

Michael L. Kohler proposes the following substitute bill:

Municipal Incorporation Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael L. Kohler

Senate Sponsor:

LONG TITLE

General Description:

This bill amends provisions relating to the incorporation of a preliminary municipality.

Highlighted Provisions:

This bill:

▸ provides that:

- a person may not apply to incorporate an area as a preliminary municipality after February 15, 2025;
- a person who applies to incorporate an area as a preliminary municipality by filing a feasibility request on or before February 15, 2025, may proceed in accordance with Title 10, Chapter 2a, Part 5, Incorporation of a Preliminary Municipality, after February 15, 2025;
- a preliminary municipality may not annex an unincorporated area; and
- a municipality may not annex an area if the area was included in a feasibility request to incorporate the area into a preliminary municipality; and
- requires:
 - a proposed preliminary municipality to agree that initial landowners will fully compensate the county for damages to county property or infrastructure before the preliminary municipality can transition into a town;
 - a preliminary municipality located in the fourth through sixth class to comply with terms, conditions, or restrictions that were established in a development agreement between the initial landowners and the county before the feasibility request was filed;
 - a preliminary municipality to comply with county standards for infrastructure; and
 - that a petition to transition a preliminary municipality into a town shall certify that damages to county property or infrastructure have been paid in full.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

10-2-402 (Effective 05/07/25), as last amended by Laws of Utah 2023, Chapters 224, 478

10-2a-502 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

10-2a-505 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

10-2a-507 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

10-2a-509 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

10-2a-510 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31), as enacted by Laws of Utah 2024, Chapter 534

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

Section 1. Section **10-2-402** is amended to read:

10-2-402 (Effective 05/07/25). Annexation -- Limitations.

(1)(a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

(b) Except as provided in Subsection (1)(c), an unincorporated area may not be annexed to a municipality unless:

(i) the unincorporated area is a contiguous area;

(ii) the unincorporated area is contiguous to the municipality;

(iii) annexation will not leave or create an unincorporated island or unincorporated peninsula:

(A) except as provided in Subsection 10-2-418(3);

(B) except where an unincorporated island or peninsula existed before the annexation, if the annexation will reduce the size of the unincorporated island or peninsula; or

(C) unless the county and municipality have otherwise agreed; and

(iv) for an area located in a specified county, the area is within the proposed annexing municipality's expansion area.

(c) A municipality may annex an unincorporated area within a specified county that does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated island or unincorporated peninsula, if:

(i) the area is within the annexing municipality's expansion area;

(ii) the specified county in which the area is located and the annexing municipality agree to the annexation;

(iii) the area is not within the area of another municipality's annexation policy plan, unless the other municipality agrees to the annexation; and

(iv) the annexation is for the purpose of providing municipal services to the area.

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

(3)(a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.

(4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

(5)(a) As used in this subsection, "expansion area urban development" means:

(i) for a specified county, urban development within a city or town's expansion area; or

(ii) for a county of the first class, urban development within a city or town's expansion area that:

(A) consists of 50 or more acres;

(B) requires the county to change the zoning designation of the land on which the urban development is located; and

(C) does not include commercial or industrial development that is located within a mining protection area as defined in Section 17-41-101, regardless of whether the commercial or industrial development is for a mining use as defined in Section 17-41-101.

(b) A county legislative body may not approve expansion area urban development

98 unless:

99 (i) the county notifies the city or town of the proposed development; and

100 (ii)(A) the city or town consents in writing to the development;

101 (B) within 90 days after the county's notification of the proposed development, the
102 city or town submits to the county a written objection to the county's approval
103 of the proposed development and the county responds in writing to the city or
104 town's objection; or

105 (C) the city or town fails to respond to the county's notification of the proposed
106 development within 90 days after the day on which the county provides the
107 notice.

108 (6)(a) As used in this Subsection (6), "airport" means an area that the Federal Aviation
109 Administration has, by a record of decision, approved for the construction or
110 operation of a Class I, II, or III commercial service airport, as designated by the
111 Federal Aviation Administration in 14 C.F.R. Part 139.

