

**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 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 mayor and a municipal council for a preliminary municipality;
- ▶ addresses the powers of, and limitations on, a preliminary municipality;
- ▶ requires for the transition of a preliminary municipality to a town when the population of the preliminary municipality reaches a certain level;



- 28           ▶ describes the requirements and procedures for transitioning a preliminary
- 29 municipality into a town;
- 30           ▶ provides for the election of officers for the future town; and
- 31           ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33           None

34 **Other Special Clauses:**

35           None

36 **Utah Code Sections Affected:**

37 AMENDS:

38           **10-1-104**, as last amended by Laws of Utah 2015, Chapter 352

39           **10-2a-201.5**, as last amended by Laws of Utah 2023, Chapter 224

40           **10-2a-202**, as last amended by Laws of Utah 2023, Chapter 224

41 ENACTS:

42           **10-2a-501**, Utah Code Annotated 1953

43           **10-2a-502**, Utah Code Annotated 1953

44           **10-2a-503**, Utah Code Annotated 1953

45           **10-2a-504**, Utah Code Annotated 1953

46           **10-2a-505**, Utah Code Annotated 1953

47           **10-2a-506**, Utah Code Annotated 1953

48           **10-2a-507**, Utah Code Annotated 1953

49           **10-2a-508**, Utah Code Annotated 1953

50           **10-2a-509**, Utah Code Annotated 1953

51           **10-2a-510**, Utah Code Annotated 1953



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

54           Section 1. Section **10-1-104** is amended to read:

55           **10-1-104. Definitions.**

56           As used in this title:

- 57           (1) "City" means a municipality that is classified by population as a city of the first
- 58 class, a city of the second class, a city of the third class, a city of the fourth class, or a city of

59 the fifth class, under Section 10-2-301.

60 (2) "Contiguous" means:

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

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

65 (3) "Governing body" means collectively the legislative body and the executive of any  
66 municipality. Unless otherwise provided:

67 (a) in a city of the first or second class, the governing body is the city commission;

68 (b) in a city of the third, fourth, or fifth class, the governing body is the city council;

69 (c) in a town, the governing body is the town council; and

70 (d) in a metro township, the governing body is the metro township council.

71 (4) "Municipal" means of or relating to a municipality.

72 (5) "Municipality" means:

73 (a) a city of the first class, city of the second class, city of the third class, city of the  
74 fourth class, city of the fifth class;

75 (b) a town, as classified in Section 10-2-301; [or]

76 (c) a metro township as that term is defined in Section 10-2a-403 unless the term is  
77 used in the context of authorizing, governing, or otherwise regulating the provision of  
78 municipal services[-]; or

79 (d) a preliminary municipality incorporated under Chapter 2a, Part 5, Incorporation of a  
80 Preliminary Municipality.

81 (6) "Peninsula," when used to describe an unincorporated area, means an area  
82 surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated  
83 territory and situated so that the length of a line drawn across the unincorporated area from an  
84 incorporated area to an incorporated area on the opposite side shall be less than 25% of the  
85 total aggregate boundaries of the unincorporated area.

86 (7) "Person" means an individual, corporation, partnership, organization, association,  
87 trust, governmental agency, or any other legal entity.

88 (8) "Provisions of law" shall include other statutes of the state of Utah and ordinances,  
89 rules, and regulations properly adopted by any municipality unless the construction is clearly

90 contrary to the intent of state law.

91 (9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.

92 (10) "Town" means a municipality classified by population as a town under Section  
93 [10-2-301](#).

94 (11) "Unincorporated" means not within a municipality.

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

96 **10-2a-201.5. Qualifications for incorporation.**

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

98 (i) is contiguous;

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

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

101 (b) A preliminary municipality may transition to, and incorporate as, a town, in  
102 accordance with Section [10-2a-510](#).

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

104 (i) is contiguous;

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

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

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

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

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

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

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

114 (ii) the area is contiguous.

