

**MUNICIPAL INCORPORATION AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: James A. Dunnigan

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**LONG TITLE**

**General Description:**

This bill amends the Utah Municipal Code to provide for a pilot program for the incorporation of a preliminary municipality.

**Highlighted Provisions:**

This bill:

- defines terms;
- establishes a process for landowners to incorporate a preliminary municipality for the purpose of developing land for eventual incorporation into a town;
- describes requirements and procedures for applying to incorporate an area as a preliminary municipality;
- describes the responsibilities of the lieutenant governor and a county clerk in relation to the processes described in this bill;
- establishes the procedure for incorporating an area as a preliminary municipality, including a feasibility study, a public hearing, and the posting of a bond;
- describes development requirements;
- provides for appointment of a board and a board chair for a preliminary municipality;
- addresses the powers of, and limitations on, a preliminary municipality;
- requires the transition of a preliminary municipality to a town when the population of the preliminary municipality reaches a certain level;
- describes the requirements and procedures for transitioning a preliminary municipality into a town;
- provides for the election of officers for the future town;
- provides a sunset date for the provisions of this bill; and
- makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **10-1-104**, as last amended by Laws of Utah 2015, Chapter 35235 **10-2a-201.5**, as last amended by Laws of Utah 2023, Chapter 22436 **10-2a-202**, as last amended by Laws of Utah 2023, Chapter 22437 **63I-1-210**, as last amended by Laws of Utah 2022, Chapter 274

38 ENACTS:

39 **10-2a-501**, Utah Code Annotated 195340 **10-2a-502**, Utah Code Annotated 195341 **10-2a-503**, Utah Code Annotated 195342 **10-2a-504**, Utah Code Annotated 195343 **10-2a-505**, Utah Code Annotated 195344 **10-2a-506**, Utah Code Annotated 195345 **10-2a-507**, Utah Code Annotated 195346 **10-2a-508**, Utah Code Annotated 195347 **10-2a-509**, Utah Code Annotated 195348 **10-2a-510**, Utah Code Annotated 1953

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50 *Be it enacted by the Legislature of the state of Utah:*51 Section 1. Section **10-1-104** is amended to read:52 **10-1-104 . Definitions.**

53 As used in this title:

54 (1) "City" means a municipality that is classified by population as a city of the first class, a  
55 city of the second class, a city of the third class, a city of the fourth class, or a city of the  
56 fifth class, under Section 10-2-301.

57 (2) "Contiguous" means:

58 (a) if used to described an area, continuous, uninterrupted, and without an island of  
59 territory not included as part of the area; and

60 (b) if used to describe an area's relationship to another area, sharing a common boundary.

61 (3) "Governing body" means collectively the legislative body and the executive of any

- 62 municipality. Unless otherwise provided:
- 63 (a) in a city of the first or second class, the governing body is the city commission;
- 64 (b) in a city of the third, fourth, or fifth class, the governing body is the city council;
- 65 (c) in a town, the governing body is the town council; and
- 66 (d) in a metro township, the governing body is the metro township council.
- 67 (4) "Municipal" means of or relating to a municipality.
- 68 (5) "Municipality" means:
- 69 (a) a city of the first class, city of the second class, city of the third class, city of the
- 70 fourth class, city of the fifth class;
- 71 (b) a town, as classified in Section 10-2-301; [or]
- 72 (c) a metro township as that term is defined in Section 10-2a-403 unless the term is used
- 73 in the context of authorizing, governing, or otherwise regulating the provision of
- 74 municipal services[-] ; or
- 75 (d) a preliminary municipality incorporated under Chapter 2a, Part 5, Incorporation of a
- 76 Preliminary Municipality.
- 77 (6) "Peninsula," when used to describe an unincorporated area, means an area surrounded
- 78 on more than 1/2 of its boundary distance, but not completely, by incorporated territory
- 79 and situated so that the length of a line drawn across the unincorporated area from an
- 80 incorporated area to an incorporated area on the opposite side shall be less than 25% of
- 81 the total aggregate boundaries of the unincorporated area.
- 82 (7) "Person" means an individual, corporation, partnership, organization, association, trust,
- 83 governmental agency, or any other legal entity.
- 84 (8) "Provisions of law" shall include other statutes of the state of Utah and ordinances,
- 85 rules, and regulations properly adopted by any municipality unless the construction is
- 86 clearly contrary to the intent of state law.
- 87 (9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.
- 88 (10) "Town" means a municipality classified by population as a town under Section
- 89 10-2-301.
- 90 (11) "Unincorporated" means not within a municipality.
- 91 Section 2. Section **10-2a-201.5** is amended to read:
- 92 **10-2a-201.5 . Qualifications for incorporation.**
- 93 (1) (a) An area may incorporate as a town in accordance with this part if the area:
- 94 (i) is contiguous;
- 95 (ii) has a population of at least 100 people, but fewer than 1,000 people; and

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

97 (b) A preliminary municipality may transition to, and incorporate as, a town, in  
98 accordance with Section 10-2a-510.

99 [~~(b)~~] (c) An area may incorporate as a city in accordance with this part if the area:

100 (i) is contiguous;

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

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

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

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

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

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

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

110 (ii) the area is contiguous.

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

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

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

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

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

122 (i) was filed before the filing of the request for a feasibility study, described in  
123 Section 10-2a-202, relating to the incorporating area; and

