

1 **MUNICIPAL INCORPORATION MODIFICATIONS**
2 2024 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: Evan J. Vickers**
5 House Sponsor: Calvin R. Musselman

6
7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to municipal incorporations.

10 **Highlighted Provisions:**

11 This bill:

12 ▸ requires feasibility request sponsors to pay the estimated cost of a feasibility study and a
13 supplemental feasibility study;

14 ▸ modifies the process relating to the Utah Population Committee's determination of
15 population and related information for a proposed incorporation;

16 ▸ modifies the period within which the lieutenant governor is required to engage a
17 feasibility consultant to begin after the feasibility request sponsors have paid the estimated
18 feasibility study cost;

19 ▸ requires a newly incorporated municipality to reimburse feasibility request sponsors for
20 the cost of a feasibility study and any supplemental feasibility study; and

21 ▸ modifies a provision relating to the costs of incorporation and the fund that the
22 lieutenant governor uses to pay those costs.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

AMENDS:

10-2a-102, as last amended by Laws of Utah 2023, Chapter 224

10-2a-201.5, as last amended by Laws of Utah 2023, Chapter 224

10-2a-202, as last amended by Laws of Utah 2023, Chapter 224

- 28 **10-2a-204**, as last amended by Laws of Utah 2023, Chapter 224
 29 **10-2a-204.3**, as enacted by Laws of Utah 2023, Chapter 224
 30 **10-2a-205**, as last amended by Laws of Utah 2023, Chapters 16, 224
 31 **10-2a-206**, as last amended by Laws of Utah 2023, Chapter 224
 32 **10-2a-220**, as last amended by Laws of Utah 2023, Chapter 224
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34 *Be it enacted by the Legislature of the state of Utah:*35 Section 1. Section **10-2a-102** is amended to read:36 **10-2a-102 . Definitions.**

37 (1) As used in this part and Part 2, Incorporation of a Municipality:

38 (a) "Contact sponsor" means the person designated in the feasibility request as the
 39 contact sponsor under Subsection [~~10-2a-202(2)(d)~~] 10-2a-202(3)(b).40 (b) (i) "Contiguous" means, except as provided in Subsection (1)(b)(ii), the same as
 41 that term is defined in Section 10-1-104.

42 (ii) "Contiguous" does not include a circumstance where:

43 (A) two areas of land are only connected by a strip of land between geographically
 44 separate areas; and45 (B) the distance between the geographically separate areas described in
 46 Subsection (1)(b)(ii)(A) is greater than the average width of the strip of land
 47 connecting the geographically separate areas.

48 (c) "Feasibility consultant" means a person or firm:

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

50 (ii) who is independent of and not affiliated with a county or sponsor of a petition to
 51 incorporate.52 (d) "Feasibility request" means a request, described in Section 10-2a-202, for a
 53 feasibility study for the proposed incorporation of a municipality.

54 (e) (i) "Municipal service" means any of the following that are publicly provided:

55 (A) culinary water;

56 (B) secondary water;

57 (C) sewer service;

58 (D) storm drainage or flood control;

59 (E) recreational facilities or parks;

60 (F) electrical power generation or distribution;

61 (G) construction or maintenance of local streets and roads;

- 62 (H) street lighting;
- 63 (I) curb, gutter, and sidewalk maintenance;
- 64 (J) law or code enforcement service;
- 65 (K) fire protection service;
- 66 (L) animal services;
- 67 (M) planning and zoning;
- 68 (N) building permits and inspections;
- 69 (O) refuse collection; or
- 70 (P) weed control.
- 71 (ii) "Municipal service" includes the physical facilities required to provide a service
- 72 described in Subsection (1)(e)(i).
- 73 (f) "Private," with respect to real property, means taxable property.
- 74 (2) For purposes of this part:
- 75 (a) the owner of real property shall be the record title owner according to the records of
- 76 the county recorder on the date of the filing of the feasibility request or petition for
- 77 incorporation; and
- 78 (b) the assessed fair market value of private real property shall be determined according
- 79 to the last assessment roll for county taxes before the filing of the feasibility request
- 80 or petition for incorporation.
- 81 (3) For purposes of each provision of this part that requires the owners of private real
- 82 property covering a percentage or fraction of the total private land area within an area to
- 83 sign a feasibility request or a petition for incorporation:
- 84 (a) a parcel of real property may not be included in the calculation of the required
- 85 percentage or fraction unless the feasibility request or petition for incorporation is
- 86 signed by:
- 87 (i) except as provided in Subsection (3)(a)(ii), owners representing a majority
- 88 ownership interest in that parcel; or
- 89 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the
- 90 number of owners of that parcel;
- 91 (b) the signature of a person signing a feasibility request or a petition for incorporation
- 92 in a representative capacity on behalf of an owner is invalid unless:
- 93 (i) the person's representative capacity and the name of the owner the person
- 94 represents are indicated on the feasibility request or petition for incorporation with
- 95 the person's signature; and

96 (ii) the person provides documentation accompanying the feasibility request or
97 petition for incorporation that substantiates the person's representative capacity;
98 and

99 (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a
100 feasibility request or a petition for incorporation on behalf of a deceased owner.