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

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

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

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

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

126 (i) was filed before the filing of the request for a feasibility study, described in Section  
127 10-2a-202, relating to the incorporating area; and

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

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

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

135 (ii) the feasibility request complies with Subsections 10-2a-202(1) through (4) with  
136 respect to excluding the proposed annexation area from the area proposed for incorporation;  
137 and

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

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

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

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

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

149 **10-2a-202. Feasibility request -- Requirements -- Limitations.**

150 (1) The process to incorporate a contiguous area of a county as a municipality is  
151 initiated by an individual filing a feasibility request, with the county clerk of the county where

152 the area proposed to be incorporated is located, that includes:

153 (a) the signatures of the owners of private real property that:

154 (i) is located within the area proposed to be incorporated;

155 (ii) covers at least 10% of the total private land area within the area; and

156 (iii) is, as of January 1 of the current year, equal in assessed fair market value to at least  
157 7% of the assessed fair market value of all private real property within the area; and

158 (b) the typed or printed name and current residence address of each owner signing the  
159 request.

160 (2) The feasibility request shall include:

161 (a) a description of the contiguous area proposed to be incorporated as a municipality;

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

164 (c) an accurate map or plat, prepared by a licensed surveyor, showing a legal  
165 description of the boundaries of the proposed municipality; and

166 (d) a request that the lieutenant governor commission a study to determine the  
167 feasibility of incorporating the area as a municipality.

168 (3) The individual described in Subsection (1) shall, on the day on which the individual  
169 files the feasibility request with the county clerk, provide to the lieutenant governor:

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

172 (b) a complete copy of the feasibility request.

173 (4) A feasibility request may not propose for incorporation an area that includes ~~some~~  
174 ~~or~~ all or part of an area that is the subject of a completed feasibility study or supplemental  
175 feasibility study whose results comply with Subsection 10-2a-205(5)(a) unless:

176 (a) the proposed incorporation that is the subject of the completed feasibility study or  
177 supplemental feasibility study has been defeated by the voters at an election under Section  
178 10-2a-210; or

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

182 (5) A feasibility request may not propose for incorporation an area that includes all or

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

188 [(5)] (6) Sponsors may not file a feasibility request relating to the incorporation of a  
189 town if the cumulative private real property that the sponsors own exceeds 40% of the total  
190 private land area within the boundaries of the proposed town.

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

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

193 **10-2a-501. Definitions.**

194 As used in this part:

195 (1) "Backbone infrastructure" means, as shown on the map or plat described in  
196 Subsection 10-2a-502(5)(e) for the proposed preliminary municipal area:

197 (a) the main thoroughfares within the proposed preliminary municipal area, including  
198 the roads that connect the proposed preliminary municipal area to an existing road outside the  
199 proposed preliminary municipal area; and

200 (b) the main lines that will connect a utility to the proposed preliminary municipal area,  
201 including the stubs that will connect the main lines to the development in the proposed  
202 preliminary municipal area.

203 (2) "Contiguous" means the same as that term is defined in Section 10-2a-102.

204 (3) "Feasibility consultant" means a person or firm:

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

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

208 (4) "Feasibility request" means a request, described in Section 10-2a-502, for a  
209 feasibility study for the proposed incorporation of a preliminary municipality.

210 (5) "Initial landowners" means the persons who owned the land within the proposed  
211 preliminary municipality area when the person filed the feasibility request under Section  
212 20A-1-501.

213 (6) "Municipal service" means the same as that term is defined in Section 10-2a-102.

214 (7) "Pending annexation area" means an area proposed for annexation in an annexation  
215 petition described in Section 10-2-403 that is filed before, and is still pending when, a person  
216 files the applicable request for a feasibility study under Section 10-2a-502.

217 (8) "Primary sponsor contact" means:

218 (a) in relation to a feasibility request:

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

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

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

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

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

228 (9) "Private," in relation to real property, means taxable real property.

229 (10) "Proposed preliminary municipality area" means the area proposed for  
230 incorporation as a preliminary municipality in a feasibility request.

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

232 **10-2a-502. Incorporation of a preliminary municipality -- Feasibility request --**  
233 **Requirements.**

234 (1) A person may apply to incorporate an area as a preliminary municipality by filing a  
235 feasibility request in accordance with this section.

236 (2) A person may file a feasibility request in relation to an area that the person seeks to  
237 incorporate as a preliminary municipality if:

238 (a) the area is contiguous;

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

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

241 (d) on the day on which the person files the feasibility request:

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

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



245 (e) the persons who sign the feasibility request intend to develop the area to the point  
246 that:

247 (i) at least 100 individuals reside in the area; and

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

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

252 (B) the average population of the area has a population density of no less than seven  
253 individuals per square mile if the land necessary to connect the separate areas described in  
254 Subsection (2)(e)(ii)(A) is not included in the calculation;

255 (f) the area does not include land owned by the United States government unless:

256 (i) the area, including the land owned by the United States government, is contiguous;

257 and

258 (ii) (A) incorporating the land is necessary to connect separate areas that share a  
259 demonstrable community interest; or

260 (B) excluding the land from the area would create an unincorporated island within the  
261 proposed preliminary municipality; and

262 (g) the feasibility request complies with Subsection (3).

