

**Tiara Auxier** proposes the following substitute bill:

**Municipal Incorporation Modifications**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Tiara Auxier**

Senate Sponsor: Kirk A. Cullimore

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- defines terms and modifies definitions;
- requires an applicant to engage in good faith coordination with a county for 18 months before the applicant may file a feasibility request as part of an application to incorporate an area as a preliminary municipality, with an exception;
- modifies the process for a person to apply to incorporate an area as a preliminary municipality;
- authorizes a sponsor and a county to submit data, information, and analysis to the feasibility consultant evaluating a proposed preliminary municipality;
- requires the feasibility consultant to rely on data, information, and analysis that is objective, reliable, and grounded in area-specific information from the preceding 10 years, including information from nearby areas;
- extends the period of time in which a feasibility study shall be completed;
- requires the lieutenant governor to hold public information sessions following a feasibility study;
- modifies the requirements to file a petition for incorporation of a preliminary municipality, including:
  - modifying the requirements for a bond, cash deposit, or letter of credit;
  - requiring a property owner to include an executed improvement warranty; and
  - requiring a certification that the preliminary municipality will be developed in accordance with the description in the certified feasibility request; and
- makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **10-2a-501 (Effective 05/06/26) (Repealed 01/01/31)**, as last amended by Laws of Utah  
36 2025, Chapter 39937 **10-2a-502 (Effective 05/06/26) (Repealed 01/01/31)**, as enacted by Laws of Utah 2024,  
38 Chapter 53439 **10-2a-503 (Effective 05/06/26) (Repealed 01/01/31)**, as enacted by Laws of Utah 2024,  
40 Chapter 53441 **10-2a-504 (Effective 05/06/26) (Repealed 01/01/31)**, as enacted by Laws of Utah 2024,  
42 Chapter 53443 **10-2a-505 (Effective 05/06/26) (Repealed 01/01/31)**, as enacted by Laws of Utah 2024,  
44 Chapter 53445 **10-2a-506 (Effective 05/06/26) (Repealed 01/01/31)**, as last amended by Laws of Utah  
46 2025, Chapter 39947 **10-2a-507 (Effective 05/06/26) (Repealed 01/01/31)**, as enacted by Laws of Utah 2024,  
48 Chapter 53449 **10-2a-508 (Effective 05/06/26) (Repealed 01/01/31)**, as enacted by Laws of Utah 2024,  
50 Chapter 53451 **10-2a-509 (Effective 05/06/26) (Repealed 01/01/31)**, as enacted by Laws of Utah 2024,  
52 Chapter 534

53 ENACTS:

54 **10-2a-502.5 (Effective 05/06/26)**, Utah Code Annotated 195355 **10-2a-505.5 (Effective 05/06/26)**, Utah Code Annotated 1953

56

57 *Be it enacted by the Legislature of the state of Utah:*58 Section 1. Section **10-2a-501** is amended to read:59 **10-2a-501 (Effective 05/06/26) (Repealed 01/01/31). Definitions.**

60 As used in this part:

61 (1) "Affordable housing" means housing occupied or reserved for occupancy by households  
62 with a gross household income equal to or less than:

- 63           (a) 80% of the median gross income of the applicable municipal or county statistical  
64           area for households of the same size for rental housing; or
- 65           (b) 100% of the median gross income of the applicable municipal or county statistical  
66           area for households of the same size for owner-occupied housing.
- 67           (2) "Applicant" means an individual or person who applies to incorporate an area as a  
68           preliminary municipality by filing a feasibility request.
- 69           [(2)] (3) "Board," in relation to a preliminary municipality, means the same as a council  
70           described in Section [~~10-3b-402~~] 10-3b-403.
- 71           [(3)] (4) "Board chair," in relation to a preliminary municipality, means the same as a mayor  
72           described in Section 10-3b-402.
- 73           (5) "Certified feasibility request" means the document that is certified by the lieutenant  
74           governor under Section 10-2a-503.
- 75           [(4)] (6) "Contiguous" means the same as that term is defined in Section 10-2a-102.
- 76           (7) "Declaration" means a document that an individual signs under penalty of perjury.
- 77           [(5)] (8) "Feasibility consultant" means a person or firm:  
78           (a) with expertise in the processes and economics of local government; and  
79           (b) who is independent of, and not affiliated with, a county or a sponsor of a petition to  
80           incorporate a preliminary municipality under this part.
- 81           [(6)] (9) "Feasibility request" means a request, described in Section 10-2a-502, for a  
82           feasibility study for the proposed incorporation of a preliminary municipality.
- 83           (10) "Feasibility study" means an analysis of a certified feasibility request, as described in  
84           Section 10-2a-504, conducted by a feasibility consultant.
- 85           (11) "Full-time" means 183 days a year or more.
- 86           [(7)] (12) "Initial landowners" means the persons who owned the land within the proposed  
87           preliminary municipality area when the [~~person~~] applicant filed the feasibility request [  
88           under Section 20A-1-501] as described in this part.
- 89           [(8)] (13) "Municipal service" means the same as that term is defined in Section 10-2a-102.
- 90           [(9)] (14) "Pending annexation area" means an area proposed for annexation in an  
91           annexation petition described in Section 10-2-806 that is filed before, and is still pending  
92           when, a person files the applicable request for a feasibility study under Section  
93           10-2a-502.
- 94           (15) "Population" means the number of individuals who are full-time residents of a defined  
95           area.
- 96           [(10)] (16) "Primary sponsor contact" means:

- 97 (a) in relation to a feasibility request:
- 98 (i) the individual designated as the primary sponsor contact for a feasibility request
- 99 under Subsection [~~10-2a-502(5)(e)~~] 10-2a-502(5)(a)(iii); or
- 100 (ii) an individual designated, in writing, by the initial landowners if a replacement
- 101 primary sponsor contact is needed; or
- 102 (b) in relation to a petition for incorporation of a preliminary municipality:
- 103 (i) the individual designated as the primary sponsor contact for a petition for
- 104 incorporation of a preliminary municipality under Subsection [~~10-2a-507(1)(d)~~]
- 105 10-2a-507(1)(e); or
- 106 (ii) an individual designated, in writing, by the initial landowners if a replacement
- 107 primary sponsor contact is needed.
- 108 [~~11~~] (17) "Private," in relation to real property, means taxable real property.
- 109 [~~12~~] (18) "Proposed preliminary municipality area" means the area proposed for
- 110 incorporation as a preliminary municipality in a feasibility request.
- 111 (19) "Public financing tool" means any mechanism that allows a private entity to utilize tax
- 112 revenue.
- 113 [~~13~~] (20) "System infrastructure" means, as shown on the map or plat described in
- 114 Subsection [~~10-2a-502(5)(e)~~] 10-2a-502(5)(a)(v) for the proposed preliminary municipal
- 115 area:
- 116 (a) the main thoroughfares within the proposed preliminary [~~municipal~~] municipality
- 117 area, including the roads that connect the proposed preliminary municipality area to
- 118 an existing road outside the proposed preliminary municipality area; and
- 119 (b) the main lines that will connect a utility, including culinary water and wastewater
- 120 treatment services, to the proposed preliminary municipality area, including the stubs
- 121 that will connect the main lines to the development in the proposed preliminary
- 122 municipality area[-] ; and
- 123 (c) construction of culinary water facilities, wastewater treatment facilities, or both, if no
- 124 services exist that would meet the requirements of the proposed preliminary
- 125 municipality area.
- 126 (21) "Utah Population Committee" means the committee created in Section 63C-20-103.
- 127 Section 2. Section **10-2a-502** is amended to read:
- 128 **10-2a-502 (Effective 05/06/26) (Repealed 01/01/31). Incorporation of a**
- 129 **preliminary municipality -- Feasibility request -- Requirements.**
- 130 (1)(a) A person may apply to incorporate an area as a preliminary municipality by filing

- 131 a feasibility request;
- 132 (i) after fulfilling the requirements in Section 10-2a-502.5; and
- 133 (ii) [-]in accordance with this section.
- 134 (b) A person filing a feasibility request shall designate an individual in the application
- 135 who:
- 136 (i) has the authority to represent the person; and
- 137 (ii) will serve as the point of contact for the application.
- 138 (2) Subject to Subsection (6), [~~person~~] an applicant may file a feasibility request in relation
- 139 to an area that the [~~person~~] applicant seeks to incorporate as a preliminary municipality if:
- 140 (a) the area is contiguous;
- 141 (b) no part of the area is within a county of the first class or second class;
- 142 (c) no part of the area is within, or within .25 miles of, a municipality;
- 143 (d) on the day on which the [~~person~~] applicant files the feasibility request:
- 144 (i) the area is owned by no more than three persons, all of whom consent to
- 145 incorporation as a preliminary municipality; and
- 146 (ii) at least 50% of the area is undeveloped;
- 147 (e) the persons who sign the feasibility request intend to and, if the preliminary
- 148 municipality is incorporated, shall develop the area to the point that:
- 149 (i) at least 100 individuals reside full-time in the area;
- 150 (ii) the area will have an average population density of no less than seven individuals
- 151 per square mile, unless:
- 152 (A) a population density of less than seven individuals per square mile is
- 153 necessary in order to connect separate areas that share a demonstrable
- 154 community interest; and
- 155 (B) the average population of the area has a population density of no less than
- 156 seven individuals per square mile if the land necessary to connect the separate
- 157 areas described in Subsection (2)(e)(ii)(A) is not included in the calculation;
- 158 and
- 159 (iii) at least 10% of the housing in the preliminary municipality is affordable housing;
- 160 (f) the area does not include land owned by the United States government unless:
- 161 (i) the area, including the land owned by the United States government, is
- 162 contiguous; and
- 163 (ii)(A) incorporating the land is necessary to connect separate areas that share a
- 164 demonstrable community interest; or

- 165 (B) excluding the land from the area would create an unincorporated island within  
166 the proposed preliminary municipality;
- 167 (g) the area is entirely within one county;
- 168 (h) the applicant has complied with Section 10-2a-502.5; and
- 169 [~~h~~] (i) the feasibility request complies with Subsection (3).
- 170 (3)(a) A proposed preliminary municipality area may not include all or part of a pending  
171 annexation area, unless:
- 172 (i) the portion of the pending annexation area included in the proposed preliminary  
173 municipality area does not exceed 20% of the proposed preliminary municipality  
174 area; and
- 175 (ii) the feasibility request would comply with the requirements of this section  
176 regardless of whether the portion of the pending annexation area included in the  
177 proposed preliminary municipality area is excluded from, or remains included in,  
178 the proposed preliminary municipality area.
- 179 (b) A proposed preliminary municipality area may not include all or part of an area that  
180 is the subject of a completed feasibility study or supplemental feasibility study that  
181 qualifies to proceed under Subsection 10-2a-205(5)(a), unless:
- 182 (i) the proposed incorporation that is the subject of the completed feasibility study or  
183 supplemental feasibility study has been defeated by the voters at an election under  
184 Section 10-2a-210; or
- 185 (ii) the time described in Subsection 10-2a-208(1) for filing an incorporation petition  
186 based on the completed feasibility study or supplemental feasibility study has  
187 elapsed without the sponsors filing an incorporation petition under Section  
188 10-2a-208.
- 189 (c) A proposed preliminary municipality area may not include all or part of an area that  
190 is the subject of a completed feasibility study or supplemental feasibility study whose  
191 results comply with Subsection 10-2a-504(4), unless the time described in Subsection  
192 10-2a-507(1) for filing a petition for incorporation based on the completed feasibility  
193 study or supplemental feasibility study has elapsed without the sponsors filing a  
194 petition for incorporation under Section 10-2a-507.
- 195 (4) Except as provided in Section 10-2a-505, the lieutenant governor shall consider each  
196 feasibility request that includes an area described in Subsection (3)(a) as if the request  
197 does not include the area described in Subsection (3)(a).
- 198 (5)(a) [~~A person~~] An applicant who files a feasibility request under this section shall file

199 the feasibility request with the lieutenant governor, including in the feasibility request:

200 [~~(a)~~] (i) the signatures of all owners of real property included in the proposed

201 preliminary municipality area, showing that the owners consent to including the

202 real property in the proposed preliminary municipality area;

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

204 request;

205 [~~(c)~~] (iii) a designation of one individual who signs the feasibility request as the

206 primary sponsor contact for the feasibility request;

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

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

209 [~~(i)~~] (A) a legal description of the boundaries of the proposed preliminary

210 municipality area and each phase of the proposed preliminary municipality

211 area;

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

213 and]

214 [~~(iii)~~] (C) that the first phase of the proposed preliminary municipality area is

215 projected to have at least 100 full-time residents when completed;

216 (D) that at least 10% of all housing included in the planned development shall

217 qualify as affordable housing, with no more than half of the affordable housing

218 utilized as long-term rentals;

219 (E) that at least 10% of the development qualifies as open space; and

220 (F) that no more than 30% of all housing included in the planned development

221 shall be utilized for short-term rentals;

222 (vi) an explanation of how the applicant intends to ensure that the requirements of

223 Subsections (5)(a)(v)(D) and (E) will be met;

224 (vii) an explanation of the public financing tools, if any, the applicant intends to

225 utilize in developing the preliminary municipality;

226 (viii) confirmation that the applicant has complied with the requirements of Section

227 10-2a-502.5 before filing; and

228 [~~(f)~~] (ix) a request that the lieutenant governor commission a study to determine the

229 feasibility of incorporating the area as a preliminary municipality.