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

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

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

- 130 does not exceed 20% of the area proposed for incorporation;
- 131 (ii) the feasibility request complies with Subsections 10-2a-202(1) through (4) with
- 132 respect to excluding the proposed annexation area from the area proposed for
- 133 incorporation; and
- 134 (iii) excluding the area proposed for annexation from the area proposed for
- 135 incorporation would not cause the area proposed for incorporation to not be
- 136 contiguous.
- 137 (c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each
- 138 feasibility request to which Subsection (4)(b) applies as not proposing the
- 139 incorporation of an area proposed for annexation.
- 140 (5) (a) An area incorporating under this part may not include part of a parcel of real
- 141 property and exclude part of that same parcel unless the owner of the parcel gives
- 142 written consent to exclude part of the parcel.
- 143 (b) A piece of real property that has more than one parcel number is considered to be a
- 144 single parcel for purposes of Subsection (5)(a) if owned by the same owner.
- 145 Section 3. Section **10-2a-202** is amended to read:
- 146 **10-2a-202 . Feasibility request -- Requirements -- Limitations.**
- 147 (1) The process to incorporate a contiguous area of a county as a municipality is initiated by
- 148 an individual filing a feasibility request, with the county clerk of the county where the
- 149 area proposed to be incorporated is located, that includes:
- 150 (a) the signatures of the owners of private real property that:
- 151 (i) is located within the area proposed to be incorporated;
- 152 (ii) covers at least 10% of the total private land area within the area; and
- 153 (iii) is, as of January 1 of the current year, equal in assessed fair market value to at
- 154 least 7% of the assessed fair market value of all private real property within the
- 155 area; and
- 156 (b) the typed or printed name and current residence address of each owner signing the
- 157 request.
- 158 (2) The feasibility request shall include:
- 159 (a) a description of the contiguous area proposed to be incorporated as a municipality;
- 160 (b) a designation of up to five signers of the request as sponsors, one of whom is
- 161 designated as the contact sponsor, with the mailing address and telephone number of
- 162 each;
- 163 (c) an accurate map or plat, prepared by a licensed surveyor, showing a legal description

- 164 of the boundaries of the proposed municipality; and
- 165 (d) a request that the lieutenant governor commission a study to determine the feasibility
- 166 of incorporating the area as a municipality.
- 167 (3) The individual described in Subsection (1) shall, on the day on which the individual
- 168 files the feasibility request with the county clerk, provide to the lieutenant governor:
- 169 (a) written notice that the individual filed the feasibility request that indicates the day on
- 170 which the individual filed the feasibility request; and
- 171 (b) a complete copy of the feasibility request.
- 172 (4) A feasibility request may not propose for incorporation an area that includes [~~some or~~]
- 173 all or part of an area that is the subject of a completed feasibility study or supplemental
- 174 feasibility study whose results comply with Subsection 10-2a-205(5)(a) unless:
- 175 (a) the proposed incorporation that is the subject of the completed feasibility study or
- 176 supplemental feasibility study has been defeated by the voters at an election under
- 177 Section 10-2a-210; or
- 178 (b) the time described in Subsection 10-2a-208(1) for filing an incorporation petition
- 179 based on the completed feasibility study or supplemental feasibility study has elapsed
- 180 without the sponsors filing an incorporation petition under Section 10-2a-208.
- 181 (5) A feasibility request may not propose for incorporation an area that includes all or part
- 182 of an area that is the subject of a completed feasibility study or supplemental feasibility
- 183 study whose results comply with Subsection 10-2a-504(4), unless the time described in
- 184 Subsection 10-2a-507(1) for filing a petition for incorporation based on the completed
- 185 feasibility study or supplemental feasibility study has elapsed without the sponsors filing
- 186 a petition for incorporation under Section 10-2a-507.
- 187 [~~(5)~~] (6) Sponsors may not file a feasibility request relating to the incorporation of a town if
- 188 the cumulative private real property that the sponsors own exceeds 40% of the total
- 189 private land area within the boundaries of the proposed town.

190 Section 4. Section **10-2a-501** is enacted to read:

191 **Part 5. Incorporation of a Preliminary Municipality**

192 **10-2a-501 . Definitions.**

193 As used in this part:

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

- 197 (2) "Board," in relation to a preliminary municipality, means the same as a council  
198 described in Section 10-3b-402.
- 199 (3) "Board chair," in relation to a preliminary municipality, means the same as a mayor  
200 described in Section 10-3b-402.
- 201 (4) "Contiguous" means the same as that term is defined in Section 10-2a-102.
- 202 (5) "Feasibility consultant" means a person or firm:
- 203 (a) with expertise in the processes and economics of local government; and  
204 (b) who is independent of, and not affiliated with, a county or a sponsor of a petition to  
205 incorporate a preliminary municipality under this part.
- 206 (6) "Feasibility request" means a request, described in Section 10-2a-502, for a feasibility  
207 study for the proposed incorporation of a preliminary municipality.
- 208 (7) "Initial landowners" means the persons who owned the land within the proposed  
209 preliminary municipality area when the person filed the feasibility request under Section  
210 20A-1-501.
- 211 (8) "Municipal service" means the same as that term is defined in Section 10-2a-102.
- 212 (9) "Pending annexation area" means an area proposed for annexation in an annexation  
213 petition described in Section 10-2-403 that is filed before, and is still pending when, a  
214 person files the applicable request for a feasibility study under Section 10-2a-502.
- 215 (10) "Primary sponsor contact" means:
- 216 (a) in relation to a feasibility request:
- 217 (i) the individual designated as the primary sponsor contact for a feasibility request  
218 under Subsection 10-2a-502(5)(c); or
- 219 (ii) an individual designated, in writing, by the initial landowners if a replacement  
220 primary sponsor contact is needed; or
- 221 (b) in relation to a petition for incorporation of a preliminary municipality:
- 222 (i) the individual designated as the primary sponsor contact for a petition for  
223 incorporation of a preliminary municipality under Subsection 10-2a-507(1)(d); or
- 224 (ii) an individual designated, in writing, by the initial landowners if a replacement  
225 primary sponsor contact is needed.
- 226 (11) "Private," in relation to real property, means taxable real property.
- 227 (12) "Proposed preliminary municipality area" means the area proposed for incorporation as  
228 a preliminary municipality in a feasibility request.
- 229 (13) "System infrastructure" means, as shown on the map or plat described in Subsection  
230 10-2a-502(5)(e) for the proposed preliminary municipal area:

- 231 (a) the main thoroughfares within the proposed preliminary municipal area, including  
 232 the roads that connect the proposed preliminary municipality area to an existing road  
 233 outside the proposed preliminary municipality area; and  
 234 (b) the main lines that will connect a utility to the proposed preliminary municipality  
 235 area, including the stubs that will connect the main lines to the development in the  
 236 proposed preliminary municipality area.