263 (3) (a) A proposed preliminary municipality area may not include all or part of a  
264 pending annexation area, unless:

265 (i) the portion of the pending annexation area included in the proposed preliminary  
266 municipality area does not exceed 20% of the proposed preliminary municipality area; and

267 (ii) the feasibility request would comply with the requirements of this section  
268 regardless of whether the portion of the pending annexation area included in the proposed  
269 preliminary municipality area is excluded from, or remains included in, the proposed  
270 preliminary municipality area.

271 (b) A proposed preliminary municipality area may not include all or part of an area that  
272 is the subject of a completed feasibility study or supplemental feasibility study that qualifies to  
273 proceed under Subsection 10-2a-205(5)(a), unless:

274 (i) the proposed incorporation that is the subject of the completed feasibility study or  
275 supplemental feasibility study has been defeated by the voters at an election under Section

276 10-2a-210; or

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

280 (c) A proposed preliminary municipality area may not include all or part of an area that  
281 is the subject of a completed feasibility study or supplemental feasibility study whose results  
282 comply with Subsection 10-2a-504(4), unless the time described in Subsection 10-2a-507(1)  
283 for filing a petition for incorporation based on the completed feasibility study or supplemental  
284 feasibility study has elapsed without the sponsors filing a petition for incorporation under  
285 Section 10-2a-507.

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

289 (5) A person who files a feasibility request under this section shall file the feasibility  
290 request with the lieutenant governor, including in the feasibility request:

291 (a) the signatures of all owners of real property included in proposed preliminary  
292 municipality area, showing that the owners consent to including the real property in the  
293 proposed preliminary municipality area;

294 (b) the name, address, and phone number of each owner signing the feasibility request;

295 (c) a designation of one individual who signs the feasibility request as the primary  
296 sponsor contact for the feasibility request;

297 (d) a description of the proposed preliminary municipality area;

298 (e) an accurate map or plat, prepared by a licensed surveyor, showing:

299 (i) a legal description of the boundaries of the proposed preliminary municipality area  
300 and each phase of the proposed preliminary municipality area;

301 (ii) all development planned for the proposed preliminary municipality area; and

302 (iii) that the first phase of the proposed preliminary municipality area is projected to  
303 have at least 100 residents when completed; and

304 (f) a request that the lieutenant governor commission a study to determine the  
305 feasibility of incorporating the area as a preliminary municipality.

306 Section 6. Section **10-2a-503** is enacted to read:

307           **10-2a-503. Processing a feasibility request -- Certification or rejection --**  
308 **Processing priority -- Determination by the Utah Population Committee.**

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

311           (a) determine whether the feasibility request complies with Section 10-2a-502; and  
312           (b) notify the clerk of the county where the proposed preliminary municipality area is  
313 located, in writing, of the determination made under Subsection (1)(a) and the grounds for the  
314 determination.

315           (2) A county clerk shall comply with a request by the lieutenant governor to provide  
316 information or a record to the lieutenant governor or to a sponsor of the feasibility request, to  
317 assist in complying with this part, within five calendar days after the day on which the  
318 lieutenant governor makes the request.

319           (3) If the lieutenant governor determines that the feasibility request complies with  
320 Section 10-2a-502, the lieutenant governor shall:

321           (a) certify the feasibility request; and  
322           (b) transmit written notification of the certification to the primary sponsor contact, the  
323 county clerk, and the Utah Population Committee.

324           (4) If the lieutenant governor determines that the feasibility request fails to comply  
325 with Section 10-2a-502, the lieutenant governor shall reject the feasibility request and notify  
326 the primary sponsor contact and the county clerk, in writing, of the rejection and the grounds  
327 for the rejection.