230 (b) An applicant may provide development plans in the alternative in the feasibility

231 request by indicating which plan is the primary plan and which plans may be used if

232 there are market shifts or other market developments, if each plan meets the

- 233 requirements of Subsection (5)(a).
- 234 (c) A feasibility request described in Subsection (5)(a) may not include a material  
 235 change from the proposed development about which the applicant and county  
 236 engaged in good faith coordination, as described in Section 10-2a-502.5.
- 237 (d) The applicant shall sign a declaration at the time of filing, affirming that the  
 238 applicant intends to proceed with the preliminary municipality and subsequent  
 239 development process as described in the feasibility request, and provide the  
 240 declaration to the lieutenant governor with the feasibility request.
- 241 (6)(a) The provisions of this part, providing for the incorporation of a preliminary  
 242 municipality, is a pilot project that ends on January 1, 2031.
- 243 (b) Except as provided in Subsection (7), ~~[a person]~~ an applicant may not file a feasibility  
 244 request under this part in a calendar year during which two or more requests have  
 245 already been filed in the state.
- 246 (7) A feasibility request does not count towards the limit described in Subsection (6)(b) if:  
 247 (a) the sponsors who file the request withdraw the request;  
 248 (b) the lieutenant governor rejects the feasibility request under Subsection 10-2a-503(4)  
 249 or (5)(b), and the sponsors:  
 250 (i) do not timely amend the feasibility request under Subsection 10-2a-503(7)(b); or  
 251 (ii) are prohibited from amending the feasibility request under Subsection  
 252 10-2a-503(7)(c); or
- 253 (c) the process to incorporate is prohibited from proceeding under Subsection [  
 254 ~~10-2a-504(5)(a)] 10-2a-504(7)(a) and the sponsors:  
 255 (i) do not timely file a modified feasibility request under Subsection  
 256 10-2a-505(1)(b)(i); or  
 257 (ii) are prohibited from filing a modified feasibility request under Subsection  
 258 10-2a-505(3).~~
- 259 Section 3. Section **10-2a-502.5** is enacted to read:
- 260 **10-2a-502.5 (Effective 05/06/26). Good faith coordination with county required.**
- 261 (1) An applicant may not apply to incorporate an area as a preliminary municipality by  
 262 filing a feasibility request in accordance with Section 10-2a-502 unless the applicant has  
 263 already engaged in good faith coordination with the county about the planned  
 264 development.
- 265 (2) Good faith coordination under this section requires:
- 266 (a) the applicant to submit, make, or propose:

- 267 (i) a land use application, as defined in Section 17-79-102;  
268 (ii) a formal petition that a county rezone a particular area; or  
269 (iii) a development agreement between the applicant and the county;  
270 (b) the county to provide the applicant with a meaningful opportunity for the applicant to  
271 consult with county staff and officials about the planned development; and  
272 (c) both the applicant and the county:  
273 (i) to make reasonable efforts to find areas in which compromise is possible or  
274 alternative solutions may be found; and  
275 (ii) to identify the specific issues upon which the applicant and county are unable to  
276 reach a mutually agreeable solution, including the factors that make a mutually  
277 agreeable solution impossible or impractical.
- 278 (3) The application, petition, or proposed development agreement described in Subsection  
279 (2)(a) shall make clear to the county:  
280 (a) what the applicant is proposing to do with land in the county;  
281 (b) what the applicant is requesting from the county in order to proceed; and  
282 (c) that the applicant intends to apply to incorporate an area as a preliminary  
283 municipality if the applicant and county are unable to reach a mutually agreeable  
284 resolution.
- 285 (4) A county shall:  
286 (a) accept an application described in Subsection (2)(a) if the application is complete, as  
287 described in Section 17-79-803; and  
288 (b)(i) accept a petition or proposed development agreement described in Subsection  
289 (2)(a) for consideration if the petition or proposed development agreement is  
290 sufficiently clear to begin good faith coordination with the applicant; or  
291 (ii) provide a written explanation of why a petition or proposed development  
292 agreement is not sufficiently clear, including what information the county requires  
293 to render the petition or proposed development agreement sufficiently clear,  
294 within 10 business days of the day on which the county receives the petition or  
295 proposed development agreement.
- 296 (5)(a)(i) No earlier than 18 months after the day on which an applicant takes the  
297 action described in Subsection (2)(a), an applicant that intends to file a feasibility  
298 request under Section 10-2a-502 may submit a request to the county that the  
299 county acknowledge the good faith coordination between the applicant and the  
300 county.

- 301           (ii) Notwithstanding the 18 month requirement in Subsection (5)(a)(i), an applicant  
302           may submit a request to the county that the county acknowledge the good faith  
303           coordination between the applicant and the county earlier than 18 months from the  
304           day on which an applicant takes the action described in Subsection (2)(a) if the  
305           county has denied the applicant's land use application, formal petition, or  
306           proposed development agreement as a final action.
- 307       (b) The applicant shall include in the request described in Subsection (5)(a):
- 308           (i) a description explaining that:
- 309               (A) the requirements of this section have been met; or
- 310               (B) the requirements of this section have been met but for the county's failure to  
311               provide the applicant with a meaningful opportunity to consult or make  
312               reasonable efforts to find compromise or alternative solutions, or both, as  
313               required in Subsections (2)(b) and (c); and
- 314           (ii) that the applicant intends to file a feasibility request under Section 10-2a-502.
- 315       (c) A county that receives a request described in Subsection (5)(a) shall respond to the  
316       request in writing within five business days:
- 317           (i) concurring with the applicant's assertion that the applicant and county have  
318           engaged in good faith coordination, as described in this section, but have been  
319           unable to reach a mutually agreeable solution;
- 320           (ii) disputing the applicant's assertion that the applicant and county have engaged in  
321           good faith coordination; or
- 322           (iii) asserting that the county has engaged in good faith coordination but that the  
323           applicant has failed to make reasonable efforts to find compromise or alternative  
324           solutions.
- 325       (d) If Subsection (5)(c)(ii) or (iii) apply, the county shall provide a rationale for the  
326       county's dispute or assertion in the response described in Subsection (5)(c).
- 327       (6) An applicant may file a feasibility request under Section 10-2a-502:
- 328           (a) after the applicant receives the county's response, as described in Subsection (5)(c); or  
329           (b) if a county fails to timely respond, after the sixth business day following the day on  
330           which the applicant makes a request under Subsection (5)(a).