237 Section 5. Section **10-2a-502** is enacted to read:

238 **10-2a-502 . Incorporation of a preliminary municipality -- Feasibility request --**

239 **Requirements.**

- 240 (1) A person may apply to incorporate an area as a preliminary municipality by filing a  
 241 feasibility request in accordance with this section.  
 242 (2) Subject to Subsection (6), a person may file a feasibility request in relation to an area  
 243 that the person seeks to incorporate as a preliminary municipality if:  
 244 (a) the area is contiguous;  
 245 (b) no part of the area is within a county of the first class or second class;  
 246 (c) no part of the area is within, or within .25 miles of, a municipality;  
 247 (d) on the day on which the person files the feasibility request:  
 248 (i) the area is owned by no more than three persons, all of whom consent to  
 249 incorporation as a preliminary municipality; and  
 250 (ii) at least 50% of the area is undeveloped;  
 251 (e) the persons who sign the feasibility request intend to develop the area to the point  
 252 that:  
 253 (i) at least 100 individuals reside in the area;  
 254 (ii) the area will have an average population density of no less than seven individuals  
 255 per square mile, unless:  
 256 (A) a population density of less than seven individuals per square mile is  
 257 necessary in order to connect separate areas that share a demonstrable  
 258 community interest; and  
 259 (B) the average population of the area has a population density of no less than  
 260 seven individuals per square mile if the land necessary to connect the separate  
 261 areas described in Subsection (2)(e)(ii)(A) is not included in the calculation;  
 262 and  
 263 (iii) at least 10% of the housing in the preliminary municipality is affordable housing;  
 264 (f) the area does not include land owned by the United States government unless:



- 265 (i) the area, including the land owned by the United States government, is  
266 contiguous; and
- 267 (ii) (A) incorporating the land is necessary to connect separate areas that share a  
268 demonstrable community interest; or  
269 (B) excluding the land from the area would create an unincorporated island within  
270 the proposed preliminary municipality;
- 271 (g) the area is entirely within one county; and  
272 (h) the feasibility request complies with Subsection (3).
- 273 (3) (a) A proposed preliminary municipality area may not include all or part of a  
274 pending annexation area, unless:
- 275 (i) the portion of the pending annexation area included in the proposed preliminary  
276 municipality area does not exceed 20% of the proposed preliminary municipality  
277 area; and
- 278 (ii) the feasibility request would comply with the requirements of this section  
279 regardless of whether the portion of the pending annexation area included in the  
280 proposed preliminary municipality area is excluded from, or remains included in,  
281 the proposed preliminary municipality area.
- 282 (b) A proposed preliminary municipality area may not include all or part of an area that  
283 is the subject of a completed feasibility study or supplemental feasibility study that  
284 qualifies to proceed under Subsection 10-2a-205(5)(a), unless:
- 285 (i) the proposed incorporation that is the subject of the completed feasibility study or  
286 supplemental feasibility study has been defeated by the voters at an election under  
287 Section 10-2a-210; or
- 288 (ii) the time described in Subsection 10-2a-208(1) for filing an incorporation petition  
289 based on the completed feasibility study or supplemental feasibility study has  
290 elapsed without the sponsors filing an incorporation petition under Section  
291 10-2a-208.
- 292 (c) A proposed preliminary municipality area may not include all or part of an area that  
293 is the subject of a completed feasibility study or supplemental feasibility study whose  
294 results comply with Subsection 10-2a-504(4), unless the time described in Subsection  
295 10-2a-507(1) for filing a petition for incorporation based on the completed feasibility  
296 study or supplemental feasibility study has elapsed without the sponsors filing a  
297 petition for incorporation under Section 10-2a-507.
- 298 (4) Except as provided in Section 10-2a-505, the lieutenant governor shall consider each

- 299 feasibility request that includes an area described in Subsection (3)(a) as if the request  
300 does not include the area described in Subsection (3)(a).
- 301 (5) A person who files a feasibility request under this section shall file the feasibility  
302 request with the lieutenant governor, including in the feasibility request:
- 303 (a) the signatures of all owners of real property included in the proposed preliminary  
304 municipality area, showing that the owners consent to including the real property in  
305 the proposed preliminary municipality area;
- 306 (b) the name, address, and phone number of each owner signing the feasibility request;
- 307 (c) a designation of one individual who signs the feasibility request as the primary  
308 sponsor contact for the feasibility request;
- 309 (d) a description of the proposed preliminary municipality area;
- 310 (e) an accurate map or plat, prepared by a licensed surveyor, showing:
- 311 (i) a legal description of the boundaries of the proposed preliminary municipality area  
312 and each phase of the proposed preliminary municipality area;
- 313 (ii) all development planned for the proposed preliminary municipality area; and
- 314 (iii) that the first phase of the proposed preliminary municipality area is projected to  
315 have at least 100 residents when completed; and
- 316 (f) a request that the lieutenant governor commission a study to determine the feasibility  
317 of incorporating the area as a preliminary municipality.
- 318 (6) (a) The provisions of this part, providing for the incorporation of a preliminary  
319 municipality, is a pilot project that ends on January 1, 2031.
- 320 (b) Except as provided in Subsection (7), a person may not file a feasibility request  
321 under this part in a calendar year during which two or more requests have already  
322 been filed in the state.
- 323 (7) A feasibility request does not count towards the limit described in Subsection (6)(b) if:
- 324 (a) the sponsors who file the request withdraw the request;
- 325 (b) the lieutenant governor rejects the feasibility request under Subsection 10-2a-503(4)  
326 or (5)(b), and the sponsors:
- 327 (i) do not timely amend the feasibility request under Subsection 10-2a-503(7)(b); or  
328 (ii) are prohibited from amending the feasibility request under Subsection 10-2a-503  
329 (7)(c); or
- 330 (c) the process to incorporate is prohibited from proceeding under Subsection 10-2a-504  
331 (5)(a) and the sponsors:
- 332 (i) do not timely file a modified feasibility request under Subsection 10-2a-505

