

MUNICIPAL INCORPORATION MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies provisions relating to municipal incorporations.

Highlighted Provisions:

This bill:

▶ requires feasibility request sponsors to pay the estimated cost of a feasibility study and a supplemental feasibility study;

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

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

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

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 [10-2a-102](#), as last amended by Laws of Utah 2023, Chapter 224

30 [10-2a-201.5](#), as last amended by Laws of Utah 2023, Chapter 224

31 [10-2a-202](#), as last amended by Laws of Utah 2023, Chapter 224

32 [10-2a-204](#), as last amended by Laws of Utah 2023, Chapter 224

33 [10-2a-204.3](#), as enacted by Laws of Utah 2023, Chapter 224

34 [10-2a-205](#), as last amended by Laws of Utah 2023, Chapters 16, 224

35 [10-2a-206](#), as last amended by Laws of Utah 2023, Chapter 224

36 [10-2a-220](#), as last amended by Laws of Utah 2023, Chapter 224

37

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

39 Section 1. Section **10-2a-102** is amended to read:

40 **10-2a-102. Definitions.**

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

42 (a) "Contact sponsor" means the person designated in the feasibility request as the
43 contact sponsor under Subsection [~~10-2a-202(2)(d)~~] [10-2a-202\(3\)\(b\)](#).

44 (b) (i) "Contiguous" means, except as provided in Subsection (1)(b)(ii), the same as
45 that term is defined in Section [10-1-104](#).

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

47 (A) two areas of land are only connected by a strip of land between geographically
48 separate areas; and

49 (B) the distance between the geographically separate areas described in Subsection
50 (1)(b)(ii)(A) is greater than the average width of the strip of land connecting the geographically
51 separate areas.

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

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

54 (ii) who is independent of and not affiliated with a county or sponsor of a petition to
55 incorporate.

56 (d) "Feasibility request" means a request, described in Section [10-2a-202](#), for a
57 feasibility study for the proposed incorporation of a municipality.

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

- 59 (A) culinary water;
- 60 (B) secondary water;
- 61 (C) sewer service;
- 62 (D) storm drainage or flood control;
- 63 (E) recreational facilities or parks;
- 64 (F) electrical power generation or distribution;
- 65 (G) construction or maintenance of local streets and roads;
- 66 (H) street lighting;
- 67 (I) curb, gutter, and sidewalk maintenance;
- 68 (J) law or code enforcement service;
- 69 (K) fire protection service;
- 70 (L) animal services;
- 71 (M) planning and zoning;
- 72 (N) building permits and inspections;
- 73 (O) refuse collection; or
- 74 (P) weed control.
- 75 (ii) "Municipal service" includes the physical facilities required to provide a service
- 76 described in Subsection (1)(e)(i).
- 77 (f) "Private," with respect to real property, means taxable property.
- 78 (2) For purposes of this part:
- 79 (a) the owner of real property shall be the record title owner according to the records of
- 80 the county recorder on the date of the filing of the feasibility request or petition for
- 81 incorporation; and
- 82 (b) the assessed fair market value of private real property shall be determined
- 83 according to the last assessment roll for county taxes before the filing of the feasibility request
- 84 or petition for incorporation.
- 85 (3) For purposes of each provision of this part that requires the owners of private real
- 86 property covering a percentage or fraction of the total private land area within an area to sign a
- 87 feasibility request or a petition for incorporation:
- 88 (a) a parcel of real property may not be included in the calculation of the required
- 89 percentage or fraction unless the feasibility request or petition for incorporation is signed by:

90 (i) except as provided in Subsection (3)(a)(ii), owners representing a majority
91 ownership interest in that parcel; or

92 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number
93 of owners of that parcel;

94 (b) the signature of a person signing a feasibility request or a petition for incorporation
95 in a representative capacity on behalf of an owner is invalid unless:

96 (i) the person's representative capacity and the name of the owner the person represents
97 are indicated on the feasibility request or petition for incorporation with the person's signature;
98 and

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

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

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

104 **10-2a-201.5. Qualifications for incorporation.**

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

106 (i) is contiguous;

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

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

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

110 (i) is contiguous;

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

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

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

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

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

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

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

120 (ii) the area is contiguous.