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

102 **10-2a-201.5 . Qualifications for incorporation.**

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

104 (i) is contiguous;

105 (ii) has a population of at least 100 people, but fewer than 1,000 people; and

106 (iii) is not already part of a municipality.

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

108 (i) is contiguous;

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

110 (iii) is not already part of a municipality.

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

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

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

115 (b) Subsection (2)(a)(ii) does not prohibit incorporation of an area if:

116 (i) noncompliance with Subsection (2)(a)(ii) is necessary to connect separate areas
117 that share a demonstrable community interest; and

118 (ii) the area is contiguous.

119 (3) An area incorporating under this part may not include land owned by the United States
120 federal government unless:

121 (a) the area, including the land owned by the United States federal government, is
122 contiguous; and

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

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

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

- 130 (i) was filed before the filing of the request for a feasibility study, described in
- 131 Section 10-2a-202, relating to the incorporating area; and
- 132 (ii) is still pending on the date the request for the feasibility study described in
- 133 Subsection (4)(a)(i) is filed.
- 134 (b) A feasibility request may propose for incorporation an area that includes some or all
- 135 of an area proposed for annexation in an annexation petition described in Subsection
- 136 (4)(a) if:
- 137 (i) the proposed annexation area that is part of the area proposed for incorporation
- 138 does not exceed 20% of the area proposed for incorporation;
- 139 (ii) the feasibility request complies with Subsections 10-2a-202(1)[~~through (4)~~],
- 140 (3), (4), and (5) with respect to excluding the proposed annexation area from the
- 141 area proposed for incorporation; and
- 142 (iii) excluding the area proposed for annexation from the area proposed for
- 143 incorporation would not cause the area proposed for incorporation to not be
- 144 contiguous.
- 145 (c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each
- 146 feasibility request to which Subsection (4)(b) applies as not proposing the
- 147 incorporation of an area proposed for annexation.
- 148 (5) (a) An area incorporating under this part may not include part of a parcel of real
- 149 property and exclude part of that same parcel unless the owner of the parcel gives
- 150 written consent to exclude part of the parcel.
- 151 (b) A piece of real property that has more than one parcel number is considered to be a
- 152 single parcel for purposes of Subsection (5)(a) if owned by the same owner.

153 Section 3. Section **10-2a-202** is amended to read:

154 **10-2a-202 . Feasibility request -- Requirements -- Limitations -- Request to Utah**
 155 **Population Committee.**

- 156 (1) ~~[The]~~ Subject to Subsection (2), the process to incorporate a contiguous area of a county
- 157 as a municipality is initiated by an individual filing a feasibility request, with the county
- 158 clerk of the county where the area proposed to be incorporated is located, that ~~[includes]~~:
- 159 (a) includes the signatures of the owners of private real property that:
- 160 (i) is located within the area proposed to be incorporated;
- 161 (ii) covers at least 10% of the total private land area within the area; and
- 162 (iii) is, as of January 1 of the current year, equal in assessed fair market value to at
- 163 least 7% of the assessed fair market value of all private real property within the

