

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **10-2a-201.5**, as last amended by Laws of Utah 2024, Chapters 342, 518 and 53433 **10-9a-102**, as last amended by Laws of Utah 2019, Chapter 38434 **10-9a-403**, as last amended by Laws of Utah 2024, Chapters 431, 53735 **10-9a-408**, as last amended by Laws of Utah 2024, Chapters 413, 43836 **10-9a-535**, as enacted by Laws of Utah 2022, Chapter 35537 **17-27a-102**, as last amended by Laws of Utah 2022, Chapter 30738 **17-27a-403**, as last amended by Laws of Utah 2024, Chapters 381, 43139 **17-27a-408**, as last amended by Laws of Utah 2024, Chapters 381, 41340 **17-27a-531**, as enacted by Laws of Utah 2022, Chapter 35541 **17B-1-202**, as last amended by Laws of Utah 2024, Chapters 53, 38842 **35A-8-202**, as last amended by Laws of Utah 2021, Chapter 28143 **72-1-304**, as last amended by Laws of Utah 2024, Chapter 51744 **72-2-124**, as last amended by Laws of Utah 2024, Chapters 498, 501

45 ENACTS:

46 **10-9a-403.2**, Utah Code Annotated 195347 **10-9a-403.3**, Utah Code Annotated 195348 **17-27a-403.1**, Utah Code Annotated 195349 **17-27a-403.2**, Utah Code Annotated 195350 **63J-4-402**, Utah Code Annotated 1953

51

52 *Be it enacted by the Legislature of the state of Utah:*53 Section 1. Section **10-2a-201.5** is amended to read:54 **10-2a-201.5 . Qualifications for incorporation.**

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

56 (i)(A) is contiguous; or

57 (B) is a community council area;

58 (ii) has a population of at least [~~100~~] 75 people, but fewer than 1,000 people; and

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

60 (b) A preliminary municipality may transition to, and incorporate as, a town, in
61 accordance with Section 10-2a-510.

- 62 (c) An area may incorporate as a city in accordance with this part if the area:
63 (i)(A) is contiguous; or
64 (B) is a community council area;
65 (ii) has a population of 1,000 people or more; and
66 (iii) is not already part of a municipality.
- 67 (2)(a) An area may not incorporate under this part if:
68 (i) the area has a population of fewer than 100 people; or
69 (ii) except as provided in Subsection (2)(b), the area has an average population
70 density of fewer than seven people per square mile.
- 71 (b) Subsection (2)(a)(ii) does not prohibit incorporation of an area if:
72 (i) noncompliance with Subsection (2)(a)(ii) is necessary to connect separate areas
73 that share a demonstrable community interest; and
74 (ii) the area is contiguous.
- 75 (3) An area incorporating under this part may not include land owned by the United States
76 federal government unless:
77 (a) the area, including the land owned by the United States federal government, is
78 contiguous; and
79 (b)(i) incorporating the land is necessary to connect separate areas that share a
80 demonstrable community interest; or
81 (ii) excluding the land from the incorporating area would create an unincorporated
82 island within the proposed municipality.
- 83 (4)(a) Except as provided in Subsection (4)(b), an area incorporating under this part may
84 not include some or all of an area proposed for annexation in an annexation petition
85 under Section 10-2-403 that:
86 (i) was filed before the filing of the request for a feasibility study, described in
87 Section 10-2a-202, relating to the incorporating area; and
88 (ii) is still pending on the date the request for the feasibility study described in
89 Subsection (4)(a)(i) is filed.
- 90 (b) A feasibility request may propose for incorporation an area that includes some or all
91 of an area proposed for annexation in an annexation petition described in Subsection
92 (4)(a) if:
93 (i) the proposed annexation area that is part of the area proposed for incorporation
94 does not exceed 20% of the area proposed for incorporation;
95 (ii) the feasibility request complies with Subsections 10-2a-202(1), (3), (4), and (5)

96 with respect to excluding the proposed annexation area from the area proposed for
 97 incorporation; and

98 (iii) excluding the area proposed for annexation from the area proposed for
 99 incorporation would not cause the area proposed for incorporation to not be
 100 contiguous.

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

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

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

109 Section 2. Section **10-9a-102** is amended to read:

110 **10-9a-102 . Purposes -- General land use authority.**

111 (1) The purposes of this chapter are to:

112 (a) provide for the health, safety, and welfare;

113 (b) promote the prosperity;

114 (c) improve the morals, peace, good order, comfort, convenience, and aesthetics of each
 115 municipality and each municipality's present and future inhabitants and businesses;

116 (d) protect the tax base;

117 (e) secure economy in governmental expenditures;

118 (f) foster the state's agricultural and other industries;

119 (g) protect both urban and nonurban development;

120 (h) protect and ensure access to sunlight for solar energy devices;

121 (i) provide fundamental fairness in land use regulation;

122 (j) facilitate orderly growth, ~~[and]~~ allow growth in a variety of housing types, and
 123 contribute toward housing affordability; and

124 (k) protect property values.

125 (2) To accomplish the purposes of this chapter, a municipality may enact all ordinances,
 126 resolutions, and rules and may enter into other forms of land use controls and
 127 development agreements that the municipality considers necessary or appropriate for the
 128 use and development of land within the municipality, including ordinances, resolutions,
 129 rules, restrictive covenants, easements, and development agreements governing:

- 130 (a) uses;
- 131 (b) density;
- 132 (c) open spaces;
- 133 (d) structures;
- 134 (e) buildings;
- 135 (f) energy efficiency;
- 136 (g) light and air;
- 137 (h) air quality;
- 138 (i) transportation and public or alternative transportation;
- 139 (j) infrastructure;
- 140 (k) street and building orientation;
- 141 (l) width requirements;
- 142 (m) public facilities;
- 143 (n) fundamental fairness in land use regulation; and
- 144 (o) considerations of surrounding land uses to balance the foregoing purposes with a
- 145 landowner's private property interests and associated statutory and constitutional
- 146 protections.
- 147 (3)(a) Any ordinance, resolution, or rule enacted by a municipality pursuant to its
- 148 authority under this chapter shall comply with the state's exclusive jurisdiction to
- 149 regulate oil and gas activity, as described in Section 40-6-2.5.
- 150 (b) A municipality may enact an ordinance, resolution, or rule that regulates surface
- 151 activity incident to an oil and gas activity if the municipality demonstrates that the
- 152 regulation:
- 153 (i) is necessary for the purposes of this chapter;
- 154 (ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and
- 155 (iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas
- 156 activity, as described in Section 40-6-2.5.

157 Section 3. Section **10-9a-403** is amended to read:

158 **10-9a-403 . General plan preparation.**

- 159 (1)(a) The planning commission shall provide notice, as provided in Section 10-9a-203,
- 160 of the planning commission's intent to make a recommendation to the municipal
- 161 legislative body for a general plan or a comprehensive general plan amendment when
- 162 the planning commission initiates the process of preparing the planning commission's
- 163 recommendation.

- 164 (b) The planning commission shall make and recommend to the legislative body a
165 proposed general plan for the area within the municipality.
- 166 (c) The plan may include areas outside the boundaries of the municipality if, in the
167 planning commission's judgment, those areas are related to the planning of the
168 municipality's territory.
- 169 (d) Except as otherwise provided by law or with respect to a municipality's power of
170 eminent domain, when the plan of a municipality involves territory outside the
171 boundaries of the municipality, the municipality may not take action affecting that
172 territory without the concurrence of the county or other municipalities affected.
- 173 (2)(a) At a minimum, the proposed general plan, with the accompanying maps, charts,
174 and descriptive and explanatory matter, shall include the planning commission's
175 recommendations for the following plan elements:
- 176 (i) a land use element that:
- 177 (A) designates the long-term goals and the proposed extent, general distribution,
178 and location of land for housing for residents of various income levels,
179 business, industry, agriculture, recreation, education, public buildings and
180 grounds, open space, and other categories of public and private uses of land as
181 appropriate;
- 182 (B) includes a statement of the projections for and standards of population density
183 and building intensity recommended for the various land use categories
184 covered by the plan;
- 185 (C) except for a city of the fifth class or a town, is coordinated to integrate the
186 land use element with the water use and preservation element; and
- 187 (D) except for a city of the fifth class or a town, accounts for the effect of land use
188 categories and land uses on water demand;
- 189 (ii) a transportation and traffic circulation element that:
- 190 (A) provides the general location and extent of existing and proposed freeways,
191 arterial and collector streets, public transit, active transportation facilities, and
192 other modes of transportation that the planning commission considers
193 appropriate;
- 194 (B) for a municipality that has access to a major transit investment corridor,
195 addresses the municipality's plan for residential and commercial development
196 around major transit investment corridors to maintain and improve the
197 connections between housing, employment, education, recreation, and

- 198 commerce;
- 199 (C) for a municipality that does not have access to a major transit investment
 200 corridor, addresses the municipality's plan for residential and commercial
 201 development in areas that will maintain and improve the connections between
 202 housing, transportation, employment, education, recreation, and commerce; and
- 203 (D) correlates with the population projections, the employment projections, and
 204 the proposed land use element of the general plan;
- 205 (iii) a moderate income housing element that:
- 206 (A) provides a realistic opportunity to meet the need for additional moderate
 207 income housing within the municipality during the next five years;
- 208 (B) for a ~~town~~ municipality that is not a specified municipality, may include a
 209 recommendation to implement three or more of the moderate income housing
 210 strategies described in Subsection (2)(b)(iii);
- 211 (C) for a specified municipality, as defined in Section 10-9a-408, that does not
 212 have a fixed guideway public transit station, shall include a recommendation to
 213 implement three or more of the moderate income housing strategies described
 214 in Subsection (2)(b)(iii) or at least one of the moderate income housing
 215 strategies described in Subsections (2)(b)(iii)(X) through (CC);
- 216 (D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed
 217 guideway public transit station, shall include:
- 218 (I) ~~[-]~~ a recommendation to implement five or more of the moderate income
 219 housing strategies described in Subsection (2)(b)(iii), of which one shall be
 220 the moderate income housing strategy described in Subsection [
 221 ~~(2)(b)(iii)(W);~~] (2)(b)(iii)(U) and one shall be a moderate income housing
 222 strategy described in Subsection (2)(b)(iii)(G)~~[-]~~ or (H)~~[-, or (Q);]~~ ; or
- 223 (II) a recommendation to implement the moderate income housing strategy
 224 described in Subsection (2)(b)(iii)(U), one of the moderate income housing
 225 strategies described in Subsections (2)(b)(iii)(X) through (CC), and one
 226 moderate income housing strategy described in Subsection (2)(b)(iii); and
- 227 (E) for a specified municipality, as defined in Section 10-9a-408, shall include an
 228 implementation plan as provided in Subsection (2)(c); and
- 229 (iv) except for a city of the fifth class or a town, a water use and preservation element
 230 that addresses:
- 231 (A) the effect of permitted development or patterns of development on water

- 232 demand and water infrastructure;
- 233 (B) methods of reducing water demand and per capita consumption for future
234 development;
- 235 (C) methods of reducing water demand and per capita consumption for existing
236 development; and
- 237 (D) opportunities for the municipality to modify the municipality's operations to
238 eliminate practices or conditions that waste water.
- 239 (b) In drafting the moderate income housing element, the planning commission:
- 240 (i) shall consider the Legislature's determination that municipalities shall facilitate a
241 reasonable opportunity for a variety of housing, including moderate income
242 housing:
- 243 (A) to meet the needs of people of various income levels living, working, or
244 desiring to live or work in the community; and
- 245 (B) to allow people with various incomes to benefit from and fully participate in
246 all aspects of neighborhood and community life;
- 247 (ii) for a [~~town~~] municipality that is not a specified municipality, may include, and for
248 a specified municipality as defined in Section 10-9a-408, shall include, an analysis
249 of how the municipality will provide a realistic opportunity for the development of
250 moderate income housing within the next five years;
- 251 (iii) for a [~~town~~] municipality that is not a specified municipality, may include, and
252 for a specified municipality as defined in Section 10-9a-408, shall include a
253 recommendation to implement the required number of any of the following
254 moderate income housing strategies as specified in Subsection (2)(a)(iii):
- 255 (A) rezone for densities necessary to facilitate the production of moderate income
256 housing;
- 257 (B) demonstrate investment in the rehabilitation or expansion of infrastructure that
258 facilitates the construction of moderate income housing;
- 259 (C) demonstrate investment in the rehabilitation of existing uninhabitable housing
260 stock into moderate income housing;
- 261 (D) identify and utilize general fund subsidies or other sources of revenue to
262 waive construction related fees that are otherwise generally imposed by the
263 municipality for the construction or rehabilitation of moderate income housing;
- 264 (E) create or allow for, and reduce regulations related to, internal or detached
265 accessory dwelling units in residential zones;

- 266 (F) zone or rezone for higher density or moderate income residential development
267 in commercial or mixed-use zones near major transit investment corridors,
268 commercial centers, or employment centers;
- 269 (G) amend land use regulations to allow for higher density or new moderate
270 income residential development in commercial or mixed-use zones near major
271 transit investment corridors;
- 272 (H) amend land use regulations to eliminate or reduce parking requirements for
273 residential development where a resident is less likely to rely on the resident's
274 own vehicle, such as residential development near major transit investment
275 corridors or senior living facilities;
- 276 (I) amend land use regulations to allow for single room occupancy developments;
- 277 (J) implement zoning incentives for moderate income units in new developments;
- 278 (K) preserve existing and new moderate income housing and subsidized units by
279 utilizing a landlord incentive program, providing for deed restricted units
280 through a grant program, or, notwithstanding Section 10-9a-535, establishing a
281 housing loss mitigation fund;
- 282 (L) reduce, waive, or eliminate impact fees related to moderate income housing;
- 283 (M) demonstrate creation of, or participation in, a community land trust program
284 for moderate income housing;
- 285 (N) implement a mortgage assistance program for employees of the municipality,
286 an employer that provides contracted services to the municipality, or any other
287 public employer that operates within the municipality;
- 288 (O) apply for or partner with an entity that applies for state or federal funds or tax
289 incentives to promote the construction of moderate income housing, an entity
290 that applies for programs offered by the Utah Housing Corporation within that
291 agency's funding capacity, an entity that applies for affordable housing
292 programs administered by the Department of Workforce Services, an entity
293 that applies for affordable housing programs administered by an association of
294 governments established by an interlocal agreement under Title 11, Chapter 13,
295 Interlocal Cooperation Act, an entity that applies for services provided by a
296 public housing authority to preserve and create moderate income housing, or
297 any other entity that applies for programs or services that promote the
298 construction or preservation of moderate income housing;
- 299 (P) demonstrate utilization of a moderate income housing set aside from a

300 community reinvestment agency, redevelopment agency, or community
 301 development and renewal agency to create or subsidize moderate income
 302 housing;

303 [~~(Q)~~] ~~create a housing and transit reinvestment zone pursuant to Title 63N, Chapter~~
 304 ~~3, Part 6, Housing and Transit Reinvestment Zone Act;~~]