331       Section 4. Section **10-2a-503** is amended to read:

332           **10-2a-503 (Effective 05/06/26) (Repealed 01/01/31). Processing a feasibility**  
333       **request -- Certification or rejection -- Processing priority -- Determination by the Utah**  
334       **Population Committee.**

- 335 (1) Within 45 days after the day on which an individual files a feasibility request under  
336 Section 10-2a-502, the lieutenant governor shall:
- 337 (a) determine whether the feasibility request complies with Section 10-2a-502; and  
338 (b) notify the clerk of the county where the proposed preliminary municipality area is  
339 located, in writing, of the determination made under Subsection (1)(a) and the  
340 grounds for the determination.
- 341 (2) A county clerk shall:
- 342 (a) inform the lieutenant governor if the applicant does not meet the requirements of  
343 Subsection 10-2a-502.5(6); and
- 344 (b) comply with a request by the lieutenant governor to provide information or a record  
345 to the lieutenant governor or to a sponsor of the feasibility request, to assist in  
346 complying with this part, within five calendar days after the day on which the  
347 lieutenant governor makes the request.
- 348 (3) If the lieutenant governor determines that the feasibility request complies with Section  
349 10-2a-502, the lieutenant governor shall:
- 350 (a) certify the feasibility request; and  
351 (b) transmit written notification of the certification to:
- 352 (i) the primary sponsor contact[;] ;  
353 (ii) the county clerk[;] ; and  
354 (iii) the Utah Population Committee.
- 355 (4) If the lieutenant governor determines that the feasibility request fails to comply with  
356 Section 10-2a-502, the lieutenant governor shall reject the feasibility request and notify  
357 the primary sponsor contact and the county clerk, in writing, of the rejection and the  
358 grounds for the rejection.
- 359 (5)(a) Within 20 days after the day on which the lieutenant governor transmits written  
360 notification under Subsection (3)(b), the Utah Population Committee shall:
- 361 (i) determine whether, based on the map or plat described in Subsection  
362 10-2a-502(5)(e), the proposed preliminary municipality will, when all phases of  
363 the map or plat are completed, likely comply with the population, population  
364 density, and contiguity requirements described in Section 10-2a-502; and  
365 (ii) provide notice of the determination to the lieutenant governor and the county  
366 clerk.
- 367 (b) If the Utah Population Committee determines, under Subsection (5)(a)(i), that, when  
368 all phases of the plan or plat are completed, the proposed preliminary municipality

369 will not likely comply with the population, population density, and contiguity  
370 requirements described in Section 10-2a-502, the lieutenant governor shall rescind  
371 the certification described in Subsection (3) and reject the feasibility request.

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

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

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

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

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

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

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

391 (b) the primary sponsor is required to comply with Section 10-2a-502.5 regarding the  
392 new development plan;

393 (c) the primary sponsor may submit an amended feasibility request as described in  
394 Section 10-2a-502, subject to the limit described in Subsection (7)(c); and

395 (d) the lieutenant governor shall consider an amended feasibility request made under  
396 Subsection (8)(c) as a newly filed feasibility request and process the feasibility  
397 request in accordance with this section.

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

402 Section 5. Section **10-2a-504** is amended to read:

403 **10-2a-504 (Effective 05/06/26) (Repealed 01/01/31). Feasibility study --**  
 404 **Feasibility study consultant -- Qualifications for proceeding with incorporation.**

- 405 (1) Unless the lieutenant governor rescinds the certification under Subsection  
 406 10-2a-503(5)(b), the lieutenant governor shall, within 90 days after the day on which the  
 407 lieutenant governor certifies a feasibility request under Subsection 10-2a-503(3)(a), in  
 408 accordance with Subsection (2), engage a feasibility consultant to conduct a feasibility  
 409 study on the proposed preliminary municipality, as the proposed preliminary  
 410 municipality is described in the certified feasibility request.
- 411 (2) The lieutenant governor shall:
- 412 (a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah  
 413 Procurement Code;
- 414 (b) ensure that the feasibility consultant:
- 415 (i) has expertise in the processes and economics of local government; ~~and~~  
 416 (ii) is not affiliated with a sponsor of the feasibility request or the county in which the  
 417 proposed municipality is located; and  
 418 (iii) comply with the relevant provisions of this part; and
- 419 (c) require the feasibility consultant to:
- 420 (i) submit a draft of the feasibility study to each applicable person with whom the  
 421 feasibility consultant is required to consult under Subsection (3)(c) within ~~[90]~~ 120  
 422 days after the day on which the lieutenant governor engages the feasibility  
 423 consultant to conduct the study;
- 424 (ii) allow each person to whom the consultant provides a draft under Subsection  
 425 (2)(c)(i) to review and provide comment on the draft;
- 426 (iii) submit on the same day a completed feasibility study, including a one-page  
 427 summary of the results, to the following within ~~[120]~~ 180 days after the day on  
 428 which the lieutenant governor engages the feasibility consultant to conduct the  
 429 feasibility study:
- 430 (A) the lieutenant governor;
- 431 (B) the county legislative body of the county in which the proposed preliminary  
 432 municipality area is located;
- 433 (C) the primary sponsor contact; and
- 434 (D) each person to whom the consultant provided a draft under Subsection (2)(c)(i);  
 435 and
- 436 (iv) attend the public ~~[hearings]~~ information sessions described in Section 10-2a-506