- 333           (1)(b)(i); or  
334           (ii) are prohibited from filing a modified feasibility request under Subsection  
335           10-2a-505(3).
- 336       Section 6. Section **10-2a-503** is enacted to read:
- 337       **10-2a-503 . Processing a feasibility request -- Certification or rejection --**  
338 **Processing priority -- Determination by the Utah Population Committee.**
- 339 (1) Within 45 days after the day on which an individual files a feasibility request under  
340 Section 10-2a-502, the lieutenant governor shall:
- 341       (a) determine whether the feasibility request complies with Section 10-2a-502; and  
342       (b) notify the clerk of the county where the proposed preliminary municipality area is  
343       located, in writing, of the determination made under Subsection (1)(a) and the  
344       grounds for the determination.
- 345 (2) A county clerk shall comply with a request by the lieutenant governor to provide  
346 information or a record to the lieutenant governor or to a sponsor of the feasibility  
347 request, to assist in complying with this part, within five calendar days after the day on  
348 which the lieutenant governor makes the request.
- 349 (3) If the lieutenant governor determines that the feasibility request complies with Section  
350 10-2a-502, the lieutenant governor shall:
- 351       (a) certify the feasibility request; and  
352       (b) transmit written notification of the certification to the primary sponsor contact, the  
353       county clerk, and the Utah Population Committee.
- 354 (4) If the lieutenant governor determines that the feasibility request fails to comply with  
355 Section 10-2a-502, the lieutenant governor shall reject the feasibility request and notify  
356 the primary sponsor contact and the county clerk, in writing, of the rejection and the  
357 grounds for the rejection.
- 358 (5) (a) Within 20 days after the day on which the lieutenant governor transmits written  
359 notification under Subsection (3)(b), the Utah Population Committee shall:
- 360       (i) determine whether, based on the map or plat described in Subsection 10-2a-502  
361       (5)(e), the proposed preliminary municipality will, when all phases of the map or  
362       plat are completed, likely comply with the population, population density, and  
363       contiguity requirements described in Section 10-2a-502; and  
364       (ii) provide notice of the determination to the lieutenant governor and the county  
365       clerk.
- 366 (b) If the Utah Population Committee determines, under Subsection (5)(a)(i), that, when

367 all phases of the plan or plat are completed, the proposed preliminary municipality  
 368 will not likely comply with the population, population density, and contiguity  
 369 requirements described in Section 10-2a-502, the lieutenant governor shall rescind  
 370 the certification described in Subsection (3) and reject the feasibility request.

371 (6) The lieutenant governor shall certify or reject feasibility requests in the order in which  
 372 the requests are filed.

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

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

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

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

385 Section 7. Section **10-2a-504** is enacted to read:

386 **10-2a-504 . Feasibility study -- Feasibility study consultant -- Qualifications for**  
 387 **proceeding with incorporation.**

388 (1) Unless the lieutenant governor rescinds the certification under Subsection 10-2a-503  
 389 (5)(b), the lieutenant governor shall, within 90 days after the day on which the lieutenant  
 390 governor certifies a feasibility request under Subsection 10-2a-503(3)(a), in accordance  
 391 with Subsection (2), engage a feasibility consultant to conduct a feasibility study.

392 (2) The lieutenant governor shall:

393 (a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah  
 394 Procurement Code;

395 (b) ensure that the feasibility consultant:

396 (i) has expertise in the processes and economics of local government; and

397 (ii) is not affiliated with a sponsor of the feasibility request or the county in which the  
 398 proposed municipality is located; and

399 (c) require the feasibility consultant to:

400 (i) submit a draft of the feasibility study to each applicable person with whom the

- 401 feasibility consultant is required to consult under Subsection (3)(c) within 90 days  
402 after the day on which the lieutenant governor engages the feasibility consultant to  
403 conduct the study;
- 404 (ii) allow each person to whom the consultant provides a draft under Subsection  
405 (2)(c)(i) to review and provide comment on the draft;
- 406 (iii) submit a completed feasibility study, including a one-page summary of the  
407 results, to the following within 120 days after the day on which the lieutenant  
408 governor engages the feasibility consultant to conduct the feasibility study:
- 409 (A) the lieutenant governor;  
410 (B) the county legislative body of the county in which the proposed preliminary  
411 municipality area is located;  
412 (C) the primary sponsor contact; and  
413 (D) each person to whom the consultant provided a draft under Subsection  
414 (2)(c)(i); and
- 415 (iv) attend the public hearings described in Section 10-2a-506 to present the  
416 feasibility study results and respond to questions from the public.
- 417 (3) (a) The feasibility study shall include:
- 418 (i) an analysis of:
- 419 (A) the likely population and population density within the proposed preliminary  
420 municipality area when all phases of the map or plat for the proposed  
421 preliminary municipality area are completed; and
- 422 (B) the population and population density of the area surrounding the proposed  
423 preliminary municipality area on the day on which the feasibility request was  
424 submitted;
- 425 (ii) an analysis of the following, determined as if, at the time of the analysis, the  
426 proposed preliminary municipality area is incorporated as a town with a  
427 population of 100 people:
- 428 (A) the initial and projected five-year demographics and tax base within the  
429 boundaries of the proposed preliminary municipality area and the surrounding  
430 area, including household size and income, commercial and industrial  
431 development, and public facilities;
- 432 (B) subject to Subsection (3)(b), the initial and five-year projected cost of  
433 providing municipal services to the proposed preliminary municipality area,  
434 including administrative costs;

- 435 (C) assuming the same tax categories and tax rates as imposed by the county and  
436 all other current service providers at the time during which the feasibility  
437 consultant prepares the feasibility study, the initial and five-year projected  
438 revenue for the proposed preliminary municipality area;
- 439 (D) the risks and opportunities that might affect the actual costs described in  
440 Subsection (3)(a)(ii)(B) or the revenues described in Subsection (3)(a)(ii)(C) of  
441 the proposed preliminary municipality area;
- 442 (E) new revenue sources that may be available to the proposed preliminary  
443 municipality area that are not available before the area incorporates, including  
444 an analysis of the amount of revenues the proposed preliminary municipality  
445 area might obtain from those revenue sources;
- 446 (F) the projected tax burden per household of any new taxes that may be levied  
447 within the proposed preliminary municipality area within five years after  
448 incorporation as a town; and
- 449 (G) the fiscal impact of the proposed preliminary municipality area's incorporation  
450 as a town on unincorporated areas, other municipalities, special districts,  
451 special service districts, and other governmental entities in the county; and
- 452 (iii) an analysis regarding whether sufficient water will be available to support the  
453 proposed preliminary municipality area when the development of the area is  
454 complete.
- 455 (b) (i) In calculating the projected costs under Subsection (3)(a)(ii)(B), the feasibility  
456 consultant shall assume the proposed preliminary municipality area will provide a  
457 level and quality of municipal services that fairly and reasonably approximate the  
458 level and quality of municipal services that are provided to the area surrounding  
459 the proposed preliminary municipality area at the time the feasibility consultant  
460 conducts the feasibility study.
- 461 (ii) In calculating the current cost of a municipal service under Subsection  
462 (3)(a)(ii)(B), the feasibility consultant shall consider:
- 463 (A) the amount it would cost the proposed preliminary municipality area to  
464 provide the municipal service for the first five years after the area incorporates  
465 as a town; and
- 466 (B) the proposed or current municipal service provider's initial and five-year  
467 projected cost of providing the municipal service after the proposed  
468 preliminary municipality area incorporates as a town.