305 [~~(R)~~] ~~create a home ownership promotion zone pursuant to Part 10, Home~~
 306 ~~Ownership Promotion Zone for Municipalities;~~]

307 [~~(S)~~] (Q) eliminate impact fees for any accessory dwelling unit that is not an
 308 internal accessory dwelling unit as defined in Section 10-9a-530;

309 [~~(T)~~] (R) create a program to transfer development rights for moderate income
 310 housing;

311 [~~(U)~~] (S) ratify a joint acquisition agreement with another local political
 312 subdivision for the purpose of combining resources to acquire property for
 313 moderate income housing;

314 [~~(V)~~] (T) develop a moderate income housing project for residents who are
 315 disabled or 55 years old or older;

316 [~~(W)~~] (U) develop and adopt a station area plan in accordance with Section
 317 10-9a-403.1;

318 [~~(X)~~] (V) create or allow for, and reduce regulations related to, multifamily
 319 residential dwellings compatible in scale and form with detached single-family
 320 residential dwellings and located in walkable communities within residential or
 321 mixed-use zones;

322 [~~(Y)~~] ~~create a first home investment zone in accordance with Title 63N, Chapter 3,~~
 323 ~~Part 16, First Home Investment Zone Act; and]~~

324 [~~(Z)~~] (W) demonstrate implementation of any other program or strategy to address
 325 the housing needs of residents of the municipality who earn less than 80% of
 326 the area median income, including the dedication of a local funding source to
 327 moderate income housing or the adoption of a land use ordinance that requires
 328 10% or more of new residential development in a residential zone be dedicated
 329 to moderate income housing;[- and]

330 (X) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter
 331 3, Part 6, Housing and Transit Reinvestment Zone Act;

332 (Y) create a home ownership promotion zone pursuant to Part 10, Home
 333 Ownership Promotion Zone for Municipalities;

- 334 (Z) create a first home investment zone in accordance with Title 63N, Chapter 3,
335 Part 16, First Home Investment Zone Act;
- 336 (AA) approve a project that receives funding from, or qualifies to receive funding
337 from, the Utah Homes Investment Program created in Title 51, Chapter 12,
338 Utah Homes Investment Program;
- 339 (BB) adopt or approve a qualifying affordable home ownership density bonus for
340 single-family residential units, as described in Section 10-9a-403.2; and
341 (CC) adopt or approve a qualifying affordable home ownership density bonus for
342 multi-family residential units, as described in Section 10-9a-403.3; and
- 343 (iv) shall identify each moderate income housing strategy recommended to the
344 legislative body for implementation by restating the exact language used to
345 describe the strategy in Subsection (2)(b)(iii).
- 346 (c)(i) In drafting the implementation plan portion of the moderate income housing
347 element as described in Subsection (2)(a)(iii)(C), the planning commission shall
348 recommend to the legislative body the establishment of a five-year timeline for
349 implementing each of the moderate income housing strategies selected by the
350 municipality for implementation.
- 351 (ii) The timeline described in Subsection (2)(c)(i) shall:
- 352 (A) identify specific measures and benchmarks for implementing each moderate
353 income housing strategy selected by the municipality, whether one-time or
354 ongoing; and
- 355 (B) provide flexibility for the municipality to make adjustments as needed.
- 356 (d) In drafting the land use element, the planning commission shall:
- 357 (i) identify and consider each agriculture protection area within the municipality;
- 358 (ii) avoid proposing a use of land within an agriculture protection area that is
359 inconsistent with or detrimental to the use of the land for agriculture; and
- 360 (iii) consider and coordinate with any station area plans adopted by the municipality
361 if required under Section 10-9a-403.1.
- 362 (e) In drafting the transportation and traffic circulation element, the planning
363 commission shall:
- 364 (i)(A) consider and coordinate with the regional transportation plan developed by
365 the municipality's region's metropolitan planning organization, if the
366 municipality is within the boundaries of a metropolitan planning organization;
367 or

- 368 (B) consider and coordinate with the long-range transportation plan developed by
369 the Department of Transportation, if the municipality is not within the
370 boundaries of a metropolitan planning organization; and
- 371 (ii) consider and coordinate with any station area plans adopted by the municipality if
372 required under Section 10-9a-403.1.
- 373 (f) In drafting the water use and preservation element, the planning commission:
- 374 (i) shall consider:
- 375 (A) applicable regional water conservation goals recommended by the Division of
376 Water Resources; and
- 377 (B) if Section 73-10-32 requires the municipality to adopt a water conservation
378 plan pursuant to Section 73-10-32, the municipality's water conservation plan;
- 379 (ii) shall include a recommendation for:
- 380 (A) water conservation policies to be determined by the municipality; and
381 (B) landscaping options within a public street for current and future development
382 that do not require the use of lawn or turf in a parkstrip;
- 383 (iii) shall review the municipality's land use ordinances and include a
384 recommendation for changes to an ordinance that promotes the inefficient use of
385 water;
- 386 (iv) shall consider principles of sustainable landscaping, including the:
- 387 (A) reduction or limitation of the use of lawn or turf;
388 (B) promotion of site-specific landscape design that decreases stormwater runoff
389 or runoff of water used for irrigation;
390 (C) preservation and use of healthy trees that have a reasonable water requirement
391 or are resistant to dry soil conditions;
392 (D) elimination or regulation of ponds, pools, and other features that promote
393 unnecessary water evaporation;
394 (E) reduction of yard waste; and
395 (F) use of an irrigation system, including drip irrigation, best adapted to provide
396 the optimal amount of water to the plants being irrigated;
- 397 (v) shall consult with the public water system or systems serving the municipality
398 with drinking water regarding how implementation of the land use element and
399 water use and preservation element may affect:
- 400 (A) water supply planning, including drinking water source and storage capacity
401 consistent with Section 19-4-114; and

- 402 (B) water distribution planning, including master plans, infrastructure asset
403 management programs and plans, infrastructure replacement plans, and impact
404 fee facilities plans;
- 405 (vi) shall consult with the Division of Water Resources for information and technical
406 resources regarding regional water conservation goals, including how
407 implementation of the land use element and the water use and preservation
408 element may affect the Great Salt Lake;
- 409 (vii) may include recommendations for additional water demand reduction strategies,
410 including:
- 411 (A) creating a water budget associated with a particular type of development;
- 412 (B) adopting new or modified lot size, configuration, and landscaping standards
413 that will reduce water demand for new single family development;
- 414 (C) providing one or more water reduction incentives for existing development
415 such as modification of existing landscapes and irrigation systems and
416 installation of water fixtures or systems that minimize water demand;
- 417 (D) discouraging incentives for economic development activities that do not
418 adequately account for water use or do not include strategies for reducing
419 water demand; and
- 420 (E) adopting water concurrency standards requiring that adequate water supplies
421 and facilities are or will be in place for new development; and
- 422 (viii) for a town, may include, and for another municipality, shall include, a
423 recommendation for low water use landscaping standards for a new:
- 424 (A) commercial, industrial, or institutional development;
- 425 (B) common interest community, as defined in Section 57-25-102; or
- 426 (C) multifamily housing project.
- 427 (3) The proposed general plan may include:
- 428 (a) an environmental element that addresses:
- 429 (i) the protection, conservation, development, and use of natural resources, including
430 the quality of:
- 431 (A) air;
- 432 (B) forests;
- 433 (C) soils;
- 434 (D) rivers;
- 435 (E) groundwater and other waters;

- 436 (F) harbors;
- 437 (G) fisheries;
- 438 (H) wildlife;
- 439 (I) minerals; and
- 440 (J) other natural resources; and
- 441 (ii)(A) the reclamation of land, flood control, prevention and control of the
- 442 pollution of streams and other waters;
- 443 (B) the regulation of the use of land on hillsides, stream channels and other
- 444 environmentally sensitive areas;
- 445 (C) the prevention, control, and correction of the erosion of soils;
- 446 (D) the preservation and enhancement of watersheds and wetlands; and
- 447 (E) the mapping of known geologic hazards;
- 448 (b) a public services and facilities element showing general plans for sewage, water,
- 449 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for
- 450 them, police and fire protection, and other public services;
- 451 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
- 452 programs for:
- 453 (i) historic preservation;
- 454 (ii) the diminution or elimination of a development impediment as defined in Section
- 455 17C-1-102; and
- 456 (iii) redevelopment of land, including housing sites, business and industrial sites, and
- 457 public building sites;
- 458 (d) an economic element composed of appropriate studies and forecasts, as well as an
- 459 economic development plan, which may include review of existing and projected
- 460 municipal revenue and expenditures, revenue sources, identification of basic and
- 461 secondary industry, primary and secondary market areas, employment, and retail
- 462 sales activity;
- 463 (e) recommendations for implementing all or any portion of the general plan, including
- 464 the adoption of land and water use ordinances, capital improvement plans,
- 465 community development and promotion, and any other appropriate action;
- 466 (f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and
- 467 (g) any other element the municipality considers appropriate.

468 Section 4. Section **10-9a-403.2** is enacted to read:

469 **10-9a-403.2 . Affordable home ownership density bonus for single-family**

470 **residential units.**

471 (1) As used in this section:

472 (a) "Affordable housing" means a dwelling:

473 (i) offered for sale to an owner-occupier at a purchase price affordable to a household
474 with a gross income of no more than 120% of area median income for the county
475 in which the residential unit is offered for sale; or

476 (ii) offered for rent at a rental price affordable to a household with a gross income of
477 no more than 80% of area median income for the county in which the residential
478 unit is offered for rent.

479 (b) "Owner-occupier" means an individual who owns, solely or jointly, a housing unit in
480 which the individual lives as the individual's primary residence.

481 (c) "Qualifying affordable home ownership single-family density bonus" means:

482 (i) for an area with an underlying zoning density of less than six residential units per
483 acre, municipal approval of a density at least six residential units per acre; or

484 (ii) for an area with an underlying zoning density of six residential units per acre or
485 more, municipal approval of a density at least 0.5 residential units per acre greater
486 than the underlying zoning density for the area.

487 (2) If a municipality approves a qualifying affordable home ownership single-family
488 density bonus, either through a zoning ordinance or a development agreement, the
489 municipality may adopt requirements for the qualifying affordable home ownership
490 single-family density bonus area to ensure:

491 (a) at least 60% of the total single-family residential units be deed-restricted to
492 owner-occupancy for at least five years;

493 (b) at least 25% of the total single-family residential units qualify as affordable housing;

494 (c) at least 25% of the single-family residential units per acre to be no larger than 1,600
495 square feet; or

496 (d) the applicant creates a preferential qualifying buyer program in which a
497 single-family residential unit is initially offered for sale, for up to 30 days, to a
498 category of preferred qualifying buyers established by the municipality, in
499 accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

500 (3) A municipality may offer additional incentives in a qualifying affordable home
501 ownership single-family density bonus area approved for single-family residential units
502 to promote owner-occupied, affordable housing.

503 Section 5. Section **10-9a-403.3** is enacted to read:

504 **10-9a-403.3 . Affordable home ownership density bonus for multi-family**
 505 **residential units.**

506 (1) As used in this section:

507 (a) "Affordable housing" means the same as that term is defined in Section 10-9a-403.2.

508 (b) "Owner-occupier" means the same as that term is defined in Section 10-9a-403.2.

509 (c) "Qualifying affordable home ownership multi-family density bonus" means
 510 municipal approval of a density of at least 20 residential units per acre.

511 (2) If a municipality approves a qualifying affordable home ownership multi-family density
 512 bonus, either through a zoning ordinance or a development agreement, the municipality
 513 may adopt requirements for the qualifying affordable home ownership multi-family
 514 density bonus area to ensure:

515 (a) at least 20% more residential units per acre than are otherwise allowed in the area;

516 (b) at least 60% of the total units in the multi-family residential building be
 517 deed-restricted to owner-occupancy for at least five years;

518 (c) at least 25% of the total units in the multi-family residential building qualify as
 519 affordable housing;

520 (d) at least 25% of the total units in a multi-family residential building to be no larger
 521 than 1,600 square feet; or

522 (e) the applicant creates a preferential qualifying buyer program in which a unit in a
 523 multi-family residential building is initially offered for sale, for up to 30 days, to a
 524 category of preferred qualifying buyers established by the municipality, in
 525 accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

526 (3) A municipality may offer additional incentives in a qualifying affordable home
 527 ownership multi-family density bonus area for multi-family residential units to promote
 528 owner-occupied, affordable housing.

529 Section 6. Section **10-9a-408** is amended to read:

530 **10-9a-408 . Moderate income housing report -- Contents -- Prioritization for**
 531 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

532 (1) As used in this section:

533 (a) "Division" means the Housing and Community Development Division within the
 534 Department of Workforce Services.

535 (b) "Implementation plan" means the implementation plan adopted as part of the
 536 moderate income housing element of a specified municipality's general plan as
 537 provided in Subsection 10-9a-403(2)(c).

