Independent Financial & Feasibility Analysis:
A Counter Study to the Proposed Kane Creek Incorporation

Executive Summary

The proposed incorporation of Kane Creek is built on **unsubstantiated projections, speculative revenue assumptions, and an unrealistic development timeline**. The official 2024 Preliminary Feasibility Study systematically **overstates revenue potential, understates costs, and omits critical infrastructure and market risks**. This counter study, based on a comprehensive review of the original feasibility study, Utah Code, and comparisons of similar communities, reveals that the proposed town is **financially fragile from the outset**.

Key findings in this study include:

- **Residential absorption assumptions are unrealistic**, projecting a rate of nearly 8 homes—priced between $1.5 and $2.4 million—sold **per month** for 5 years in a rural location with no analysis to prove this optimistic demand.
- **Commercial sales and hotel performance are overstated**, again, with no market analysis supporting the assumptions of $300/sq ft retail sales or 70% hotel occupancy.
- **The study relies on highly speculative interest earnings** that only exist if all other assumptions such as construction timelines and residential absorption perform perfectly and according to plan.
- **Early residents will face extraordinary tax and fee burdens**, including a residential tax rate **10x higher** than Grand county's rate, plus additional HOA/POA costs for private roads.
- **Existing Grand County businesses will face direct competition from subsidized development in Kane Creek**, while county taxpayers will likely be forced to backstop (bail out) the municipality if it fails to meet revenue projections.

Together, these flaws form a **pattern of overstatement and omission** that makes the 22.7% revenue margin claimed in the feasibility study completely unreliable. Incorporating Kane Creek under these conditions would **pose severe financial risks** to Grand County residents, local businesses, and potential project investors.

It's worth noting that the original feasibility study's projections—including residential absorption rates, home prices, commercial development timeline, and population growth—are based primarily on **data provided by the project sponsors rather than independently verified market analysis**. After the passing of Senate Bill 258 in 2024, Utah Code allows feasibility consultants to rely on developer-provided projections without requiring third-party market validation. This creates a structural bias where the study's **financial conclusions rest heavily on the sponsors' optimistic development assumptions** rather than objective market assessments.

###

Table of Contents

###

1. Financial Fragility of Revenue Margin Projections

1.1. Residential Absorption Assumptions

The feasibility study assumes 478 homes will be built, sold, and occupied **within 5 years**, requiring nearly **8 home sales per month** in a brand-new, unproven development. This absorption rate lacks any supporting market data, making property tax projections—over 40% of total revenue—highly speculative.

Evidence from Study:

- **Page 7, Table 3.4** projects 478 residential units by Year 5.
- Absorption schedule:
  - Year 1: 78 units
  - Year 2: 146 units
  - Year 3: 148 units
  - Year 4: 78 units
  - Year 5: 28 units
- **Page 21, Table 5.11** shows $533,204 in Year 5 property tax revenue (40.8% of total revenue).
- The study does not include a dedicated housing market study, nor does it provide a detailed sales velocity or absorption analysis based on historical data from comparable Utah communities. Instead, the study relies on buildout assumptions provided by project sponsors and general demographic growth rates for Grand County.

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)(a)(ii)** requires population and revenue projections to be based on **realistic, supportable assumptions**.
- **Utah Code §10-2a-504(3)(b)** requires analysis to include 5-year revenue projections grounded in real data.

Technical Analysis:

To meet the study's targets, Kane Creek would need to **sell and occupy nearly 8 homes per month for five consecutive years** — a highly ambitious pace given Kane Creek has **no existing population base**, **no established commercial hub** to attract or support residents, and faces **direct competition**

from Moab's existing housing supply, which already serves the region's housing needs.

If absorption falls to a more realistic **5 homes per month**, Kane Creek would have **160 fewer homes occupied by Year 5**, resulting in a property tax revenue shortfall of approximately **$175,000 in Year 5 alone**. This shortfall directly cuts total Year 5 revenue by over **13%**, slashing the feasibility study's projected 22.7% revenue margin nearly in half.

The cascading effect would be severe:

- Early residents face higher taxes to cover revenue gaps.
- Infrastructure phasing for water, roads, and emergency services slows or stalls.
- Investors face increased holding costs, reduced lot values, and weakened resale potential.
- Kane Creek falls below the required **5% statutory revenue margin**, jeopardizing its legal viability.
- Grand County could become financially entangled if the town requires emergency assistance or reabsorption.

Practical Implications:

- Higher per-household taxes on early buyers.
- Delayed infrastructure, creating livability and resale issues.
- Risk of unsold lots, price erosion, and developer flight.
- Pressure on Grand County to intervene if municipal finances collapse.

Questions for the Lieutenant Governor:

1. What independent market data supports 478 occupied homes within 5 years?
2. What is the contingency plan if home sales average only 5 per month?
3. How does slower absorption affect infrastructure phasing and service delivery?

1.2. Commercial Sales Assumptions

The feasibility study assumes aggressive commercial sales performance, projecting **$300 per square foot in annual retail sales** and **70% hotel occupancy** from Year 1 onward. These assumptions lack any market feasibility study and fail to account for **seasonality, local competition, and the area's lack of existing tourism infrastructure**. Given that sales tax revenue accounts for **over 40% of total municipal revenue**, these unsupported assumptions create severe financial fragility.

Evidence from Study:

- **Page 19, Table 5.5** assumes:
  - $300 per square foot in retail sales
  - 70% year-round hotel occupancy
  - Hotel room rates starting at $154.50, increasing 3% annually
- **Page 9** projects 67,000 square feet of commercial development as part of Phase 1, anticipated to be completed by Year 3.
- **Page 21, Table 5.11** shows $403,062 in sales and use tax revenue in Year 5, representing **30.8% of total revenue**.
- The feasibility study explicitly admits on **Page 11 under Risks**:
  - "This analysis does not include a market feasibility study to determine whether the proposed commercial square footage is supportable."

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)(a)(ii)(C)** requires the feasibility study to project revenues using **realistic, documented assumptions**.
- **Utah Code §10-2a-504(6)** requires analysis of "risks and opportunities that might affect the actual costs or revenues."
- **SB258** requires feasibility determinations to rely on **credible, independently validated data**.