112 (b) A municipality may not annex an unincorporated area within 5,000 feet of the center
113 line of any runway of an airport operated or to be constructed and operated by
114 another municipality unless the legislative body of the other municipality adopts a
115 resolution consenting to the annexation.

116 (c) A municipality that operates or intends to construct and operate an airport and does
117 not adopt a resolution consenting to the annexation of an area described in Subsection
118 (6)(b) may not deny an annexation petition proposing the annexation of that same
119 area to that municipality.

120 (7)(a) As used in this Subsection (7), "project area" means a project area as defined in
121 Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102
122 adopted by the Military Installation Development Authority under Title 63H, Chapter
123 1, Military Installation Development Authority Act.

124 (b) A municipality may not annex an unincorporated area located within a project area
125 without the authority's approval.

126 (c)(i) Except as provided in Subsection (7)(c)(ii), the Military Installation
127 Development Authority may petition for annexation of the following areas to a
128 municipality as if the Military Installation Development Authority was the sole
129 private property owner within the area:

130 (A) an area within a project area;

131 (B) an area that is contiguous to a project area and within the boundaries of a

- 132 military installation;
- 133 (C) an area owned by the Military Installation Development Authority; and
- 134 (D) an area that is contiguous to an area owned by the Military Installation
- 135 Development Authority that the Military Installation Development Authority
- 136 plans to add to an existing project area.
- 137 (ii) If any portion of an area annexed under a petition for annexation filed by the
- 138 Military Installation Development Authority is located in a specified county:
- 139 (A) the annexation process shall follow the requirements for a specified county;
- 140 and
- 141 (B) the provisions of Section 10-2-402.5 do not apply.
- 142 (8) A municipality may not annex an unincorporated area if:
- 143 (a)(i) the area is proposed for incorporation in:
- 144 ~~[(i)]~~ (A) a feasibility study conducted under Section 10-2a-205; or
- 145 ~~[(ii)]~~ (B) a supplemental feasibility study conducted under Section 10-2a-206; and
- 146 ~~[(b)]~~ (ii) the county clerk completes the second public hearing on the proposed
- 147 incorporation under Subsection 10-2a-207(4)~~[-]~~ ; or
- 148 (b) the area was included in a feasibility request filed to incorporate the area as a
- 149 preliminary municipality in accordance with Section 10-2a-502.
- 150 Section 2. Section **10-2a-502** is amended to read:
- 151 **10-2a-502 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31).**
- 152 **Incorporation of a preliminary municipality -- Feasibility request -- Requirements.**
- 153 (1)(a) ~~[A]~~ Except as provided in Subsection (1)(b), a person may apply to incorporate an
- 154 area as a preliminary municipality by filing a feasibility request in accordance with
- 155 this section.
- 156 (b) A person may not file a feasibility request to incorporate an area as a preliminary
- 157 municipality after February 15, 2025.
- 158 (c) Subject to Subsection (6)(b), a person who, on or before February 15, 2025, files a
- 159 feasibility request under this section may:
- 160 (i) modify the request after February 15, 2025, in accordance with Section 10-2a-505;
- 161 or
- 162 (ii) proceed in accordance with this part after February 15, 2025.
- 163 (2) Subject to ~~[Subsection]~~ Subsections (1) and (6), a person may file a feasibility request in
- 164 relation to an area that the person seeks to incorporate as a preliminary municipality if:
- 165 (a) the area is contiguous;