328           (5) (a) Within 20 days after the day on which the lieutenant governor transmits written  
329 notification under Subsection (3)(b), the Utah Population Committee shall:

330           (i) determine whether, based on the map or plat described in Subsection  
331 10-2a-502(5)(e), the proposed preliminary municipality will, when all phases of the map or plat  
332 are completed, likely comply with the population, population density, and contiguity  
333 requirements described in Section 10-2a-502; and

334           (ii) provide notice of the determination to the lieutenant governor and the county clerk.

335           (b) If the Utah Population Committee determines, under Subsection (5)(a)(i), that,  
336 when all phases of the plan or plat are completed, the proposed preliminary municipality will  
337 not likely comply with the population, population density, and contiguity requirements

338 described in Section 10-2a-502, the lieutenant governor shall rescind the certification described  
339 in Subsection (3) and reject the feasibility request.

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

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

346 (b) The sponsors shall submit any amended feasibility request within 90 days after the  
347 day on which the lieutenant governor makes the determination or rejection described in  
348 Subsection (7)(a).

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

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

353 **10-2a-504. Feasibility study -- Feasibility study consultant -- Qualifications for**  
354 **proceeding with incorporation.**

355 (1) Unless the lieutenant governor rescinds the certification under Subsection  
356 10-2a-503(5)(b), the lieutenant governor shall, within 90 days after the day on which the  
357 lieutenant governor certifies a feasibility request under Subsection 10-2a-503(3)(a), in  
358 accordance with Subsection (2), engage a feasibility consultant to conduct a feasibility study.

359 (2) The lieutenant governor shall:

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

362 (b) ensure that the feasibility consultant:

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

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

366 (c) require the feasibility consultant to:

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

368 feasibility consultant is required to consult under Subsection (3)(c) within 90 days after the day

369 on which the lieutenant governor engages the feasibility consultant to conduct the study;  
370 (ii) allow each person to whom the consultant provides a draft under Subsection  
371 (2)(c)(i) to review and provide comment on the draft;  
372 (iii) submit a completed feasibility study, including a one-page summary of the results,  
373 to the following within 120 days after the day on which the lieutenant governor engages the  
374 feasibility consultant to conduct the feasibility study:  
375 (A) the lieutenant governor;  
376 (B) the county legislative body of the county in which the proposed preliminary  
377 municipality area is located;  
378 (C) the primary sponsor contact; and  
379 (D) each person to whom the consultant provided a draft under Subsection (2)(c)(i);  
380 and  
381 (iv) attend the public hearings described in Section [10-2a-506](#) to present the feasibility  
382 study results and respond to questions from the public.  
383 (3) (a) The feasibility study shall include:  
384 (i) an analysis of:  
385 (A) the likely population and population density within the proposed preliminary  
386 municipality area when all phases of the map or plat for the proposed preliminary municipality  
387 area are completed; and  
388 (B) the population and population density of the area surrounding the proposed  
389 preliminary municipality area on the day on which the feasibility request was submitted;  
390 (ii) the current and projected five-year demographics and tax base within the  
391 boundaries of the proposed preliminary municipality area and the surrounding area, including  
392 household size and 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 preliminary municipality area, including administrative  
395 costs;  
396 (iv) assuming the same tax categories and tax rates as imposed by the county and all  
397 other current service providers at the time during which the feasibility consultant prepares the  
398 feasibility study, the present and five-year projected revenue for the proposed preliminary  
399 municipality;

400 (v) an analysis of the risks and opportunities that might affect the actual costs described  
401 in Subsection (3)(a)(iii) or the revenues described in Subsection (3)(a)(iv) of the proposed  
402 preliminary municipality;

403 (vi) an analysis of new revenue sources that may be available to the proposed  
404 preliminary municipality that are not available before the area incorporates, including an  
405 analysis of the amount of revenues the proposed preliminary municipality might obtain from  
406 those revenue sources;

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

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

412 (ix) an analysis regarding whether sufficient water will be available to support the  
413 proposed preliminary municipal area when the development of the area is complete.

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

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

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

423 (B) the proposed or current municipal service provider's present and five-year projected  
424 cost of providing the municipal service.

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

427 (c) In conducting the feasibility study, the feasibility consultant shall consult with the  
428 following before submitting a draft of the feasibility study under Subsection (2)(c)(iii):

429 (i) if the proposed preliminary municipality will include lands owned by the United  
430 States federal government, the entity within the United States federal government that has

431 jurisdiction over the land;

432 (ii) if the proposed preliminary municipality will include lands owned by the state, the  
433 entity within state government that has jurisdiction over the land;

434 (iii) each entity that provides, or is proposed to provide, a municipal service to a  
435 portion of the proposed preliminary municipality area; and

436 (iv) each other special service district that provides, or is proposed to provide, services  
437 to a portion of the proposed preliminary municipality area.