- 469           (iii) In calculating costs under Subsection (3)(a)(ii)(B), the feasibility consultant shall  
470           account for inflation and anticipated growth.
- 471       (c) In conducting the feasibility study, the feasibility consultant shall consult with the  
472       following before submitting a draft of the feasibility study under Subsection  
473       (2)(c)(iii):
- 474       (i) if the proposed preliminary municipality will include lands owned by the United  
475       States federal government, the entity within the United States federal government  
476       that has jurisdiction over the land;
- 477       (ii) if the proposed preliminary municipality will include lands owned by the state,  
478       the entity within state government that has jurisdiction over the land;
- 479       (iii) each entity that provides, or is proposed to provide, a municipal service to a  
480       portion of the proposed preliminary municipality area; and
- 481       (iv) each other special service district that provides, or is proposed to provide,  
482       services to a portion of the proposed preliminary municipality area.
- 483       (4) If the five-year projected revenues calculated under Subsection (3)(a)(ii)(C) exceed the  
484       five-year projected costs calculated under Subsection (3)(a)(ii)(B) by more than 5%, the  
485       feasibility consultant shall project and report the expected annual revenue surplus to the  
486       primary sponsor contact and the lieutenant governor.
- 487       (5) (a) Except as provided in Subsection (5)(b), if the results of the feasibility study, or a  
488       supplemental feasibility study described in Section 10-2a-505, show that the average  
489       annual amount of revenue calculated under Subsection (3)(a)(ii)(C) does not exceed  
490       the average annual cost calculated under Subsection (3)(a)(ii)(B) by more than 5%,  
491       the process to incorporate the area that is the subject of the feasibility study or  
492       supplemental feasibility study may not proceed.
- 493       (b) Except as provided in Subsection 10-2a-505(3), the process to incorporate an area  
494       described in Subsection (5)(a) may proceed if a subsequent supplemental feasibility  
495       study conducted under Section 10-2a-505 for the proposed incorporation  
496       demonstrates compliance with Subsection (5)(a).
- 497       (6) If the results of the feasibility study or revised feasibility study do not comply with  
498       Subsection (5), and if requested by the sponsors of the request, the feasibility consultant  
499       shall, as part of the feasibility study or revised feasibility study, make recommendations  
500       regarding how the proposed preliminary municipality area may be altered to comply  
501       with Subsection (5), unless the sponsors are precluded from modifying the feasibility  
502       request under Subsection 10-2a-505(3).

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

506 Section 8. Section **10-2a-505** is enacted to read:

507 **10-2a-505 . Modified feasibility request -- Supplemental feasibility study.**

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

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

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

514 (B) the annexation petition described in Subsection 10-2a-502(3)(a) that proposed  
515 the annexation of an area that is part of the proposed preliminary municipality  
516 area has been denied; and

517 (C) a petition for incorporation described in Section 10-2a-507, based on the  
518 feasibility request, has not been filed.

519 (b) (i) The sponsors of a feasibility request may not file a modified request under  
520 Subsection (1)(a)(i) more than 90 days after the day on which the feasibility  
521 consultant submits the final results of the feasibility study under Subsection  
522 10-2a-504(2)(c)(iii).

523 (ii) The sponsors of a feasibility request may not file a modified request under  
524 Subsection (1)(a)(ii) more than 18 months after filing the original feasibility  
525 request under Section 10-2a-502.

526 (c) A modified feasibility request under Subsection (1)(a) shall comply with Subsections  
527 10-2a-502(1) through (4).

528 (d) Within 20 days after the day on which the lieutenant governor receives the modified  
529 request, the lieutenant governor shall follow the same procedure described in  
530 Subsections 10-2a-503(1) through (4) for the modified feasibility request as for an  
531 original feasibility request.

532 (2) The timely filing of a modified feasibility request under Subsection (1) gives the  
533 modified feasibility request the same processing priority under Subsection 10-2a-503(6)  
534 as the original feasibility request.

535 (3) The sponsors of a feasibility request may not file a modified feasibility request under  
536 Subsection (1)(a)(i) more than once.



- 537 (4) Within 10 days after the day on which the county clerk receives a modified feasibility  
538 request under Subsection (1)(a) that relates to a request for which a feasibility study has  
539 already been completed, the lieutenant governor shall commission the feasibility  
540 consultant who conducted the feasibility study to conduct a supplemental feasibility  
541 study that accounts for the modified feasibility request.
- 542 (5) The lieutenant governor shall require the feasibility consultant to:
- 543 (a) submit a draft of the supplemental feasibility study to each applicable person with  
544 whom the feasibility consultant is required to consult under Subsection 10-2a-504  
545 (3)(c) within 30 days after the day on which the feasibility consultant is engaged to  
546 conduct the supplemental study;
- 547 (b) allow each person to whom the consultant provided a draft under Subsection (5)(a) to  
548 review and provide comment on the draft; and
- 549 (c) submit a completed supplemental feasibility study, to the following within 45 days  
550 after the day on which the feasibility consultant is engaged to conduct the feasibility  
551 study:
- 552 (i) the lieutenant governor;
- 553 (ii) the county legislative body of the county in which the incorporation is proposed;
- 554 (iii) the primary sponsor contact; and
- 555 (iv) each person to whom the consultant provided a draft under Subsection (5)(a).
- 556 (6) (a) Subject to Subsections (3) and (6)(b), if the results of the supplemental feasibility  
557 study do not comply with Subsection 10-2a-504(4), the sponsors may further modify  
558 the request in accordance with Subsection (1).
- 559 (b) Subsections (1)(d), (4), and (5) apply to a modified feasibility request described in  
560 Subsection (6)(a).
- 561 (c) The lieutenant governor shall consider a modified feasibility request described in  
562 Subsection (6)(a) as an original feasibility request for purposes of determining the  
563 modified feasibility request's processing priority under Subsection 10-2a-503(6).
- 564 Section 9. Section **10-2a-506** is enacted to read:
- 565 **10-2a-506 . Public hearings on feasibility study results -- Notice of hearings.**
- 566 (1) If the results of the feasibility study or supplemental feasibility study comply with  
567 Subsection 10-2a-504(4), the lieutenant governor shall, after receipt of the results of the  
568 feasibility study or supplemental feasibility study, conduct public hearings in accordance  
569 with this section.
- 570 (2) (a) If a portion of the proposed preliminary municipality area is approved for