- 166 (b) no part of the area is within a county of the first class or second class;
- 167 (c) no part of the area is within, or within .25 miles of, a municipality;
- 168 (d) on the day on which the person files the feasibility request:
- 169 (i) the area is owned by no more than three persons, all of whom consent to
- 170 incorporation as a preliminary municipality; and
- 171 (ii) at least 50% of the area is undeveloped;
- 172 (e) the persons who sign the feasibility request intend to develop the area to the point
- 173 that:
- 174 (i) at least 100 individuals reside in the area;
- 175 (ii) the area will have an average population density of no less than seven individuals
- 176 per square mile, unless:
- 177 (A) a population density of less than seven individuals per square mile is
- 178 necessary in order to connect separate areas that share a demonstrable
- 179 community interest; and
- 180 (B) the average population of the area has a population density of no less than
- 181 seven individuals per square mile if the land necessary to connect the separate
- 182 areas described in Subsection (2)(e)(ii)(A) is not included in the calculation;
- 183 and
- 184 (iii) at least 10% of the housing in the preliminary municipality is affordable housing;
- 185 (f) the area does not include land owned by the United States government unless:
- 186 (i) the area, including the land owned by the United States government, is
- 187 contiguous; and
- 188 (ii)(A) incorporating the land is necessary to connect separate areas that share a
- 189 demonstrable community interest; or
- 190 (B) excluding the land from the area would create an unincorporated island within
- 191 the proposed preliminary municipality;
- 192 (g) the area is entirely within one county; and
- 193 (h) the feasibility request complies with Subsection (3).
- 194 (3)(a) A proposed preliminary municipality area may not include all or part of a pending
- 195 annexation area, unless:
- 196 (i) the portion of the pending annexation area included in the proposed preliminary
- 197 municipality area does not exceed 20% of the proposed preliminary municipality
- 198 area; and
- 199 (ii) the feasibility request would comply with the requirements of this section

- 200 regardless of whether the portion of the pending annexation area included in the
201 proposed preliminary municipality area is excluded from, or remains included in,
202 the proposed preliminary municipality area.
- 203 (b) A proposed preliminary municipality area may not include all or part of an area that
204 is the subject of a completed feasibility study or supplemental feasibility study that
205 qualifies to proceed under Subsection 10-2a-205(5)(a), unless:
- 206 (i) the proposed incorporation that is the subject of the completed feasibility study or
207 supplemental feasibility study has been defeated by the voters at an election under
208 Section 10-2a-210; or
- 209 (ii) the time described in Subsection 10-2a-208(1) for filing an incorporation petition
210 based on the completed feasibility study or supplemental feasibility study has
211 elapsed without the sponsors filing an incorporation petition under Section
212 10-2a-208.
- 213 (c) A proposed preliminary municipality area may not include all or part of an area that
214 is the subject of a completed feasibility study or supplemental feasibility study whose
215 results comply with Subsection 10-2a-504(4), unless the time described in Subsection
216 10-2a-507(1) for filing a petition for incorporation based on the completed feasibility
217 study or supplemental feasibility study has elapsed without the sponsors filing a
218 petition for incorporation under Section 10-2a-507.
- 219 (4) Except as provided in Section 10-2a-505, the lieutenant governor shall consider each
220 feasibility request that includes an area described in Subsection (3)(a) as if the request
221 does not include the area described in Subsection (3)(a).
- 222 (5) A person who files a feasibility request under this section shall file the feasibility
223 request with the lieutenant governor, including in the feasibility request:
- 224 (a) the signatures of all owners of real property included in the proposed preliminary
225 municipality area, showing that the owners consent to including the real property in
226 the proposed preliminary municipality area;
- 227 (b) the name, address, and phone number of each owner signing the feasibility request;
- 228 (c) a designation of one individual who signs the feasibility request as the primary
229 sponsor contact for the feasibility request;
- 230 (d) a description of the proposed preliminary municipality area;
- 231 (e) an accurate map or plat, prepared by a licensed surveyor, showing:
- 232 (i) a legal description of the boundaries of the proposed preliminary municipality area
233 and each phase of the proposed preliminary municipality area;