- 164 area; ~~and~~
- 165 (b) includes the typed or printed name and current residence address of each owner
- 166 signing the request[-] ; and
- 167 (c) is accompanied by the Utah Population Committee's written notice under Subsection
- 168 (2)(d)(ii).
- 169 (2) (a) Before submitting a feasibility request under Subsection (1), an individual
- 170 intending to file a feasibility request shall submit to the lieutenant governor a written
- 171 request to the Utah Population Committee.
- 172 (b) A written request under Subsection (2)(a) shall:
- 173 (i) request the Utah Population Committee to determine whether, on the date the
- 174 individual filed the request, the proposed municipality complied with the
- 175 population, population density, and contiguity requirements described in Section
- 176 10-2a-201.5;
- 177 (ii) provide a description of the contiguous area proposed to be incorporated as a
- 178 municipality; and
- 179 (iii) be accompanied by an accurate map or plat, prepared by a licensed surveyor,
- 180 showing a legal description of the boundary of the proposed municipality.
- 181 (c) Within seven business days after receiving a request under Subsection (2)(a), the
- 182 lieutenant governor shall transmit the request to the Utah Population Committee.
- 183 (d) Within 20 days after receiving a written request from the lieutenant governor under
- 184 Subsection (2)(c), the Utah Population Committee shall:
- 185 (i) determine whether, on the date the individual filed the request under Subsection
- 186 (2)(a), the proposed municipality complied with the population, population
- 187 density, and contiguity requirements described in Section 10-2a-201.5; and
- 188 (ii) provide a written notice of the determination to:
- 189 (A) the lieutenant governor; and
- 190 (B) the individual who submitted the request under Subsection (2)(a).
- 191 (e) An individual may not file a feasibility request under Subsection (1) unless the Utah
- 192 Population Committee determines that the proposed municipality complies with the
- 193 population, population density, and contiguity requirements described in Section
- 194 10-2a-201.5.
- 195 (f) A feasibility request may not be filed more than 30 days after the Utah Population
- 196 Committee's written determination under Subsection (2)(d).
- 197 [~~2~~] (3) The feasibility request shall include:

- 198 (a) ~~[a]~~ the same description of the contiguous area proposed to be incorporated as a
- 199 municipality that was provided to the Utah Population Committee under Subsection
- 200 (2)(b);
- 201 (b) a designation of up to five signers of the request as sponsors, one of whom is
- 202 designated as the contact sponsor, with the mailing address and telephone number of
- 203 each;
- 204 (c) an accurate map or plat, prepared by a licensed surveyor, showing ~~[a]~~ the same legal
- 205 description of the boundaries of the proposed municipality as was included with a
- 206 request submitted to the Utah Population Committee under Subsection (2)(b); ~~[and]~~
- 207 (d) a copy of the Utah Population Committee's written determination under Subsection
- 208 (2)(d); and
- 209 ~~[(d)]~~ (e) a request that the lieutenant governor commission a study to determine the
- 210 feasibility of incorporating the area as a municipality.

211 ~~[(3)]~~ (4) The individual described in Subsection (1) shall, on the day on which the individual

212 files the feasibility request with the county clerk, provide to the lieutenant governor:

- 213 (a) written notice that the individual filed the feasibility request that indicates the day on
- 214 which the individual filed the feasibility request; and
- 215 (b) a complete copy of the feasibility request, including a copy of the written
- 216 determination by the Utah Population Committee under Subsection (2)(d).

217 ~~[(4)]~~ (5) A feasibility request may not propose for incorporation an area that includes some

218 or all of an area that is the subject of a completed feasibility study or supplemental

219 feasibility study whose results comply with Subsection 10-2a-205(5)(a) unless:

- 220 (a) the proposed incorporation that is the subject of the completed feasibility study or
- 221 supplemental feasibility study has been defeated by the voters at an election under
- 222 Section 10-2a-210; or
- 223 (b) the time described in Subsection 10-2a-208(1) for filing an incorporation petition
- 224 based on the completed feasibility study or supplemental feasibility study has elapsed
- 225 without the sponsors filing an incorporation petition under Section 10-2a-208.

226 ~~[(5)]~~ (6) Sponsors may not file a feasibility request relating to the incorporation of a town if

227 the cumulative private real property that the sponsors own exceeds 40% of the total

228 private land area within the boundaries of the proposed town.

229 Section 4. Section **10-2a-204** is amended to read:

230 **10-2a-204 . Processing a feasibility request -- Certification or rejection --**

231 **Processing priority.**

- 232 (1) Within 45 days after the day on which an individual files a feasibility request under
233 Section 10-2a-202, the county clerk shall:
- 234 (a) determine whether the feasibility request complies with Section 10-2a-202; and
235 (b) notify the lieutenant governor, in writing, of the determination made under
236 Subsection (1)(a) and the grounds for the determination.
- 237 (2) The county clerk:
- 238 (a) shall keep the lieutenant governor apprised of the county clerk's progress in making
239 the determination described in Subsection (1)(a); and
240 (b) may consult with the lieutenant governor in making the determination described in
241 Subsection (1)(a).
- 242 (3) Within five days after the day on which the county clerk provides the notification
243 described in Subsection (1)(b), the lieutenant governor shall:
- 244 (a) review the determination and the grounds for the determination to evaluate whether
245 the feasibility request complies with Section 10-2a-202; and
246 (b) (i) uphold the determination;
247 (ii) reverse the determination; or
248 (iii) require the county clerk to provide additional information that the lieutenant
249 governor identifies as necessary for the lieutenant governor to uphold or reverse
250 the county clerk's determination.
- 251 (4) If the office requires the county clerk to provide additional information under
252 Subsection (3)(b)(iii):
- 253 (a) the county clerk shall provide the additional information to the office within five
254 days after the day on which the office notifies the county clerk that the additional
255 information is required; and
256 (b) the office shall, within five days after the day on which the county clerk provides the
257 additional information, uphold or reverse the determination of the county clerk
258 described in Subsection (1)(b).
- 259 (5) If the lieutenant governor determines that the feasibility request complies with Section
260 10-2a-202, the lieutenant governor shall:
- 261 (a) certify the request; and
262 (b) transmit written notification of the certification to the contact sponsor[; and] .
263 [~~(c) transmit written notification of the certification to the Utah Population Committee.~~]
- 264 (6) If the lieutenant governor determines that the feasibility request fails to comply with
265 Section 10-2a-202, the lieutenant governor shall reject the feasibility request and notify