- 571 annexation after the feasibility study or supplemental feasibility study is conducted  
572 but before the lieutenant governor conducts a public hearing under Subsection (4),  
573 the lieutenant governor may not conduct the public hearing under Subsection (4)  
574 unless:
- 575 (i) the sponsors of the feasibility study file a modified feasibility request in  
576 accordance with Section 10-2a-505; and
  - 577 (ii) the results of the supplemental feasibility study comply with Subsection  
578 10-2a-504(4).
- 579 (b) For purposes of Subsection (2)(a), an area is approved for annexation if a municipal  
580 legislative body:
- 581 (i) approves an annexation petition proposing the annexation of an area that is part of  
582 the proposed preliminary municipality area under Section 10-2-407 or 10-2-408; or
  - 583 (ii) adopts an ordinance approving the annexation of an area that is part of the  
584 proposed preliminary municipality area under Section 10-2-418.
- 585 (3) The lieutenant governor shall conduct a public hearing:
- 586 (a) within 60 days after the day on which the lieutenant governor receives the results  
587 under Subsection (1) or (2)(a)(ii);
  - 588 (b) at a location within or near the proposed preliminary municipality; and
  - 589 (c) to allow the feasibility consultant to present the results of the feasibility study and  
590 inform the public about the results.
- 591 (4) The lieutenant governor shall:
- 592 (a) conduct an additional public hearing following each occasion when, after the day of  
593 the initial public hearing, the lieutenant governor receives the results of a  
594 supplemental feasibility study that comply with Subsection 10-2a-504(4); and
  - 595 (b) hold the public hearing described in Subsection (4)(a):
    - 596 (i) within 30 days after the day on which the lieutenant governor receives the results  
597 of the supplemental feasibility study;
    - 598 (ii) at a location within or near the proposed preliminary municipality;
    - 599 (iii) to inform the public that the feasibility presented to the public at the preceding  
600 public hearing does not apply; and
    - 601 (iv) to allow the feasibility consultant to present the results of the supplemental  
602 feasibility study and inform the public about the results.
- 603 (5) At each public hearing required under this section, the lieutenant governor shall:
- 604 (a) provide a map or plat of the boundary of the proposed preliminary municipality;

- 605 (b) provide a copy of the applicable feasibility study for public review;  
 606 (c) allow members of the public to express views about the proposed preliminary  
 607 municipality, including views about the proposed boundaries; and  
 608 (d) allow the public to ask the feasibility consultant questions about the applicable  
 609 feasibility study.
- 610 (6) The lieutenant governor shall publish notice of each public hearing required under this  
 611 section for the proposed preliminary municipality area, as a class B notice under Section  
 612 63G-30-102, for at least three weeks before the day of the public hearing.
- 613 (7) (a) Except as provided in Subsection (7)(b), for a hearing described in this section,  
 614 the notice described in Subsection (7) shall:
- 615 (i) include the feasibility study summary described in Subsection 10-2a-504  
 616 (2)(c)(iii); and
- 617 (ii) indicate that a full copy of the feasibility study is available on the lieutenant  
 618 governor's website and for inspection at the lieutenant governor's office.
- 619 (b) Instead of publishing the feasibility summary under Subsection (7)(a)(i), the  
 620 lieutenant governor may publish a statement that specifies the following sources  
 621 where a person may view or obtain a copy of the feasibility study:
- 622 (i) the lieutenant governor's website;  
 623 (ii) the lieutenant governor's office; and  
 624 (iii) a mailing address and telephone number.
- 625 Section 10. Section **10-2a-507** is enacted to read:
- 626 **10-2a-507 . Petition for incorporation -- Requirements and form.**
- 627 (1) At any time within one year after the day on which the lieutenant governor completes  
 628 the public hearings required under Section 10-2a-506, the owners of the property who  
 629 filed the feasibility request under Section 10-2a-502 for the proposed preliminary  
 630 municipality area may proceed with the incorporation process by filing a petition for  
 631 incorporation of the proposed preliminary municipality that:
- 632 (a) includes the typed or printed name, signature, address, and phone number of the  
 633 initial landowners;
- 634 (b) describes the proposed preliminary municipality area, as described in the feasibility  
 635 request or the modified feasibility request;
- 636 (c) demonstrates compliance with Subsection 10-2a-504(4);
- 637 (d) states the proposed name for the proposed preliminary municipality;
- 638 (e) designates the primary sponsor contact for the proposed preliminary municipality;