Technical Analysis:
The study assumes Kane Creek will generate **$300 per square foot in retail sales** in a new, unproven commercial district with no existing customer base and limited passing traffic. For context:

- Successful rural Utah commercial centers near major tourism hubs (like Springdale near Zion) average between **$175-$225 per square foot** for established retail.

- New developments in less established areas often struggle to reach even **$150 per square foot** until demand builds over time.
- The **Moab area's existing commercial corridors already capture the majority of visitor spending**, making it unlikely Kane Creek could command top-tier retail sales in its early years.

The 70% hotel occupancy assumption is equally problematic:

- Moab hotels, which benefit from prime location and brand recognition, see **annual occupancy of approximately 65%**.
- Kane Creek's lack of established tourism draw, amenities, or direct national park access makes 70% occupancy **optimistic at best**.

If commercial sales land closer to **$200 per square foot** and hotel occupancy averages **55%**, sales tax revenue could fall short by approximately **25-30%.** This would shrink Year 5 revenue by at least **$100,000**, erasing nearly **half the study's claimed 22.7% revenue margin**.

Practical Implications:

- Underperforming commercial sales tax revenue would trigger **higher property taxes** on residents to backfill shortfalls.
- Investors in commercial parcels would face **longer lease-up periods**, lower rents, and increased financial risk.
- Local businesses in Moab could face **unfair competition** from Kane Creek commercial properties that undercut pricing to attract tenants, particularly if the municipality offers incentives to cover weak demand.
- Any failure to meet commercial revenue projections would further **expose Grand County taxpayers to risk** if the town becomes financially unsustainable.

Questions for the Lieutenant Governor/Study Authors:

1. What market feasibility study supports the $300 per square foot retail sales assumption and 70% hotel occupancy?
2. How does the financial model adjust if actual commercial performance falls 25% below projection?
3. What safeguards exist to prevent early price cutting or incentives that harm existing Moab businesses?

1.3. Interest Earnings Assumptions

The feasibility study projects **substantial interest earnings in Years 4 and 5**, contributing nearly **20% of all Year 5 revenue**. However, these earnings depend entirely on speculative surpluses that only exist if every other assumption (residential sales, commercial revenue, and cost control) performs flawlessly. This reliance on interest earnings to balance the budget creates serious financial fragility.

Evidence from Study:

- **Page 21, Table 5.11** projects:
  - $0 in interest earnings for Years 1-3
  - $35,169 in Year 4
  - $258,394 in Year 5 (19.8% of Year 5 revenue)
- No explanation is provided for how these surpluses accumulate, what interest rate is assumed, or how cash flow projections align with these figures.

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)(a)(ii)(C)** requires realistic five-year revenue projections.
- **Utah Code §51-7-11** restricts how municipalities invest public funds, typically limiting them to **low-yield, low-risk instruments**.
- **Utah Code §10-2a-504(5)** requires the average annual revenue to exceed costs by at least 5%.

Technical Analysis:

To generate **$258,394 in interest earnings in Year 5**, Kane Creek would need to have accumulated a fund balance of roughly **$8.6 million**, assuming a municipal-grade investment yield of around **3%**. For a town with a projected operating budget just over $1.3 million in Year 5, this assumes:

- Kane Creek runs consistent, large operating surpluses every year.
- Those surpluses are not used for capital projects, tax reduction, or enhanced services.
- Early surpluses are held long enough to generate meaningful compound interest.

This scenario is highly unlikely given:

- **The aggressive development and revenue assumptions** driving these surpluses.
- **The absence of any actual reserve policy or capital improvement plan** in the study.
- New municipalities typically face **higher-than-expected startup costs** that erode early surpluses.
- In the real world, small towns don't generate investment-grade surpluses while simultaneously funding infrastructure, services, and contingency reserves.

If these surpluses fail to materialize, the projected interest earnings would disappear, cutting nearly 20% from Year 5 revenue. This would drop the revenue margin **well below the required 5% statutory threshold**, putting Kane Creek into an immediate **financial emergency**.

Practical Implications:

- Without interest income, the town faces immediate service cuts or tax hikes.
- Early residents would be forced to cover the gap through special assessments or emergency levies.
- Developers and investors expecting financially stable governance would face immediate risk of **fiscal crisis**.
- Kane Creek's bond rating (if it seeks financing for infrastructure) would be jeopardized by weak cash reserves.
- Grand County could face pressure to intervene or assume services if the town becomes insolvent.

Questions for the Lieutenant Governor:

1. What is the specific fund balance projection and interest rate used to calculate the $258,394 in Year 5 interest earnings?
2. What policies will govern how surpluses are used— for investment, tax relief, or service expansion?
3. What contingency plan exists if surpluses are smaller than projected or if early capital needs drain available funds?

2. Unsupported Development Assumptions

2.1. No Market Analysis for Commercial Development

The feasibility study projects substantial commercial development (67,000 sq ft of retail and lodging space by Year 3) without conducting **any market feasibility study** to determine whether this level of commercial absorption is remotely realistic. This omission creates significant risk to both commercial revenue and property tax projections.

Evidence from Study:

- **Page 11 (RISKS)**: "This analysis does not include a market feasibility study to determine whether the proposed commercial square footage is supportable."
- **Page 7, Table 3.4** projects:
  - 15,000 sq ft of commercial space in Year 1
  - 22,000 sq ft in Year 2
  - 30,000 sq ft in Year 3
- **Page 21, Table 5.11** relies on commercial sales tax revenue to cover 41% of total municipal revenue.

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)(a)(ii)(C)** requires revenue projections to be based on realistic, supportable data.
- **SB258** requires feasibility studies to demonstrate fiscal sustainability through credible analysis, not assumptions.

Technical Analysis:

The study assumes Kane Creek will rapidly develop and fill over 67,000 square feet of commercial space within three years—in a rural location with no established tourism draw, limited traffic, and no demonstrated commercial demand. Without documented demand, this commercial development either **won't happen**, or if built, will **struggle with vacancy and underperformance**, directly compromising sales tax revenue. This creates a direct threat to the **41% of total revenue** reliant on sales tax.