- 437 to present the feasibility study results and respond to questions from the public.
- 438 (3)(a) The feasibility study shall include:
- 439 (i) an analysis of:
- 440 (A) the likely population and population density within the proposed preliminary
- 441 municipality area when all phases of the map or plat for the proposed
- 442 preliminary municipality area are completed;~~and~~
- 443 (B) the population and population density of the area surrounding the proposed
- 444 preliminary municipality area on the day on which the feasibility request was
- 445 submitted; and
- 446 (C) any land use entitlements already established within the proposed preliminary
- 447 municipality area;
- 448 (ii) an analysis of the following, determined as if, at the time of the analysis, the
- 449 proposed [-]preliminary municipality area is incorporated as a town with a
- 450 population of 100 [~~people~~] individuals:
- 451 (A) the initial~~and projected~~ , five-year, and 10-year projected demographics and
- 452 tax base within the boundaries of the proposed preliminary municipality area
- 453 and the surrounding area, including household size and income, commercial
- 454 and industrial development, and public facilities;
- 455 (B) subject to Subsection (3)(b), the initial~~and~~ , five-year, and 10-year projected
- 456 cost of providing all required municipal services to the proposed preliminary
- 457 municipality area, including administrative costs and the costs of public
- 458 infrastructure required to provide each municipal service to the proposed
- 459 preliminary municipality area;
- 460 (C) assuming the same tax categories and tax rates as imposed by the county and
- 461 all other current service providers at the time during which the feasibility
- 462 consultant prepares the feasibility study, the initial~~and~~ , five-year, and
- 463 10-year projected revenue for the proposed preliminary municipality area;
- 464 (D) the risks and opportunities that might affect the actual costs described in
- 465 Subsection (3)(a)(ii)(B) or the revenues described in Subsection (3)(a)(ii)(C) of
- 466 the proposed preliminary municipality area;
- 467 (E) new revenue sources that may be available to the proposed preliminary
- 468 municipality area that are not available before the area incorporates, including
- 469 an analysis of the amount of revenues the proposed preliminary municipality
- 470 area might obtain from those revenue sources;

- 471 (F) the projected tax burden per household of any new taxes that may be levied  
472 within the proposed preliminary municipality area within five and 10 years  
473 after incorporation as a town; and
- 474 (G) the fiscal impact of the proposed preliminary municipality area's incorporation  
475 as a town on unincorporated areas, other municipalities, special districts,  
476 special service districts, and other governmental entities in the county; and
- 477 (iii) an analysis regarding whether sufficient water will be available to support the  
478 proposed preliminary municipality area when the development of the area is  
479 complete.
- 480 (b)(i) In calculating the projected costs under Subsection (3)(a)(ii)(B), the feasibility  
481 consultant shall assume the proposed preliminary municipality area will provide a  
482 level and quality of municipal services that fairly and reasonably approximate the  
483 level and quality of municipal services that are provided to the area surrounding  
484 the proposed preliminary municipality area at the time the feasibility consultant  
485 conducts the feasibility study.
- 486 (ii) In calculating the current cost of a required municipal service under Subsection  
487 (3)(a)(ii)(B), the feasibility consultant shall consider:
- 488 (A) the amount it would cost the proposed preliminary municipality area to  
489 provide the required municipal service for the first five years and 10 years after  
490 the area incorporates as a town; and
- 491 (B) the proposed or current municipal service provider's initial~~[-and]~~ , five-year,  
492 and 10-year projected cost of providing the required municipal service after the  
493 proposed preliminary municipality area incorporates as a town.
- 494 (iii) In calculating costs under Subsection (3)(a)(ii)(B), the feasibility consultant shall  
495 account for inflation and anticipated growth.
- 496 (c) In conducting the feasibility study, the feasibility consultant shall consult with the  
497 following before submitting a draft of the feasibility study under Subsection (2)(c)(iii):
- 498 (i) if the proposed preliminary municipality will include lands owned by the United  
499 States federal government, the entity within the United States federal government  
500 that has jurisdiction over the land;
- 501 (ii) if the proposed preliminary municipality will include lands owned by the state,  
502 the entity within state government that has jurisdiction over the land;
- 503 (iii) each entity that provides, or is proposed to provide, a municipal service to a  
504 portion of the proposed preliminary municipality area;~~[-and]~~

- 505 (iv) each other special service district that provides, or is proposed to provide,  
506 services to a portion of the proposed preliminary municipality area[-] ; and
- 507 (v) the legislative body of the county in which the preliminary municipality area is  
508 located.
- 509 (4)(a) The legislative body of the county in which the preliminary municipality area is  
510 located may provide the feasibility consultant with data, information, and analysis the  
511 legislative body considers relevant to the feasibility study.
- 512 (b) Data, information, and analysis described in Subsection (4)(a) may include:
- 513 (i) areas in which the county and applicant were able to reach a mutually agreeable  
514 solution during the good faith coordination required by Section 10-2a-502.5;
- 515 (ii) information supporting or explaining the county's position in regard to issues  
516 upon which the applicant and county were unable to reach a mutually agreeable  
517 solution, including the factors that make a mutually agreeable solution impossible  
518 or impractical, during the good faith coordination required by Section 10-2a-502.5;
- 519 (iii) the county's assessment of the necessary system infrastructure to support the  
520 proposed development, including any fill and grading required before paved roads  
521 can be placed;
- 522 (iv) projected needs for future property tax increases;
- 523 (v) projected county costs in regard to development of the proposed preliminary  
524 municipality area, including development costs outside but adjacent to the  
525 proposed preliminary municipality area;
- 526 (vi) deferred maintenance costs in or near the proposed preliminary municipality area;
- 527 (vii) the sponsor's plan, if any, to utilize a public financing tool in developing the  
528 proposed preliminary municipality area; and
- 529 (viii) unique factors about the county or the proposed preliminary municipality or  
530 both that may create a strain on county resources in the future.
- 531 (c) The feasibility consultant shall consider data, information, and analysis provided by  
532 the county under Subsection (4)(a), and use the data, information, and analysis in the  
533 feasibility study in accordance with Subsection (5).
- 534 (5)(a) The analysis required by Subsection (3) shall be based on:
- 535 (i) data, information, and analysis that is objective, reliable, and grounded in  
536 area-specific information from the preceding 10 years, including nearby areas; and
- 537 (ii) professional or market-based studies, including market absorption, pricing, and  
538 existing available lots in the area and nearby areas.