- 639 (f) designates the board chair and three of the four board members who will serve as a  
640 five member council form of government for the preliminary municipality, described  
641 in Section 10-3b-402, for the preliminary municipality;
- 642 (g) is accompanied by an accurate map or plat, prepared by a licensed surveyor, showing:  
643 (i) the boundaries of the proposed preliminary municipality;  
644 (ii) a single development plan for the proposed municipality, depicting each phase of  
645 the development;
- 646 (h) is accompanied by a bond, cash deposit, or letter of credit that:  
647 (i) is posted by the initial landowners;  
648 (ii) is in favor of the proposed preliminary municipality, to guarantee that the initial  
649 landowners will complete the system infrastructure no later than six years after the  
650 day on which the initial landowners file the petition for incorporation described in  
651 this section; and  
652 (iii) will be refunded to the initial landowners in percentages that reflect the progress  
653 toward completing the system infrastructure; and
- 654 (i) is accompanied by payment in full, from the initial landowners, of the costs incurred  
655 by the lieutenant governor for the feasibility study, the public notices, the hearings,  
656 and the other expenses incurred by the lieutenant governor to comply with the  
657 requirements of this part in relation to the proposed preliminary municipality.
- 658 (2) If, within six years after the day on which the initial landowners file a petition for  
659 incorporation under Subsection (1), the system infrastructure for the preliminary  
660 municipality is not completed, the portion of the bond, cash deposit, or letter of credit  
661 described in Subsection (1)(h) that has not been refunded to the initial landowners shall  
662 forfeit to the preliminary municipality.
- 663 (3) If, within four years after the day on which the first residential certificate of occupancy  
664 is issued for the development described in Subsection 10-2a-503(5)(e), or six years after  
665 the day on which the initial landowners file a petition for incorporation under Subsection  
666 (1), the preliminary municipality has not transitioned to a town:  
667 (a) the lieutenant governor shall issue a certificate dissolving the preliminary  
668 municipality;  
669 (b) all roads and infrastructure within the preliminary municipality revert to the county  
670 in which the preliminary municipality is located;  
671 (c) the area within the proposed municipality falls under the jurisdiction of the county  
672 and is no longer incorporated; and

673 (d) the initial landowners are liable to the county for damages caused to the county due  
674 to the dissolution of the preliminary municipality.

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

676 **10-2a-508 . Processing of petition by lieutenant governor -- Certification or**  
677 **rejection -- Petition modification.**

678 (1) Within 45 days after the day on which a petition for incorporation is filed under Section  
679 10-2a-507, the lieutenant governor shall:

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

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

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

690 (2) (a) If the lieutenant governor rejects a petition for incorporation under Subsection  
691 (1)(b)(ii), the sponsors of the petition for incorporation may correct the deficiencies  
692 for which the petition for incorporation was rejected and refile the petition for  
693 incorporation with the lieutenant governor.

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

698 (3) (a) Within 20 days after the day on which the lieutenant governor receives a  
699 modified petition for incorporation under Subsection (2)(a), the lieutenant governor  
700 shall review the modified petition for incorporation in accordance with Subsection  
701 (1).

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

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

705 **10-2a-509 . Governance of preliminary municipality -- Utilities -- Road**  
706 **maintenance.**

- 707 (1) (a) Within 30 days after the day on which the lieutenant governor issues a certificate  
708 of incorporation described in Subsection 10-2a-508(1)(b)(i), the county in which the  
709 preliminary municipality is located shall appoint one board member for the  
710 preliminary municipality.
- 711 (b) If the county fails to timely comply with Subsection (1)(a), the board chair and the  
712 three board members appointed under Subsection 10-2a-508(1)(b)(i) shall, by  
713 majority vote, appoint the final board member.
- 714 (2) The board chair and board members, described in Subsection (1), of a preliminary  
715 municipality:
- 716 (a) are not required to be residents of the preliminary municipality; and  
717 (b) shall serve as the board for the preliminary municipality until replaced by election  
718 under Section 10-2a-510.
- 719 (3) (a) Within 14 days after the day on which the first residential certificate of  
720 occupancy is issued for the development described in Subsection 10-2a-503(5)(e), the  
721 engineer described in Subsection 10-2a-509(6), shall notify the county and the  
722 lieutenant governor, in writing:
- 723 (i) that the first residential certificate of occupancy has been issued for the  
724 preliminary municipality;
- 725 (ii) of the date on which the first residential certificate of occupancy was issued; and  
726 (iii) of the physical address for which the first residential certificate of occupancy  
727 was issued.
- 728 (b) No later than the next municipal general election, or regular general election, that is  
729 at least 30 days after the date described in Subsection (3)(a)(ii), the initial landowners  
730 shall:
- 731 (i) replace the board chair or a board member with an individual who is a resident of  
732 the preliminary municipality; and
- 733 (ii) notify the county and the lieutenant governor of the appointment, in writing.
- 734 (4) (a) Subject to Subsection (4)(b), a preliminary municipality has all the powers and  
735 duties of a municipality.
- 736 (b) A preliminary municipality:
- 737 (i) may not impose a tax;  
738 (ii) may enter into an interlocal agreement with a special district to provide utility  
739 services to the preliminary municipality;  
740 (iii) has the same authority as another municipality to make decisions regarding

- 741 zoning and land use;
- 742 (iv) may not receive an allocation of sales tax or gas tax; and
- 743 (v) may not exercise eminent domain authority.
- 744 (5) As needed, the county shall provide all services and utility connections to the
- 745 preliminary municipality that the county provides other areas in the county if the
- 746 preliminary municipality:
- 747 (a) pays the uniformly assessed rates for the services and utilities and reasonable
- 748 connection fees; and
- 749 (b) complies with the county's established regulations and specifications for the
- 750 construction and connection of the local improvements.
- 751 (6) The preliminary municipality shall maintain and repair any roadway that, on the day on
- 752 which the individual filed the feasibility request under Section 10-2a-502:
- 753 (a) existed within the preliminary municipality;
- 754 (b) was within a public right of way that abuts the preliminary municipality; or
- 755 (c) was within 1/2 mile of the preliminary municipality and connected to, or was
- 756 proposed in the feasibility request to be connected to, the preliminary municipality.
- 757 (7) Before the preliminary municipality submits a petition to transition to a town, the
- 758 preliminary municipality shall select an independent third-party engineer to review and
- 759 approve all building permit applications within the preliminary municipality to ensure
- 760 compliance with the law.
- 761 (8) Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of Municipalities,
- 762 does not apply to a preliminary municipality.