Practical Implications:

- Overbuilt, underperforming commercial space could trigger property devaluation and blight.
- The town would rely increasingly on residential taxes to compensate for missing sales tax revenue.
- Investors in commercial property would face high vacancy, discounted rents, and lower returns.
- Grand County businesses could face predatory pricing if Kane Creek subsidizes commercial rents to attract tenants.

Questions for the Lieutenant Governor/Study Authors:

1. Why was no independent market feasibility study conducted to validate commercial development assumptions?
2. What data supports the assumption that Kane Creek can absorb 67,000 sq ft of commercial space within 3 years?
3. What is the contingency plan if commercial development lags behind schedule or achieves only 50% occupancy?

###

2.2. Assumptions about Home Values

The feasibility study relies on **extraordinarily high home value assumptions** to support property tax revenue projections, assuming **$1.5 million for condos/twin homes and $2.4 million for single-family homes**. These values are completely detached from existing Grand County market conditions, exposing the revenue projections to severe risk if actual home values align with historical norms rather than these inflated targets.

Evidence from Study:

- **Page 11, Table 3.15** lists residential values as:
    - $1.5 million per unit for condos/twin homes
    - $2.4 million per unit for single-family detached homes
- **Page 21, Table 5.11** relies on property tax revenue for over 40% of total municipal revenue.

- **Page 22 (RISKS)** admits: "The financial feasibility of this study may be jeopardized if cost assumptions for home values and price per square foot are reduced."

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)(a)(ii)(C)** requires realistic revenue projections.
- **Utah Code §10-2a-504(6)** requires analysis of risks that might affect revenue outcomes.
- **SB258** requires credible, evidence-based feasibility studies.

Technical Analysis:

The assumed home values are far higher than historical trends for Grand County and significantly exceed local median home values. If actual home values land closer to **$1 million for single-family homes** and **$750,000 for condos/twin homes** (still aggressive for a new development), property tax revenue would fall by roughly **30-40%** compared to the study's projections. This shortfall alone would shrink Year 5 property tax revenue by approximately **$160,000-$200,000**, which would significantly reduce total revenue and could directly wipe out most of the study's claimed 22.7% revenue margin.

Practical Implications:

- Lower-than-expected home values shrink property tax revenue and immediately jeopardize service funding.
- Developers would likely need to discount lots to attract buyers, further undermining long-term revenue.
- Residents would face higher tax rates to compensate for shortfalls, further discouraging demand.
- The entire financial feasibility rests on luxury pricing that is speculative at best and completely unsupported by market evidence.

Questions for the Lieutenant Governor/Study Authors:

1. What market study supports the $1.5M-$2.4M home value assumptions?
2. How does the revenue model adjust if home values are 25-40% lower than projected?
3. What analysis was conducted to compare Kane Creek's projected pricing to actual sale prices in Grand County over the past 5 years?

2.3. Assumptions about Rapid Development

The feasibility study projects an **unrealistic development timeline**, assuming Kane Creek will achieve a **150-fold increase in taxable value in just five years**, alongside construction of approximately **100 new residential units per year** in a remote, rural location with **limited existing infrastructure and labor capacity**. This aggressive timeline ignores real-world construction and absorption constraints, creating severe risk to the financial feasibility of the proposed municipality.

Evidence from Study:

- **Page 10, Table 3.14** projects taxable value increasing from **$3.33 million in Year 1 to $501.9 million in Year 5**.
- **Page 7, Table 2.1** projects residential construction of:
    - 78 units in Year 1
    - 146 units in Year 2
    - 148 units in Year 3
    - 78 units in Year 4
    - 28 units in Year 5
- **Page 7, Table 2.1** projects population growth from **180 residents in Year 1 to 1,105 by Year 5**.
- **Page 11, Table 3.15** assumes 67,000 square feet of commercial space will be built in the first three years.

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)** requires population and revenue projections to be based on conditions as if the municipality already exists with a population of 100 people.
- **Utah Code §10-2a-504(3)(a)(ii)(C)** requires the feasibility study to project realistic revenue over five years.
- **Utah Code §10-2a-504(6)** requires identification of risks that could impact revenue or cost.

Technical Analysis:

The study assumes Kane Creek will maintain a construction pace of approximately **100 units per year** for the first three years, while simultaneously developing 67,000 square feet of commercial space. This timeline is highly unrealistic, especially for a rural location without existing infrastructure or a large, available construction workforce.

Additionally, the feasibility study ignores logistical and phasing realities:

- **Water, sewer, and road infrastructure must be completed before large-scale vertical construction can begin**.
- Seasonal weather constraints and labor availability typically limit year-round construction productivity.
- Real estate market absorption typically **lags construction pace**, especially in second-home or resort markets, where speculative overbuilding creates long-term inventory overhang.

If development proceeds at half the projected pace—which is still ambitious for a rural startup municipality—Kane Creek's revenue from both property tax and sales tax would **fall below statutory thresholds**, likely **invalidating the feasibility study's compliance with Utah law**.

Practical Implications:

- Slower development would cause immediate **budget deficits**, forcing emergency tax hikes or service cuts.
- Infrastructure phasing would be delayed, compromising **basic services for early residents**.
- **Investor risk increases sharply** if lot absorption slows, potentially leaving developers with unsold lots and reduced valuations.
- Kane Creek's entire incorporation process could be challenged legally if initial assumptions about population and revenue growth prove unachievable.

Questions for the Lieutenant Governor/Study Authors:

1. What independent construction timeline analysis supports the assumption of 100+ units per year plus 67,000 square feet of commercial space?
2. What is the contingency plan if development proceeds at only half the projected pace?
3. How does the feasibility study comply with statutory requirements to identify and account for these obvious risks to development pace?

2.4. Minimal Services in Budget

Issue Summary: The feasibility study **artificially suppresses projected service costs**, allocating only **$12,567 for law enforcement in Year 1** (covering 180 residents) and **$3,104 for road maintenance**, representing a **drastically unrealistic and incomplete accounting of actual service needs and costs for a newly incorporated town**.