438 (4) If the five-year projected revenues calculated under Subsection (3)(a)(iv) exceed the  
439 five-year projected costs calculated under Subsection (3)(a)(iii) by more than 10%, the  
440 feasibility consultant shall project and report the expected annual revenue surplus to the  
441 primary sponsor contact and the lieutenant governor.

442 (5) (a) Except as provided in Subsection (5)(b), if the results of the feasibility study, or  
443 a supplemental feasibility study described in Section 10-2a-505, show that the average annual  
444 amount of revenue calculated under Subsection (3)(a)(iv) does not exceed the average annual  
445 cost calculated under Subsection (3)(a)(iii) by more than 10%, the process to incorporate the  
446 area that is the subject of the feasibility study or supplemental feasibility study may not  
447 proceed.

448 (b) The process to incorporate an area described in Subsection (5)(a) may proceed if a  
449 subsequent supplemental feasibility study conducted under Section 10-2a-505 for the proposed  
450 incorporation demonstrates compliance with Subsection (5)(a).

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

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

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

459 **10-2a-505. Modified feasibility request -- Supplemental feasibility study.**

460 (1) (a) The sponsors of a feasibility request may modify the request to alter the  
461 boundaries of the proposed preliminary municipality area and refile the modified feasibility

462 request with the lieutenant governor if:

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

464 or

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

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

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

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

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

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

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

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

486 (3) Within 10 days after the day on which the county clerk receives a modified  
487 feasibility request under Subsection (1)(a) that relates to a request for which a feasibility study  
488 has already been completed, the lieutenant governor shall commission the feasibility consultant  
489 who conducted the feasibility study to conduct a supplemental feasibility study that accounts  
490 for the modified feasibility request.

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

492 (a) submit a draft of the supplemental feasibility study to each applicable person with



493 whom the feasibility consultant is required to consult under Subsection 10-2a-504(3)(c) within  
494 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental  
495 study;

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

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

500 (i) the lieutenant governor;

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

502 (iii) the primary sponsor contact; and

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

504 (5) (a) Subject to Subsection (5)(b), if the results of the supplemental feasibility study  
505 do not comply with Subsection 10-2a-504(4), the sponsors may further modify the request in  
506 accordance with Subsection (1).

507 (b) Subsections (1)(d), (3), and (4) apply to a modified feasibility request described in  
508 Subsection (5)(a).

509 (c) The county clerk shall consider a modified feasibility request described in  
510 Subsection (5)(a) as an original feasibility request for purposes of determining the modified  
511 feasibility request's processing priority under Subsection 10-2a-503(6).

512 Section 9. Section **10-2a-506** is enacted to read:

513 **10-2a-506. Public hearings on feasibility study results -- Notice of hearings.**

514 (1) If the results of the feasibility study or supplemental feasibility study comply with  
515 Subsection 10-2a-504(4), the lieutenant governor shall, after receipt of the results of the  
516 feasibility study or supplemental feasibility study, conduct public hearings in accordance with  
517 this section.

518 (2) (a) If a portion of the proposed preliminary municipality area is approved for  
519 annexation after the feasibility study or supplemental feasibility study is conducted but before  
520 the lieutenant governor conducts a public hearing under Subsection (4), the lieutenant governor  
521 may not conduct the public hearing under Subsection (4) unless:

522 (i) the sponsors of the feasibility study file a modified feasibility request in accordance  
523 with Section 10-2a-505; and

524 (ii) the results of the supplemental feasibility study comply with Subsection  
525 10-2a-504(4).

526 (b) For purposes of Subsection (2)(a), an area is approved for annexation if a municipal  
527 legislative body:

528 (i) approves an annexation petition proposing the annexation of an area that is part of  
529 the proposed preliminary municipality area under Section 10-2-407 or 10-2-408; or

530 (ii) adopts an ordinance approving the annexation of an area that is part of the proposed  
531 preliminary municipality area under Section 10-2-418.