266 the contact sponsor in writing of the rejection and the grounds for the rejection.

267 [~~(7) (a) Within 20 days after the day on which the lieutenant governor transmits written~~

268 ~~notification under Subsection (5)(c), the Utah Population Committee shall:]~~

269 [(i) determine whether, on the date the sponsors filed the feasibility request, the proposed

270 municipality complied with the population, population density, and contiguity

271 requirements described in Section ~~10-2a-201.5~~; and]

272 [(ii) provide notice of the determination to the lieutenant governor and the county clerk.]

273 [(b) If the Utah Population Committee determines that a proposed municipality does not

274 comply with the population, population density, or contiguity requirements described in

275 Section ~~10-2a-201.5~~, the lieutenant governor shall ~~rescind the certification described in~~

276 ~~Subsection (5)(a) and reject the feasibility request.]~~

277 [(8)] (7) The lieutenant governor shall certify or reject feasibility requests in the order in

278 which the requests are filed.

279 [(9)] (8) (a) If the lieutenant governor determines that the feasibility request fails to

280 comply with Section 10-2a-202, [~~or rejects the feasibility request under Subsection~~

281 ~~(7)(b),] the sponsors may, subject to Section 10-2a-206, amend the feasibility request~~

282 to correct the deficiencies and refile the feasibility request with the county clerk.

283 (b) The sponsors shall submit any amended feasibility request within 90 days after the

284 day on which the lieutenant governor makes the determination or rejection described

285 in Subsection [(9)(a)] (8)(a).

286 (c) The sponsors may reuse a signature described in Subsection [~~10-2a-202(2)(a)]~~

287 10-2a-202(1)(a) that is on a rejected feasibility request or on an amended feasibility

288 request described in Subsection [(9)(a)] (8)(a).

289 (d) The county clerk and the lieutenant governor shall consider a feasibility request that

290 is amended and refiled under Subsection [(9)(a)] (8)(a) as a newly filed feasibility

291 request and process the feasibility request in accordance with this section.

292 Section 5. Section **10-2a-204.3** is amended to read:

293 **10-2a-204.3 . Notice to property owners -- First public hearing.**

294 (1) [~~Unless the lieutenant governor rescinds the certification under Subsection 10-2a-204~~

295 ~~(7)(b), the] The county clerk shall:~~

296 (a) hold the first public hearing in relation to the proposed incorporation, at a location

297 approved by the lieutenant governor, no later than 30 days after the day on which the [

298 county clerk receives the notice described in Subsection ~~10-2a-204(7)(a)(ii)]~~

299 lieutenant governor certifies the feasibility request under Subsection 10-2a-204(5);