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

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

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

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

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

132 (i) was filed before the filing of the request for a feasibility study, described in Section
133 10-2a-202, relating to the incorporating area; and

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

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

139 (i) the proposed annexation area that is part of the area proposed for incorporation does
140 not exceed 20% of the area proposed for incorporation;

141 (ii) the feasibility request complies with Subsections 10-2a-202(1) [~~through (4)~~], (3),
142 (4), and (5) with respect to excluding the proposed annexation area from the area proposed for
143 incorporation; and

144 (iii) excluding the area proposed for annexation from the area proposed for
145 incorporation would not cause the area proposed for incorporation to not be contiguous.

146 (c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider
147 each feasibility request to which Subsection (4)(b) applies as not proposing the incorporation of
148 an area proposed for annexation.

149 (5) (a) An area incorporating under this part may not include part of a parcel of real
150 property and exclude part of that same parcel unless the owner of the parcel gives written
151 consent to exclude part of the parcel.

152 (b) A piece of real property that has more than one parcel number is considered to be a
153 single parcel for purposes of Subsection (5)(a) if owned by the same owner.

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

155 **10-2a-202. Feasibility request -- Requirements -- Limitations.**

156 (1) ~~[The]~~ Subject to Subsection (2), the process to incorporate a contiguous area of a
157 county 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 least
163 7% of the assessed fair market value of all private real property within the area; ~~[and]~~

164 (b) includes the typed or printed name and current residence address of each owner
165 signing the request[-]; and

166 (c) is accompanied by the Utah Population Committee's written notice under
167 Subsection (2)(d)(ii).

168 (2) (a) Before submitting a feasibility request under Subsection (1), an individual
169 intending to file a feasibility request shall submit to the lieutenant governor a written request to
170 the Utah Population Committee.

171 (b) A written request under Subsection (2)(a) shall:

172 (i) request the Utah Population Committee to determine whether, on the date the
173 individual filed the request, the proposed municipality complied with the population,
174 population density, and contiguity requirements described in Section [10-2a-201.5](#);

175 (ii) provide a description of the contiguous area proposed to be incorporated as a
176 municipality; and

177 (iii) be accompanied by an accurate map or plat, prepared by a licensed surveyor,
178 showing a legal description of the boundary of the proposed municipality.

179 (c) Within seven business days after receiving a request under Subsection (2)(a), the
180 lieutenant governor shall transmit the request to the Utah Population Committee.

181 (d) Within 20 days after receiving a written request from the lieutenant governor under
182 Subsection (2)(c), the Utah Population Committee shall:

183 (i) determine whether, on the date the individual filed the request under Subsection
184 (2)(a), the proposed municipality complied with the population, population density, and
185 contiguity requirements described in Section 10-2a-201.5; and

186 (ii) provide a written notice of the determination to:

187 (A) the lieutenant governor; and

188 (B) the individual who submitted the request under Subsection (2)(a).

189 (e) An individual may not file a feasibility request under Subsection (1) unless the Utah
190 Population Committee determines that the proposed municipality complies with the population,
191 population density, and contiguity requirements described in Section 10-2a-201.5.

192 (f) A feasibility request may not be filed more than 30 days after the Utah Population
193 Committee's written determination under Subsection (2)(d).

194 ~~[(2)]~~ (3) The feasibility request shall include:

195 (a) ~~[a]~~ the same description of the contiguous area proposed to be incorporated as a
196 municipality that was provided to the Utah Population Committee under Subsection (2)(b);

197 (b) a designation of up to five signers of the request as sponsors, one of whom is
198 designated as the contact sponsor, with the mailing address and telephone number of each;

199 (c) an accurate map or plat, prepared by a licensed surveyor, showing ~~[a]~~ the same legal
200 description of the boundaries of the proposed municipality as was included with a request
201 submitted to the Utah Population Committee under Subsection (2)(b); ~~[and]~~

202 (d) a copy of the Utah Population Committee's written determination under Subsection
203 (2)(d); and

204 ~~[(4)]~~ (e) a request that the lieutenant governor commission a study to determine the
205 feasibility of incorporating the area as a municipality.