532 (3) The lieutenant governor shall conduct a public hearing:

533 (a) within 60 days after the day on which the lieutenant governor receives the results  
534 under Subsection (1) or (2)(a)(ii);

535 (b) at a location within or near the proposed preliminary municipality; and

536 (c) to allow the feasibility consultant to present the results of the feasibility study and  
537 inform the public about the results.

538 (4) The lieutenant governor shall:

539 (a) conduct an additional public hearing following each occasion when, after the day of  
540 the initial public hearing, the lieutenant governor receives the results of a supplemental  
541 feasibility study that comply with Subsection 10-2a-504(4); and

542 (b) hold the public hearing described in Subsection (4)(a):

543 (i) within 30 days after the day on which the lieutenant governor receives the results of  
544 the supplemental feasibility study;

545 (ii) at a location within or near the proposed preliminary municipality;

546 (iii) to inform the public that the feasibility presented to the public at the preceding  
547 public hearing does not apply; and

548 (iv) to allow the feasibility consultant to present the results of the supplemental  
549 feasibility study and inform the public about the results.

550 (5) At each public hearing required under this section, the lieutenant governor shall:

551 (a) provide a map or plat of the boundary of the proposed preliminary municipality;

552 (b) provide a copy of the applicable feasibility study for public review;

553 (c) allow members of the public to express views about the proposed preliminary  
554 municipality, including views about the proposed boundaries; and

555 (d) allow the public to ask the feasibility consultant questions about the applicable  
556 feasibility study.

557 (6) The lieutenant governor shall publish notice of each public hearing required under  
558 this section for the proposed preliminary municipality area, as a class B notice under Section  
559 63G-30-102, for at least three weeks before the day of the public hearing.

560 (7) (a) Except as provided in Subsection (7)(b), for a hearing described in this section,  
561 the notice described in Subsection (7) shall:

562 (i) include the feasibility study summary described in Subsection 10-2a-504(2)(c)(iii);  
563 and

564 (ii) indicate that a full copy of the feasibility study is available on the lieutenant  
565 governor's website and for inspection at the lieutenant governor's office.

566 (b) Instead of publishing the feasibility summary under Subsection (7)(a)(i), the  
567 lieutenant governor may publish a statement that specifies the following sources where a  
568 person may view or obtain a copy of the feasibility study:

569 (i) the lieutenant governor's website;

570 (ii) the lieutenant governor's office; and

571 (iii) a mailing address and telephone number.

572 Section 10. Section **10-2a-507** is enacted to read:

573 **10-2a-507. Petition for incorporation -- Requirements and form.**

574 (1) At any time within one year after the day on which the lieutenant governor  
575 completes the public hearings required under Section 10-2a-506, the owners of the property  
576 who filed the feasibility request under Section 10-2a-502 for the proposed preliminary  
577 municipal area may proceed with the incorporation process by filing a petition for  
578 incorporation of the proposed preliminary municipality that:

579 (a) includes the typed or printed name, signature, address, and phone number of the  
580 initial landowners;

581 (b) describes the proposed preliminary municipality area, as described in the feasibility  
582 request or the modified feasibility;

583 (c) demonstrates compliance with Subsection 10-2a-504(4);

584 (d) states the proposed name for the proposed preliminary municipality;

585 (e) designates the primary sponsor contact for the proposed preliminary municipality;

586 (f) designates the mayor and three of the four council members who will serve in a five  
587 member council form of government for the preliminary municipality, described in Section  
588 10-3b-402, for the preliminary municipality;

589 (g) is accompanied by an accurate map or plat, prepared by a licensed surveyor,  
590 showing:

591 (i) the boundaries of the proposed preliminary municipality;

592 (ii) a single development plan for the proposed municipality, depicting each phase of  
593 the development;

594 (h) is accompanied by a bond that:

595 (i) is posted by the initial landowners;

596 (ii) is in favor of the county where the proposed preliminary municipality area is  
597 located, to guarantee that the initial landowners will complete the backbone infrastructure no  
598 later than six years after the day on which the initial landowners file the petition for  
599 incorporation described in this section; and

600 (iii) will be refunded to the initial landowners in percentages that reflect the progress  
601 toward completing the backbone infrastructure; and

602 (i) is accompanied by payment in full, from the initial landowners, of the costs incurred  
603 by the lieutenant governor for the feasibility study, the public notices, the hearings, and the  
604 other expenses incurred by the lieutenant governor to comply with the requirements of this part  
605 in relation to the proposed preliminary municipality.