- 539 (b) The feasibility consultant shall:
- 540 (i) only use data, information, or analysis provided by a sponsor or a county if the
- 541 feasibility consultant determines the data, information, or analysis can be
- 542 independently verified to meet the requirements of Subsection (5)(a);
- 543 (ii) provide an explanation of the determination described in Subsection (5)(b)(i) in
- 544 the feasibility study; and
- 545 (iii) provide a signed declaration to the lieutenant governor that the feasibility
- 546 consultant complied with the requirements of Subsections (4) and (5) at the time
- 547 the feasibility consultant submits a draft or a complete feasibility study.
- 548 [(4)] (6) If the five-year and 10-year projected revenues calculated under Subsection
- 549 (3)(a)(ii)(C) exceed the five-year and 10-year projected costs calculated under
- 550 Subsection (3)(a)(ii)(B) by more than 5%, the feasibility consultant shall project and
- 551 report the expected annual revenue surplus to:
- 552 (a) the primary sponsor contact;
- 553 (b) the legislative body of the county in which the preliminary municipality area is
- 554 located; and
- 555 (c) the lieutenant governor.
- 556 [(5)] (7)(a) Except as provided in Subsection [(5)(b)] (7)(b), if the results of the feasibility
- 557 study, or a supplemental feasibility study described in Section 10-2a-505, show that
- 558 the average annual amount of revenue calculated under Subsection (3)(a)(ii)(C) does
- 559 not exceed the average annual cost calculated under Subsection (3)(a)(ii)(B) by more
- 560 than 5%, the process to incorporate the area that is the subject of the feasibility study
- 561 or supplemental feasibility study may not proceed.
- 562 (b) Except as provided in Subsection 10-2a-505(3), the process to incorporate an area
- 563 described in Subsection [(5)(a)] (7)(a) may proceed if a subsequent supplemental
- 564 feasibility study conducted under Section 10-2a-505 for the proposed incorporation
- 565 demonstrates ~~[compliance with Subsection (5)(a)]~~ that the average annual amount of
- 566 revenue calculated under Subsection (3)(a)(ii)(C) does exceed the average annual
- 567 cost calculated under Subsection (3)(a)(ii)(B) by more than 5%.
- 568 [(6)] (8) If the results of the feasibility study or revised feasibility study do not comply with
- 569 Subsection [(5)] (6), and if requested by the sponsors of the request, the feasibility
- 570 consultant shall, as part of the feasibility study or revised feasibility study, make
- 571 recommendations regarding how the proposed preliminary municipality area may be
- 572 altered to comply with Subsection [(5)] (7), unless the sponsors are precluded from

573 modifying the feasibility request under Subsection 10-2a-505(3).

574 ~~[(7)]~~ (9) The lieutenant governor shall post a copy of the feasibility study, and any  
575 supplemental feasibility study described in Section 10-2a-505, on the lieutenant  
576 governor's website and make a copy available for public review at the lieutenant  
577 governor's office.

578 Section 6. Section **10-2a-505** is amended to read:

579 **10-2a-505 (Effective 05/06/26) (Repealed 01/01/31). Modified feasibility request**  
580 **-- Supplemental feasibility study.**

581 (1)(a) The sponsors of a feasibility request may modify ~~[the request to alter the~~  
582 ~~boundaries of the proposed preliminary municipality area]~~ a certified feasibility  
583 request and refile the modified feasibility request with the lieutenant governor only if:

584 (i) the results of the feasibility study do not comply with Subsection ~~[10-2a-504(5)(a)]~~  
585 10-2a-504(7)(a); or

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

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

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

592 (b)(i) The sponsors of a feasibility request may not file a modified request under  
593 Subsection (1)(a)(i) more than 90 days after the day on which the feasibility  
594 consultant submits the final results of the feasibility study under Subsection  
595 10-2a-504(2)(c)(iii).

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

599 (c) A modified feasibility request under Subsection (1)(a) shall comply with Subsections  
600 10-2a-502(1) through ~~[(4)]~~ (5).

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

605 (2) The timely filing of a modified feasibility request under Subsection (1) gives the  
606 modified feasibility request the same processing priority under Subsection 10-2a-503(6)

- 607 as the original feasibility request.
- 608 (3) The sponsors of a feasibility request may not file a modified feasibility request under  
609 Subsection (1)(a)(i) more than once.
- 610 (4) Within 10 days after the day on which the county clerk receives a modified feasibility  
611 request under Subsection (1)(a) that relates to a request for which a feasibility study has  
612 already been completed, the lieutenant governor shall commission the feasibility  
613 consultant who conducted the feasibility study to conduct a supplemental feasibility  
614 study that accounts for the modified feasibility request.
- 615 (5) The lieutenant governor shall require the feasibility consultant to:
- 616 (a) comply with the requirement to:
- 617 (i) consider data, information, and analysis provided by the county as described in  
618 Subsection 10-2a-504(4); and
- 619 (ii) only use data, information, and analysis that meets the requirements of  
620 Subsection 10-2a-504(5);
- 621 (b) submit a draft of the supplemental feasibility study to each applicable person with  
622 whom the feasibility consultant is required to consult under Subsection  
623 10-2a-504(3)(c) within ~~[30]~~ 45 days after the day on which the feasibility consultant  
624 is engaged to conduct the supplemental study;
- 625 ~~[(b)]~~ (c) allow each person to whom the consultant provided a draft under Subsection [  
626 ~~(5)(a)]~~ (5)(b) to review and provide comment on the draft;~~[-and]~~
- 627 ~~[(e)]~~ (d) submit on the same day a completed supplemental feasibility study, to the  
628 following within ~~[45]~~ 60 days after the day on which the feasibility consultant is  
629 engaged to conduct the feasibility study:
- 630 (i) the lieutenant governor;
- 631 (ii) the county legislative body of the county in which the incorporation is proposed;
- 632 (iii) the primary sponsor contact; and
- 633 (iv) each person to whom the consultant provided a draft under Subsection [~~(5)(a)-]~~  
634 (5)(b); and
- 635 (e) provide a signed declaration to the lieutenant governor that the feasibility consultant  
636 will comply with the requirements of this Subsection (5).
- 637 (6)(a) Subject to Subsections (3) and (6)(b), if the results of the supplemental feasibility  
638 study do not comply with Subsection ~~[10-2a-504(4)]~~ 10-2a-504(5), the sponsors may  
639 further modify the request in accordance with Subsection (1).
- 640 (b) Subsections (1)(d), (4), and (5) apply to a modified feasibility request described in

641 Subsection (6)(a).

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

645 Section 7. Section **10-2a-505.5** is enacted to read:

646 **10-2a-505.5 (Effective 05/06/26). County audit of a feasibility study or**  
647 **supplemental feasibility study.**

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

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

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

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

655 Section 8. Section **10-2a-506** is amended to read:

656 **10-2a-506 (Effective 05/06/26) (Repealed 01/01/31). Public information session**  
657 **on feasibility study results -- Notice of information session.**

658 (1) If the results of the feasibility study or supplemental feasibility study comply with  
659 Subsection [~~10-2a-504(4),~~] 10-2a-504(5), the lieutenant governor shall, after receipt of  
660 the results of the feasibility study or supplemental feasibility study, conduct [~~public~~  
661 ~~hearings~~] at least one public information session in accordance with this section.