- 300 (b) publish notice of the hearing in accordance with Subsection 10-2a-207(7); and
- 301 (c) within seven calendar days after the day on which the [~~county clerk receives the~~
- 302 ~~notice described in Subsection 10-2a-204(7)(a)(ii)] lieutenant governor certifies the~~
- 303 feasibility request under Subsection 10-2a-204(5), mail written notice of the proposed
- 304 incorporation and of the first public hearing described in this section to:
- 305 (i) each residence within, and each owner of real property located within:
- 306 (A) the proposed incorporation boundaries; and
- 307 (B) 300 feet of the proposed incorporation boundaries;
- 308 (ii) the contact sponsor; and
- 309 (iii) the lieutenant governor.
- 310 (2) The written notice provided by the county clerk under Subsections (1)(b) and (c) shall
- 311 include:
- 312 (a) the following statement:
- 313 "NOTICE OF PROPOSED INCORPORATION AND FIRST PUBLIC HEARING
- 314 You have received this notice because you reside or own property within an area proposed
- 315 for incorporation, or an area within 300 feet of an area proposed for incorporation. The first
- 316 public hearing in relation to the proposed incorporation will be held on [insert date, time, and
- 317 location]. The purpose of the first public hearing is to provide information regarding the
- 318 proposed incorporation, the incorporation process, including the process for deciding whether
- 319 to incorporate, and certain rights you may have in relation to the proposed incorporation. A
- 320 specified landowner, as defined in Utah Code Section 10-2a-204.5, may, within 30 days after
- 321 the day of the public hearing, request that the county clerk exclude all or part of the specified
- 322 landowner's land from the area proposed for incorporation. A specified landowner may not
- 323 request exclusion after the end of the 30-day period. Any owner of land within a county where
- 324 the area proposed for incorporation is located may, within 30 days after the day of the public
- 325 hearing, request that the county clerk include all or part of that land in the area proposed for
- 326 incorporation. An owner of land may not request inclusion after the end of the 30-day period.";
- 327 and
- 328 (b) a clear description of the area proposed for incorporation.
- 329 (3) Notwithstanding that the county conducts the first public hearing, the lieutenant
- 330 governor, or a designee of the lieutenant governor, shall:
- 331 (a) direct the proceedings at the first public hearing, with the assistance of the county
- 332 clerk as needed;
- 333 (b) provide information regarding the proposed incorporation, the incorporation process,

- 334 including the process for deciding whether to incorporate, and the rights citizens may
- 335 have in relation to the proposed incorporation;
- 336 (c) describe the process by which a specified landowner may request that the county
- 337 clerk exclude all or part of the specified landowner's land from the area proposed for
- 338 incorporation;
- 339 (d) describe the process by which an owner of land described in Subsection 10-2a-204.5
- 340 (2)(b) may request that the county clerk include all or part of that land in the area
- 341 proposed for incorporation;
- 342 (e) describe the criteria for granting a request for exclusion or inclusion of land; and
- 343 (f) answer questions from individuals who attend the first public hearing.

344 (4) The contact sponsor, or an agent of the contact sponsor, and the county clerk, or an

345 employee of the county clerk designated by the county clerk, shall attend the first public

346 hearing.

347 (5) The county clerk shall:

- 348 (a) provide the location and equipment for the public hearing, subject to approval by the
- 349 lieutenant governor; and
- 350 (b) ensure compliance with the requirements of Title 52, Chapter 4, Open and Public
- 351 Meetings Act, in relation to the public hearing.

352 Section 6. Section **10-2a-205** is amended to read:

353 **10-2a-205 . Feasibility study -- Feasibility study consultant -- Qualifications for**

354 **proceeding with incorporation.**

355 (1) ~~(a) [Unless the lieutenant governor rescinds the certification under Subsection~~

356 ~~10-2a-204(7)(b), the] The~~ lieutenant governor shall, within ~~[90]~~ 10 days after the day

357 on which the lieutenant governor certifies a feasibility request under Subsection

358 ~~10-2a-204(5)(a), [in accordance with Subsection (2), engage a feasibility consultant~~

359 ~~to conduct a feasibility study.] :~~

360 (i) estimate the cost of a feasibility study under this section; and

361 (ii) provide the estimated cost to the feasibility request sponsors.

362 (b) The feasibility request sponsors shall pay to the lieutenant governor the amount of

363 the estimated cost under Subsection (1)(a) of a feasibility study conducted on or after

364 May 1, 2024.

365 (c) Within 90 days after the feasibility request sponsors pay the estimated feasibility

366 study cost under Subsection (1)(a), the lieutenant governor shall, in accordance with