- 234 (ii) all development planned for the proposed preliminary municipality area; and
235 (iii) that the first phase of the proposed preliminary municipality area is projected to
236 have at least 100 residents when completed; and
237 (f) a request that the lieutenant governor commission a study to determine the feasibility
238 of incorporating the area as a preliminary municipality.
- 239 (6)(a) The provisions of this part, providing for the incorporation of a preliminary
240 municipality, is a pilot project that ends on January 1, 2031.
- 241 (b) Except as provided in Subsection (7), a person may not file a feasibility request
242 under this part in a calendar year during which two or more requests have already
243 been filed in the state.
- 244 (7) A feasibility request does not count towards the limit described in Subsection (6)(b) if:
245 (a) the sponsors who file the request withdraw the request;
246 (b) the lieutenant governor rejects the feasibility request under Subsection 10-2a-503(4)
247 or (5)(b), and the sponsors:
248 (i) do not timely amend the feasibility request under Subsection 10-2a-503(7)(b); or
249 (ii) are prohibited from amending the feasibility request under Subsection 10-2a-503
250 (7)(c); or
251 (c) the process to incorporate is prohibited from proceeding under Subsection 10-2a-504
252 (5)(a) and the sponsors:
253 (i) do not timely file a modified feasibility request under Subsection 10-2a-505
254 (1)(b)(i); or
255 (ii) are prohibited from filing a modified feasibility request under Subsection
256 10-2a-505(3).

257 Section 3. Section **10-2a-505** is amended to read:

258 **10-2a-505 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31).**

259 **Modified feasibility request -- Supplemental feasibility study.**

- 260 (1)(a) The sponsors of a feasibility request may modify the request to alter the
261 boundaries of the proposed preliminary municipality area and refile the modified
262 feasibility request with the lieutenant governor if:
263 (i) the results of the feasibility study do not comply with Subsection 10-2a-504(5)(a);
264 or
265 (ii)(A) the feasibility request complies with Subsection 10-2a-502(3)(a);
266 (B) the annexation petition described in Subsection 10-2a-502(3)(a) that proposed
267 the annexation of an area that is part of the proposed preliminary municipality

- 268 area has been denied; and
- 269 (C) a petition for incorporation described in Section 10-2a-507, based on the
- 270 feasibility request, has not been filed.
- 271 (b)(i) The sponsors of a feasibility request may not file a modified request under
- 272 Subsection (1)(a)(i) more than 90 days after the day on which the feasibility
- 273 consultant submits the final results of the feasibility study under Subsection
- 274 10-2a-504(2)(c)(iii).
- 275 (ii) The sponsors of a feasibility request may not file a modified request under
- 276 Subsection (1)(a)(ii) more than 18 months after filing the original feasibility
- 277 request under Section 10-2a-502.
- 278 (c) A modified feasibility request under Subsection (1)(a) shall comply with Subsections [
- 279 ~~10-2a-502(1)~~] 10-2a-502(2) through (4).
- 280 (d) Within 20 days after the day on which the lieutenant governor receives the modified
- 281 request, the lieutenant governor shall follow the same procedure described in
- 282 Subsections 10-2a-503(1) through (4) for the modified feasibility request as for an
- 283 original feasibility request.
- 284 (2) The timely filing of a modified feasibility request under Subsection (1) gives the
- 285 modified feasibility request the same processing priority under Subsection 10-2a-503(6)
- 286 as the original feasibility request.
- 287 (3) The sponsors of a feasibility request may not file a modified feasibility request under
- 288 Subsection (1)(a)(i) more than once.
- 289 (4) Within 10 days after the day on which the county clerk receives a modified feasibility
- 290 request under Subsection (1)(a) that relates to a request for which a feasibility study has
- 291 already been completed, the lieutenant governor shall commission the feasibility
- 292 consultant who conducted the feasibility study to conduct a supplemental feasibility
- 293 study that accounts for the modified feasibility request.
- 294 (5) The lieutenant governor shall require the feasibility consultant to:
- 295 (a) submit a draft of the supplemental feasibility study to each applicable person with
- 296 whom the feasibility consultant is required to consult under Subsection 10-2a-504
- 297 (3)(c) within 30 days after the day on which the feasibility consultant is engaged to
- 298 conduct the supplemental study;
- 299 (b) allow each person to whom the consultant provided a draft under Subsection (5)(a) to
- 300 review and provide comment on the draft; and
- 301 (c) submit a completed supplemental feasibility study, to the following within 45 days

after the day on which the feasibility consultant is engaged to conduct the feasibility study:

- (i) the lieutenant governor;
- (ii) the county legislative body of the county in which the incorporation is proposed;
- (iii) the primary sponsor contact; and
- (iv) each person to whom the consultant provided a draft under Subsection (5)(a).