662 (2)(a) If a portion of the proposed preliminary municipality area is approved for  
663 annexation after the feasibility study or supplemental feasibility study is conducted  
664 but before the lieutenant governor conducts a public [~~hearing~~] information session  
665 under Subsection (4), the lieutenant governor may not conduct the public [~~hearing~~]  
666 information session under Subsection (4) unless:

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

669 (ii) the results of the supplemental feasibility study comply with Subsection  
670 10-2a-504(4).

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

673 (i) approves an annexation petition proposing the annexation of an area that is part of  
674 the proposed preliminary municipality area under Section 10-2-810 or 10-2-811; or

- 675 (ii) adopts an ordinance approving the annexation of an area that is part of the  
 676 proposed preliminary municipality area under Section 10-2-812.
- 677 (3) The lieutenant governor shall conduct a public ~~[hearing]~~ information session:
- 678 (a) within 60 days after the day on which the lieutenant governor receives the results  
 679 under Subsection (1) or (2)(a)(ii);
- 680 (b) at a location within or near the proposed preliminary municipality area or through a  
 681 virtual, online format; and
- 682 (c) to allow the feasibility consultant to present the results of the feasibility study and  
 683 inform the public about the results.
- 684 (4) The lieutenant governor shall:
- 685 (a) conduct an additional public ~~[hearing]~~ information sessions following each occasion  
 686 when, after the day of the initial public ~~[hearing]~~ information session, the lieutenant  
 687 governor receives the results of a supplemental feasibility study that comply with  
 688 Subsection 10-2a-504(4); and
- 689 (b) hold the public ~~[hearing]~~ information session described in Subsection (4)(a):
- 690 (i) within 30 days after the day on which the lieutenant governor receives the results  
 691 of the supplemental feasibility study;
- 692 (ii) at a location within or near the proposed preliminary municipality or through a  
 693 virtual, online format;
- 694 (iii) to inform the public that the feasibility presented to the public at the preceding  
 695 public ~~[hearing]~~ information session does not apply; and
- 696 (iv) to allow the feasibility consultant to present the results of the supplemental  
 697 feasibility study and inform the public about the results.
- 698 (5)(a) At each public ~~[hearing]~~ information session required under this section, the  
 699 lieutenant governor shall:
- 700 ~~[(a)]~~ (i) provide a map or plat of the boundary of the proposed preliminary  
 701 municipality;
- 702 ~~[(b)]~~ (ii) provide a copy of the applicable feasibility study for public review;
- 703 ~~[(c)]~~ (iii) allow members of the public to express views about the proposed  
 704 preliminary municipality, including views about the proposed boundaries; and
- 705 ~~[(d)]~~ (iv) allow the public to ask the feasibility consultant questions about the  
 706 applicable feasibility study.
- 707 (b) A public information session may be conducted entirely virtually if the lieutenant  
 708 governor is able to comply with this Subsection (5).

709 (6) The lieutenant governor shall publish notice of each public [~~hearing~~] information session  
 710 required under this section for the proposed preliminary municipality area, as a class B  
 711 notice under Section 63G-30-102, for at least three weeks before the day of the public [  
 712 ~~hearing~~] information session.

713 (7)(a) Except as provided in Subsection (7)(b), for [~~a hearing~~] a public information  
 714 session described in this section, the notice described in Subsection (6) shall:

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

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

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

722 (i) the lieutenant governor's website;

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

724 (iii) a mailing address and telephone number.

725 Section 9. Section **10-2a-507** is amended to read:

726 **10-2a-507 (Effective 05/06/26) (Repealed 01/01/31). Petition for incorporation --**  
 727 **Requirements and form.**

728 (1) At any time within one year after the day on which the lieutenant governor completes  
 729 the public [~~hearings~~] information session required under Section 10-2a-506, the owners  
 730 of the property who filed the feasibility request under Section 10-2a-502 for the  
 731 proposed preliminary municipality area may proceed with the incorporation process by  
 732 filing a petition for incorporation of the proposed preliminary municipality that:

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

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

737 (c) demonstrates compliance with Subsection [~~10-2a-504(4)~~] 10-2a-504(5);

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

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

740 (f) designates the board chair and three of the four board members who will serve as a  
 741 five member council form of government for the preliminary municipality, described  
 742 in [~~Section~~] Sections 10-3b-402 and 10-3b-403, for the preliminary municipality;

- 743 (g) is accompanied by an accurate map or plat, prepared by a licensed surveyor, that  
744 conforms to the information, including planning and phasing, that was included in the  
745 certified feasibility request showing:
- 746 (i) the boundaries of the proposed preliminary municipality;
  - 747 (ii) a single development plan for the proposed municipality, depicting each phase of  
748 the development; and
  - 749 (iii) the structure that will serve as a municipal building or community center where  
750 preliminary municipality or future incorporated town business or operations may  
751 be conducted, which shall be completed in the first phase of the development;
- 752 (h) is accompanied by a bond, cash deposit, or letter of credit that:
- 753 (i) is posted by the initial landowners;
  - 754 (ii) is in favor of the county in which the preliminary municipality area is located, up  
755 and until the time the preliminary municipality is incorporated as a town, to  
756 guarantee that the initial landowners will complete any infrastructure for which  
757 construction has begun or which is necessary, under state law or county ordinance,  
758 for any developed parcels;
  - 759 [~~(iii)~~] (iii) is in favor of the town that is incorporated from the proposed preliminary  
760 municipality, to guarantee that the initial landowners will complete the system  
761 infrastructure no later than six years after the day on which the initial landowners  
762 file the petition for incorporation described in this section; [~~and~~]
  - 763 [~~(iii)~~] (iv) meets the requirements of Subsection (4);
  - 764 (v) is held by an institution independent from the sponsor; and
  - 765 (vi) will be refunded to the initial landowners in percentages that reflect the progress  
766 toward completing the system infrastructure; [~~and~~]
- 767 (i) is accompanied by an executed improvement warranty for the improvement warranty  
768 period, which may be a cash deposit, surety bond, letter of credit, or other similar  
769 security, as required by the county, in the amount of up to 10% of the lesser of the:
- 770 (i) county engineer's estimated cost of completion; or
  - 771 (ii) the initial landowner's reasonable proven cost of completion;
- 772 (j) is accompanied by payment in full, from the initial landowners, of the costs incurred  
773 by the lieutenant governor for the feasibility study, the public notices, the [~~hearings~~]  
774 public information sessions, and the other expenses incurred by the lieutenant  
775 governor to comply with the requirements of this part in relation to the proposed  
776 preliminary municipality[~~;~~] ; and

777 (k) includes a declaration indicating that the sponsor will develop the preliminary  
778 municipality in accordance with the description in the certified feasibility request, or  
779 an alternate description included in the certified feasibility request, subject to  
780 conditions identified in the final feasibility study, including the overall master plan  
781 layout, number of housing units, build schedule phasing, affordable housing  
782 requirements, and structure described in Subsection (1)(g)(iii).