763 Section 13. Section **10-2a-510** is enacted to read:

764 **10-2a-510 . Transitioning from a preliminary municipality to a town -- Petition --**

765 **Election of officers.**

- 766 (1) Within 30 days after the day on which the population of a preliminary municipality
- 767 exceeds 99 people, a person who filed the application to incorporate as a preliminary
- 768 municipality or a resident of the preliminary municipality shall file with the lieutenant
- 769 governor a petition to transition the preliminary municipality into a town.
- 770 (2) A petition to transition a preliminary municipality into a town shall include:
- 771 (a) a request that the lieutenant governor certify the transition of the preliminary
- 772 municipality to, and the incorporation of the preliminary municipality as, a town;
- 773 (b) the name, address, and phone number of the person filing the request;
- 774 (c) the map or plat of the preliminary municipality;

- 775 (d) a legal description of the boundaries of the preliminary municipality;  
776 (e) information regarding the preliminary municipality, including:  
777 (i) the number of residences in the preliminary municipality;  
778 (ii) the population of the preliminary municipality;  
779 (iii) the number of adults and the number of children who reside in the preliminary  
780 municipality; and  
781 (iv) information regarding the providers of municipal services and emergency  
782 services to the preliminary municipality;  
783 (f) the proposed name for the town; and  
784 (g) a signature sheet containing the names, addresses, and signatures of a majority of the  
785 adult residents of the preliminary municipality, supporting the proposed name for the  
786 town.
- 787 (3) Within 30 days after the day on which a person files a petition to transition a  
788 preliminary municipality into a town, the lieutenant governor shall:  
789 (a) determine whether the preliminary municipality has a population of more than 99  
790 people;  
791 (b) examine the petition to determine whether the petition complies with Subsection (2);  
792 (c) if the lieutenant governor determines that the preliminary municipality has a  
793 population of more than 99 people and that the petition complies with Subsection (2),  
794 proceed to transition the preliminary municipality as a town in accordance with  
795 Subsection (4);  
796 (d) if the lieutenant governor determines that the preliminary municipality has a  
797 population of less than 100 people, deny the petition, inform the person who filed the  
798 petition of the determination, and request that the person refile the petition when the  
799 population exceeds 99 people; and  
800 (e) if the lieutenant governor determines that the petition fails to comply with Subsection  
801 (2), deny the petition, inform the person who filed the petition of the denial and the  
802 reason for the denial, and request that the person correct and refile the petition.
- 803 (4) After making the determination described in Subsection (3)(c), the lieutenant governor  
804 shall:  
805 (a) inform the person who filed the petition of the determination;  
806 (b) inform the county in which the preliminary municipality is located of the  
807 determination; and  
808 (c) direct the county to conduct an election for mayor and city council of the future



809 town, to be held on the date of the next regular general election described in Section  
810 20A-1-201, or the next municipal general election described in Section 20A-1-202,  
811 that is at least 65 days after the day on which the lieutenant governor directs the  
812 county to hold the election.

813 (5) The county shall:

814 (a) comply with the direction given by the lieutenant governor under Subsection (4)(c);

815 (b) determine the initial terms of the mayor and municipal council members to ensure  
816 that:

817 (i) the mayor and two of the municipal county members are elected in the next  
818 municipal general election;

819 (ii) the remaining municipal council members are elected at elections that result in  
820 the staggering of council member terms; and

821 (iii) the council members who receive the highest number of votes are assigned the  
822 longer initial terms; and

823 (c) provide notice of the election for the preliminary municipality as a class B notice  
824 under Section 63G-30-102, for at least three weeks before the day of the election.

825 (6) The notice described in Subsection (5)(c) shall include:

826 (a) a statement of the contents of the petition to transition the preliminary municipality  
827 to a town;

828 (b) a description of the area to be incorporated as a town;

829 (c) the name of the town;

830 (d) information about the deadline for an individual to file a declaration of candidacy to  
831 become a candidate for mayor or municipal council;

832 (e) information about the initial terms of office;

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

834 (g) a statement that the purpose of the election is to elect a mayor and a council to  
835 govern the town upon the town's incorporation.

836 (7) (a) In addition to the notice described in Subsection (6), the county clerk shall  
837 publish and distribute, before the election is held, a voter information pamphlet:

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

839 (ii) in consultation with the lieutenant governor; and

840 (iii) in a manner that the county clerk determines is adequate.

841 (b) The voter information pamphlet described in Subsection (7)(a):

842 (i) shall inform the public of the election and the purpose of the election; and

843           (ii) may include additional information regarding the election of the elected officials  
844           and the incorporation of the town.

845 (8) An individual may not vote in the election described in this section unless the individual  
846 is a registered voter who is a resident, as defined in Section 20A-1-102, within the  
847 boundaries of the preliminary municipality.

848 (9) The town, incorporated under Subsection (10)(b), shall pay to the county the cost of  
849 running the election described in this section.

850 (10) On the day after the day on which the canvass for the election is completed:

851       (a) the elected mayor and council members shall take office and replace the board chair  
852       and board members of the preliminary municipality;

853       (b) the lieutenant governor shall issue a certification that the preliminary municipality  
854       has transitioned to, and is incorporated as, a town; and

855       (c) subject to Subsection (14), the town holds all authority and power of a town.

856 (11) The former mayor and council members for the preliminary municipality shall assist  
857 the newly-elected mayor of the town and the newly-elected council members of the  
858 town with the transition to a town and the transfer of power to the elected government of  
859 the town.

860 (12) The initial government of a town incorporated under this section is the five member  
861 council form of government described in Chapter 3b, Part 4, Five-Member Council  
862 Form of Municipal Government, with the mayor and council members elected at large.

863 (13) Within 30 days after the day on which the mayor takes office under Subsection (10)(a),  
864 the mayor shall record the certification described in Subsection (10)(b), and a copy of  
865 the plat for the municipality, with the county recorder.

866 (14) Until the mayor complies with Subsection (13), the municipality may not:

867       (a) levy or collect a property tax on property within the municipality;

868       (b) levy or collect an assessment on property within the municipality; or

869       (c) charge or collect a fee for a service provided to property within the municipality.

870 (15) Section 10-2a-220 applies to a town incorporated under this section.

871       Section 14. Section **63I-1-210** is amended to read:

872       **63I-1-210 . Repeal dates: Title 10.**

873       The following are repealed on January 1, 2031:

874 (1) Subsection 10-1-104(5)(d);

875 (2) Subsection 10-2a-201.5(1)(b);

876 (3) Subsection 10-2a-202(5); and

877 (4) Title 10, Chapter 2a, Part 5, Incorporation of a Preliminary Municipality.

878 Section 15. **Effective date.**

879 This bill takes effect on May 1, 2024.