206 ~~[(3)]~~ (4) The individual described in Subsection (1) shall, on the day on which the
207 individual files the feasibility request with the county clerk, provide to the lieutenant governor:

208 (a) written notice that the individual filed the feasibility request that indicates the day
209 on which the individual filed the feasibility request; and

210 (b) a complete copy of the feasibility request, including a copy of the written
211 determination by the Utah Population Committee under Subsection (2)(d).

212 ~~[(4)]~~ (5) A feasibility request may not propose for incorporation an area that includes
213 some or all of an area that is the subject of a completed feasibility study or supplemental

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

215 (a) the proposed incorporation that is the subject of the completed feasibility study or
216 supplemental feasibility study has been defeated by the voters at an election under Section
217 10-2a-210; or

218 (b) the time described in Subsection 10-2a-208(1) for filing an incorporation petition
219 based on the completed feasibility study or supplemental feasibility study has elapsed without
220 the sponsors filing an incorporation petition under Section 10-2a-208.

221 ~~[(5)]~~ (6) Sponsors may not file a feasibility request relating to the incorporation of a
222 town if the cumulative private real property that the sponsors own exceeds 40% of the total
223 private land area within the boundaries of the proposed town.

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

225 **10-2a-204. Processing a feasibility request -- Certification or rejection --**

226 **Processing priority -- Determination by the Utah Population Committee.**

227 (1) Within 45 days after the day on which an individual files a feasibility request under
228 Section 10-2a-202, the county clerk shall:

229 (a) determine whether the feasibility request complies with Section 10-2a-202; and

230 (b) notify the lieutenant governor, in writing, of the determination made under
231 Subsection (1)(a) and the grounds for the determination.

232 (2) The county clerk:

233 (a) shall keep the lieutenant governor apprised of the county clerk's progress in making
234 the determination described in Subsection (1)(a); and

235 (b) may consult with the lieutenant governor in making the determination described in
236 Subsection (1)(a).

237 (3) Within five days after the day on which the county clerk provides the notification
238 described in Subsection (1)(b), the lieutenant governor shall:

239 (a) review the determination and the grounds for the determination to evaluate whether
240 the feasibility request complies with Section 10-2a-202; and

241 (b) (i) uphold the determination;

242 (ii) reverse the determination; or

243 (iii) require the county clerk to provide additional information that the lieutenant
244 governor identifies as necessary for the lieutenant governor to uphold or reverse the county

245 clerk's determination.

246 (4) If the office requires the county clerk to provide additional information under
247 Subsection (3)(b)(iii):

248 (a) the county clerk shall provide the additional information to the office within five
249 days after the day on which the office notifies the county clerk that the additional information
250 is required; and

251 (b) the office shall, within five days after the day on which the county clerk provides
252 the additional information, uphold or reverse the determination of the county clerk described in
253 Subsection (1)(b).

254 (5) If the lieutenant governor determines that the feasibility request complies with
255 Section 10-2a-202, the lieutenant governor shall:

256 (a) certify the request; and

257 (b) transmit written notification of the certification to the contact sponsor~~[-and]~~.

258 ~~[(c) transmit written notification of the certification to the Utah Population
259 Committee.]~~

260 (6) If the lieutenant governor determines that the feasibility request fails to comply
261 with Section 10-2a-202, the lieutenant governor shall reject the feasibility request and notify
262 the contact sponsor in writing of the rejection and the grounds for the rejection.

263 ~~[(7) (a) Within 20 days after the day on which the lieutenant governor transmits written
264 notification under Subsection (5)(c), the Utah Population Committee shall:]~~

265 ~~[(i) determine whether, on the date the sponsors filed the feasibility request, the
266 proposed municipality complied with the population, population density, and contiguity
267 requirements described in Section 10-2a-201.5; and]~~

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

270 ~~[(b) If the Utah Population Committee determines that a proposed municipality does
271 not comply with the population, population density, or contiguity requirements described in
272 Section 10-2a-201.5, the lieutenant governor shall rescind the certification described in
273 Subsection (5)(a) and reject the feasibility request.]~~

274 ~~[(8)]~~ (7) The lieutenant governor shall certify or reject feasibility requests in the order
275 in which the requests are filed.

276 ~~[(9)]~~ (8) (a) If the lieutenant governor determines that the feasibility request fails to
277 comply with Section 10-2a-202, ~~[or rejects the feasibility request under Subsection (7)(b);]~~ the
278 sponsors may, subject to Section 10-2a-206, amend the feasibility request to correct the
279 deficiencies and refile the feasibility request with the county clerk.