606 (2) If, within six years after the day on which the initial landowners file a petition for  
607 incorporation under Subsection (1), the backbone infrastructure for the preliminary  
608 municipality is not completed, the portion of the bond described in Subsection (1)(h) that has  
609 not been refunded to the initial landowners shall forfeit to the county where the preliminary  
610 municipality is located.

611 (3) If, within six years after the day on which the initial landowners file a petition for  
612 incorporation under Subsection (1), the preliminary municipality has not transitioned to a town:

613 (a) the lieutenant governor shall issue a certificate dissolving the preliminary  
614 municipality;

615 (b) all roads and infrastructure within the preliminary municipality revert to the county  
616 in which the preliminary municipality is located; and

617 (c) the area within the proposed municipality falls under the jurisdiction of the county  
618 and is no longer incorporated.

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

620 **10-2a-508. Processing of petition by lieutenant governor -- Certification or**  
621 **rejection -- Petition modification.**

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

624 (a) determine whether the petition for incorporation complies with Section [10-2a-507](#);  
625 and

626 (b) (i) if the lieutenant governor determines that the petition for incorporation complies  
627 with Section [10-2a-507](#), incorporate the preliminary municipality, issue a certificate of  
628 incorporation, and appoint the mayor and three council members designated under Subsection  
629 [10-2a-507\(1\)\(e\)](#); or

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

633 (2) (a) If the lieutenant governor rejects a petition for incorporation under Subsection  
634 (1)(b)(ii), the sponsors of the petition for incorporation may correct the deficiencies for which  
635 the petition for incorporation was rejected and refile the petition for incorporation with the  
636 lieutenant governor.

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

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

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

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

647 **10-2a-509. Governance of preliminary municipality -- Utilities -- Road**

648 **maintenance.**

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

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

656 (2) The mayor and council members, described in Subsection (1), of a preliminary  
657 municipality:

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

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

661 (3) (a) Subject to Subsection (3)(b), a preliminary municipality has the powers and  
662 duties of a municipality, described in Chapter 8, Powers and Duties of Municipalities.

663 (b) A preliminary municipality:

664 (i) may not approve a tax increment project area;

665 (ii) may levy a municipal property tax;

666 (iii) may enter into an interlocal agreement with a special district to provide utility  
667 services to the preliminary municipality; and

668 (iv) has the same authority as another municipality to make decisions regarding zoning  
669 and land use.

670 (4) As needed, the county shall provide all services and utility connections to the  
671 preliminary municipality that the county provides other areas in the county if the preliminary  
672 municipality:

673 (a) pays the uniformly assessed rates for the services and utilities and reasonable  
674 connection fees; and

675 (b) complies with the county's established regulations and specifications for the  
676 construction and connection of the local improvements.

677 (5) The preliminary municipality shall maintain and repair any roadway that, on the day  
678 on which the individual filed the feasibility request under Section 10-2a-502:

- 679 (a) existed within the preliminary municipality;  
680 (b) was within a public right of way that abuts the preliminary municipality; or  
681 (c) was within 1/2 mile of the preliminary municipality and connected to, or was  
682 proposed in the feasibility request to be connected to, the preliminary municipality.
- 683 (6) Before the preliminary municipality submits a petition to transition to a town, the  
684 preliminary municipality shall select an independent third-party engineer to review and approve  
685 all building permit applications within the preliminary municipality to ensure compliance with  
686 the law.
- 687 (7) Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of  
688 Municipalities, does not apply to a preliminary municipality.
- 689 Section 13. Section **10-2a-510** is enacted to read:
- 690 **10-2a-510. Transitioning from a preliminary municipality to a town -- Petition --**  
691 **Election of officers.**
- 692 (1) Within 30 days after the day on which the population of a preliminary municipality  
693 exceeds 99 people, a person who filed the application to incorporate as a preliminary  
694 municipality or a resident of the preliminary municipality shall file with the lieutenant governor  
695 a petition to transition the preliminary municipality into a town.
- 696 (2) A petition to transition a preliminary municipality into a town shall include:
- 697 (a) a request that the lieutenant governor certify the transition of the preliminary  
698 municipality to, and the incorporation of the preliminary municipality as, a town;  
699 (b) the name, address, and phone number of the person filing the request;  
700 (c) the map or plat of the preliminary municipality;  
701 (d) a legal description of the boundaries of the preliminary municipality;  
702 (e) information regarding the preliminary municipality, including:  
703 (i) the number of residences in the preliminary municipality;  
704 (ii) the population of the preliminary municipality;  
705 (iii) the number of adults and the number of children who reside in the preliminary  
706 municipality; and
- 707 (iv) information regarding the providers of municipal services and emergency services  
708 to the preliminary municipality;  
709 (f) the proposed name for the town; and

710 (g) a signature sheet containing the names, addresses, and signatures of a majority of  
711 the adult residents of the preliminary municipality, supporting the proposed name for the town.