- 538 (c) "Initial report" or "initial moderate income housing report" means the one-time report
539 described in Subsection (2).
- 540 (d) "Moderate income housing strategy" means a strategy described in Subsection
541 10-9a-403(2)(b)(iii).
- 542 (e) "Report" means an initial report or a subsequent progress report.
- 543 (f) "Specified municipality" means:
- 544 (i) a city of the first, second, third, or fourth class; or
545 (ii) a city of the fifth class with a population of 5,000 or more, if the city is located
546 within a county of the first, second, or third class.
- 547 (g) "Subsequent progress report" means the annual report described in Subsection (3).
- 548 (2)(a) The legislative body of a specified municipality shall submit an initial report to
549 the division.
- 550 (b)(i) This Subsection (2)(b) applies to a municipality that is not a specified
551 municipality as of January 1, 2023.
- 552 (ii) As of January 1, if a municipality described in Subsection (2)(b)(i) changes from
553 one class to another or grows in population to qualify as a specified municipality,
554 the municipality shall submit an initial plan to the division on or before August 1
555 of the first calendar year beginning on January 1 in which the municipality
556 qualifies as a specified municipality.
- 557 (c) The initial report shall:
- 558 (i) identify each moderate income housing strategy selected by the specified
559 municipality for continued, ongoing, or one-time implementation, restating the
560 exact language used to describe the moderate income housing strategy in
561 Subsection 10-9a-403(2)(b)(iii); and
562 (ii) include an implementation plan.
- 563 (3)(a) After the division approves a specified municipality's initial report under this
564 section, the specified municipality shall, as an administrative act, annually submit to
565 the division a subsequent progress report on or before August 1 of each year after the
566 year in which the specified municipality is required to submit the initial report.
- 567 (b) The subsequent progress report shall include:
- 568 (i) subject to Subsection (3)(c), a description of each action, whether one-time or
569 ongoing, taken by the specified municipality during the previous 12-month period
570 to implement the moderate income housing strategies identified in the initial
571 report for implementation;

- 572 (ii) a description of each land use regulation or land use decision made by the
573 specified municipality during the previous 12-month period to implement the
574 moderate income housing strategies, including an explanation of how the land use
575 regulation or land use decision supports the specified municipality's efforts to
576 implement the moderate income housing strategies;
- 577 (iii) a description of any barriers encountered by the specified municipality in the
578 previous 12-month period in implementing the moderate income housing
579 strategies;
- 580 (iv) information regarding the number of internal and external or detached accessory
581 dwelling units located within the specified municipality for which the specified
582 municipality:
583 (A) issued a building permit to construct; or
584 (B) issued a business license or comparable license or permit to rent;
- 585 (v) the number of residential dwelling units that have been entitled that have not
586 received a building permit as of the submission date of the progress report;
- 587 (vi) shapefiles, or website links if shapefiles are not available, to current maps and
588 tables related to zoning;
- 589 (vii) a description of how the market has responded to the selected moderate income
590 housing strategies, including the number of entitled moderate income housing
591 units or other relevant data; and
- 592 (viii) any recommendations on how the state can support the specified municipality
593 in implementing the moderate income housing strategies.
- 594 (c) For purposes of describing actions taken by a specified municipality under
595 Subsection (3)(b)(i), the specified municipality may include an ongoing action taken
596 by the specified municipality prior to the 12-month reporting period applicable to the
597 subsequent progress report if the specified municipality:
598 (i) has already adopted an ordinance, approved a land use application, made an
599 investment, or approved an agreement or financing that substantially promotes the
600 implementation of a moderate income housing strategy identified in the initial
601 report; and
602 (ii) demonstrates in the subsequent progress report that the action taken under
603 Subsection (3)(c)(i) is relevant to making meaningful progress towards the
604 specified municipality's implementation plan.
- 605 (d) A specified municipality's report shall be in a form:

- 606 (i) approved by the division; and
- 607 (ii) made available by the division on or before May 1 of the year in which the report
- 608 is required.
- 609 (4) Within 90 days after the day on which the division receives a specified municipality's
- 610 report, the division shall:
- 611 (a) post the report on the division's website;
- 612 (b) send a copy of the report to the Department of Transportation, the Governor's Office
- 613 of Planning and Budget, the association of governments in which the specified
- 614 municipality is located, and, if the specified municipality is located within the
- 615 boundaries of a metropolitan planning organization, the appropriate metropolitan
- 616 planning organization; and
- 617 (c) subject to Subsection (5), review the report to determine compliance with this section.
- 618 (5)(a) An initial report [~~does not comply~~] complies with this section [~~unless~~] if the report:
- 619 (i) includes the information required under Subsection (2)(c);
- 620 (ii) demonstrates to the division that the specified municipality made plans to
- 621 implement:
- 622 (A) three or more moderate income housing strategies if the specified
- 623 municipality does not have a fixed guideway public transit station; or
- 624 (B) [~~subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income~~
- 625 ~~housing strategies~~]if the specified municipality has a fixed guideway public
- 626 transit station:
- 627 (I) five or more of the moderate income housing strategies described in
- 628 Subsection 10-9a-403(2)(b)(iii), of which one shall be the moderate income
- 629 housing strategy described in Subsection 10-9a-403(2)(b)(iii)(U) and one
- 630 shall be a moderate income housing strategy described in Subsection
- 631 10-9a-403(2)(b)(iii)(G) or (H); or
- 632 (II) the moderate income housing strategy described in Subsection
- 633 10-9a-403(2)(b)(iii)(U), one of the moderate income housing strategies
- 634 described in Subsections 10-9a-403(2)(b)(iii)(X) through (CC), and one
- 635 moderate income strategy described in Subsection 10-9a-403(2)(b)(iii); and
- 636 (iii) is in a form approved by the division.
- 637 (b) A subsequent progress report [~~does not comply~~] complies with this section [~~unless~~] if
- 638 the report:
- 639 (i) demonstrates to the division that the specified municipality made plans to

- 640 implement:
- 641 (A) three or more moderate income housing strategies if the specified
- 642 municipality does not have a fixed guideway public transit station; or
- 643 (B) ~~[subject to the requirements of Subsection 10-9a-403(2)(a)(iii)(D), five or~~
- 644 ~~more moderate income housing strategies]~~if the specified municipality has a
- 645 fixed guideway public transit station~~;~~ :
- 646 (I) five or more of the moderate income housing strategies described in
- 647 Subsection 10-9a-403(2)(b)(iii), of which one shall be the moderate income
- 648 housing strategy described in Subsection 10-9a-403(2)(b)(iii)(U) and one
- 649 shall be a moderate income housing strategy described in Subsection
- 650 10-9a-403(2)(b)(iii)(G) or (H); or
- 651 (II) the moderate income housing strategy described in Subsection
- 652 10-9a-403(2)(b)(iii)(U), one of the moderate income housing strategies
- 653 described in Subsections 10-9a-403(2)(b)(iii)(X) through (CC), and one
- 654 moderate income housing strategy described in Subsection
- 655 10-9a-403(2)(b)(iii);
- 656 (ii) is in a form approved by the division; and
- 657 (iii) provides sufficient information for the division to:
- 658 (A) assess the specified municipality's progress in implementing the moderate
- 659 income housing strategies;
- 660 (B) monitor compliance with the specified municipality's implementation plan;
- 661 (C) identify a clear correlation between the specified municipality's land use
- 662 regulations and land use decisions and the specified municipality's efforts to
- 663 implement the moderate income housing strategies;
- 664 (D) identify how the market has responded to the specified municipality's selected
- 665 moderate income housing strategies; and
- 666 (E) identify any barriers encountered by the specified municipality in
- 667 implementing the selected moderate income housing strategies.
- 668 (c)(i) Notwithstanding the requirements of Subsection (5)(a)(ii)(A) or (b)(i)(A), if a
- 669 specified municipality without a fixed guideway public transit station implements
- 670 or is implementing, by ordinance or development agreement, one of the following
- 671 moderate income housing strategies, the division shall consider that one moderate
- 672 income housing strategy to be the equivalent of three moderate income housing
- 673 strategies:

- 674 (A) a housing and transit reinvestment zone, as described in Subsection
675 10-9a-403(2)(b)(iii)(X);
- 676 (B) a home ownership promotion zone, as described in Subsection
677 10-9a-403(2)(b)(iii)(Y);
- 678 (C) a first home investment zone, described in Subsection 10-9a-403(2)(b)(iii)(Z);
- 679 (D) the approval of a project described in Subsection 10-9a-403(2)(b)(iii)(AA);
- 680 (E) a qualifying affordable home ownership density bonus for single-family
681 residential units, as described in Subsection 10-9a-403(2)(b)(iii)(BB); or
- 682 (F) a qualifying affordable home ownership density bonus for multi-family
683 residential units, as described in Subsection 10-9a-403(2)(b)(iii)(CC).
- 684 (ii) If the division considers one moderate income housing strategy described in
685 Subsection (5)(c)(i) as the equivalent of three moderate income housing strategies,
686 the division shall also consider the specified municipality compliant with the
687 reporting requirement described in this section for:
- 688 (A) the year in which the specified municipality submits the initial report or
689 subsequent report; and
- 690 (B) two subsequent reporting years.
- 691 (6)(a) A specified municipality qualifies for priority consideration under this Subsection
- 692 (6) if the specified municipality's report:
- 693 (i) complies with this section; and
- 694 (ii) demonstrates to the division that the specified municipality made plans to
- 695 implement:
- 696 (A) five or more moderate income housing strategies if the specified municipality
- 697 does not have a fixed guideway public transit station; or
- 698 (B) six or more moderate income housing strategies if the specified municipality
- 699 has a fixed guideway public transit station.
- 700 (b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c),
- 701 give priority consideration to transportation projects located within the boundaries of
- 702 a specified municipality described in Subsection (6)(a) until the Department of
- 703 Transportation receives notice from the division under Subsection (6)(e).
- 704 (c) Upon determining that a specified municipality qualifies for priority consideration
- 705 under this Subsection (6), the division shall send a notice of prioritization to the
- 706 legislative body of the specified municipality and the Department of Transportation.
- 707 (d) The notice described in Subsection (6)(c) shall:

- 708 (i) name the specified municipality that qualifies for priority consideration;
- 709 (ii) describe the funds or projects for which the specified municipality qualifies to
- 710 receive priority consideration; and
- 711 (iii) state the basis for the division's determination that the specified municipality
- 712 qualifies for priority consideration.
- 713 (e) The division shall notify the legislative body of a specified municipality and the
- 714 Department of Transportation in writing if the division determines that the specified
- 715 municipality no longer qualifies for priority consideration under this Subsection (6).
- 716 (7)(a) If the division, after reviewing a specified municipality's report, determines that
- 717 the report does not comply with this section, the division shall send a notice of
- 718 noncompliance to the legislative body of the specified municipality.
- 719 (b) A specified municipality that receives a notice of noncompliance may:
- 720 (i) cure each deficiency in the report within 90 days after the day on which the notice
- 721 of noncompliance is sent; or
- 722 (ii) request an appeal of the division's determination of noncompliance within 10
- 723 days after the day on which the notice of noncompliance is sent.
- 724 (c) The notice described in Subsection (7)(a) shall:
- 725 (i) describe each deficiency in the report and the actions needed to cure each
- 726 deficiency;
- 727 (ii) state that the specified municipality has an opportunity to:
- 728 (A) submit to the division a corrected report that cures each deficiency in the
- 729 report within 90 days after the day on which the notice of compliance is sent; or
- 730 (B) submit to the division a request for an appeal of the division's determination of
- 731 noncompliance within 10 days after the day on which the notice of
- 732 noncompliance is sent; and
- 733 (iii) state that failure to take action under Subsection (7)(c)(ii) will result in the
- 734 specified municipality's ineligibility for funds under Subsection (9).
- 735 (d) For purposes of curing the deficiencies in a report under this Subsection (7), if the
- 736 action needed to cure the deficiency as described by the division requires the
- 737 specified municipality to make a legislative change, the specified municipality may
- 738 cure the deficiency by making that legislative change within the 90-day cure period.
- 739 (e)(i) If a specified municipality submits to the division a corrected report in
- 740 accordance with Subsection (7)(b)(i) and the division determines that the
- 741 corrected report does not comply with this section, the division shall send a

- 742 second notice of noncompliance to the legislative body of the specified
743 municipality within 30 days after the day on which the corrected report is
744 submitted.
- 745 (ii) A specified municipality that receives a second notice of noncompliance may
746 submit to the division a request for an appeal of the division's determination of
747 noncompliance within 10 days after the day on which the second notice of
748 noncompliance is sent.
- 749 (iii) The notice described in Subsection (7)(e)(i) shall:
- 750 (A) state that the specified municipality has an opportunity to submit to the
751 division a request for an appeal of the division's determination of
752 noncompliance within 10 days after the day on which the second notice of
753 noncompliance is sent; and
- 754 (B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the
755 specified municipality's ineligibility for funds under Subsection (9).
- 756 (8)(a) A specified municipality that receives a notice of noncompliance under
757 Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of
758 noncompliance within 10 days after the day on which the notice of noncompliance is
759 sent.
- 760 (b) Within 90 days after the day on which the division receives a request for an appeal,
761 an appeal board consisting of the following three members shall review and issue a
762 written decision on the appeal:
- 763 (i) one individual appointed by the Utah League of Cities and Towns;
764 (ii) one individual appointed by the Utah Homebuilders Association; and
765 (iii) one individual appointed by the presiding member of the association of
766 governments, established pursuant to an interlocal agreement under Title 11,
767 Chapter 13, Interlocal Cooperation Act, of which the specified municipality is a
768 member.
- 769 (c) The written decision of the appeal board shall either uphold or reverse the division's
770 determination of noncompliance.
- 771 (d) The appeal board's written decision on the appeal is final.
- 772 (9)(a) A specified municipality is ineligible for funds under this Subsection (9) if:
- 773 (i) the specified municipality fails to submit a report to the division;
774 (ii) after submitting a report to the division, the division determines that the report
775 does not comply with this section and the specified municipality fails to:

- 776 (A) cure each deficiency in the report within 90 days after the day on which the
777 notice of noncompliance is sent; or
- 778 (B) request an appeal of the division's determination of noncompliance within 10
779 days after the day on which the notice of noncompliance is sent;
- 780 (iii) after submitting to the division a corrected report to cure the deficiencies in a
781 previously submitted report, the division determines that the corrected report does
782 not comply with this section and the specified municipality fails to request an
783 appeal of the division's determination of noncompliance within 10 days after the
784 day on which the second notice of noncompliance is sent; or
- 785 (iv) after submitting a request for an appeal under Subsection (8), the appeal board
786 issues a written decision upholding the division's determination of noncompliance.
- 787 (b) The following apply to a specified municipality described in Subsection (9)(a) until
788 the division provides notice under Subsection (9)(e):
- 789 (i) the executive director of the Department of Transportation may not program funds
790 from the Transportation Investment Fund of 2005, including the Transit
791 Transportation Investment Fund, to projects located within the boundaries of the
792 specified municipality in accordance with Subsection 72-2-124(5);
- 793 (ii) beginning with a report submitted in 2024, the specified municipality shall pay a
794 fee to the Olene Walker Housing Loan Fund in the amount of \$250 per day that
795 the specified municipality:
- 796 (A) fails to submit the report to the division in accordance with this section,
797 beginning the day after the day on which the report was due; or
- 798 (B) fails to cure the deficiencies in the report, beginning the day after the day by
799 which the cure was required to occur as described in the notice of
800 noncompliance under Subsection (7); and
- 801 (iii) beginning with the report submitted in 2025, the specified municipality shall pay
802 a fee to the Olene Walker Housing Loan Fund in the amount of \$500 per day that
803 the specified municipality, in a consecutive year:
- 804 (A) fails to submit the report to the division in accordance with this section,
805 beginning the day after the day on which the report was due; or
- 806 (B) fails to cure the deficiencies in the report, beginning the day after the day by
807 which the cure was required to occur as described in the notice of
808 noncompliance under Subsection (7).
- 809 (c) Upon determining that a specified municipality is ineligible for funds under this

810 Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the
 811 division shall send a notice of ineligibility to the legislative body of the specified
 812 municipality, the Department of Transportation, the State Tax Commission, and the
 813 Governor's Office of Planning and Budget.

814 (d) The notice described in Subsection (9)(c) shall:

815 (i) name the specified municipality that is ineligible for funds;

816 (ii) describe the funds for which the specified municipality is ineligible to receive;

817 (iii) describe the fee the specified municipality is required to pay under Subsection
 818 (9)(b), if applicable; and

819 (iv) state the basis for the division's determination that the specified municipality is
 820 ineligible for funds.

821 (e) The division shall notify the legislative body of a specified municipality and the
 822 Department of Transportation in writing if the division determines that the provisions
 823 of this Subsection (9) no longer apply to the specified municipality.