367 Subsection (2), engage a feasibility consultant to conduct a feasibility study.

- 368 (2) The lieutenant governor shall:
- 369 (a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah
- 370 Procurement Code;
- 371 (b) ensure that the feasibility consultant:
- 372 (i) has expertise in the processes and economics of local government; and
- 373 (ii) is not affiliated with a sponsor of the feasibility request or the county in which the
- 374 proposed municipality is located; and
- 375 (c) require the feasibility consultant to:
- 376 (i) submit a draft of the feasibility study to each applicable person with whom the
- 377 feasibility consultant is required to consult under Subsection (3)(c) within 90 days
- 378 after the day on which the lieutenant governor engages the feasibility consultant to
- 379 conduct the study;
- 380 (ii) allow each person to whom the consultant provides a draft under Subsection
- 381 (2)(c)(i) to review and provide comment on the draft;
- 382 (iii) submit a completed feasibility study, including a one-page summary of the
- 383 results, to the following within 120 days after the day on which the lieutenant
- 384 governor engages the feasibility consultant to conduct the feasibility study:
- 385 (A) the lieutenant governor;
- 386 (B) the county legislative body of the county in which the incorporation is
- 387 proposed;
- 388 (C) the contact sponsor; and
- 389 (D) each person to whom the consultant provided a draft under Subsection
- 390 (2)(c)(i); and
- 391 (iv) attend the public hearings described in Section 10-2a-207 to present the
- 392 feasibility study results and respond to questions from the public.
- 393 (3) (a) The feasibility study shall include:
- 394 (i) an analysis of the population and population density within the area proposed for
- 395 incorporation and the surrounding area;
- 396 (ii) the current and projected five-year demographics and tax base within the
- 397 boundaries of the proposed municipality and surrounding area, including
- 398 household size and income, commercial and industrial development, and public
- 399 facilities;
- 400 (iii) subject to Subsection (3)(b), the current and five-year projected cost of providing
- 401 municipal services to the proposed municipality, including administrative costs;

- 402 (iv) assuming the same tax categories and tax rates as currently imposed by the
403 county and all other current service providers, the present and five-year projected
404 revenue for the proposed municipality;
- 405 (v) an analysis of the risks and opportunities that might affect the actual costs
406 described in Subsection (3)(a)(iii) or revenues described in Subsection (3)(a)(iv)
407 of the newly incorporated municipality;
- 408 (vi) an analysis of new revenue sources that may be available to the newly
409 incorporated municipality that are not available before the area incorporates,
410 including an analysis of the amount of revenues the municipality might obtain
411 from those revenue sources;
- 412 (vii) the projected tax burden per household of any new taxes that may be levied
413 within the proposed municipality within five years after incorporation;
- 414 (viii) the fiscal impact of the municipality's incorporation on unincorporated areas,
415 other municipalities, special districts, special service districts, and other
416 governmental entities in the county; and
- 417 (ix) if the county clerk excludes property from, or includes property in, the proposed
418 municipality under Section 10-2a-204.5, an update to the map and legal
419 description described in Subsection [~~10-2a-202(2)(e)~~] 10-2a-202(3)(c).
- 420 (b) (i) In calculating the projected costs under Subsection (3)(a)(iii), the feasibility
421 consultant shall assume the proposed municipality will provide a level and quality
422 of municipal services that fairly and reasonably approximate the level and quality
423 of municipal services that are provided to the area of the proposed municipality at
424 the time the feasibility consultant conducts the feasibility study.
- 425 (ii) In calculating the current cost of a municipal service under Subsection (3)(a)(iii),
426 the feasibility consultant shall consider:
- 427 (A) the amount it would cost the proposed municipality to provide the municipal
428 service for the first five years after the municipality's incorporation; and
- 429 (B) the current municipal service provider's present and five-year projected cost of
430 providing the municipal service.
- 431 (iii) In calculating costs under Subsection (3)(a)(iii), the feasibility consultant shall
432 account for inflation and anticipated growth.
- 433 (c) In conducting the feasibility study, the feasibility consultant shall consult with the
434 following before submitting a draft of the feasibility study under Subsection (2)(c)(i):
- 435 (i) if the proposed municipality will include lands owned by the United States federal

- 436 government, the entity within the United States federal government that has
 437 jurisdiction over the land;
- 438 (ii) if the proposed municipality will include lands owned by the state, the entity
 439 within state government that has jurisdiction over the land;
- 440 (iii) each entity that provides a municipal service to a portion of the proposed
 441 municipality; and
- 442 (iv) each other special service district that provides services to a portion of the
 443 proposed municipality.
- 444 (4) If the five-year projected revenues calculated under Subsection (3)(a)(iv) exceed the
 445 five-year projected costs calculated under Subsection (3)(a)(iii) by more than 5%, the
 446 feasibility consultant shall project and report the expected annual revenue surplus to the
 447 contact sponsor and the lieutenant governor.
- 448 (5) (a) Except as provided in Subsection (5)(b), if the results of the feasibility study, or a
 449 supplemental feasibility study described in Section 10-2a-206, show that the average
 450 annual amount of revenue calculated under Subsection (3)(a)(iv) does not exceed the
 451 average annual cost calculated under Subsection (3)(a)(iii) by more than 5%, the
 452 process to incorporate the area that is the subject of the feasibility study or
 453 supplemental feasibility study may not proceed.
- 454 (b) The process to incorporate an area described in Subsection (5)(a) may proceed if a
 455 subsequent supplemental feasibility study conducted under Section 10-2a-206 for the
 456 proposed incorporation demonstrates compliance with Subsection (5)(a).
- 457 (6) If the results of the feasibility study or revised feasibility study do not comply with
 458 Subsection (5), and if requested by the sponsors of the request, the feasibility consultant
 459 shall, as part of the feasibility study or revised feasibility study, make recommendations
 460 regarding how the boundaries of the proposed municipality may be altered to comply
 461 with Subsection (5).
- 462 (7) The lieutenant governor shall post a copy of the feasibility study, and any supplemental
 463 feasibility study described in Section 10-2a-206, on the lieutenant governor's website
 464 and make a copy available for public review at the lieutenant governor's office.