280 (b) The sponsors shall submit any amended feasibility request within 90 days after the
281 day on which the lieutenant governor makes the determination or rejection described in
282 Subsection ~~[(9)(a)]~~ (8)(a).

283 (c) The sponsors may reuse a signature described in Subsection ~~[10-2a-202(2)(a)]~~
284 10-2a-202(1)(a) that is on a rejected feasibility request or on an amended feasibility request
285 described in Subsection ~~[(9)(a)]~~ (8)(a).

286 (d) The county clerk and the lieutenant governor shall consider a feasibility request that
287 is amended and refiled under Subsection ~~[(9)(a)]~~ (8)(a) as a newly filed feasibility request and
288 process the feasibility request in accordance with this section.

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

290 **10-2a-204.3. Notice to property owners -- First public hearing.**

291 (1) ~~[Unless the lieutenant governor rescinds the certification under Subsection~~
292 ~~10-2a-204(7)(b), the]~~ The county clerk shall:

293 (a) hold the first public hearing in relation to the proposed incorporation, at a location
294 approved by the lieutenant governor, no later than 30 days after the day on which the ~~[county~~
295 ~~clerk receives the notice described in Subsection 10-2a-204(7)(a)(ii)]~~ lieutenant governor
296 certifies the feasibility request under Subsection 10-2a-204(5);

297 (b) publish notice of the hearing in accordance with Subsection 10-2a-207(7); and

298 (c) within seven calendar days after the day on which the ~~[county clerk receives the~~
299 ~~notice described in Subsection 10-2a-204(7)(a)(ii)]~~ lieutenant governor certifies the feasibility
300 request under Subsection 10-2a-204(5), mail written notice of the proposed incorporation and
301 of the first public hearing described in this section to:

302 (i) each residence within, and each owner of real property located within:

303 (A) the proposed incorporation boundaries; and

304 (B) 300 feet of the proposed incorporation boundaries;

305 (ii) the contact sponsor; and

306 (iii) the lieutenant governor.

307 (2) The written notice provided by the county clerk under Subsections (1)(b) and (c)
308 shall include:

309 (a) the following statement:

310 "NOTICE OF PROPOSED INCORPORATION AND FIRST PUBLIC HEARING

311 You have received this notice because you reside or own property within an area
312 proposed for incorporation, or an area within 300 feet of an area proposed for incorporation.
313 The first public hearing in relation to the proposed incorporation will be held on [insert date,
314 time, and location]. The purpose of the first public hearing is to provide information regarding
315 the proposed incorporation, the incorporation process, including the process for deciding
316 whether to incorporate, and certain rights you may have in relation to the proposed
317 incorporation. A specified landowner, as defined in Utah Code Section 10-2a-204.5, may,
318 within 30 days after the day of the public hearing, request that the county clerk exclude all or
319 part of the specified landowner's land from the area proposed for incorporation. A specified
320 landowner may not request exclusion after the end of the 30-day period. Any owner of land
321 within a county where the area proposed for incorporation is located may, within 30 days after
322 the day of the public hearing, request that the county clerk include all or part of that land in the
323 area proposed for incorporation. An owner of land may not request inclusion after the end of
324 the 30-day period."; and

325 (b) a clear description of the area proposed for incorporation.

326 (3) Notwithstanding that the county conducts the first public hearing, the lieutenant
327 governor, or a designee of the lieutenant governor, shall:

328 (a) direct the proceedings at the first public hearing, with the assistance of the county
329 clerk as needed;

330 (b) provide information regarding the proposed incorporation, the incorporation
331 process, including the process for deciding whether to incorporate, and the rights citizens may
332 have in relation to the proposed incorporation;

333 (c) describe the process by which a specified landowner may request that the county
334 clerk exclude all or part of the specified landowner's land from the area proposed for
335 incorporation;

336 (d) describe the process by which an owner of land described in Subsection
337 10-2a-204.5(2)(b) may request that the county clerk include all or part of that land in the area

338 proposed for incorporation;

339 (e) describe the criteria for granting a request for exclusion or inclusion of land; and

340 (f) answer questions from individuals who attend the first public hearing.