Evidence from Study:

- **Page 14** shows a law enforcement budget of just **$12,567 in Year 1**, rising to only **$86,960 in Year 5** for 1,105 residents.
- **Page 16, Table 4.8** lists road maintenance expenses as just **$3,104 in Year 1** and **$17,465 in Year 5**.
- **Page 14** calculates law enforcement per capita cost at **$68-$79 per year**, far below typical Utah rural town rates of **$200-$400 per capita**.
- **Page 15** calculates road maintenance at only **$1,552 per weighted mile**, while Grand County itself spends **$1,181 per weighted mile** on far simpler rural roads—and Kane Creek's roads would face much higher service expectations.

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)(b)** requires the study to include "the initial and five-year projected cost of providing municipal services."
- **Utah Code §10-2a-205(4)(b)(i)** requires that "the level and quality of governmental services" be "fairly and reasonably approximate."
- **Utah Code §10-2a-504(3)(a)(ii)** requires the feasibility analysis to assume Kane Creek is incorporated at a population of 100.

Technical Analysis:

The service cost estimates are **far below realistic levels**, particularly for law enforcement and road maintenance. For law enforcement:

- $12,567 in Year 1 equates to funding for **less than 1/10 of a full-time officer**.
- Neighboring rural towns (like Monticello and Green River) budget **over $200 per capita** for law enforcement, recognizing the need for either a dedicated officer or contracted sheriff services.

- Kane Creek's small population means there are **no economies of scale**, further increasing per capita costs.

For roads:

- The road maintenance budget ignores the **steep, flood-prone terrain** and higher infrastructure expectations in a newly developed, resort-style community.
- Private HOAs may cover some costs, but the town would remain responsible for emergency repairs, seasonal flooding response, and public right-of-way areas.

These unrealistic service costs **artificially inflate the revenue margin**, masking the true cost of providing adequate public safety and road maintenance. In practice, either services would be dangerously underfunded, or emergency tax hikes would be needed.

Practical Implications:

- Inadequate law enforcement could lead to **increased crime and slower response times**.
- Underfunded roads would deteriorate faster, requiring **larger future capital outlays**.
- Residents expecting resort-quality services would instead face **bare minimum service levels**, creating dissatisfaction and hurting property values.
- **Future tax increases** would be almost inevitable to correct these underbudgeted services.

Questions for the Lieutenant Governor/Study Authors:

1. How many full-time law enforcement personnel could actually be funded by $12,567 in Year 1?
2. What specific road maintenance services can be provided for $3,104 per year?
3. What adjustments to service levels would be required if actual costs align with the $200-$400 per capita law enforcement rates seen in comparable towns?

2.5. Questionable Level of Service Comparisons

Issue Summary: The feasibility study builds its projected service costs using **a limited, handpicked set of small towns** that do not adequately reflect the realities of a new, resort-focused community in a floodplain. By benchmarking against communities with **very different geographic, demographic, and economic profiles**, the study **artificially suppresses projected service costs** and **obscures the actual level of service required**.

Evidence from Study:

- **Page 14 (Law Enforcement)** compares Kane Creek's proposed law enforcement costs to four towns: Green River, Hanksville, Leeds, and Monticello.
- **Page 15, Table 4.6 (Roads)** uses per-mile road costs from nine communities, most with significantly larger road networks (14-84 weighted miles) compared to Kane Creek's projected 2-10 miles.
- The study offers **no adjustment for Kane Creek's floodplain conditions, tourism-driven traffic patterns, or expectations for higher-end resort services**.

Legal/Statutory Context:

- **Utah Code §10-2a-205(4)(b)(i)** requires service levels to be "fairly and reasonably approximate" to what residents would expect if unincorporated.
- **Utah Code §10-2a-504(3)(b)** requires realistic, defendable projections for service costs over five years.
- **SB258** requires feasibility studies to account for both **baseline services and foreseeable risks tied to local conditions**.

Technical Analysis: The feasibility study compares Kane Creek to towns that are:

- **Older, with fully depreciated infrastructure** (reducing near-term costs).
- **Not located in floodplain areas** requiring enhanced stormwater and road resilience.
- **Not targeting luxury development aimed at high-value second homes**, which often demand enhanced services.
- **Larger in land area**, meaning they benefit from economies of scale Kane Creek will lack.

This apples-to-oranges comparison makes Kane Creek's proposed service costs look artificially low. The town's unique characteristics—**high-end resort development, flood risks, small service area, and tourism impacts**—make it far more comparable to places like **Springdale** or **Moab's newer residential developments**, which have significantly **higher per capita service costs**.

Practical Implications:

- Kane Creek's residents could face **lower service levels than expected** based on misleading comparisons.
- Underestimated service costs would lead to **future tax increases** to correct for real expenses.
- Investors purchasing homes or commercial properties would be misled about **the actual cost of ownership**.
- The town's **early operating budgets would be fragile and unrealistic**, risking early financial distress.

Questions for the Lieutenant Governor/Study Authors:

1. Why were these specific towns selected for service level comparisons, and why were communities with resort characteristics (like Springdale) excluded?
2. What adjustments were made to account for Kane Creek's floodplain location, luxury development goals, and higher service expectations?
3. How would service costs change if Kane Creek were benchmarked against newer resort-style communities rather than rural towns with older infrastructure?

###

3. Inequitable Burdens on Early Residents

3.1 Tax Burden on Early Residents

The feasibility study places **an extraordinary tax burden on the earliest residents**, requiring them to cover both municipal startup costs and ongoing operations, while later residents benefit from lower tax rates once the development matures. This inequitable front-loading shifts **disproportionate financial risk onto the first wave of homeowners**, discouraging early investment and creating a fragile fiscal foundation.

Evidence from Study:

- **Page 28, Table 8.4** shows the initial total property tax rate (County + Town) at **0.014162** in Year 1, dropping to **0.001416** in subsequent years.
- This represents an **increase of approximately $5,258 per year for a median $750,000 home** in Year 1, compared to remaining unincorporated.
- The study itself admits on **Page 22 (RISKS)**: "The financial feasibility of this study may be jeopardized if cost assumptions for home values and price per square foot are reduced."
- **Page 37 (County Feedback)** flags that Property Owner Association (POA) fees—essentially mandatory taxes for private road maintenance—will further increase costs for early residents.

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)(b)** requires full disclosure of projected household tax burdens within the first five years.
- **Utah Code §59-2-919** governs property tax increases and requires transparency in public hearings.
- **Utah Code §10-2a-502(2)(e)(i)** requires a minimum population of 100 residents to incorporate, meaning early tax burdens fall on a very small group.