465 Section 7. Section **10-2a-206** is amended to read:

466 **10-2a-206 . Modified feasibility request -- Supplemental feasibility study.**

- 467 (1) (a) The sponsors of a feasibility request may modify the request to alter the
 468 boundaries of the proposed municipality and refile the modified feasibility request
 469 with the county clerk if:

- 470 (i) the results of the feasibility study do not comply with Subsection 10-2a-205(5)(a);
471 or
- 472 (ii) (A) the feasibility request complies with Subsection 10-2a-201.5(4)(b);
473 (B) the annexation petition described in Subsection 10-2a-201.5(4)(b) that
474 proposed the annexation of an area that is part of the area proposed for
475 incorporation has been denied; and
476 (C) an incorporation petition based on the feasibility request has not been filed.
- 477 (b) (i) The sponsors of a feasibility request may not file a modified request under
478 Subsection (1)(a)(i) more than 90 days after the day on which the feasibility
479 consultant submits the final results of the feasibility study under Subsection
480 10-2a-205(2)(c)(iii).
- 481 (ii) The sponsors of a feasibility request may not file a modified request under
482 Subsection (1)(a)(ii) more than 18 months after filing the original feasibility
483 request under Section 10-2a-202.
- 484 (c) (i) Subject to Subsection (1)(c)(ii), each modified feasibility request under
485 Subsection (1)(a) shall comply with Subsections 10-2a-202(1)[~~through (4)~~], (3),
486 (4), and (5) and Subsection 10-2a-201.5(4).
- 487 (ii) Notwithstanding Subsection (1)(c)(i), a signature on a feasibility request filed
488 under Section 10-2a-202 may be used toward fulfilling the signature requirement
489 of Subsection [~~10-2a-202(2)(a)~~] 10-2a-202(1)(a) for the feasibility request as
490 modified under Subsection (1)(a), unless the modified feasibility request proposes
491 the incorporation of an area that is more than 20% larger or smaller than the area
492 described by the original feasibility request in terms of:
- 493 (A) private land area; or
494 (B) assessed fair market value of private real property, as of January 1 of the
495 current year.
- 496 (d) Within 20 days after the day on which the county clerk receives the modified
497 request, the county clerk and the lieutenant governor shall follow the same procedure
498 described in Subsections 10-2a-204(1) through (6) for the modified feasibility request
499 as for an original feasibility request.
- 500 (e) Within 10 days after a modified feasibility request is filed, the lieutenant governor
501 shall:
- 502 (i) estimate the cost of a supplemental feasibility study under this section; and
503 (ii) provide the estimated cost to the feasibility request sponsors.

- 504 (f) Within 20 days after the lieutenant governor provides the estimated supplemental
 505 feasibility study cost, the feasibility request sponsors shall pay the estimated cost to
 506 the lieutenant governor for a supplemental feasibility study conducted on or after
 507 May 1, 2024.
- 508 (2) The timely filing of a modified feasibility request under Subsection (1) gives the
 509 modified feasibility request the same processing priority under Subsection [~~10-2a-204(8)~~]
 510 10-2a-204(7) as the original feasibility request if the feasibility request sponsors pay the
 511 estimated cost of the supplemental feasibility study as required in Subsection (1)(e).
- 512 (3) Within 10 days after the day on which the [~~county clerk receives a modified feasibility~~
 513 ~~request under Subsection (1)(a) that relates to a request for which a feasibility study has~~
 514 ~~already been completed]~~ lieutenant governor receives payment of the estimated
 515 supplemental feasibility study cost, the lieutenant governor shall commission the
 516 feasibility consultant who conducted the feasibility study to conduct a supplemental
 517 feasibility study that accounts for the modified feasibility request.
- 518 (4) The lieutenant governor shall require the feasibility consultant to:
- 519 (a) submit a draft of the supplemental feasibility study to each applicable person with
 520 whom the feasibility consultant is required to consult under Subsection 10-2a-205
 521 (3)(c) within 30 days after the day on which the feasibility consultant is engaged to
 522 conduct the supplemental study;
- 523 (b) allow each person to whom the consultant provided a draft under Subsection (4)(a) to
 524 review and provide comment on the draft; and
- 525 (c) submit a completed supplemental feasibility study, to the following within 45 days
 526 after the day on which the feasibility consultant is engaged to conduct the feasibility
 527 study:
- 528 (i) the lieutenant governor;
- 529 (ii) the county legislative body of the county in which the incorporation is proposed;
- 530 (iii) the contact sponsor; and
- 531 (iv) each person to whom the consultant provided a draft under Subsection (4)(a).
- 532 (5) [~~(a) Subject to Subsection (5)(b), if~~] If the results of the supplemental feasibility
 533 study do not comply with Subsection 10-2a-205(5)(a)[, the sponsors may further
 534 modify the request in accordance with Subsection (1).] :
- 535 (a) the process to incorporate the area that is the subject of the supplemental feasibility
 536 study may not proceed; and
- 537 (b) a feasibility request under Section 10-2a-202 may not be filed within 18 months after