341 (4) The contact sponsor, or an agent of the contact sponsor, and the county clerk, or an
342 employee of the county clerk designated by the county clerk, shall attend the first public
343 hearing.

344 (5) The county clerk shall:

345 (a) provide the location and equipment for the public hearing, subject to approval by
346 the lieutenant governor; and

347 (b) ensure compliance with the requirements of Title 52, Chapter 4, Open and Public
348 Meetings Act, in relation to the public hearing.

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

350 **10-2a-205. Feasibility study -- Feasibility study consultant -- Qualifications for**
351 **proceeding with incorporation.**

352 (1) (a) [Unless the lieutenant governor rescinds the certification under Subsection
353 10-2a-204(7)(b), the] The lieutenant governor shall, within ~~[90]~~ 10 days after the day on which
354 the lieutenant governor certifies a feasibility request under Subsection 10-2a-204(5)(a), ~~[in~~
355 ~~accordance with Subsection (2), engage a feasibility consultant to conduct a feasibility study.]:~~

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

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

358 (b) The feasibility request sponsors shall pay to the lieutenant governor the amount of
359 the estimated cost under Subsection (1)(a) of a feasibility study conducted on or after May 1,
360 2024.

361 (c) Within 90 days after the feasibility request sponsors pay the estimated feasibility
362 study cost under Subsection (1)(a), the lieutenant governor shall, in accordance with
363 Subsection (2), engage a feasibility consultant to conduct a feasibility study.

364 (2) The lieutenant governor shall:

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

367 (b) ensure that the feasibility consultant:

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

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

371 (c) require the feasibility consultant to:

372 (i) submit a draft of the feasibility study to each applicable person with whom the
373 feasibility consultant is required to consult under Subsection (3)(c) within 90 days after the day
374 on which the lieutenant governor engages the feasibility consultant to conduct the study;

375 (ii) allow each person to whom the consultant provides a draft under Subsection
376 (2)(c)(i) to review and provide comment on the draft;

377 (iii) submit a completed feasibility study, including a one-page summary of the results,
378 to the following within 120 days after the day on which the lieutenant governor engages the
379 feasibility consultant to conduct the feasibility study:

380 (A) the lieutenant governor;

381 (B) the county legislative body of the county in which the incorporation is proposed;

382 (C) the contact sponsor; and

383 (D) each person to whom the consultant provided a draft under Subsection (2)(c)(i);

384 and

385 (iv) attend the public hearings described in Section [10-2a-207](#) to present the feasibility
386 study results and respond to questions from the public.

387 (3) (a) The feasibility study shall include:

388 (i) an analysis of the population and population density within the area proposed for
389 incorporation and the surrounding area;

390 (ii) the current and projected five-year demographics and tax base within the
391 boundaries of the proposed municipality and surrounding area, including household size and
392 income, commercial and industrial development, and public facilities;

393 (iii) subject to Subsection (3)(b), the current and five-year projected cost of providing
394 municipal services to the proposed municipality, including administrative costs;

395 (iv) assuming the same tax categories and tax rates as currently imposed by the county
396 and all other current service providers, the present and five-year projected revenue for the
397 proposed municipality;

398 (v) an analysis of the risks and opportunities that might affect the actual costs described
399 in Subsection (3)(a)(iii) or revenues described in Subsection (3)(a)(iv) of the newly

400 incorporated municipality;

401 (vi) an analysis of new revenue sources that may be available to the newly incorporated
402 municipality that are not available before the area incorporates, including an analysis of the
403 amount of revenues the municipality might obtain from those revenue sources;

404 (vii) the projected tax burden per household of any new taxes that may be levied within
405 the proposed municipality within five years after incorporation;

406 (viii) the fiscal impact of the municipality's incorporation on unincorporated areas,
407 other municipalities, special districts, special service districts, and other governmental entities
408 in the county; and

409 (ix) if the county clerk excludes property from, or includes property in, the proposed
410 municipality under Section [10-2a-204.5](#), an update to the map and legal description described
411 in Subsection [~~10-2a-202(2)(c)~~] [10-2a-202\(3\)\(c\)](#).