Technical Analysis: This front-loaded tax burden creates severe inequities between early and later residents:

- First-year residents pay **nearly 10 times the normal county property tax rate**.
- Later residents benefit from lower rates once the initial deficit is covered—essentially a subsidy from early buyers.
- Combined with HOA/POA fees for private roads (estimated at $200-$400 per month), early residents could face total housing costs significantly higher than market norms.
- This front-loading magnifies **downside risk if development slows**, as early residents could be left with both **unsold lots and ongoing high taxes**.
-

This structure creates a **disincentive for early investment**, directly undermining the absorption and revenue projections the entire feasibility study relies upon.

Practical Implications:

- High initial tax rates deter potential buyers, slowing absorption and **triggering a financial death spiral**.
- Early investors (homebuyers, builders) carry **disproportionate risk**, likely requiring discounted pricing to attract buyers.
- The town's reputation for high costs could discourage relocations and second-home buyers.
- The tax rate volatility between Years 1 and 2 signals a **deeply unstable fiscal foundation** to both lenders and investors.

Questions for the Lieutenant Governor/Study Authors:

1. How does the study justify imposing a tax rate **10 times higher** on early residents while later residents enjoy significantly lower rates?
2. What modeling was done to understand how this front-loaded tax burden would impact early home sales and residential absorption?
3. How does this extreme initial tax rate comply with statutory requirements to ensure a fair and equitable tax burden across all residents?

3.2 HOA/POA Fee Burden

In addition to extraordinary initial property taxes, early residents of Kane Creek will face **significant HOA/POA fees** to fund the maintenance of privately-owned roads and other critical infrastructure within the development. The feasibility study **fails to quantify these fees** or include them in the total projected cost burden for residents, presenting a **misleading picture of housing affordability and total cost of ownership**.

Evidence from Study:

- **Page 22 (RISKS)** notes: "Roads within the boundary would most likely be privately funded and maintained. Therefore, expenses associated with roads would be the responsibility of the applicable Homeowner Association (HOA)."
- **Page 37 (County Feedback Item #2)** states: "POA fees are essentially a property tax burden, and the POA and Town boundaries will be one and the same. The real cost to maintain all of the new circulation roads could be a significant cost burden to a limited population."

- **Page 25** acknowledges that HOA/POA fees would likely fund road maintenance and other services, but does not estimate the amount.
- **Page 15** mentions privately maintained roads, yet the municipal budget still includes road maintenance costs, creating a **confusing overlap between public and private obligations**.

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)(b)** requires the feasibility study to project the **initial and five-year cost of providing municipal services**.
- **Utah Code §10-2a-504(3)** requires the study to analyze the **projected tax burden per household**, including all new taxes and fees.
- **SB258** requires full transparency regarding the total financial obligations placed on future residents.

Technical Analysis: The feasibility study deliberately omits a critical part of the **true cost of living** in Kane Creek. By failing to estimate HOA/POA fees, it presents a **false impression of affordability**. In reality, private road maintenance in high-end resort-style developments can easily cost between **\$200-\$500 per month per household**—adding between **\$2,400-\$6,000 per year** to the household cost burden.

This is particularly problematic because:

- HOA/POA fees are **mandatory** for all residents, functioning essentially as a second layer of property tax.
- These fees will fund core infrastructure (roads, drainage) that the feasibility study **already assumes will be paid by the town budget**—indicating a **double charge** or an unrealistic split between public and private responsibility.
- For the required **10% affordable housing units**, these fees could effectively destroy affordability.

Without an integrated analysis showing the **combined property tax and HOA/POA cost burden**, the feasibility study **dramatically understates the true cost of living**, misleading potential buyers, investors, and lenders.

Practical Implications:

- Combined property taxes and HOA fees could easily exceed **\$10,000 per year for a median home**.
- Early buyers could experience **severe sticker shock** after purchase.

- High combined costs would suppress demand, **slowing absorption and undermining revenue projections**.
- Affordable housing units could become functionally **unaffordable** due to HOA costs.
- Future disputes between the town and the HOA over service responsibility could create governance conflicts.

Questions for the Lieutenant Governor/Study Authors:

1. What is the estimated HOA/POA fee per household, and why was it excluded from the total household cost burden?
2. How will the required 10% affordable housing remain affordable once these fees are included?
3. What is the clear division of responsibility between the municipality and the HOA for road maintenance, drainage, and emergency access?

4. Infrastructure & Environmental Blind Spots

4.1 Infrastructure and Floodplain Concerns

Issue Summary: The feasibility study **fails to adequately account for the specialized infrastructure needs and higher costs associated with developing in a floodplain**, particularly regarding stormwater management, road durability, and emergency preparedness. By ignoring these factors, the study **artificially understates the true infrastructure costs** of Kane Creek and leaves the future town exposed to severe physical and financial risks.

Evidence from Study:

- **Page 22 (RISKS)** acknowledges: "The County also acknowledged the potential fiscal impacts on stormwater mitigation and emergency management from developing on a floodplain."

- **Page 22** further states: "This study does not contemplate costs related to future CIP [Capital Improvement Plan], as capital improvements that are not currently being provided by the County through the GF are not included in the current LOS [Level of Service]."
- **Page 37 (County Feedback Item #1)** raises concerns about Kane Creek Road 114, describing it as an important collector road requiring **special engineering considerations** due to its location and flood risks.
- **Page 15** mentions infrastructure costs broadly, but provides **no floodplain-specific analysis** for road or drainage design.

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)(b)** requires the study to include "the initial and five-year projected cost of providing municipal services."
- **Utah Code §10-2a-504(6)** requires analysis of "risks and opportunities that might affect actual costs."
- **Utah Code §17B-2a-1304** allows for the creation of local districts for flood control and stormwater management, highlighting that these are recognized public service obligations.

Technical Analysis: Developing within a floodplain creates specialized infrastructure requirements that **dramatically exceed** typical road and drainage costs. These include:

- **Expanded stormwater capacity**, including larger culverts, detention basins, and emergency overflows.
- **Flood-resistant road design**, incorporating reinforced roadbeds and enhanced drainage systems.
- **Emergency access planning**, including evacuation routes and flood-adapted emergency services infrastructure.
- **Ongoing maintenance costs**, since floodplain infrastructure deteriorates faster under stress from periodic inundation.