824 (f) The division may not determine that a specified municipality that is required to pay a
 825 fee under Subsection (9)(b) is in compliance with the reporting requirements of this
 826 section until the specified municipality pays all outstanding fees required under
 827 Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A,
 828 Chapter 8, Part 5, Olene Walker Housing Loan Fund.

829 (10) In a civil action seeking enforcement or claiming a violation of this section or of
 830 Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded
 831 only injunctive or other equitable relief.

832 Section 7. Section **10-9a-535** is amended to read:

833 **10-9a-535 . Moderate income housing.**

834 (1) A municipality may only require the development of a certain number of moderate
 835 income housing units as a condition of approval of a land use application if:

836 (a) the municipality and the applicant enter into a written agreement regarding the
 837 number of moderate income housing units;~~[-or]~~

838 (b) the municipality provides incentives for an applicant who agrees to include moderate
 839 income housing units in a development~~[-]~~ ; or

840 (c) the municipality offers or approves, and an applicant accepts, an incentive described
 841 in Section 10-9a-403.2 or 10-9a-403.3.

842 (2) If an applicant does not agree to participate in the development of moderate income
 843 housing units under Subsection (1)(a) or (b), a municipality may not take into

844 consideration the applicant's decision in the municipality's determination of whether to
845 approve or deny a land use application.

846 (3) Notwithstanding Subsections (1) and (2), a municipality that imposes a resort
847 community sales and use tax as described in Section 59-12-401, may require the
848 development of a certain number of moderate income housing units as a condition of
849 approval of a land use application if the requirement is in accordance with an ordinance
850 enacted by the municipality before January 1, 2022.

851 Section 8. Section **17-27a-102** is amended to read:

852 **17-27a-102 . Purposes -- General land use authority -- Limitations.**

853 (1)(a) The purposes of this chapter are to:

- 854 (i) provide for the health, safety, and welfare;
- 855 (ii) promote the prosperity;
- 856 (iii) improve the morals, peace, good order, comfort, convenience, and aesthetics of
857 each county and each county's present and future inhabitants and businesses;
- 858 (iv) protect the tax base;
- 859 (v) secure economy in governmental expenditures;
- 860 (vi) foster the state's agricultural and other industries;
- 861 (vii) protect both urban and nonurban development;
- 862 (viii) protect and ensure access to sunlight for solar energy devices;
- 863 (ix) provide fundamental fairness in land use regulation;
- 864 (x) facilitate orderly growth, ~~and~~ allow growth in a variety of housing types, and
865 contribute toward housing affordability; and
- 866 (xi) protect property values.

867 (b) Subject to Subsection (4) and Section 11-41-103, to accomplish the purposes of this
868 chapter, a county may enact all ordinances, resolutions, and rules and may enter into
869 other forms of land use controls and development agreements that the county
870 considers necessary or appropriate for the use and development of land within the
871 unincorporated area of the county or a designated mountainous planning district,
872 including ordinances, resolutions, rules, restrictive covenants, easements, and
873 development agreements governing:

- 874 (i) uses;
- 875 (ii) density;
- 876 (iii) open spaces;
- 877 (iv) structures;

878 (v) buildings;
879 (vi) energy-efficiency;
880 (vii) light and air;
881 (viii) air quality;
882 (ix) transportation and public or alternative transportation;
883 (x) infrastructure;
884 (xi) street and building orientation and width requirements;
885 (xii) public facilities;
886 (xiii) fundamental fairness in land use regulation; and
887 (xiv) considerations of surrounding land uses to balance the foregoing purposes with
888 a landowner's private property interests and associated statutory and constitutional
889 protections.

890 (2) Each county shall comply with the mandatory provisions of this part before any
891 agreement or contract to provide goods, services, or municipal-type services to any
892 storage facility or transfer facility for high-level nuclear waste, or greater than class C
893 radioactive waste, may be executed or implemented.

894 (3)(a) Any ordinance, resolution, or rule enacted by a county pursuant to its authority
895 under this chapter shall comply with the state's exclusive jurisdiction to regulate oil
896 and gas activity, as described in Section 40-6-2.5.

897 (b) A county may enact an ordinance, resolution, or rule that regulates surface activity
898 incident to an oil and gas activity if the county demonstrates that the regulation:
899 (i) is necessary for the purposes of this chapter;
900 (ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and
901 (iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas
902 activity, as described in Section 40-6-2.5.

903 (4)(a) This Subsection (4) applies to development agreements entered into on or after
904 May 5, 2021.

905 (b) A provision in a county development agreement is unenforceable if the provision
906 requires an individual or an entity, as a condition for issuing building permits or
907 otherwise regulating development activities within an unincorporated area of the
908 county, to initiate a process for a municipality to annex the unincorporated area in
909 accordance with Title 10, Chapter 2, Part 4, Annexation.

910 (c) Subsection (4)(b) does not affect or impair the enforceability of any other provision
911 in the development agreement.

912 Section 9. Section **17-27a-403** is amended to read:

913 **17-27a-403 . General plan preparation.**

914 (1)(a) The planning commission shall provide notice, as provided in Section 17-27a-203,
915 of the planning commission's intent to make a recommendation to the county
916 legislative body for a general plan or a comprehensive general plan amendment when
917 the planning commission initiates the process of preparing the planning commission's
918 recommendation.

919 (b) The planning commission shall make and recommend to the legislative body a
920 proposed general plan for:

921 (i) the unincorporated area within the county; or

922 (ii) if the planning commission is a planning commission for a mountainous planning
923 district, the mountainous planning district.

924 (c)(i) The plan may include planning for incorporated areas if, in the planning
925 commission's judgment, they are related to the planning of the unincorporated
926 territory or of the county as a whole.

927 (ii) Elements of the county plan that address incorporated areas are not an official
928 plan or part of a municipal plan for any municipality, unless the county plan is
929 recommended by the municipal planning commission and adopted by the
930 governing body of the municipality.

931 (2)(a) At a minimum, the proposed general plan, with the accompanying maps, charts,
932 and descriptive and explanatory matter, shall include the planning commission's
933 recommendations for the following plan elements:

934 (i) a land use element that:

935 (A) designates the long-term goals and the proposed extent, general distribution,
936 and location of land for housing for residents of various income levels,
937 business, industry, agriculture, recreation, education, public buildings and
938 grounds, open space, and other categories of public and private uses of land as
939 appropriate;

940 (B) includes a statement of the projections for and standards of population density
941 and building intensity recommended for the various land use categories
942 covered by the plan;

943 (C) is coordinated to integrate the land use element with the water use and
944 preservation element; and

945 (D) accounts for the effect of land use categories and land uses on water demand;

- 946 (ii) a transportation and traffic circulation element that:
- 947 (A) provides the general location and extent of existing and proposed freeways,
- 948 arterial and collector streets, public transit, active transportation facilities, and
- 949 other modes of transportation that the planning commission considers
- 950 appropriate;
- 951 (B) addresses the county's plan for residential and commercial development
- 952 around major transit investment corridors to maintain and improve the
- 953 connections between housing, employment, education, recreation, and
- 954 commerce; and
- 955 (C) correlates with the population projections, the employment projections, and
- 956 the proposed land use element of the general plan;
- 957 (iii) for a specified county as defined in Section 17-27a-408, a moderate income
- 958 housing element that:
- 959 (A) provides a realistic opportunity to meet the need for additional moderate
- 960 income housing within the next five years;
- 961 (B) selects three or more moderate income housing strategies described in [
962 ~~Subsection (2)(b)(ii)] Subsections (2)(b)(ii)(A) through (V), or one moderate~~
- 963 ~~income housing strategy described in Subsections (2)(b)(ii)(W) through (BB),~~
- 964 for implementation; and
- 965 (C) includes an implementation plan as provided in Subsection [~~(2)(e)] (2)(g);~~
- 966 (iv) a resource management plan detailing the findings, objectives, and policies
- 967 required by Subsection 17-27a-401(3); and
- 968 (v) a water use and preservation element that addresses:
- 969 (A) the effect of permitted development or patterns of development on water
- 970 demand and water infrastructure;
- 971 (B) methods of reducing water demand and per capita consumption for future
- 972 development;
- 973 (C) methods of reducing water demand and per capita consumption for existing
- 974 development; and
- 975 (D) opportunities for the county to modify the county's operations to eliminate
- 976 practices or conditions that waste water.
- 977 (b) In drafting the moderate income housing element, the planning commission:
- 978 (i) shall consider the Legislature's determination that counties should facilitate a
- 979 reasonable opportunity for a variety of housing, including moderate income

- 980 housing:
- 981 (A) to meet the needs of people of various income levels living, working, or
- 982 desiring to live or work in the community; and
- 983 (B) to allow people with various incomes to benefit from and fully participate in
- 984 all aspects of neighborhood and community life; and
- 985 (ii) shall include an analysis of how the county will provide a realistic opportunity for
- 986 the development of moderate income housing within the planning horizon,
- 987 including a recommendation to implement three or more of the following
- 988 moderate income housing strategies:
- 989 (A) rezone for densities necessary to facilitate the production of moderate income
- 990 housing;
- 991 (B) demonstrate investment in the rehabilitation or expansion of infrastructure that
- 992 facilitates the construction of moderate income housing;
- 993 (C) demonstrate investment in the rehabilitation of existing uninhabitable housing
- 994 stock into moderate income housing;
- 995 (D) identify and utilize county general fund subsidies or other sources of revenue
- 996 to waive construction related fees that are otherwise generally imposed by the
- 997 county for the construction or rehabilitation of moderate income housing;
- 998 (E) create or allow for, and reduce regulations related to, internal or detached
- 999 accessory dwelling units in residential zones;
- 1000 (F) zone or rezone for higher density or moderate income residential development
- 1001 in commercial or mixed-use zones, commercial centers, or employment centers;
- 1002 (G) amend land use regulations to allow for higher density or new moderate
- 1003 income residential development in commercial or mixed-use zones near major
- 1004 transit investment corridors;
- 1005 (H) amend land use regulations to eliminate or reduce parking requirements for
- 1006 residential development where a resident is less likely to rely on the resident's
- 1007 own vehicle, such as residential development near major transit investment
- 1008 corridors or senior living facilities;
- 1009 (I) amend land use regulations to allow for single room occupancy developments;
- 1010 (J) implement zoning incentives for moderate income units in new developments;
- 1011 (K) preserve existing and new moderate income housing and subsidized units by
- 1012 utilizing a landlord incentive program, providing for deed restricted units
- 1013 through a grant program, or establishing a housing loss mitigation fund;

- 1014 (L) reduce, waive, or eliminate impact fees related to moderate income housing;
- 1015 (M) demonstrate creation of, or participation in, a community land trust program
- 1016 for moderate income housing;
- 1017 (N) implement a mortgage assistance program for employees of the county, an
- 1018 employer that provides contracted services for the county, or any other public
- 1019 employer that operates within the county;
- 1020 (O) apply for or partner with an entity that applies for state or federal funds or tax
- 1021 incentives to promote the construction of moderate income housing, an entity
- 1022 that applies for programs offered by the Utah Housing Corporation within that
- 1023 agency's funding capacity, an entity that applies for affordable housing
- 1024 programs administered by the Department of Workforce Services, an entity
- 1025 that applies for services provided by a public housing authority to preserve and
- 1026 create moderate income housing, or any other entity that applies for programs
- 1027 or services that promote the construction or preservation of moderate income
- 1028 housing;
- 1029 (P) demonstrate utilization of a moderate income housing set aside from a
- 1030 community reinvestment agency, redevelopment agency, or community
- 1031 development and renewal agency to create or subsidize moderate income
- 1032 housing;
- 1033 [~~(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter~~
- 1034 ~~3, Part 6, Housing and Transit Reinvestment Zone Act;~~]
- 1035 [~~(R) create a home ownership promotion zone pursuant to Part 12, Home~~
- 1036 ~~Ownership Promotion Zone for Counties;~~]
- 1037 [~~(S)~~] (Q) eliminate impact fees for any accessory dwelling unit that is not an
- 1038 internal accessory dwelling unit as defined in Section 10-9a-530;
- 1039 [~~(T)~~] (R) create a program to transfer development rights for moderate income
- 1040 housing;
- 1041 [~~(U)~~] (S) ratify a joint acquisition agreement with another local political
- 1042 subdivision for the purpose of combining resources to acquire property for
- 1043 moderate income housing;
- 1044 [~~(V)~~] (T) develop a moderate income housing project for residents who are
- 1045 disabled or 55 years old or older;
- 1046 [~~(W)~~] (U) create or allow for, and reduce regulations related to, multifamily
- 1047 residential dwellings compatible in scale and form with detached single-family

- 1048 residential dwellings and located in walkable communities within residential or
 1049 mixed-use zones;~~[-and]~~
- 1050 [~~(X)~~] (V) demonstrate implementation of any other program or strategy to address
 1051 the housing needs of residents of the county who earn less than 80% of the area
 1052 median income, including the dedication of a local funding source to moderate
 1053 income housing or the adoption of a land use ordinance that requires 10% or
 1054 more of new residential development in a residential zone be dedicated to
 1055 moderate income housing[-:];
- 1056 (W) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter
 1057 3, Part 6, Housing and Transit Reinvestment Zone Act;
- 1058 (X) create a home ownership investment zone in accordance with Part 12, Home
 1059 Ownership Promotion Zone for Counties;
- 1060 (Y) create a first home investment zone in accordance with Title 63N, Chapter 3,
 1061 Part 16, First Home Investment Zone Act;
- 1062 (Z) approve a project that receives funding from, or qualifies to receive funding
 1063 from, the Utah Homes Investment Program created in Title 51, Chapter 12,
 1064 Utah Homes Investment Program;
- 1065 (AA) adopt or approve an affordable home ownership density bonus for
 1066 single-family residential units, as described in Section 17-27a-403.1; and
- 1067 (BB) adopt or approve an affordable home ownership density bonus for
 1068 multi-family residential units, as described in Section 17-27a-403.2.
- 1069 (c) If a specified county, as defined in Section 17-27a-408, has created a small public
 1070 transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the
 1071 specified county shall include as part of the specified county's recommended
 1072 strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy
 1073 described in Subsection [~~(2)(b)(ii)(Q)~~] (2)(b)(ii)(W).
- 1074 (d) The planning commission shall identify each moderate income housing strategy
 1075 recommended to the legislative body for implementation by restating the exact
 1076 language used to describe the strategy in Subsection (2)(b)(ii).
- 1077 (e) In drafting the land use element, the planning commission shall:
- 1078 (i) identify and consider each agriculture protection area within the unincorporated
 1079 area of the county or mountainous planning district;
- 1080 (ii) avoid proposing a use of land within an agriculture protection area that is
 1081 inconsistent with or detrimental to the use of the land for agriculture; and