538 the date of the supplemental feasibility study if the feasibility request proposes the
 539 incorporation of an area included within the area described in the supplemental
 540 feasibility study.

541 [~~(b) Subsections (1)(d), (3), and (4) apply to a modified feasibility request described in~~
 542 ~~Subsection (5)(a).]~~

543 [~~(e) The county clerk shall consider a modified feasibility request described in~~
 544 ~~Subsection (5)(a) as an original feasibility request for purposes of determining the~~
 545 ~~modified feasibility request's processing priority under Subsection 10-2a-204(8).]~~

546 Section 8. Section **10-2a-220** is amended to read:

547 **10-2a-220 . Costs of incorporation -- Fees established by lieutenant governor.**

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

550 (b) The fund shall consist of:

551 (i) appropriations from the Legislature; [~~and]~~

552 (ii) payments that feasibility request sponsors make to the lieutenant governor under
 553 Subsections 10-2a-205(1)(b) and 10-2a-206(1)(f); and

554 [~~(iii)] (iii) fees the lieutenant governor collects and remits to the fund under this~~
 555 section.

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

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

561 (i) a request certification;

562 [~~(ii) a feasibility study;~~

563 [~~(iii)] (ii) a petition certification;~~

564 [~~(iv)] (iii) publication of notices;~~

565 [~~(v)] (iv) public hearings;~~

566 [~~(vi)] (v) all other incorporation activities occurring after the elections; and~~

567 [~~(vii)] (vi) any other cost incurred by the lieutenant governor or county in relation to~~
 568 an incorporation proceeding.

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

571 (3) [~~The] Subject to Subsections 10-2a-205(1)(b) and 10-2a-206(1)(f), the lieutenant~~

- 572 governor shall pay for a cost described in Subsection (2)(a) using funds from the
573 Municipal Incorporation Expendable Special Revenue Fund.
- 574 (4) (a) ~~[An area that incorporates as a]~~ A newly incorporated municipality shall ~~[pay]:~~
575 (i) pay to the lieutenant governor each fee established under Subsection (2) for each
576 cost described in Subsection (2)(a) incurred by the lieutenant governor or the
577 county; ~~[and]~~
578 (ii) pay the county for a cost described in Subsection (2)(b)~~[-]~~ ; and
579 reimburse feasibility request sponsors the cost the feasibility request sponsors
580 paid for:
581 (A) a feasibility study under Section 10-2a-205; and
582 (B) any supplemental feasibility study under Section 10-2a-206.
- 583 (b) The lieutenant governor shall execute a payback agreement with each new
584 municipality for the new municipality to pay the fees described in Subsection (4)(a)
585 over a period that, except as provided in Subsection (4)(c), may not exceed five years.
- 586 (c) If necessary, the lieutenant governor may extend a fee payment deadline beyond the
587 deadline described in Subsection (4)(b) by amending the payback agreement
588 described in Subsection (4)(b).
- 589 (d) The lieutenant governor shall deposit each fee the lieutenant governor collects under
590 Subsection (4)(a)(i) into the Municipal Incorporation Expendable Special Revenue
591 Fund.
- 592 (5) If the lieutenant governor expends funds from the Municipal Incorporation Expendable
593 Special Revenue Fund that are not repaid to the lieutenant governor under Subsection
594 (4)(a)(i) because an area did not incorporate as a municipality, the Legislature shall
595 appropriate money to the fund in an amount equal to the funds that are not repaid.
- 596 Section 9. **Effective date.**
597 This bill takes effect on May 1, 2024.