(6)(a) Subject to Subsections (3) and (6)(b), if the results of the supplemental feasibility study do not comply with Subsection 10-2a-504(4), the sponsors may further modify the request in accordance with Subsection (1).

(b) Subsections (1)(d), (4), and (5) apply to a modified feasibility request described in Subsection (6)(a).

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

Section 4. Section **10-2a-507** is amended to read:

10-2a-507 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31).

Petition for incorporation -- Requirements and form.

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

- (a) includes the typed or printed name, signature, address, and phone number of the initial landowners;
- (b) describes the proposed preliminary municipality area, as described in the feasibility request or the modified feasibility request;
- (c) demonstrates compliance with Subsection 10-2a-504(4);
- (d) states the proposed name for the proposed preliminary municipality;
- (e) designates the primary sponsor contact for the proposed preliminary municipality;
- (f) designates the board chair and three of the four board members who will serve as a five member council form of government for the preliminary municipality, described in Section 10-3b-402, for the preliminary municipality;
- (g) is accompanied by an accurate map or plat, prepared by a licensed surveyor, showing:
 - (i) the boundaries of the proposed preliminary municipality;

- (ii) a single development plan for the proposed municipality, depicting each phase of the development;
- (h) is accompanied by a bond, cash deposit, or letter of credit that:
- (i) is posted by the initial landowners;
- (ii) is in favor of the proposed preliminary municipality, to guarantee that the initial landowners will complete the system infrastructure no later than six years after the day on which the initial landowners file the petition for incorporation described in this section; and
- (iii) will be refunded to the initial landowners in percentages that reflect the progress toward completing the system infrastructure; ~~and~~
- (i) is accompanied by payment in full, from the initial landowners, of the costs incurred by the lieutenant governor for the feasibility study, the public notices, the hearings, and the other expenses incurred by the lieutenant governor to comply with the requirements of this part in relation to the proposed preliminary municipality~~[-]~~ ; ~~and~~
- (j) is accompanied by an agreement by the initial landowners that, before the preliminary municipality can transition into a town, the county will be fully compensated for any damages to county property or infrastructure that are directly attributable to development of the area.
- (2) If, within six years after the day on which the initial landowners file a petition for incorporation under Subsection (1), the system infrastructure for the preliminary municipality is not completed, the portion of the bond, cash deposit, or letter of credit described in Subsection (1)(h) that has not been refunded to the initial landowners shall forfeit to the preliminary municipality.
- (3) If, within four years after the day on which the first residential certificate of occupancy is issued for the development described in Subsection ~~[10-2a-503(5)(e)]~~ 10-2a-502(5)(e), or six years after the day on which the initial landowners file a petition for incorporation under Subsection (1), the preliminary municipality has not transitioned to a town:
- (a) the lieutenant governor shall issue a certificate dissolving the preliminary municipality;
- (b) all roads and infrastructure within the preliminary municipality revert to the county in which the preliminary municipality is located;
- (c) the area within the proposed municipality falls under the jurisdiction of the county and is no longer incorporated; and
- (d) the initial landowners are liable to the county for damages caused to the county due

to the dissolution of the preliminary municipality.

Section 5. Section **10-2a-509** is amended to read:

10-2a-509 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31).

Governance of preliminary municipality -- Utilities -- Road maintenance.

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

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

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

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

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

(3)(a) Within 14 days after the day on which the first residential certificate of occupancy is issued for the development described in Subsection [~~10-2a-503(5)(e)~~] 10-2a-502(5)(e), the engineer described in Subsection [~~10-2a-509(6)~~] (8), shall notify the county and the lieutenant governor, in writing:

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

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

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

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

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

(ii) notify the county and the lieutenant governor of the appointment, in writing.

(4)(a) Subject to Subsection (4)(b), a preliminary municipality has all the powers and duties of a municipality.