- 1082 (iii) consider and coordinate with any station area plans adopted by municipalities
1083 located within the county under Section 10-9a-403.1.
- 1084 (f) In drafting the transportation and traffic circulation element, the planning
1085 commission shall:
- 1086 (i)(A) consider and coordinate with the regional transportation plan developed by
1087 the county's region's metropolitan planning organization, if the relevant areas
1088 of the county are within the boundaries of a metropolitan planning
1089 organization; or
- 1090 (B) consider and coordinate with the long-range transportation plan developed by
1091 the Department of Transportation, if the relevant areas of the county are not
1092 within the boundaries of a metropolitan planning organization; and
- 1093 (ii) consider and coordinate with any station area plans adopted by municipalities
1094 located within the county under Section 10-9a-403.1.
- 1095 (g)(i) In drafting the implementation plan portion of the moderate income housing
1096 element as described in Subsection (2)(a)(iii)(C), the planning commission shall
1097 recommend to the legislative body the establishment of a five-year timeline for
1098 implementing each of the moderate income housing strategies selected by the
1099 county for implementation.
- 1100 (ii) The timeline described in Subsection (2)(g)(i) shall:
- 1101 (A) identify specific measures and benchmarks for implementing each moderate
1102 income housing strategy selected by the county; and
- 1103 (B) provide flexibility for the county to make adjustments as needed.
- 1104 (h) In drafting the water use and preservation element, the planning commission:
- 1105 (i) shall consider applicable regional water conservation goals recommended by the
1106 Division of Water Resources;
- 1107 (ii) shall consult with the Division of Water Resources for information and technical
1108 resources regarding regional water conservation goals, including how
1109 implementation of the land use element and water use and preservation element
1110 may affect the Great Salt Lake;
- 1111 (iii) shall notify the community water systems serving drinking water within the
1112 unincorporated portion of the county and request feedback from the community
1113 water systems about how implementation of the land use element and water use
1114 and preservation element may affect:
- 1115 (A) water supply planning, including drinking water source and storage capacity

- 1116 consistent with Section 19-4-114; and
- 1117 (B) water distribution planning, including master plans, infrastructure asset
- 1118 management programs and plans, infrastructure replacement plans, and impact
- 1119 fee facilities plans;
- 1120 (iv) shall consider the potential opportunities and benefits of planning for
- 1121 regionalization of public water systems;
- 1122 (v) shall consult with the Department of Agriculture and Food for information and
- 1123 technical resources regarding the potential benefits of agriculture conservation
- 1124 easements and potential implementation of agriculture water optimization projects
- 1125 that would support regional water conservation goals;
- 1126 (vi) shall notify an irrigation or canal company located in the county so that the
- 1127 irrigation or canal company can be involved in the protection and integrity of the
- 1128 irrigation or canal company's delivery systems;
- 1129 (vii) shall include a recommendation for:
- 1130 (A) water conservation policies to be determined by the county; and
- 1131 (B) landscaping options within a public street for current and future development
- 1132 that do not require the use of lawn or turf in a parkstrip;
- 1133 (viii) shall review the county's land use ordinances and include a recommendation for
- 1134 changes to an ordinance that promotes the inefficient use of water;
- 1135 (ix) shall consider principles of sustainable landscaping, including the:
- 1136 (A) reduction or limitation of the use of lawn or turf;
- 1137 (B) promotion of site-specific landscape design that decreases stormwater runoff
- 1138 or runoff of water used for irrigation;
- 1139 (C) preservation and use of healthy trees that have a reasonable water requirement
- 1140 or are resistant to dry soil conditions;
- 1141 (D) elimination or regulation of ponds, pools, and other features that promote
- 1142 unnecessary water evaporation;
- 1143 (E) reduction of yard waste; and
- 1144 (F) use of an irrigation system, including drip irrigation, best adapted to provide
- 1145 the optimal amount of water to the plants being irrigated;
- 1146 (x) may include recommendations for additional water demand reduction strategies,
- 1147 including:
- 1148 (A) creating a water budget associated with a particular type of development;
- 1149 (B) adopting new or modified lot size, configuration, and landscaping standards

- 1150 that will reduce water demand for new single family development;
- 1151 (C) providing one or more water reduction incentives for existing landscapes and
- 1152 irrigation systems and installation of water fixtures or systems that minimize
- 1153 water demand;
- 1154 (D) discouraging incentives for economic development activities that do not
- 1155 adequately account for water use or do not include strategies for reducing
- 1156 water demand; and
- 1157 (E) adopting water concurrency standards requiring that adequate water supplies
- 1158 and facilities are or will be in place for new development; and
- 1159 (xi) shall include a recommendation for low water use landscaping standards for a
- 1160 new:
- 1161 (A) commercial, industrial, or institutional development;
- 1162 (B) common interest community, as defined in Section 57-25-102; or
- 1163 (C) multifamily housing project.
- 1164 (3) The proposed general plan may include:
- 1165 (a) an environmental element that addresses:
- 1166 (i) to the extent not covered by the county's resource management plan, the
- 1167 protection, conservation, development, and use of natural resources, including the
- 1168 quality of:
- 1169 (A) air;
- 1170 (B) forests;
- 1171 (C) soils;
- 1172 (D) rivers;
- 1173 (E) groundwater and other waters;
- 1174 (F) harbors;
- 1175 (G) fisheries;
- 1176 (H) wildlife;
- 1177 (I) minerals; and
- 1178 (J) other natural resources; and
- 1179 (ii)(A) the reclamation of land, flood control, prevention and control of the
- 1180 pollution of streams and other waters;
- 1181 (B) the regulation of the use of land on hillsides, stream channels and other
- 1182 environmentally sensitive areas;
- 1183 (C) the prevention, control, and correction of the erosion of soils;

- 1184 (D) the preservation and enhancement of watersheds and wetlands; and
 1185 (E) the mapping of known geologic hazards;
- 1186 (b) a public services and facilities element showing general plans for sewage, water,
 1187 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for
 1188 them, police and fire protection, and other public services;
- 1189 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
 1190 programs for:
- 1191 (i) historic preservation;
- 1192 (ii) the diminution or elimination of a development impediment as defined in Section
 1193 17C-1-102; and
- 1194 (iii) redevelopment of land, including housing sites, business and industrial sites, and
 1195 public building sites;
- 1196 (d) an economic element composed of appropriate studies and forecasts, as well as an
 1197 economic development plan, which may include review of existing and projected
 1198 county revenue and expenditures, revenue sources, identification of basic and
 1199 secondary industry, primary and secondary market areas, employment, and retail
 1200 sales activity;
- 1201 (e) recommendations for implementing all or any portion of the general plan, including
 1202 the adoption of land and water use ordinances, capital improvement plans,
 1203 community development and promotion, and any other appropriate action;
- 1204 (f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or
 1205 (3)(a)(i); and
- 1206 (g) any other element the county considers appropriate.

1207 Section 10. Section **17-27a-403.1** is enacted to read:

1208 **17-27a-403.1 . Affordable home ownership density bonus for single-family**
 1209 **residential units.**

1210 (1) As used in this section:

- 1211 (a) "Affordable housing" means the same as that term is defined in Section 10-9a-403.2.
- 1212 (b) "Owner-occupier" means the same as that term is defined in Section 10-9a-403.2.
- 1213 (c) "Qualifying affordable home ownership single-family density bonus" means:
- 1214 (i) for an area with an underlying zoning density of less than six residential units per
 1215 acre, county approval of a density at least six residential units per acre; or
- 1216 (ii) for an area with an underlying zoning density of six residential units per acre or
 1217 more, county approval of a density at least 0.5 residential units per acre greater

1218 than the underlying zoning density for the area.

- 1219 (2) If a county approves a qualifying affordable home ownership single-family density
1220 bonus, either through a zoning ordinance or a development agreement, the county may
1221 adopt requirements for the qualifying affordable home ownership single-family density
1222 bonus area to ensure:
- 1223 (a) at least 60% of the total single-family residential units be deed-restricted to
1224 owner-occupancy for at least five years;
 - 1225 (b) at least 25% of the total single-family residential units qualify as affordable housing;
 - 1226 (c) at least 25% of the single-family residential units per acre to be no larger than 1,600
1227 square feet; or
 - 1228 (d) the applicant creates a preferential qualifying buyer program in which a
1229 single-family residential unit is initially offered for sale, for up to 30 days, to a
1230 category of preferred qualifying buyers established by the county, in accordance with
1231 provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

- 1232 (3) A county may offer additional incentives in a qualifying affordable home ownership
1233 single-family density bonus area approved for single-family residential units to promote
1234 owner-occupied, affordable housing.

1235 Section 11. Section **17-27a-403.2** is enacted to read:

1236 **17-27a-403.2 . Affordable home ownership density bonus for multi-family**
1237 **residential units.**

- 1238 (1) As used in this section:
- 1239 (a) "Affordable housing" means the same as that term is defined in Section 10-9a-403.2.
 - 1240 (b) "Owner-occupier" means the same as that term is defined in Section 10-9a-403.2.
 - 1241 (c) "Qualifying affordable home ownership multi-family density bonus" means county
1242 approval of a density of at least 20 residential units per acre.
- 1243 (2) If a county approves a qualifying affordable home ownership multi-family density
1244 bonus, either through a zoning ordinance or a development agreement, the county may
1245 adopt requirements for the qualifying affordable home ownership multi-family density
1246 bonus area to ensure:
- 1247 (a) at least 20% more residential units per acre than are otherwise allowed in the area;
 - 1248 (b) at least 60% of the total units in the multi-family residential building be
1249 deed-restricted to owner-occupancy for at least five years;
 - 1250 (c) at least 25% of the total units in the multi-family residential building qualify as
1251 affordable housing;

- 1252 (d) at least 25% of the total units in a multi-family residential building to be no larger
 1253 than 1,600 square feet; or
 1254 (e) the applicant creates a preferential qualifying buyer program in which a unit in a
 1255 multi-family residential building is initially offered for sale, for up to 30 days, to a
 1256 category of preferred qualifying buyers established by the county, in accordance with
 1257 provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.
 1258 (3) A county may offer additional incentives in a qualifying affordable home ownership
 1259 multi-family density bonus area for multi-family residential units to promote
 1260 owner-occupied, affordable housing.

1261 Section 12. Section **17-27a-408** is amended to read:

1262 **17-27a-408 . Moderate income housing report -- Contents -- Prioritization for**
 1263 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

1264 (1) As used in this section:

- 1265 (a) "Division" means the Housing and Community Development Division within the
 1266 Department of Workforce Services.
 1267 (b) "Implementation plan" means the implementation plan adopted as part of the
 1268 moderate income housing element of a specified county's general plan as provided in
 1269 Subsection 17-27a-403(2)(g).
 1270 (c) "Initial report" means the one-time moderate income housing report described in
 1271 Subsection (2).
 1272 (d) "Moderate income housing strategy" means a strategy described in Subsection
 1273 17-27a-403(2)(b)(ii).
 1274 (e) "Report" means an initial report or a subsequent report.
 1275 (f) "Specified county" means a county of the first, second, or third class, which has a
 1276 population of more than 5,000 in the county's unincorporated areas.
 1277 (g) "Subsequent progress report" means the annual moderate income housing report
 1278 described in Subsection (3).
 1279 (2)(a) The legislative body of a specified county shall annually submit an initial report to
 1280 the division.
 1281 (b)(i) This Subsection (2)(b) applies to a county that is not a specified county as of
 1282 January 1, 2023.
 1283 (ii) As of January 1, if a county described in Subsection (2)(b)(i) changes from one
 1284 class to another or grows in population to qualify as a specified county, the county
 1285 shall submit an initial plan to the division on or before August 1 of the first

1286 calendar year beginning on January 1 in which the county qualifies as a specified
1287 county.

1288 (c) The initial report shall:

1289 (i) identify each moderate income housing strategy selected by the specified county
1290 for continued, ongoing, or one-time implementation, using the exact language
1291 used to describe the moderate income housing strategy in Subsection 17-27a-403
1292 (2)(b)(ii); and

1293 (ii) include an implementation plan.

1294 (3)(a) After the division approves a specified county's initial report under this section,
1295 the specified county shall, as an administrative act, annually submit to the division a
1296 subsequent progress report on or before August 1 of each year after the year in which
1297 the specified county is required to submit the initial report.

1298 (b) The subsequent progress report shall include:

1299 (i) subject to Subsection (3)(c), a description of each action, whether one-time or
1300 ongoing, taken by the specified county during the previous 12-month period to
1301 implement the moderate income housing strategies identified in the initial report
1302 for implementation;

1303 (ii) a description of each land use regulation or land use decision made by the
1304 specified county during the previous 12-month period to implement the moderate
1305 income housing strategies, including an explanation of how the land use
1306 regulation or land use decision supports the specified county's efforts to
1307 implement the moderate income housing strategies;

1308 (iii) a description of any barriers encountered by the specified county in the previous
1309 12-month period in implementing the moderate income housing strategies;

1310 (iv) the number of residential dwelling units that have been entitled that have not
1311 received a building permit as of the submission date of the progress report;

1312 (v) shapefiles, or website links if shapefiles are not available, to current maps and
1313 tables related to zoning;

1314 (vi) information regarding the number of internal and external or detached accessory
1315 dwelling units located within the specified county for which the specified county:

1316 (A) issued a building permit to construct; or

1317 (B) issued a business license or comparable license or permit to rent;

1318 (vii) a description of how the market has responded to the selected moderate income
1319 housing strategies, including the number of entitled moderate income housing

- 1320 units or other relevant data; and
- 1321 (viii) any recommendations on how the state can support the specified county in
- 1322 implementing the moderate income housing strategies.
- 1323 (c) For purposes of describing actions taken by a specified county under Subsection
- 1324 (3)(b)(i), the specified county may include an ongoing action taken by the specified
- 1325 county prior to the 12-month reporting period applicable to the subsequent progress
- 1326 report if the specified county:
- 1327 (i) has already adopted an ordinance, approved a land use application, made an
- 1328 investment, or approved an agreement or financing that substantially promotes the
- 1329 implementation of a moderate income housing strategy identified in the initial
- 1330 report; and
- 1331 (ii) demonstrates in the subsequent progress report that the action taken under
- 1332 Subsection (3)(c)(i) is relevant to making meaningful progress towards the
- 1333 specified county's implementation plan.
- 1334 (d) A specified county's report shall be in a form:
- 1335 (i) approved by the division; and
- 1336 (ii) made available by the division on or before May 1 of the year in which the report
- 1337 is required.
- 1338 (4) Within 90 days after the day on which the division receives a specified county's report,
- 1339 the division shall:
- 1340 (a) post the report on the division's website;
- 1341 (b) send a copy of the report to the Department of Transportation, the Governor's Office
- 1342 of Planning and Budget, the association of governments in which the specified
- 1343 county is located, and, if the unincorporated area of the specified county is located
- 1344 within the boundaries of a metropolitan planning organization, the appropriate
- 1345 metropolitan planning organization; and
- 1346 (c) subject to Subsection (5), review the report to determine compliance with this section.
- 1347 (5)(a) An initial report [~~does not comply~~] complies with this section [~~unless~~] if the report:
- 1348 (i) includes the information required under Subsection (2)(c);
- 1349 (ii) subject to Subsection (5)(c), demonstrates to the division that the specified county
- 1350 made plans to implement three or more moderate income housing strategies
- 1351 described in Subsection 17-27a-403(2)(b)(ii)(A) through (V) or at least one
- 1352 moderate income housing strategy described in Subsections
- 1353 17-27a-403(2)(b)(ii)(W) through (BB); and