783 (2)(a) If, within six years after the day on which the initial landowners file a petition for  
784 incorporation under Subsection (1), the system infrastructure for the preliminary  
785 municipality is not completed, the portion of the bond, cash deposit, or letter of credit  
786 described in Subsection (1)(h) that has not been refunded to the initial landowners  
787 shall forfeit to ~~the preliminary municipality~~ :

788 (i) the county, if the preliminary municipality has not incorporated as a town; or

789 (ii) the town.

790 (b) The provisions of Title 10, Chapter 20, Municipal Land Use, Development, and  
791 Management Act, Title 17, Chapter 79, County Land Use, Development, and  
792 Management Act, and relevant local land use regulations adopted in accordance with  
793 those provisions govern:

794 (i) the determination of whether, within the improvement warranty period, an  
795 improvement is not completed, fails, or is demonstrated to be faulty or  
796 substandard; and

797 (ii) whether the executed improvement warranty described in Subsection (1)(i) shall  
798 forfeit to the county, if the preliminary municipality has not incorporated as a  
799 town, or the town.

800 (3) If, within four years after the day on which the first residential certificate of occupancy  
801 is issued for ~~[the development described in Subsection 10-2a-503(5)(e)]~~ a residential unit  
802 within the preliminary municipality, or six years after the day on which the initial  
803 landowners file a petition for incorporation under Subsection (1), the preliminary  
804 municipality has not transitioned to a town:

805 (a) the lieutenant governor shall issue a certificate dissolving the preliminary  
806 municipality;

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

809 (c) the area within the proposed municipality falls under the jurisdiction of the county  
810 and is no longer incorporated; and

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

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

815 (a) based on engineering estimates or construction bids; and

816 (b) by an independent financial or risk management consultant retained by the county,  
817 subject to consultation with the sponsor.

818 (5) The improvement warranty period and improvement warranty described in Subsection  
819 (1)(i) shall be determined by the county for each type of improvement, according to the  
820 same standards and requirements the county utilizes under Sections 17-79-707 and  
821 17-79-805.

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

823 **10-2a-508 (Effective 05/06/26) (Repealed 01/01/31). Processing of petition by**  
824 **lieutenant governor -- Certification or rejection -- Petition modification.**

825 (1) Within 45 days after the day on which a petition for incorporation is filed under Section  
826 10-2a-507, the lieutenant governor shall:

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

829 (b)(i) if the lieutenant governor determines that the petition for incorporation  
830 complies with Section 10-2a-507, incorporate the preliminary municipality, issue  
831 a certificate of incorporation, and appoint the board chair and three board  
832 members designated under Subsection [~~10-2a-507(1)(e)~~] 10-2a-507(1)(f); or  
833 (ii) if the lieutenant governor determines that the petition for incorporation fails to  
834 comply with Section 10-2a-507, reject the petition for incorporation and notify the  
835 primary sponsor contact in writing of the rejection and the reasons for the  
836 rejection.

837 (2)(a) If the lieutenant governor rejects a petition for incorporation under Subsection  
838 (1)(b)(ii), the sponsors of the petition for incorporation may correct the deficiencies  
839 for which the petition for incorporation was rejected and refile the petition for  
840 incorporation with the lieutenant governor.

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

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

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

850 Section 11. Section **10-2a-509** is amended to read:

851 **10-2a-509 (Effective 05/06/26) (Repealed 01/01/31). Governance of preliminary**  
852 **municipality -- Utilities -- Road maintenance.**

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

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

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

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

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

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

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

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

872 (iii) of the physical address for which the first residential certificate of occupancy  
873 was issued.

874 (b) No later than the next municipal general election, or regular general election, that is  
875 at least 30 days after the date described in Subsection (3)(a)(ii), the initial landowners  
876 shall:

877 (i) replace the board chair or a board member with an individual who is a resident of  
878 the preliminary municipality; and

- 879 (ii) notify the county and the lieutenant governor of the appointment, in writing.
- 880 (4)(a) Subject to Subsection (4)(b), a preliminary municipality has all the powers and  
881 duties of a municipality.
- 882 (b) A preliminary municipality:
- 883 (i) may not impose a tax;
- 884 (ii) may enter into an interlocal agreement with a special district to provide utility  
885 services to the preliminary municipality;
- 886 (iii) has the same authority as another municipality to make decisions regarding  
887 zoning and land use;
- 888 (iv) may not receive an allocation of sales tax or gas tax; and
- 889 (v) may not exercise eminent domain authority.
- 890 (5) As needed, the county shall provide all services and utility connections to the  
891 preliminary municipality that the county provides other areas in the county if the  
892 preliminary municipality:
- 893 (a) pays the uniformly assessed rates for the services and utilities and reasonable  
894 connection fees; and
- 895 (b) complies with the county's established regulations and specifications for the  
896 construction and connection of the local improvements.
- 897 (6)(a) The preliminary municipality and subsequently incorporated town shall maintain  
898 and repair, or cause to be maintained and repaired, any roadway that, on the day on  
899 which the individual filed the feasibility request under Section 10-2a-502:
- 900 [~~(a)~~] (i) existed within the preliminary municipality;
- 901 [~~(b)~~] (ii) was within a public right of way that abuts the preliminary municipality; or
- 902 [~~(c)~~] (iii) was within 1/2 mile of the preliminary municipality and connected to, or  
903 was proposed in the feasibility request to be connected to, the preliminary  
904 municipality.
- 905 (b) Roads on unincorporated land outside of the preliminary municipality area continue  
906 to be governed by the provisions of Title 17, Chapter 79, County Land Use,  
907 Development, and Management Act.
- 908 (7) Before any development occurs within the preliminary municipality area or the  
909 preliminary municipality submits a petition to transition to a town, the preliminary  
910 municipality shall select an independent third-party engineer to review and approve all  
911 building permit applications within the preliminary municipality to ensure compliance  
912 with the law.

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

915 Section 12. **Effective Date.**

916 This bill takes effect on May 6, 2026.