412 (b) (i) In calculating the projected costs under Subsection (3)(a)(iii), the feasibility
413 consultant shall assume the proposed municipality will provide a level and quality of municipal
414 services that fairly and reasonably approximate the level and quality of municipal services that
415 are provided to the area of the proposed municipality at the time the feasibility consultant
416 conducts the feasibility study.

417 (ii) In calculating the current cost of a municipal service under Subsection (3)(a)(iii),
418 the feasibility consultant shall consider:

419 (A) the amount it would cost the proposed municipality to provide the municipal
420 service for the first five years after the municipality's incorporation; and

421 (B) the current municipal service provider's present and five-year projected cost of
422 providing the municipal service.

423 (iii) In calculating costs under Subsection (3)(a)(iii), the feasibility consultant shall
424 account for inflation and anticipated growth.

425 (c) In conducting the feasibility study, the feasibility consultant shall consult with the
426 following before submitting a draft of the feasibility study under Subsection (2)(c)(i):

427 (i) if the proposed municipality will include lands owned by the United States federal
428 government, the entity within the United States federal government that has jurisdiction over
429 the land;

430 (ii) if the proposed municipality will include lands owned by the state, the entity within

431 state government that has jurisdiction over the land;

432 (iii) each entity that provides a municipal service to a portion of the proposed
433 municipality; and

434 (iv) each other special service district that provides services to a portion of the
435 proposed municipality.

436 (4) If the five-year projected revenues calculated under Subsection (3)(a)(iv) exceed the
437 five-year projected costs calculated under Subsection (3)(a)(iii) by more than 5%, the
438 feasibility consultant shall project and report the expected annual revenue surplus to the contact
439 sponsor and the lieutenant governor.

440 (5) (a) Except as provided in Subsection (5)(b), if the results of the feasibility study, or
441 a supplemental feasibility study described in Section 10-2a-206, show that the average annual
442 amount of revenue calculated under Subsection (3)(a)(iv) does not exceed the average annual
443 cost calculated under Subsection (3)(a)(iii) by more than 5%, the process to incorporate the
444 area that is the subject of the feasibility study or supplemental feasibility study may not
445 proceed.

446 (b) The process to incorporate an area described in Subsection (5)(a) may proceed if a
447 subsequent supplemental feasibility study conducted under Section 10-2a-206 for the proposed
448 incorporation demonstrates compliance with Subsection (5)(a).

449 (6) If the results of the feasibility study or revised feasibility study do not comply with
450 Subsection (5), and if requested by the sponsors of the request, the feasibility consultant shall,
451 as part of the feasibility study or revised feasibility study, make recommendations regarding
452 how the boundaries of the proposed municipality may be altered to comply with Subsection
453 (5).

454 (7) The lieutenant governor shall post a copy of the feasibility study, and any
455 supplemental feasibility study described in Section 10-2a-206, on the lieutenant governor's
456 website and make a copy available for public review at the lieutenant governor's office.

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

458 **10-2a-206. Modified feasibility request -- Supplemental feasibility study.**

459 (1) (a) The sponsors of a feasibility request may modify the request to alter the
460 boundaries of the proposed municipality and refile the modified feasibility request with the
461 county clerk if:

462 (i) the results of the feasibility study do not comply with Subsection 10-2a-205(5)(a);
463 or

464 (ii) (A) the feasibility request complies with Subsection 10-2a-201.5(4)(b);
465 (B) the annexation petition described in Subsection 10-2a-201.5(4)(b) that proposed
466 the annexation of an area that is part of the area proposed for incorporation has been denied;
467 and

468 (C) an incorporation petition based on the feasibility request has not been filed.

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

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

475 (c) (i) Subject to Subsection (1)(c)(ii), each modified feasibility request under
476 Subsection (1)(a) shall comply with Subsections 10-2a-202(1) [~~through (4)~~], (3), (4), and (5)
477 and Subsection 10-2a-201.5(4).

478 (ii) Notwithstanding Subsection (1)(c)(i), a signature on a feasibility request filed under
479 Section 10-2a-202 may be used toward fulfilling the signature requirement of Subsection
480 [~~10-2a-202(2)(a)~~] 10-2a-202(1)(a) for the feasibility request as modified under Subsection
481 (1)(a), unless the modified feasibility request proposes the incorporation of an area that is more
482 than 20% larger or smaller than the area described by the original feasibility request in terms
483 of:

484 (A) private land area; or

485 (B) assessed fair market value of private real property, as of January 1 of the current
486 year.