- 1354 (iii) is in a form approved by the division.
- 1355 (b) A subsequent progress report [~~does not comply~~] complies with this section [~~unless~~] if
- 1356 the report:
- 1357 (i) subject to Subsection (5)(c), demonstrates to the division that the specified county
- 1358 made plans to implement or is implementing three or more moderate income
- 1359 housing strategies described in Subsection 17-27a-403(2)(b)(ii)(A) though (V) or
- 1360 at least one moderate income housing strategy described in Subsections
- 1361 17-27a-403(2)(b)(ii)(W) through (BB);
- 1362 (ii) is in a form approved by the division; and
- 1363 (iii) provides sufficient information for the division to:
- 1364 (A) assess the specified county's progress in implementing the moderate income
- 1365 housing strategies;
- 1366 (B) monitor compliance with the specified county's implementation plan;
- 1367 (C) identify a clear correlation between the specified county's land use decisions
- 1368 and efforts to implement the moderate income housing strategies;
- 1369 (D) identify how the market has responded to the specified county's selected
- 1370 moderate income housing strategies; and
- 1371 (E) identify any barriers encountered by the specified county in implementing the
- 1372 selected moderate income housing strategies.
- 1373 (c)(i) This Subsection (5)(c) applies to a specified county that has created a small
- 1374 public transit district, as defined in Section 17B-2a-802, on or before January 1,
- 1375 2022.
- 1376 (ii) [~~In addition to the requirements of Subsections (5)(a) and (b), a~~] A report for a
- 1377 specified county described in Subsection (5)(c)(i) [~~does not comply~~] complies with
- 1378 this section [~~unless~~] if the report demonstrates to the division that the specified
- 1379 county:
- 1380 (A) made plans to implement the moderate income housing strategy described in
- 1381 Subsection [~~17-27a-403(2)(b)(ii)(Q)~~] 17-27a-403(2)(b)(ii)(W); [~~and~~]
- 1382 (B) made plans to implement or is implementing three or more moderate income
- 1383 housing strategies described in Subsection 17-27a-403(2)(b)(ii)(A) though (V)
- 1384 or at least one moderate income housing strategy described in Subsections
- 1385 17-27a-403(2)(b)(ii)(W) through (BB); and
- 1386 [~~(B)~~] (C) is in compliance with Subsection 63N-3-603(8).
- 1387 (d) If a specified county initial report or subsequent progress report demonstrates the

1388 county plans to implement or is implementing at least one moderate income housing
 1389 strategy described in Subsections 17-27a-403(2)(b)(ii)(W) through (BB), the division
 1390 shall also consider the specified county compliant with the reporting requirement
 1391 described in this section for:

1392 (i) the year in which the specified county submits the report; and

1393 (ii) two subsequent reporting years.

1394 (6)(a) A specified county qualifies for priority consideration under this Subsection (6) if
 1395 the specified county's report:

1396 (i) complies with this section; and

1397 (ii) demonstrates to the division that the specified county made plans to implement
 1398 five or more moderate income housing strategies.

1399 (b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c),
 1400 give priority consideration to transportation projects located within the
 1401 unincorporated areas of a specified county described in Subsection (6)(a) until the
 1402 Department of Transportation receives notice from the division under Subsection
 1403 (6)(e).

1404 (c) Upon determining that a specified county qualifies for priority consideration under
 1405 this Subsection (6), the division shall send a notice of prioritization to the legislative
 1406 body of the specified county and the Department of Transportation.

1407 (d) The notice described in Subsection (6)(c) shall:

1408 (i) name the specified county that qualifies for priority consideration;

1409 (ii) describe the funds or projects for which the specified county qualifies to receive
 1410 priority consideration; and

1411 (iii) state the basis for the division's determination that the specified county qualifies
 1412 for priority consideration.

1413 (e) The division shall notify the legislative body of a specified county and the
 1414 Department of Transportation in writing if the division determines that the specified
 1415 county no longer qualifies for priority consideration under this Subsection (6).

1416 (7)(a) If the division, after reviewing a specified county's report, determines that the
 1417 report does not comply with this section, the division shall send a notice of
 1418 noncompliance to the legislative body of the specified county.

1419 (b) A specified county that receives a notice of noncompliance may:

1420 (i) cure each deficiency in the report within 90 days after the day on which the notice
 1421 of noncompliance is sent; or

- 1422 (ii) request an appeal of the division's determination of noncompliance within 10
1423 days after the day on which the notice of noncompliance is sent.
- 1424 (c) The notice described in Subsection (7)(a) shall:
- 1425 (i) describe each deficiency in the report and the actions needed to cure each
1426 deficiency;
- 1427 (ii) state that the specified county has an opportunity to:
- 1428 (A) submit to the division a corrected report that cures each deficiency in the
1429 report within 90 days after the day on which the notice of noncompliance is
1430 sent; or
- 1431 (B) submit to the division a request for an appeal of the division's determination of
1432 noncompliance within 10 days after the day on which the notice of
1433 noncompliance is sent; and
- 1434 (iii) state that failure to take action under Subsection (7)(c)(ii) will result in the
1435 specified county's ineligibility for funds and fees owed under Subsection (9).
- 1436 (d) For purposes of curing the deficiencies in a report under this Subsection (7), if the
1437 action needed to cure the deficiency as described by the division requires the
1438 specified county to make a legislative change, the specified county may cure the
1439 deficiency by making that legislative change within the 90-day cure period.
- 1440 (e)(i) If a specified county submits to the division a corrected report in accordance
1441 with Subsection (7)(b)(i), and the division determines that the corrected report
1442 does not comply with this section, the division shall send a second notice of
1443 noncompliance to the legislative body of the specified county.
- 1444 (ii) A specified county that receives a second notice of noncompliance may request
1445 an appeal of the division's determination of noncompliance within 10 days after
1446 the day on which the second notice of noncompliance is sent.
- 1447 (iii) The notice described in Subsection (7)(e)(i) shall:
- 1448 (A) state that the specified county has an opportunity to submit to the division a
1449 request for an appeal of the division's determination of noncompliance within
1450 10 days after the day on which the second notice of noncompliance is sent; and
- 1451 (B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the
1452 specified county's ineligibility for funds under Subsection (9).
- 1453 (8)(a) A specified county that receives a notice of noncompliance under Subsection (7)(a)
1454 or (7)(e)(i) may request an appeal of the division's determination of noncompliance
1455 within 10 days after the day on which the notice of noncompliance is sent.

- 1456 (b) Within 90 days after the day on which the division receives a request for an appeal,
1457 an appeal board consisting of the following three members shall review and issue a
1458 written decision on the appeal:
- 1459 (i) one individual appointed by the Utah Association of Counties;
 - 1460 (ii) one individual appointed by the Utah Homebuilders Association; and
 - 1461 (iii) one individual appointed by the presiding member of the association of
1462 governments, established pursuant to an interlocal agreement under Title 11,
1463 Chapter 13, Interlocal Cooperation Act, of which the specified county is a member.
- 1464 (c) The written decision of the appeal board shall either uphold or reverse the division's
1465 determination of noncompliance.
- 1466 (d) The appeal board's written decision on the appeal is final.
- 1467 (9)(a) A specified county is ineligible for funds and owes a fee under this Subsection (9)
1468 if:
- 1469 (i) the specified county fails to submit a report to the division;
 - 1470 (ii) after submitting a report to the division, the division determines that the report
1471 does not comply with this section and the specified county fails to:
 - 1472 (A) cure each deficiency in the report within 90 days after the day on which the
1473 notice of noncompliance is sent; or
 - 1474 (B) request an appeal of the division's determination of noncompliance within 10
1475 days after the day on which the notice of noncompliance is sent;
 - 1476 (iii) after submitting to the division a corrected report to cure the deficiencies in a
1477 previously submitted report, the division determines that the corrected report does
1478 not comply with this section and the specified county fails to request an appeal of
1479 the division's determination of noncompliance within 10 days after the day on
1480 which the second notice of noncompliance is sent; or
 - 1481 (iv) after submitting a request for an appeal under Subsection (8), the appeal board
1482 issues a written decision upholding the division's determination of noncompliance.
- 1483 (b) The following apply to a specified county described in Subsection (9)(a) until the
1484 division provides notice under Subsection (9)(e):
- 1485 (i) the executive director of the Department of Transportation may not program funds
1486 from the Transportation Investment Fund of 2005, including the Transit
1487 Transportation Investment Fund, to projects located within the unincorporated
1488 areas of the specified county in accordance with Subsection 72-2-124(6);
 - 1489 (ii) beginning with the report submitted in 2024, the specified county shall pay a fee

- 1490 to the Olene Walker Housing Loan Fund in the amount of \$250 per day that the
1491 specified county:
- 1492 (A) fails to submit the report to the division in accordance with this section,
1493 beginning the day after the day on which the report was due; or
1494 (B) fails to cure the deficiencies in the report, beginning the day after the day by
1495 which the cure was required to occur as described in the notice of
1496 noncompliance under Subsection (7); and
- 1497 (iii) beginning with the report submitted in 2025, the specified county shall pay a fee
1498 to the Olene Walker Housing Loan Fund in the amount of \$500 per day that the
1499 specified county, for a consecutive year:
- 1500 (A) fails to submit the report to the division in accordance with this section,
1501 beginning the day after the day on which the report was due; or
1502 (B) fails to cure the deficiencies in the report, beginning the day after the day by
1503 which the cure was required to occur as described in the notice of
1504 noncompliance under Subsection (7).
- 1505 (c) Upon determining that a specified county is ineligible for funds under this
1506 Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the
1507 division shall send a notice of ineligibility to the legislative body of the specified
1508 county, the Department of Transportation, the State Tax Commission, and the
1509 Governor's Office of Planning and Budget.
- 1510 (d) The notice described in Subsection (9)(c) shall:
- 1511 (i) name the specified county that is ineligible for funds;
1512 (ii) describe the funds for which the specified county is ineligible to receive;
1513 (iii) describe the fee the specified county is required to pay under Subsection (9)(b),
1514 if applicable; and
1515 (iv) state the basis for the division's determination that the specified county is
1516 ineligible for funds.
- 1517 (e) The division shall notify the legislative body of a specified county and the
1518 Department of Transportation in writing if the division determines that the provisions
1519 of this Subsection (9) no longer apply to the specified county.
- 1520 (f) The division may not determine that a specified county that is required to pay a fee
1521 under Subsection (9)(b) is in compliance with the reporting requirements of this
1522 section until the specified county pays all outstanding fees required under Subsection
1523 (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8,

1524 Part 5, Olene Walker Housing Loan Fund.

1525 (10) In a civil action seeking enforcement or claiming a violation of this section or of
 1526 Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded
 1527 only injunctive or other equitable relief.

1528 Section 13. Section **17-27a-531** is amended to read:

1529 **17-27a-531 . Moderate income housing.**

- 1530 (1) A county may only require the development of a certain number of moderate income
 1531 housing units as a condition of approval of a land use application if:
- 1532 (a) the county and the applicant enter into a written agreement regarding the number of
 1533 moderate income housing units;~~[-or]~~
- 1534 (b) the county provides incentives for an applicant who agrees to include moderate
 1535 income housing units in a development~~[-]~~ ; or
- 1536 (c) the county offers or approves, and an applicant accepts, an incentive described in
 1537 Section 17-27a-403.1 or 17-27a-403.2.
- 1538 (2) If an applicant does not agree to participate in the development of moderate income
 1539 housing units under Subsection (1)(a) or (b), a county may not take into consideration
 1540 the applicant's decision in the county's determination of whether to approve or deny a
 1541 land use application.
- 1542 (3) Notwithstanding Subsections (1) and (2), a county of the third class, which has a ski
 1543 resort located within the unincorporated area of the county, may require the
 1544 development of a certain number of moderate income housing units as a condition of
 1545 approval of a land use application if the requirement is in accordance with an ordinance
 1546 enacted by the county before January 1, 2022.

1547 Section 14. Section **17B-1-202** is amended to read:

1548 **17B-1-202 . Special district may be created -- Services that may be provided --**
 1549 **Limitations.**

- 1550 (1)(a) A special district may be created as provided in this part to provide within its
 1551 boundaries service consisting of:
- 1552 (i) the operation of an airport;
- 1553 (ii) the operation of a cemetery;
- 1554 (iii) fire protection, paramedic, and emergency services, including consolidated 911
 1555 and emergency dispatch services;
- 1556 (iv) garbage collection and disposal;
- 1557 (v) health care, including health department or hospital service;

- 1558 (vi) the operation of a library;
- 1559 (vii) abatement or control of mosquitos and other insects;
- 1560 (viii) the operation of parks or recreation facilities or services;
- 1561 (ix) the operation of a sewage system;
- 1562 (x) the operation of a propane system;
- 1563 [~~(x)~~] (xi) the construction and maintenance of a right-of-way, including:
- 1564 (A) a curb;
- 1565 (B) a gutter;
- 1566 (C) a sidewalk;
- 1567 (D) a street;
- 1568 (E) a road;
- 1569 (F) a water line;
- 1570 (G) a sewage line;
- 1571 (H) a storm drain;
- 1572 (I) an electricity line;
- 1573 (J) a communications line;
- 1574 (K) a natural gas line; or
- 1575 (L) street lighting;
- 1576 [~~(xi)~~] (xii) transportation, including public transit and providing streets and roads;
- 1577 [~~(xii)~~] (xiii) the operation of a system, or one or more components of a system, for the
- 1578 collection, storage, retention, control, conservation, treatment, supplying,
- 1579 distribution, or reclamation of water, including storm, flood, sewage, irrigation,
- 1580 and culinary water, whether the system is operated on a wholesale or retail level
- 1581 or both;
- 1582 [~~(xiii)~~] (xiv) in accordance with Subsection (1)(c), the acquisition or assessment of a
- 1583 groundwater right for the development and execution of a groundwater
- 1584 management plan in cooperation with and approved by the state engineer in
- 1585 accordance with Section 73-5-15;
- 1586 [~~(xiv)~~] (xv) law enforcement service;
- 1587 [~~(xv)~~] (xvi) subject to Subsection (1)(b), the underground installation of an electric
- 1588 utility line or the conversion to underground of an existing electric utility line;
- 1589 [~~(xvi)~~] (xvii) the control or abatement of earth movement or a landslide;
- 1590 [~~(xvii)~~] (xviii) the operation of animal control services and facilities;
- 1591 [~~(xviii)~~] (xix) an energy efficiency upgrade, a clean energy system, or electric vehicle

1592 charging infrastructure as defined in Section 11-42a-102, in accordance with Title
 1593 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; or
 1594 [~~(xi)~~] (xx) the financing of infrastructure, as provided in Chapter 2a, Part 13,
 1595 Infrastructure Financing Districts.