(b) A preliminary municipality:

- 404 (i) may not impose a tax;
- 405 (ii) may enter into an interlocal agreement with a special district to provide utility
- 406 services to the preliminary municipality;
- 407 (iii) has the same authority as another municipality to make decisions regarding
- 408 zoning and land use;
- 409 (iv) may not receive an allocation of sales tax or gas tax;[-and]
- 410 (v) may not exercise eminent domain authority[-] ;
- 411 (vi) may not annex an unincorporated area under Chapter 2, Part 4, Annexation; and
- 412 (vii) if the preliminary municipality is located in a county of the fourth, fifth, or sixth
- 413 class:
- 414 (A) shall comply with terms, conditions, or restrictions that were established in a
- 415 development agreement between the initial landowners and the county before
- 416 the feasibility request was filed; and
- 417 (B) may not modify or terminate any terms, conditions, or restrictions described in
- 418 Subsection (4)(b)(vii)(A) without the county's approval.
- 419 (5) As needed, the county shall provide all services and utility connections to the
- 420 preliminary municipality that the county provides other areas in the county if the
- 421 preliminary municipality:
- 422 (a) pays the uniformly assessed rates for the services and utilities and reasonable
- 423 connection fees; and
- 424 (b) complies with the county's established regulations and specifications for the
- 425 construction and connection of the local improvements.
- 426 (6)(a) The preliminary municipality shall ensure that the preliminary municipality's
- 427 system infrastructure complies with county standards for that infrastructure.
- 428 (b) The county may inspect a preliminary municipality's system infrastructure to verify
- 429 compliance with county standards for that infrastructure.
- 430 ~~[(6)]~~ (7) The preliminary municipality shall maintain and repair any roadway that, on the
- 431 day on which the individual filed the feasibility request under Section 10-2a-502:
- 432 (a) existed within the preliminary municipality;
- 433 (b) was within a public right of way that abuts the preliminary municipality; or
- 434 (c) was within 1/2 mile of the preliminary municipality and connected to, or was
- 435 proposed in the feasibility request to be connected to, the preliminary municipality.
- 436 ~~[(7)]~~ (8) Before the preliminary municipality submits a petition to transition to a town, the
- 437 preliminary municipality shall select an independent third-party engineer to review and

approve all building permit applications within the preliminary municipality to ensure compliance with the law.

~~[(8)]~~ (9) Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of Municipalities, does not apply to a preliminary municipality.

Section 6. Section **10-2a-510** is amended to read:

10-2a-510 (Effective 05/07/25) (Applies beginning 02/15/25) (Repealed 01/01/31).

Transitioning from a preliminary municipality to a town -- Petition -- Election of officers.

- (1) Within 30 days after the day on which the population of a preliminary municipality exceeds 99 people, a person who filed the application to incorporate as a preliminary municipality or a resident of the preliminary municipality shall file with the lieutenant governor a petition to transition the preliminary municipality into a town.
- (2) A petition to transition a preliminary municipality into a town shall include:
 - (a) a request that the lieutenant governor certify the transition of the preliminary municipality to, and the incorporation of the preliminary municipality as, a town;
 - (b) the name, address, and phone number of the person filing the request;
 - (c) the map or plat of the preliminary municipality;
 - (d) a legal description of the boundaries of the preliminary municipality;
 - (e) information regarding the preliminary municipality, including:
 - (i) the number of residences in the preliminary municipality;
 - (ii) the population of the preliminary municipality;
 - (iii) the number of adults and the number of children who reside in the preliminary municipality; and
 - (iv) information regarding the providers of municipal services and emergency services to the preliminary municipality;
 - (f) the proposed name for the town;~~[-and]~~
 - (g) a signature sheet containing the names, addresses, and signatures of a majority of the adult residents of the preliminary municipality, supporting the proposed name for the town~~[-]~~ ;
 - (h) certification that:
 - (i) all damages to county property or infrastructure resulting from development of the area have been assessed and paid in full; or
 - (ii) no damages described in Subsection (2)(h)(i) exist; and
 - (i) an agreement by the initial landowners to accept liability for any damages to county property or infrastructure that:

- 472 (i) occurred before the preliminary municipality's transition into a town but are
473 discovered after the transition; and
474 (ii) are directly attributable to development of the area.
- 475 (3) Within 30 days after the day on which a person files a petition to transition a
476 preliminary municipality into a town, the lieutenant governor shall:
- 477 (a) determine whether the preliminary municipality has a population of more than 99
478 people;
- 479 (b) examine the petition to determine whether the petition complies with Subsection (2);
- 480 (c) if the lieutenant governor determines that the preliminary municipality has a
481 population of more than 99 people and that the petition complies with Subsection (2),
482 proceed to transition the preliminary municipality as a town in accordance with
483 Subsection (4);
- 484 (d) if the lieutenant governor determines that the preliminary municipality has a
485 population of less than 100 people, deny the petition, inform the person who filed the
486 petition of the determination, and request that the person refile the petition when the
487 population exceeds 99 people; and
- 488 (e) if the lieutenant governor determines that the petition fails to comply with Subsection
489 (2), deny the petition, inform the person who filed the petition of the denial and the
490 reason for the denial, and request that the person correct and refile the petition.
- 491 (4) After making the determination described in Subsection (3)(c), the lieutenant governor
492 shall:
- 493 (a) inform the person who filed the petition of the determination;
- 494 (b) inform the county in which the preliminary municipality is located of the
495 determination; and
- 496 (c) direct the county to conduct an election for mayor and city council of the future
497 town, to be held on the date of the next regular general election described in Section
498 20A-1-201, or the next municipal general election described in Section 20A-1-202,
499 that is at least 65 days after the day on which the lieutenant governor directs the
500 county to hold the election.
- 501 (5) The county shall:
- 502 (a) comply with the direction given by the lieutenant governor under Subsection (4)(c);
- 503 (b) determine the initial terms of the mayor and municipal council members to ensure
504 that:
- 505 (i) the mayor and two of the municipal county members are elected in the next

- 506 municipal general election;
- 507 (ii) the remaining municipal council members are elected at elections that result in
- 508 the staggering of council member terms; and
- 509 (iii) the council members who receive the highest number of votes are assigned the
- 510 longer initial terms; and
- 511 (c) provide notice of the election for the preliminary municipality as a class B notice
- 512 under Section 63G-30-102, for at least three weeks before the day of the election.
- 513 (6) The notice described in Subsection (5)(c) shall include:
- 514 (a) a statement of the contents of the petition to transition the preliminary municipality
- 515 to a town;
- 516 (b) a description of the area to be incorporated as a town;
- 517 (c) the name of the town;
- 518 (d) information about the deadline for an individual to file a declaration of candidacy to
- 519 become a candidate for mayor or municipal council;
- 520 (e) information about the initial terms of office;
- 521 (f) a statement of the date and time of the election and the location of polling places; and
- 522 (g) a statement that the purpose of the election is to elect a mayor and a council to
- 523 govern the town upon the town's incorporation.
- 524 (7)(a) In addition to the notice described in Subsection (6), the county clerk shall publish
- 525 and distribute, before the election is held, a voter information pamphlet:
- 526 (i) in accordance with the procedures and requirements of Section 20A-7-402;
- 527 (ii) in consultation with the lieutenant governor; and
- 528 (iii) in a manner that the county clerk determines is adequate.
- 529 (b) The voter information pamphlet described in Subsection (7)(a):
- 530 (i) shall inform the public of the election and the purpose of the election; and
- 531 (ii) may include additional information regarding the election of the elected officials
- 532 and the incorporation of the town.
- 533 (8) An individual may not vote in the election described in this section unless the individual
- 534 is a registered voter who is a resident, as defined in Section 20A-1-102, within the
- 535 boundaries of the preliminary municipality.
- 536 (9) The town, incorporated under Subsection (10)(b), shall pay to the county the cost of
- 537 running the election described in this section.
- 538 (10) On the day after the day on which the canvass for the election is completed:
- 539 (a) the elected mayor and council members shall take office and replace the board chair

and board members of the preliminary municipality;

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

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

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

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

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

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

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

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

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

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

Section 7. **Effective Date.**

This bill takes effect on May 7, 2025.

Section 8. **Retrospective operation.**

(1) Except as provided in Subsection (2), this bill has retrospective operation to February 15, 2025.

(2) Section 10-2-402 (Effective 05/07/25) has no retrospective operation.