The feasibility study's failure to account for these specialized costs creates **false confidence in the projected revenue margin**. In reality, flood mitigation and emergency management could require capital investments exceeding **$1 million or more within the first five years**, particularly as climate variability increases storm intensity.

Practical Implications:

- Underfunded infrastructure would result in **faster road failure**, requiring premature repair and replacement.
- Lack of dedicated stormwater infrastructure increases the risk of **flood damage to homes and businesses**, creating liability for the town.
- Inadequate emergency planning could put residents at risk during flood events, raising public safety and legal exposure.
- **Developers and investors face heightened risk** if the town's infrastructure proves inadequate after lots are sold.

Questions for the Lieutenant Governor/Study Authors:

1. What specific floodplain mitigation infrastructure has been designed and costed, and why isn't it reflected in the feasibility study?
2. What flood modeling was conducted to assess the hydrological risks of developing within Kane Creek's floodplain?
3. How will the town fund necessary flood mitigation, stormwater, and emergency infrastructure without jeopardizing its financial stability?

###

4.2 Uncertain Water Infrastructure

Issue Summary: The feasibility study **overstates water security** by focusing solely on paper water rights, while **ignoring the infrastructure needed to treat, store, and distribute water**—as well as the infrastructure required for wastewater management. This omission hides **substantial upfront and ongoing costs**, leaving future residents and investors exposed to both **unexpected assessments and service failures**.

Evidence from Study:

- **Page 29** states: "Kane Creek Water Company will serve as the municipal water supply upon incorporation. The company presently has approximately 422 acre-feet of water rights, while the developer estimates that the proposed development will likely need 200 acre-feet."
- No discussion of water treatment or distribution system costs appears anywhere in the financial projections.
- No analysis of wastewater treatment or sewer infrastructure is provided.
- **Page 37 (County Feedback)** raises concerns about contested water rights, referencing a May 2024 enforcement action by the Utah Division of Water Rights against the developer for illegal water use.

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)** requires analysis of whether sufficient water will be available to support the proposed municipality.
- **Utah Code §10-2a-504(3)(b)** requires the study to include initial and five-year projected costs of providing municipal services—including water.
- **Utah Code §73-1-4** governs forfeiture and challenges to water rights, making the legal status of Kane Creek's rights a material risk.

Technical Analysis: Water rights do not automatically translate to **water service**. The ability to withdraw and deliver water requires substantial infrastructure, including:

- **Wells or intake structures.**
- **Pumping stations.**
- **Water treatment facilities.**
- **Storage tanks.**
- **Pressurized distribution lines.**

These costs, **typically running into the millions of dollars**, are **entirely excluded from the feasibility study's budget**. Additionally, Kane Creek will require a wastewater management system, either through a connection to an external facility (if feasible) or through the construction of an independent wastewater treatment plant—another **multi-million-dollar expense left unaddressed**.

The enforcement action cited by the County raises further questions about the **reliability and legal security** of the existing water rights. If those rights are reduced or revoked, Kane Creek could be forced to either **purchase additional rights at market rates** or pursue costly alternative supply strategies.

Practical Implications:

- Early residents could face **massive impact fees or assessments** to fund necessary water and wastewater infrastructure.
- Service failures or capacity shortfalls would immediately **undermine property values** and livability.
- If Kane Creek is forced to renegotiate or purchase additional water rights, costs could spiral well beyond what was projected.
- Legal disputes over water rights could delay development or reduce buildout capacity, threatening both revenue and livability.

Questions for the Lieutenant Governor/Study Authors:

1. What are the estimated costs of the full water delivery and wastewater treatment infrastructure needed to serve 1,105 residents?
2. Why does the feasibility study focus only on water rights without addressing infrastructure costs?
3. How will the municipality respond if the developer's water rights are reduced or revoked in future enforcement proceedings?

###

5. Market and Economic Blindspots

5.1. Population Growth Without Revenue

The feasibility study acknowledges that Kane Creek will experience substantial population growth **before the development generates meaningful revenue**, leaving the town reliant on upfront taxes and fees from early residents. This creates a dangerous situation where new residents immediately consume services—such as law enforcement and road maintenance—without contributing proportionate revenue until later phases of development are completed.

Evidence from Study:

- **Page 3, Table 1.1** projects a Year 1 population of 180 residents.
- **Page 7, Table 2.1** projects population growth to 1,105 residents by Year 5.
- **Page 22 (RISKS)** explicitly states: "Population growth is front-loaded, meaning population will increase before significant sales tax revenue is realized."
- **Page 28, Table 8.4** shows property tax as the primary revenue source in early years, with sales tax ramping up only after commercial space is built and occupied.

Legal/Statutory Context:

- **Utah Code §10-2a-504(3)** requires analysis of revenue and costs over the first five years, making the timing of revenue generation crucial.
- **Utah Code §10-2a-504(6)** requires identification of risks that could affect costs and revenues—including timing risks.
- **SB258** requires feasibility studies to demonstrate sustainable operations across all phases of development, not just once fully built out.

Technical Analysis: The feasibility study's front-loaded population growth exposes the town to an immediate imbalance between **service demands and available revenue**. Key issues include:

- Early residents require **police, road maintenance, water, wastewater, and emergency services** from day one.
- The sales tax revenue that is supposed to provide 40% of the municipal budget does not materialize until **commercial development occurs—meaningful sales tax is not projected until Year 3 or later**.
- This mismatch forces the town to rely **almost entirely on property taxes from a small pool of early residents**, driving up tax rates and discouraging initial sales.

The result is a fiscal trap where early residents **pay inflated taxes for subpar services**, while future residents benefit from infrastructure they did not fully pay for. If development stalls or market absorption slows, Kane Creek could face a **fiscal cliff** where revenue collapses before the population stabilizes.