1596 (b) Each special district that provides the service of the underground installation of an
 1597 electric utility line or the conversion to underground of an existing electric utility line
 1598 shall, in installing or converting the line, provide advance notice to and coordinate
 1599 with the utility that owns the line.

1600 (c) A groundwater management plan described in Subsection [~~(1)(a)(xiii)~~] (1)(a)(xiv)
 1601 may include the banking of groundwater rights by a special district in a critical
 1602 management area as defined in Section 73-5-15 following the adoption of a
 1603 groundwater management plan by the state engineer under Section 73-5-15.

1604 (i) A special district may manage the groundwater rights it acquires under Subsection
 1605 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater
 1606 management plan described in this Subsection (1)(c).

1607 (ii) A groundwater right held by a special district to satisfy the provisions of a
 1608 groundwater management plan is not subject to the forfeiture provisions of
 1609 Section 73-1-4.

1610 (iii)(A) A special district may divest itself of a groundwater right subject to a
 1611 determination that the groundwater right is not required to facilitate the
 1612 groundwater management plan described in this Subsection (1)(c).

1613 (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to
 1614 Section 73-1-4 beginning on the date of divestiture.

1615 (iv) Upon a determination by the state engineer that an area is no longer a critical
 1616 management area as defined in Section 73-5-15, a groundwater right held by the
 1617 special district is subject to Section 73-1-4.

1618 (v) A special district created in accordance with Subsection [~~(1)(a)(xiii)~~] (1)(a)(xiv) to
 1619 develop and execute a groundwater management plan may hold or acquire a right
 1620 to surface waters that are naturally tributary to the groundwater basin subject to
 1621 the groundwater management plan if the surface waters are appropriated in
 1622 accordance with Title 73, Water and Irrigation, and used in accordance with Title
 1623 73, Chapter 3b, Groundwater Recharge and Recovery Act.

1624 (2) As used in this section:

1625 (a) "Operation" means all activities involved in providing the indicated service including

- 1626 acquisition and ownership of property reasonably necessary to provide the indicated
1627 service and acquisition, construction, and maintenance of facilities and equipment
1628 reasonably necessary to provide the indicated service.
- 1629 (b) "System" means the aggregate of interrelated components that combine together to
1630 provide the indicated service including, for a sewage system, collection and treatment.
- 1631 (3)(a) A special district may not be created to provide and may not after its creation
1632 provide more than four of the services listed in Subsection (1).
- 1633 (b) Subsection (3)(a) may not be construed to prohibit a special district from providing
1634 more than four services if, before April 30, 2007, the special district was authorized
1635 to provide those services.
- 1636 (4)(a) Except as provided in Subsection (4)(b), a special district may not be created to
1637 provide and may not after its creation provide to an area the same service that may
1638 already be provided to that area by another political subdivision, unless the other
1639 political subdivision gives its written consent.
- 1640 (b) For purposes of Subsection (4)(a), a special district does not provide the same
1641 service as another political subdivision if it operates a component of a system that is
1642 different from a component operated by another political subdivision but within the
1643 same:
- 1644 (i) sewage system; or
1645 (ii) water system.
- 1646 (5)(a) Except for a special district in the creation of which an election is not required
1647 under Subsection 17B-1-214(3)(d), the area of a special district may include all or
1648 part of the unincorporated area of one or more counties and all or part of one or more
1649 municipalities.
- 1650 (b) The area of a special district need not be contiguous.
- 1651 (6) For a special district created before May 5, 2008, the authority to provide fire protection
1652 service also includes the authority to provide:
- 1653 (a) paramedic service; and
1654 (b) emergency service, including hazardous materials response service.
- 1655 (7) A special district created before May 11, 2010, authorized to provide the construction
1656 and maintenance of curb, gutter, or sidewalk may provide a service described in
1657 Subsection [~~(1)(a)(x)~~] (1)(a)(xi) on or after May 11, 2010.
- 1658 (8) A special district created before May 10, 2011, authorized to provide culinary,
1659 irrigation, sewage, or storm water services may provide a service described in

- 1660 Subsection [~~(1)(a)(xii)~~] (1)(a)(xiii) on or after May 10, 2011.
- 1661 (9) A special district may not be created under this chapter for two years after the date on
1662 which a special district is dissolved as provided in Section 17B-1-217 if the special
1663 district proposed for creation:
- 1664 (a) provides the same or a substantially similar service as the dissolved special district;
1665 and
- 1666 (b) is located in substantially the same area as the dissolved special district.
- 1667 (10) An infrastructure financing district may not be created unless the estimated cost of the
1668 public infrastructure and improvements to be constructed within the boundary of the
1669 proposed infrastructure financing district exceeds \$1,000,000, as certified under
1670 Subsection 17B-1-208(1)(c).
- 1671 (11)(a) Except as provided in Subsection (11)(b), the inclusion of an area within an
1672 infrastructure financing district does not affect whether the area may be included
1673 within another special district.
- 1674 (b) An infrastructure financing district may not include an area included within another
1675 infrastructure financing district.
- 1676 Section 15. Section **35A-8-202** is amended to read:
- 1677 **35A-8-202 . Powers and duties of division.**
- 1678 (1) The division shall:
- 1679 (a) assist local governments and citizens in the planning, development, and maintenance
1680 of necessary public infrastructure and services;
- 1681 (b) cooperate with, and provide technical assistance to, counties, cities, towns, regional
1682 planning commissions, area-wide clearinghouses, zoning commissions, parks or
1683 recreation boards, community development groups, community action agencies, and
1684 other agencies created for the purpose of aiding and encouraging an orderly,
1685 productive, and coordinated development of the state and its political subdivisions;
- 1686 (c) assist the governor in coordinating the activities of state agencies which have an
1687 impact on the solution of community development problems and the implementation
1688 of community plans;
- 1689 (d) serve as a clearinghouse for information, data, and other materials which may be
1690 helpful to local governments in discharging their responsibilities and provide
1691 information on available federal and state financial and technical assistance;
- 1692 (e) carry out continuing studies and analyses of the problems faced by communities
1693 within the state and develop such recommendations for administrative or legislative

- 1694 action as appear necessary;
- 1695 (f) assist in funding affordable housing;
- 1696 (g) support economic development activities through grants, loans, and direct programs
- 1697 financial assistance;
- 1698 (h) certify project funding at the local level in conformance with federal, state, and other
- 1699 requirements;
- 1700 (i) utilize the capabilities and facilities of public and private universities and colleges
- 1701 within the state in carrying out its functions; and
- 1702 (j) assist and support local governments, community action agencies, and citizens in the
- 1703 planning, development, and maintenance of home weatherization, energy efficiency,
- 1704 and antipoverty activities.

1705 (2) The division may:

- 1706 (a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds
- 1707 Procedures Act, seek federal grants, loans, or participation in federal programs;
- 1708 (b) if any federal program requires the expenditure of state funds as a condition to
- 1709 participation by the state in any fund, property, or service, with the governor's
- 1710 approval, expend whatever funds are necessary out of the money provided by the
- 1711 Legislature for the use of the department;
- 1712 (c) in accordance with Part 9, Domestic Violence Shelters, assist in developing,
- 1713 constructing, and improving shelters for victims of domestic violence, as described in
- 1714 Section 77-36-1, through loans and grants to nonprofit and governmental entities;[
- 1715 and]
- 1716 (d) assist, when requested by a county or municipality, in the development of accessible
- 1717 housing[-] ; and
- 1718 (e) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
- 1719 Rulemaking Act, regarding the form and content of a moderate income housing
- 1720 report, as described in Sections 10-9a-408 and 17-27a-408, to:
- 1721 (i) ensure consistency across reporting political subdivisions; and
- 1722 (ii) promote better potential analysis of report data.

1723 Section 16. Section **63J-4-402** is enacted to read:

1724 **63J-4-402 . State housing plan.**

1725 (1) The office shall develop a state housing plan by December 31, 2025.

1726 (2)(a) The office shall partner with the Legislature, municipal and county governments,

1727 the home building industry and related stakeholders, and the general public in the

- 1728 development of the state housing plan described in Subsection (1).
- 1729 (b) In developing the state housing plan, the office may develop regional housing plans
- 1730 within the state housing plan.
- 1731 (3) The state housing plan shall:
- 1732 (a) prioritize collaboration over preemption and collaboration across private and public
- 1733 sectors;
- 1734 (b) promote a holistic and regional approach to housing;
- 1735 (c) enable connected communities and center-based development;
- 1736 (d) acknowledge cross-issue policy alignment;
- 1737 (e) maintain a long-range vision;
- 1738 (f) promote opportunity and inclusivity;
- 1739 (g) recognize complex market forces; and
- 1740 (h) consider rural and urban contexts.
- 1741 (4) The state housing plan shall include data and metrics:
- 1742 (a) about actual and potential housing production;
- 1743 (b) about actual and potential infrastructure capacity, maintenance, and development; and
- 1744 (c) allowing the office to measure success of the state housing plan over time.
- 1745 (5) In gathering data and developing metrics, the office may analyze moderate income
- 1746 housing reports received by the Division of Housing and Community Development and:
- 1747 (a) determine which, if any, of the moderate income housing strategies described in
- 1748 Subsections 10-9a-403(2)(b)(iii) and 17-27a-403(2)(b)(ii) are correlated with an
- 1749 increase in the supply of moderate income housing, either built or entitled to be built,
- 1750 in the political subdivision that implements the moderate income housing strategy;
- 1751 and
- 1752 (b) draw conclusions regarding any data trends identified by the office as meaningful or
- 1753 significant.
- 1754 (6) By no later than October 1 of each year, the office shall provide a written report on the
- 1755 development and implementation of the state housing plan to the Political Subdivisions
- 1756 Interim Committee.
- 1757 Section 17. Section **72-1-304** is amended to read:
- 1758 **72-1-304 . Written project prioritization process for new transportation capacity**
- 1759 **projects -- Rulemaking.**
- 1760 (1)(a) The Transportation Commission, in consultation with the department and the
- 1761 metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a

- 1762 written prioritization process for the prioritization of:
- 1763 (i) new transportation capacity projects that are or will be part of the state highway
 - 1764 system under Chapter 4, Part 1, State Highways;
 - 1765 (ii) paved pedestrian or paved nonmotorized transportation projects described in
 - 1766 Section 72-2-124;
 - 1767 (iii) public transit projects that directly add capacity to the public transit systems
 - 1768 within the state, not including facilities ancillary to the public transit system; and
 - 1769 (iv) pedestrian or nonmotorized transportation projects that provide connection to a
 - 1770 public transit system.
- 1771 (b)(i) A local government or public transit district may nominate a project for
- 1772 prioritization in accordance with the process established by the commission in rule.
- 1773 (ii) If a local government or public transit district nominates a project for
- 1774 prioritization by the commission, the local government or public transit district
- 1775 shall provide data and evidence to show that:
- 1776 (A) the project will advance the purposes and goals described in Section 72-1-211;
 - 1777 (B) for a public transit project, the local government or public transit district has
 - 1778 an ongoing funding source for operations and maintenance of the proposed
 - 1779 development; and
 - 1780 (C) the local government or public transit district will provide the percentage of
 - 1781 the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or
 - 1782 72-2-124(9)(e).
- 1783 (2) The following shall be included in the written prioritization process under Subsection (1):
- 1784 (a) a description of how the strategic initiatives of the department adopted under Section
 - 1785 72-1-211 are advanced by the written prioritization process;
 - 1786 (b) a definition of the type of projects to which the written prioritization process applies;
 - 1787 (c) specification of a weighted criteria system that is used to rank proposed projects and
 - 1788 how it will be used to determine which projects will be prioritized;
 - 1789 (d) specification of the data that is necessary to apply the weighted ranking criteria; and
 - 1790 (e) any other provisions the commission considers appropriate, which may include
 - 1791 consideration of:
 - 1792 (i) regional and statewide economic development impacts, including improved local
 - 1793 access to:
 - 1794 (A) employment;
 - 1795 (B) educational facilities;

- 1796 (C) recreation;
- 1797 (D) commerce; and
- 1798 (E) residential areas, including moderate income housing as demonstrated in the
- 1799 local government's or public transit district's general plan pursuant to Section
- 1800 10-9a-403 or 17-27a-403;
- 1801 (ii) the extent to which local land use plans relevant to a project support and
- 1802 accomplish the strategic initiatives adopted under Section 72-1-211; and
- 1803 (iii) any matching funds provided by a political subdivision or public transit district
- 1804 in addition to the percentage of costs required by Subsections 72-2-124(4)(a)(viii)
- 1805 and 72-2-124(9)(e).
- 1806 (3)(a) When prioritizing a public transit project that increases capacity, the commission:
- 1807 (i) may give priority consideration to projects that are part of a transit-oriented
- 1808 development or transit-supportive development as defined in Section 17B-2a-802;
- 1809 and
- 1810 (ii) shall give priority consideration to projects that are within the boundaries of a
- 1811 housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3,
- 1812 Part 6, Housing and Transit Reinvestment Zone Act.
- 1813 (b) When prioritizing a transportation project that increases capacity, the commission
- 1814 may give priority consideration to projects that are:
- 1815 (i) part of a transportation reinvestment zone created under Section 11-13-227 if:
- 1816 (A) the state is a participant in the transportation reinvestment zone; or
- 1817 (B) the commission finds that the transportation reinvestment zone provides a
- 1818 benefit to the state transportation system; or
- 1819 (ii) within the boundaries of a housing and transit reinvestment zone created pursuant
- 1820 to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.
- 1821 (c) If the department receives a notice of prioritization for a municipality as described in
- 1822 Subsection [~~10-9a-408(5)~~] 10-9a-408(6), or a notice of prioritization for a county as
- 1823 described in Subsection [~~17-27a-408(5)~~] 17-27a-408(6), the commission may give
- 1824 priority consideration to transportation projects that are within the boundaries of the
- 1825 municipality or the unincorporated areas of the county until the department receives
- 1826 notification from the Housing and Community Development Division within the
- 1827 Department of Workforce Services that the municipality or county no longer qualifies
- 1828 for prioritization under this Subsection (3)(c).
- 1829 (4) In developing the written prioritization process, the commission:

- 1830 (a) shall seek and consider public comment by holding public meetings at locations
1831 throughout the state; and
- 1832 (b) may not consider local matching dollars as provided under Section 72-2-123 unless
1833 the state provides an equal opportunity to raise local matching dollars for state
1834 highway improvements within each county.
- 1835 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1836 Transportation Commission, in consultation with the department, shall make rules
1837 establishing the written prioritization process under Subsection (1).
- 1838 (6) The commission shall submit the proposed rules under this section to a committee or
1839 task force designated by the Legislative Management Committee for review prior to
1840 taking final action on the proposed rules or any proposed amendment to the rules
1841 described in Subsection (5).
- 1842 Section 18. Section **72-2-124** is amended to read:
- 1843 **72-2-124 . Transportation Investment Fund of 2005.**
- 1844 (1) There is created a capital projects fund entitled the Transportation Investment Fund of
1845 2005.
- 1846 (2) The fund consists of money generated from the following sources:
- 1847 (a) any voluntary contributions received for the maintenance, construction,
1848 reconstruction, or renovation of state and federal highways;
- 1849 (b) appropriations made to the fund by the Legislature;
- 1850 (c) registration fees designated under Section 41-1a-1201;
- 1851 (d) the sales and use tax revenues deposited into the fund in accordance with Section
1852 59-12-103; and
- 1853 (e) revenues transferred to the fund in accordance with Section 72-2-106.
- 1854 (3)(a) The fund shall earn interest.
- 1855 (b) All interest earned on fund money shall be deposited into the fund.
- 1856 (4)(a) Except as provided in Subsection (4)(b), the executive director may only use fund
1857 money to pay:
- 1858 (i) the costs of maintenance, construction, reconstruction, or renovation to state and
1859 federal highways prioritized by the Transportation Commission through the
1860 prioritization process for new transportation capacity projects adopted under
1861 Section 72-1-304;
- 1862 (ii) the costs of maintenance, construction, reconstruction, or renovation to the
1863 highway projects described in Subsections 63B-18-401(2), (3), and (4);

- 1864 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401
 1865 minus the costs paid from the County of the First Class Highway Projects Fund in
 1866 accordance with Subsection 72-2-121(4)(e);
- 1867 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
 1868 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the
 1869 amount certified by Salt Lake County in accordance with Subsection 72-2-121.3
 1870 (4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds
 1871 issued by Salt Lake County;
- 1872 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101
 1873 for projects prioritized in accordance with Section 72-2-125;
- 1874 (vi) all highway general obligation bonds that are intended to be paid from revenues
 1875 in the Centennial Highway Fund created by Section 72-2-118;
- 1876 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First
 1877 Class Highway Projects Fund created in Section 72-2-121 to be used for the
 1878 purposes described in Section 72-2-121;
- 1879 (viii) if a political subdivision provides a contribution equal to or greater than 40% of
 1880 the costs needed for construction, reconstruction, or renovation of paved
 1881 pedestrian or paved nonmotorized transportation for projects that:
 1882 (A) mitigate traffic congestion on the state highway system;
 1883 (B) are part of an active transportation plan approved by the department; and
 1884 (C) are prioritized by the commission through the prioritization process for new
 1885 transportation capacity projects adopted under Section 72-1-304;
- 1886 (ix) \$705,000,000 for the costs of right-of-way acquisition, construction,
 1887 reconstruction, or renovation of or improvement to the following projects:
 1888 (A) the connector road between Main Street and 1600 North in the city of
 1889 Vineyard;
 1890 (B) Geneva Road from University Parkway to 1800 South;
 1891 (C) the SR-97 interchange at 5600 South on I-15;
 1892 (D) subject to Subsection (4)(c), two lanes on U-111 from Herriman Parkway to
 1893 South Jordan Parkway;
 1894 (E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;
 1895 (F) improvements to 1600 North in Orem from 1200 West to State Street;
 1896 (G) widening I-15 between mileposts 6 and 8;
 1897 (H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

- 1898 (I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197
 1899 in Spanish Fork Canyon;
- 1900 (J) I-15 northbound between mileposts 43 and 56;
- 1901 (K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts
 1902 43 and 45.1;
- 1903 (L) east Zion SR-9 improvements;
- 1904 (M) Toquerville Parkway;
- 1905 (N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;
- 1906 (O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds,
 1907 for construction of an interchange on Bangerter Highway at 13400 South; and
- 1908 (P) an environmental impact study for Kimball Junction in Summit County; and
- 1909 (x) \$28,000,000 as pass-through funds, to be distributed as necessary to pay project
 1910 costs based upon a statement of cash flow that the local jurisdiction where the
 1911 project is located provides to the department demonstrating the need for money
 1912 for the project, for the following projects in the following amounts:
- 1913 (A) \$5,000,000 for Payson Main Street repair and replacement;
- 1914 (B) \$8,000,000 for a Bluffdale 14600 South railroad bypass;
- 1915 (C) \$5,000,000 for improvements to 4700 South in Taylorsville; and
- 1916 (D) \$10,000,000 for improvements to the west side frontage roads adjacent to U.S.
 1917 40 between mile markers 7 and 10.
- 1918 (b) The executive director may use fund money to exchange for an equal or greater
 1919 amount of federal transportation funds to be used as provided in Subsection (4)(a).
- 1920 (c)(i) Construction related to the project described in Subsection (4)(a)(ix)(D) may
 1921 not commence until a right-of-way not owned by a federal agency that is required
 1922 for the realignment and extension of U-111, as described in the department's 2023
 1923 environmental study related to the project, is dedicated to the department.
- 1924 (ii) Notwithstanding Subsection (4)(c)(i), if a right-of-way is not dedicated for the
 1925 project as described in Subsection (4)(c)(i) on or before October 1, 2024, the
 1926 department may proceed with the project, except that the project will be limited to
 1927 two lanes on U-111 from Herriman Parkway to 11800 South.
- 1928 (5)(a) Except as provided in Subsection (5)(b), if the department receives a notice of
 1929 ineligibility for a municipality as described in Subsection [~~10-9a-408(7)~~] 10-9a-408(9),
 1930 the executive director may not program fund money to a project prioritized by the
 1931 commission under Section 72-1-304, including fund money from the Transit

- 1932 Transportation Investment Fund, within the boundaries of the municipality until the
 1933 department receives notification from the Housing and Community Development
 1934 Division within the Department of Workforce Services that ineligibility under this
 1935 Subsection (5) no longer applies to the municipality.
- 1936 (b) Within the boundaries of a municipality described in Subsection (5)(a), the executive
 1937 director:
- 1938 (i) may program fund money in accordance with Subsection (4)(a) for a
 1939 limited-access facility or interchange connecting limited-access facilities;
- 1940 (ii) may not program fund money for the construction, reconstruction, or renovation
 1941 of an interchange on a limited-access facility;
- 1942 (iii) may program Transit Transportation Investment Fund money for a
 1943 multi-community fixed guideway public transportation project; and
- 1944 (iv) may not program Transit Transportation Investment Fund money for the
 1945 construction, reconstruction, or renovation of a station that is part of a fixed
 1946 guideway public transportation project.
- 1947 (c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive
 1948 director before July 1, 2022, for projects prioritized by the commission under Section
 1949 72-1-304.
- 1950 (6)(a) Except as provided in Subsection (6)(b), if the department receives a notice of
 1951 ineligibility for a county as described in Subsection [~~17-27a-408(7)~~] 17-27a-408(9),
 1952 the executive director may not program fund money to a project prioritized by the
 1953 commission under Section 72-1-304, including fund money from the Transit
 1954 Transportation Investment Fund, within the boundaries of the unincorporated area of
 1955 the county until the department receives notification from the Housing and
 1956 Community Development Division within the Department of Workforce Services
 1957 that ineligibility under this Subsection (6) no longer applies to the county.
- 1958 (b) Within the boundaries of the unincorporated area of a county described in Subsection
 1959 (6)(a), the executive director:
- 1960 (i) may program fund money in accordance with Subsection (4)(a) for a
 1961 limited-access facility to a project prioritized by the commission under Section
 1962 72-1-304;
- 1963 (ii) may not program fund money for the construction, reconstruction, or renovation
 1964 of an interchange on a limited-access facility;
- 1965 (iii) may program Transit Transportation Investment Fund money for a

- 1966 multi-community fixed guideway public transportation project; and
- 1967 (iv) may not program Transit Transportation Investment Fund money for the
- 1968 construction, reconstruction, or renovation of a station that is part of a fixed
- 1969 guideway public transportation project.
- 1970 (c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive
- 1971 director before July 1, 2022, for projects prioritized by the commission under Section
- 1972 72-1-304.
- 1973 (7)(a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in
- 1974 any fiscal year, the department and the commission shall appear before the Executive
- 1975 Appropriations Committee of the Legislature and present the amount of bond
- 1976 proceeds that the department needs to provide funding for the projects identified in
- 1977 Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current
- 1978 or next fiscal year.
- 1979 (b) The Executive Appropriations Committee of the Legislature shall review and
- 1980 comment on the amount of bond proceeds needed to fund the projects.
- 1981 (8) The Division of Finance shall, from money deposited into the fund, transfer the amount
- 1982 of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
- 1983 Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt
- 1984 service or sinking fund.
- 1985 (9)(a) There is created in the Transportation Investment Fund of 2005 the Transit
- 1986 Transportation Investment Fund.
- 1987 (b) The fund shall be funded by:
- 1988 (i) contributions deposited into the fund in accordance with Section 59-12-103;
- 1989 (ii) appropriations into the account by the Legislature;
- 1990 (iii) deposits of sales and use tax increment related to a housing and transit
- 1991 reinvestment zone as described in Section 63N-3-610;
- 1992 (iv) transfers of local option sales and use tax revenue as described in Subsection
- 1993 59-12-2220(11)(b) or (c);
- 1994 (v) private contributions; and
- 1995 (vi) donations or grants from public or private entities.
- 1996 (c)(i) The fund shall earn interest.
- 1997 (ii) All interest earned on fund money shall be deposited into the fund.
- 1998 (d) Subject to Subsection (9)(e), the commission may prioritize money from the fund:
- 1999 (i) for public transit capital development of new capacity projects and fixed guideway

- 2000 capital development projects to be used as prioritized by the commission through
2001 the prioritization process adopted under Section 72-1-304;
- 2002 (ii) to the department for oversight of a fixed guideway capital development project
2003 for which the department has responsibility; or
2004 (iii) up to \$500,000 per year, to be used for a public transit study.
- 2005 (e)(i) Subject to Subsections (9)(g), (h), and (i), the commission may only prioritize
2006 money from the fund for a public transit capital development project or pedestrian
2007 or nonmotorized transportation project that provides connection to the public
2008 transit system if the public transit district or political subdivision provides funds of
2009 equal to or greater than 30% of the costs needed for the project.
- 2010 (ii) A public transit district or political subdivision may use money derived from a
2011 loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund,
2012 to provide all or part of the 30% requirement described in Subsection (9)(e)(i) if:
2013 (A) the loan is approved by the commission as required in Title 72, Chapter 2,
2014 Part 2, State Infrastructure Bank Fund; and
2015 (B) the proposed capital project has been prioritized by the commission pursuant
2016 to Section 72-1-303.
- 2017 (f) Before July 1, 2022, the department and a large public transit district shall enter into
2018 an agreement for a large public transit district to pay the department \$5,000,000 per
2019 year for 15 years to be used to facilitate the purchase of zero emissions or low
2020 emissions rail engines and trainsets for regional public transit rail systems.
- 2021 (g) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(b):
2022 (i) the commission may prioritize money from the fund for public transit projects,
2023 operations, or maintenance within the county of the first class; and
2024 (ii) Subsection (9)(e) does not apply.
- 2025 (h) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(c):
2026 (i) the commission may prioritize public transit projects, operations, or maintenance
2027 in the county from which the revenue was generated; and
2028 (ii) Subsection (9)(e) does not apply.
- 2029 (i) The requirement to provide funds equal to or greater than 30% of the costs needed for
2030 the project described in Subsection (9)(e) does not apply to a public transit capital
2031 development project or pedestrian or nonmotorized transportation project that the
2032 department proposes.
- 2033 (j) In accordance with Part 3, Public Transit Innovation Grants, the commission may

2034 prioritize money from the fund for public transit innovation grants, as defined in
2035 Section 72-2-401, for public transit capital development projects requested by a
2036 political subdivision within a public transit district.

2037 (10)(a) There is created in the Transportation Investment Fund of 2005 the Cottonwood
2038 Canyons Transportation Investment Fund.

2039 (b) The fund shall be funded by:

2040 (i) money deposited into the fund in accordance with Section 59-12-103;

2041 (ii) appropriations into the account by the Legislature;

2042 (iii) private contributions; and

2043 (iv) donations or grants from public or private entities.

2044 (c)(i) The fund shall earn interest.

2045 (ii) All interest earned on fund money shall be deposited into the fund.

2046 (d) The Legislature may appropriate money from the fund for public transit or
2047 transportation projects in the Cottonwood Canyons of Salt Lake County.

2048 (e) The department may use up to 2% of the revenue deposited into the account under
2049 Subsection 59-12-103(7)(b) to contract with local governments as necessary for
2050 public safety enforcement related to the Cottonwood Canyons of Salt Lake County.

2051 (11)(a) There is created in the Transportation Investment Fund of 2005 the Active
2052 Transportation Investment Fund.

2053 (b) The fund shall be funded by:

2054 (i) money deposited into the fund in accordance with Section 59-12-103;

2055 (ii) appropriations into the account by the Legislature; and

2056 (iii) donations or grants from public or private entities.

2057 (c)(i) The fund shall earn interest.

2058 (ii) All interest earned on fund money shall be deposited into the fund.

2059 (d) The executive director may only use fund money to pay the costs needed for:

2060 (i) the planning, design, construction, maintenance, reconstruction, or renovation of
2061 paved pedestrian or paved nonmotorized trail projects that:

2062 (A) are prioritized by the commission through the prioritization process for new
2063 transportation capacity projects adopted under Section 72-1-304;

2064 (B) serve a regional purpose; and

2065 (C) are part of an active transportation plan approved by the department or the
2066 plan described in Subsection (11)(d)(ii);

2067 (ii) the development of a plan for a statewide network of paved pedestrian or paved

- 2068 nonmotorized trails that serve a regional purpose; and
- 2069 (iii) the administration of the fund, including staff and overhead costs.
- 2070 (12)(a) As used in this Subsection (12), "commuter rail" means the same as that term is
- 2071 defined in Section 63N-3-602.
- 2072 (b) There is created in the Transit Transportation Investment Fund the Commuter Rail
- 2073 Subaccount.
- 2074 (c) The subaccount shall be funded by:
- 2075 (i) contributions deposited into the subaccount in accordance with Section 59-12-103;
- 2076 (ii) appropriations into the subaccount by the Legislature;
- 2077 (iii) private contributions; and
- 2078 (iv) donations or grants from public or private entities.
- 2079 (d)(i) The subaccount shall earn interest.
- 2080 (ii) All interest earned on money in the subaccount shall be deposited into the
- 2081 subaccount.
- 2082 (e) As prioritized by the commission through the prioritization process adopted under
- 2083 Section 72-1-304 or as directed by the Legislature, the department may only use
- 2084 money from the subaccount for projects that improve the state's commuter rail
- 2085 infrastructure, including the building or improvement of grade-separated crossings
- 2086 between commuter rail lines and public highways.
- 2087 (f) Appropriations made in accordance with this section are nonlapsing in accordance
- 2088 with Section 63J-1-602.1.
- 2089 **Section 19. Effective Date.**
- 2090 This bill takes effect on May 7, 2025.