :
- 836 (i) the county, if the preliminary municipality has not incorporated as a town; or
 837 (ii) the town.
- 838 (b) If, within the improvement warranty period, an improvement is not completed, fails,
 839 or is demonstrated to be faulty or substandard, the executed improvement warranty
 840 described in Subsection (1)(i) shall forfeit to:
- 841 (i) the county, if the preliminary municipality has not incorporated as a town; or
 842 (ii) the town.
- 843 (3) If, within four years after the day on which the first residential certificate of occupancy
 844 is issued for the development described in Subsection 10-2a-503(5)(e), or six years after
 845 the day on which the initial landowners file a petition for incorporation under Subsection
 846 (1), the preliminary municipality has not transitioned to a town:

- (a) the lieutenant governor shall issue a certificate dissolving the preliminary municipality;
- (b) all roads and infrastructure within the preliminary municipality revert to the county in which the preliminary municipality is located;
- (c) the area within the proposed municipality falls under the jurisdiction of the county and is no longer incorporated; and
- (d) the initial landowners are liable to the county for damages caused to the county due to the dissolution of the preliminary municipality.

(4) The amount of the bond, cash deposit, or letter of credit required by Subsection (1)(h) shall be determined:

- (a) based on engineering estimates or construction bids; and
- (b) by an independent financial or risk management consultant retained by the county, subject to consultation with the sponsor.

(5) The improvement warranty period and improvement warranty described in Subsection (1)(i) shall be determined by the county for each type of improvement, according to the same standards and requirements the county utilizes under Sections 17-79-707 and 17-79-805.

Section 11. Section **10-2a-508** is amended to read:

10-2a-508 (Effective 05/06/26) (Repealed 01/01/31). Processing of petition by lieutenant governor -- Certification or rejection -- Petition modification.

(1) Within 45 days after the day on which a petition for incorporation is filed under Section 10-2a-507, the lieutenant governor shall:

(a) determine whether the petition for incorporation complies with Section 10-2a-507; and

(b)(i) if the lieutenant governor determines that the petition for incorporation complies with Section 10-2a-507, incorporate the preliminary municipality, issue a certificate of incorporation, and appoint the board chair and three board members designated under Subsection [~~10-2a-507(1)(e)~~] 10-2a-507(1)(f); or

(ii) if the lieutenant governor determines that the petition for incorporation fails to comply with Section 10-2a-507, reject the petition for incorporation and notify the primary sponsor contact in writing of the rejection and the reasons for the rejection.

(2)(a) If the lieutenant governor rejects a petition for incorporation under Subsection (1)(b)(ii), the sponsors of the petition for incorporation may correct the deficiencies

for which the petition for incorporation was rejected and refile the petition for incorporation with the lieutenant governor.

(b) Notwithstanding the deadline described in Subsection 10-2a-507(1), the sponsors of the petition for incorporation may file a modified petition for incorporation under Subsection (2)(a) no later than 30 days after the day on which the lieutenant governor notifies the primary sponsor contact of the rejection under Subsection (1)(b)(ii).

(3)(a) Within 20 days after the day on which the lieutenant governor receives a modified petition for incorporation under Subsection (2)(a), the lieutenant governor shall review the modified petition for incorporation in accordance with Subsection (1).

(b) The sponsors of a petition for incorporation may not modify the petition for incorporation more than once.

Section 12. Section **10-2a-509** is amended to read:

10-2a-509 (Effective 05/06/26) (Repealed 01/01/31). Governance of preliminary municipality -- Utilities -- Road maintenance.

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

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

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

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

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

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

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

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

(iii) of the physical address for which the first residential certificate of occupancy

- 915 was issued.
- 916 (b) No later than the next municipal general election, or regular general election, that is
- 917 at least 30 days after the date described in Subsection (3)(a)(ii), the initial landowners
- 918 shall:
- 919 (i) replace the board chair or a board member with an individual who is a resident of
- 920 the preliminary municipality; and
- 921 (ii) notify the county and the lieutenant governor of the appointment, in writing.
- 922 (4)(a) Subject to Subsection (4)(b), a preliminary municipality has all the powers and
- 923 duties of a municipality.
- 924 (b) A preliminary municipality:
- 925 (i) may not impose a tax;
- 926 (ii) may enter into an interlocal agreement with a special district to provide utility
- 927 services to the preliminary municipality;
- 928 (iii) has the same authority as another municipality to make decisions regarding
- 929 zoning and land use;
- 930 (iv) may not receive an allocation of sales tax or gas tax; and
- 931 (v) may not exercise eminent domain authority.
- 932 (5) As needed, the county shall provide all services and utility connections to the
- 933 preliminary municipality that the county provides other areas in the county if the
- 934 preliminary municipality:
- 935 (a) pays the uniformly assessed rates for the services and utilities and reasonable
- 936 connection fees; and
- 937 (b) complies with the county's established regulations and specifications for the
- 938 construction and connection of the local improvements.
- 939 (6)(a) The preliminary municipality and subsequently incorporated town shall maintain
- 940 and repair, or cause to be maintained and repaired, any roadway that, on the day on
- 941 which the individual filed the feasibility request under Section 10-2a-502:
- 942 [(a)] (i) existed within the preliminary municipality;
- 943 [(b)] (ii) was within a public right of way that abuts the preliminary municipality; or
- 944 [(c)] (iii) was within 1/2 mile of the preliminary municipality and connected to, or
- 945 was proposed in the feasibility request to be connected to, the preliminary
- 946 municipality.
- 947 (b) Before the lieutenant governor issues a certificate of incorporation described in
- 948 Subsection 10-2a-508(1)(b)(i), a county may commission a traffic study on a

949 roadway described Subsection (6)(a) to determine if upgrades to the roadway will be
950 necessary to support a proposed municipality.

951 (7) Before any development occurs within the preliminary municipality area or the
952 preliminary municipality submits a petition to transition to a town, the preliminary
953 municipality shall select an independent third-party engineer to review and approve all
954 building permit applications within the preliminary municipality to ensure compliance
955 with the law.

956 (8) Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of Municipalities,
957 does not apply to a preliminary municipality.

958 Section 13. **Effective Date.**

959 This bill takes effect on May 6, 2026.