Practical Implications:

- Early service levels could be compromised, frustrating residents and harming the town's reputation.
- Taxes for early residents could spike even higher if commercial development lags.
- If the early population exceeds projections (due to faster-than-expected residential buildout) but commercial development lags, service demand will outpace revenue, triggering deficits.
- This revenue lag would **increase reliance on debt or emergency assessments**, further discouraging investment.

Questions for the Lieutenant Governor/Study Authors:

1. How will Kane Creek fund adequate services for the first 1,000 residents when sales tax revenue doesn't fully materialize until after Year 3?
2. What contingency exists if residential population growth outpaces commercial development?
3. How does the feasibility study's revenue timeline comply with statutory requirements for demonstrating sustainable funding across all development phases?

5.2. Population Density Assumption

The feasibility study projects **an exceptionally high population density of 4,009 persons per square mile**, a density level far more characteristic of **urban environments** than a rural resort community. This extreme density assumption lacks credible explanation and is **completely inconsistent** with the surrounding area, calling into question both the practicality and desirability of the proposed development.

Evidence from Study:

- **Page 5** states: "The UPC determined Kane Creek's population density upon plan completion is 4,009 persons per square mile."
- **Page 5, Table 2.2** compares Kane Creek's projected density to nearby areas:

  - **Castle Valley:** 47.2 persons per square mile
  - **Moab:** 1,123.7 persons per square mile

- The study projects Kane Creek to reach **1,105 residents on just 0.3 square miles**.
- No documentation is provided for how this density aligns with zoning, infrastructure capacity, or market demand.

Legal/Statutory Context:

- **Utah Code §10-2a-502(2)(e)(ii)** requires the proposed area to have "an average population density of no less than seven people per square mile," setting a low statutory floor but not addressing unreasonably high densities.
- **Utah Code §10-2a-504(3)** requires analysis of population and population density for both the proposed area and the surrounding region.
- **Utah Code §10-2a-504(6)** requires feasibility studies to assess risks associated with proposed development patterns.

Technical Analysis:

The proposed density—**4,009 persons per square mile**—is nearly:

- **85 times higher than Castle Valley's density**.
- **3.5 times higher than Moab's existing density**, despite Moab being a fully developed tourism hub with far more infrastructure.

This density assumption implies a development pattern more akin to urban multifamily housing than the **resort-style second homes** or rural lots typical for Grand County. Achieving this density would require either:

- Extremely small lot sizes inconsistent with rural character.
- Unprecedented demand for multifamily housing in an unproven market.
- Significant investments in high-capacity water, sewer, and transportation infrastructure not contemplated in the feasibility study.

This density also **directly conflicts with market expectations** for rural resort buyers, who typically seek larger lots, privacy, and open space—not urban densities. The assumption raises serious concerns about whether the development would be marketable at all, further undermining revenue projections.

Practical Implications:

- Infrastructure (water, roads, wastewater) would need to accommodate **urban-level demand**, increasing costs.
- Traffic congestion would overwhelm rural roads not designed for urban volumes.
- The visual and environmental impact would be completely inconsistent with surrounding rural communities.
- Buyer demand for rural homes could collapse if density undermines the area's natural appeal.

Questions for the Lieutenant Governor/Study Authors:

1. What development pattern (lot sizes, housing types) would achieve this projected density, and how does that align with market expectations for this area?
2. How does this density assumption account for surrounding rural character and Grand County's general plan?
3. What infrastructure investments were modeled to accommodate this density, and why were those costs omitted from the budget?

5.3 Hotel Occupancy Assumptions

###

6. Illegal and Invalid Revenue Assumptions

6.1. Prohibited Tax Collection During Preliminary Municipality Phase

The feasibility study's revenue projections for Kane Creek's first two years rely heavily on property and sales tax revenue that Kane Creek **cannot legally collect** under **Utah Code §10-2a-509**. Preliminary municipalities are explicitly **prohibited from levying taxes** or **receiving sales tax or gas tax distributions** until they meet population and governance thresholds required for full municipal transition.

Evidence from Study

- **Page 17, Table 5.11** projects Kane Creek will collect **$83,044 in sales tax revenue in Year 1** and **$197,839 in Year 2**.
- **Page 17, Table 5.3** projects **$3,538 in property tax revenue in Year 1**, despite the lack of taxing authority during the preliminary phase.
- **Page 3, Table 1.1** combines these illegal revenues into a **total Year 1 revenue of $102,984**.

- **Page 22 (RISKS)** fails to disclose the legal prohibition on tax collection, omitting this **critical legal risk** from the study's mandatory risk disclosure section.

Legal/Statutory Context

- **Utah Code §10-2a-509(4)(b)** explicitly states:
  "A preliminary municipality:
  (i) may not impose a tax;
  (iv) may not receive an allocation of sales tax or gas tax."
- **Utah Code §10-2a-510** states that a preliminary municipality only transitions to a full town (gaining tax powers) after meeting these criteria:
  (a) Population of at least 99 full-time residents; and
  (b) Election of municipal officers (mayor and council).
- **Utah Code §10-2a-504(3)** requires feasibility studies to project revenues for the first five years — but these projections must comply with **legally permissible revenue sources**.
- **Utah Code §10-2a-504(6)** requires feasibility studies to identify risks, including legal risks affecting revenues.

Technical Analysis

The feasibility study's **Year 1 and Year 2 revenue assumptions are legally impossible** because:

1. **Property tax cannot be levied** until Kane Creek transitions to full municipal status (population ≥99 + elected mayor/council).
2. **Sales tax cannot be allocated** until this transition occurs.
3. The study assumes Kane Creek will be a fully functioning municipality immediately after incorporation — despite acknowledging that only **42 housing units** are planned in the first phase.

This timeline **directly violates Utah Code** and contradicts the study's own population buildout projections. Kane Creek could **legally remain a preliminary municipality for multiple years** — during which it would have **no property tax revenue and no sales tax revenue**, despite needing to fund governance, roads, and public safety.

Practical Implications

- Kane Creek would enter its first years of operation with **no legally available tax revenue**, while immediately incurring substantial costs for government setup, roads, and law enforcement.