487 (d) Within 20 days after the day on which the county clerk receives the modified
488 request, the county clerk and the lieutenant governor shall follow the same procedure described
489 in Subsections 10-2a-204(1) through (6) for the modified feasibility request as for an original
490 feasibility request.

491 (e) Within 10 days after a modified feasibility request is filed, the lieutenant governor
492 shall:

493 (i) estimate the cost of a supplemental feasibility study under this section; and
494 (ii) provide the estimated cost to the feasibility request sponsors.
495 (f) Within 20 days after the lieutenant governor provides the estimated supplemental
496 feasibility study cost, the feasibility request sponsors shall pay the estimated cost to the
497 lieutenant governor for a supplemental feasibility study conducted on or after May 1, 2024.

498 (2) The timely filing of a modified feasibility request under Subsection (1) gives the
499 modified feasibility request the same processing priority under Subsection [~~10-2a-204(8)~~
500 ~~10-2a-204(7)~~] as the original feasibility request if the feasibility request sponsors pay the
501 estimated cost of the supplemental feasibility study as required in Subsection (1)(e).

502 (3) Within 10 days after the day on which the [~~county clerk receives a modified~~
503 ~~feasibility request under Subsection (1)(a) that relates to a request for which a feasibility study~~
504 ~~has already been completed]~~ lieutenant governor receives payment of the estimated
505 supplemental feasibility study cost, the lieutenant governor shall commission the feasibility
506 consultant who conducted the feasibility study to conduct a supplemental feasibility study that
507 accounts for the modified feasibility request.

508 (4) The lieutenant governor shall require the feasibility consultant to:

509 (a) submit a draft of the supplemental feasibility study to each applicable person with
510 whom the feasibility consultant is required to consult under Subsection ~~10-2a-205(3)(c)~~ within
511 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental
512 study;

513 (b) allow each person to whom the consultant provided a draft under Subsection (4)(a)
514 to review and provide comment on the draft; and

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

517 (i) the lieutenant governor;

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

519 (iii) the contact sponsor; and

520 (iv) each person to whom the consultant provided a draft under Subsection (4)(a).

521 (5) [~~(a) Subject to Subsection (5)(b), if~~] If the results of the supplemental feasibility
522 study do not comply with Subsection ~~10-2a-205(5)(a)~~[- the sponsors may further modify the
523 request in accordance with Subsection (1):];

524 (a) the process to incorporate the area that is the subject of the supplemental feasibility
 525 study may not proceed; and

526 (b) a feasibility request under Section 10-2a-202 may not be filed within 18 months
 527 after the date of the supplemental feasibility study if the feasibility request proposes the
 528 incorporation of an area included within the area described in the supplemental feasibility
 529 study.

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

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

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

536 **10-2a-220. Costs of incorporation -- Fees established by lieutenant governor.**

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

539 (b) The fund shall consist of:

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

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

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

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

546 (2) (a) The lieutenant governor shall establish a fee in accordance with Section
 547 **63J-1-504** for a cost incurred by the lieutenant governor or the county for an incorporation
 548 proceeding, including:

549 (i) a request certification;

550 ~~[(ii) a feasibility study;]~~

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

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

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

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

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

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

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

562 (4) (a) [~~An area that incorporates as a~~] A newly incorporated municipality shall [pay]:

563 (i) pay to the lieutenant governor each fee established under Subsection (2) for each
564 cost described in Subsection (2)(a) incurred by the lieutenant governor or the county; [~~and~~]

565 (ii) pay the county for a cost described in Subsection (2)(b)[~~]; and~~

566 (iii) reimburse feasibility request sponsors the cost the feasibility request sponsors paid
567 for:

568 (A) a feasibility study under Section 10-2a-205; and

569 (B) any supplemental feasibility study under Section 10-2a-206.

570 (b) The lieutenant governor shall execute a payback agreement with each new
571 municipality for the new municipality to pay the fees described in Subsection (4)(a) over a
572 period that, except as provided in Subsection (4)(c), may not exceed five years.

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

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

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

582 Section 9. **Effective date.**

583 This bill takes effect on May 1, 2024.