712 (3) Within 30 days after the day on which a person files a petition to transition a  
713 preliminary municipality into a town, the lieutenant governor shall:

714 (a) determine whether the preliminary municipality has a population of more than 99  
715 people;

716 (b) examine the petition to determine whether the petition complies with Subsection  
717 (2);

718 (c) if the lieutenant governor determines that the preliminary municipality has a  
719 population of more than 99 people and that the petition complies with Subsection (2), proceed  
720 to transition the preliminary municipality as a town in accordance with Subsection (4);

721 (d) if the lieutenant governor determines that the preliminary municipality has a  
722 population of less than 100 people, deny the petition, inform the person who filed the petition  
723 of the determination, and request that the person refile the petition when the population  
724 exceeds 99 people; and

725 (e) if the lieutenant governor determines that the petition fails to comply with  
726 Subsection (2), deny the petition, inform the person who filed the petition of the denial and the  
727 reason for the denial, and request that the person correct and refile the petition.

728 (4) After making the determination described in Subsection (3)(c), the lieutenant  
729 governor shall:

730 (a) inform the person who filed the petition of the determination;

731 (b) inform the county in which the preliminary municipality is located of the  
732 determination; and

733 (c) direct the county to conduct an election for mayor and city council of the future  
734 town, to be held on the date of the next regular general election described in Section  
735 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at  
736 least 65 days after the day on which the lieutenant governor directs the county to hold the  
737 election.

738 (5) The county shall:

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

740 (b) determine the initial terms of the mayor and municipal council members to ensure



741 that:

742 (i) the mayor and two of the municipal county members are elected in the next

743 municipal general election;

744 (ii) the remaining municipal council members are elected at elections that result in the

745 staggering of council member terms; and

746 (iii) the council members who receive the highest number of votes are assigned the

747 longer initial terms; and

748 (c) provide notice of the election for preliminary municipality as a class B notice under

749 Section [63G-30-102](#), for at least three weeks before the day of the election.

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

751 (a) a statement of the contents of the petition to transition the preliminary municipality

752 to a town;

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

754 (c) the name of the town;

755 (d) information about the deadline for an individual to file a declaration of candidacy to

756 become a candidate for mayor or municipal council;

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

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

759 and

760 (g) a statement that the purpose of the election is to elect a mayor and a council to

761 govern the town upon the town's incorporation.

762 (7) (a) In addition to the notice described in Subsection (6), the county clerk shall

763 publish and distribute, before the election is held, a voter information pamphlet:

764 (i) in accordance with the procedures and requirements of Section [20A-7-402](#);

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

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

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

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

769 (ii) may include additional information regarding the election of the elected officials

770 and the incorporation of the town.

771 (8) An individual may not vote in the election described in this section unless the

772 individual is a registered voter who is a resident, as defined in Section 20A-1-102, within the  
773 boundaries of the preliminary municipality.

774 (9) On the day after the day on which the canvass for the election is completed:

775 (a) the elected mayor and council members shall take office and replace the mayor and  
776 council members of the preliminary municipality;

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

779 (c) subject to Subsection (13), the town holds all authority and power of a town.

780 (10) The former mayor and council members for the preliminary municipality shall  
781 assist the newly-elected mayor of the town and the newly-elected council members of the town  
782 with the transition to a town and the transfer of power to the elected government of the town.

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

786 (12) Within 30 days after the day on which the mayor takes office under Subsection  
787 (9)(a), the mayor shall record the certification described in Subsection (9)(b), and a copy of the  
788 plat for the municipality, with the county clerk.

789 (13) Until the mayor complies with Subsection (12), the municipality may not, except  
790 as it relates to a tax already imposed by the municipality as a preliminary municipality:

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

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

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

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

795 **Section 14. Effective date.**

796 This bill takes effect on May 1, 2024.