- Early-year deficits would likely exceed **$100,000 - $150,000 per year**, even under the most optimistic cost assumptions.
- The feasibility study's claim that Kane Creek will operate with a **22.7% revenue margin** is mathematically impossible once the illegal revenue assumptions are corrected.
- This early fiscal gap **cannot legally be closed with local taxes or state sales tax distributions** — leaving only options such as:
    - Excessive early resident fees.
    - Borrowing, which is unlikely without dedicated revenue.
    - Service cuts that would leave early residents underserved.
- The feasibility study's failure to disclose this **legal and fiscal trap** misleads the public, prospective residents, and policymakers.

Questions for the Lieutenant Governor

1. Why does the feasibility study project property and sales tax revenue in Year 1, when Utah Code 10-2a-509 explicitly prohibits this?
2. What revenue source will fund governance, law enforcement, and road maintenance during the preliminary municipality phase if no taxes can be collected?
3. How does the feasibility study's revenue timeline comply with Utah Code 10-2a-504, which requires realistic, legally valid revenue projections?
4. Why is this fundamental legal restriction omitted from the "Risks" section of the study?
5. How can the study meet statutory feasibility requirements if its core revenue assumptions are illegal?

6.2. Undisclosed Reliance on Voluntary Developer Contributions for Core Facilities

In addition to relying on **illegal tax revenue**, the feasibility study also assumes that essential early public facilities — including the town's general government office and public works facility — will be **voluntarily funded by developers**. This assumption is presented as a given, but it is **not guaranteed by any enforceable agreement**. Worse, this **contingent revenue source** was **never disclosed as a financial risk** in the study's Risk Section.

Evidence from Study

- **Page 3, Executive Summary** states: "The cost for a general government office and public works facility will be paid by the developers during Phase I."

- The study provides **no binding agreement** or formal documentation requiring developers to follow through on these contributions.
- **Page 22 (RISKS)** fails to disclose the financial risk posed by reliance on voluntary, unsecured developer funding.

Legal/Statutory Context

- **Utah Code §10-2a-504(6)** requires feasibility studies to identify **all risks** that could affect revenues or costs — including risks related to uncertain funding sources.
- The feasibility study's **failure to disclose this risk** violates the transparency and full-disclosure requirements imposed by **§10-2a-504(6)**.

Technical Analysis:
The feasibility study's financial model treats developer contributions as **guaranteed revenue**, despite the complete absence of any **enforceable development agreement** requiring those payments. This creates a double financial exposure:

- If developers **do not follow through**, Kane Creek would face immediate capital shortfalls and be forced to either borrow, increase fees, or delay essential facilities.
- Because this risk was **concealed from the public and policymakers**, the study **overstates financial stability** and **understates incorporation risks**.

Practical Implications:

- Kane Creek's government offices and public works could end up **unfunded**, delaying service delivery and increasing early deficits.
- The town could be forced into early borrowing or **last-minute fee increases**, undermining public trust.
- Residents and policymakers were deprived of the **full financial picture**, which violates the public transparency intent of Utah's feasibility study requirements.

6.3. Systemic Failure to Identify and Disclose Revenue Risks

The prohibited tax assumptions (6.1) and the hidden developer funding reliance (6.2) reveal a **pattern of financial concealment** that renders the feasibility study's revenue projections **unreliable under Utah law**.

Evidence from Study

- **Page 22 (RISKS)** makes no mention of:
  - The legal prohibition on preliminary municipality taxes and sales tax allocations.
  - The financial risk posed by voluntary, unenforceable developer contributions.
- The combined effect of these omissions creates a **false portrayal of financial health**.

Legal/Statutory Context

- **Utah Code §10-2a-504(6)** requires feasibility studies to disclose **all risks** that could materially affect costs or revenues.
- By omitting both legal prohibitions and contingent revenue risks, the study **violates this requirement**, rendering it **legally deficient**.

Technical Analysis

A feasibility study's revenue projections **must be lawful, transparent, and realistic**. This study fails all three tests:

- It relies on **illegal taxes**.
- It hides **contingent developer subsidies**.
- It conceals both of these risks from the required risk disclosures.

The result is a feasibility study that **does not comply with Utah Code §10-2a-504**, and should therefore be **disqualified from further reliance** in the incorporation process.

Practical Implications

- Policymakers and residents have been given a **materially false picture** of Kane Creek's financial readiness.
- The study's claim of a **22.7% revenue margin** is **fictitious**, resting on revenue that is either illegal or speculative.
- The entire financial basis for incorporation is **legally and mathematically unsound**, exposing residents to potential **financial disaster** if the town incorporates based on this study.

Questions for the Lieutenant Governor

1. How can Kane Creek legally fund operations during the preliminary phase if taxes and sales tax distributions are prohibited under **Utah Code §10-2a-509(4)**?
2. What binding agreements (if any) exist requiring developers to fund essential facilities, and why was this risk not disclosed?
3. How can the feasibility study claim compliance with **Utah Code §10-2a-504(6)** when it omits both these critical risks?
4. Should the feasibility study be **rejected** for failing to provide accurate, lawful revenue projections as required by state law?

CLOSING STATEMENT

The Kane Creek feasibility study presents a deeply flawed and highly fragile financial model, propped up by speculative assumptions, unrealistic development timelines, and artificially low service cost projections. Rather than demonstrating the statutory requirement of financial viability, the study instead reveals a precarious municipal startup that depends on early residents bearing extraordinary financial burdens, unproven absorption rates being achieved without disruption, and every revenue stream performing with near-perfect reliability.

This approach exposes Kane Creek's future homeowners, business owners, and investors to **severe financial risk**, while deliberately obscuring the full scope of costs and liabilities they will face. Critical infrastructure — including floodplain mitigation, road maintenance, water, and wastewater — is underfunded or ignored entirely, and no independent market validation exists to support the assumed absorption of luxury homes, commercial space, or hospitality units. The result is a financial house of cards, where even minor deviations from these aggressive projections could trigger sharp tax hikes, service cuts, or outright insolvency.

This is not an isolated risk to the future Kane Creek residents or investors alone. If Kane Creek collapses under its own financial weight, the burden of failure will inevitably land on Grand County taxpayers — whether through emergency service backstopping, infrastructure bailouts, or broader economic fallout. Far from a responsible path to sustainable local government, Kane Creek's incorporation as proposed is a high-risk financial experiment — one that leaves residents, the County, and ultimately the State exposed to avoidable harm.