

# HB0037S05 compared with HB0037S01

~~{Omitted text}~~ shows text that was in HB0037S01 but was omitted in HB0037S05  
inserted text shows text that was not in HB0037S01 but was inserted into HB0037S05

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1

**Utah Housing Amendments**  
2025 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: James A. Dunnigan**  
Senate Sponsor: Lincoln Fillmore



2

3 **LONG TITLE**

4 **General Description:**

5 This bill deals with housing development and housing policy.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ defines terms;
- 9 ▶ modifies the minimum population for incorporation of a new town;
- 10 ▶ authorizes a municipality or county to authorize additional housing density in exchange for certain requirements;
- 12 ▶ authorizes a municipality or county to offer incentives in an area approved for single-family or multi-family residential units to promote owner-occupied, affordable housing;
- 15 ▶ modifies requirements for a moderate income housing plan and a moderate income housing report;
- 17 ▶ authorizes a special district to provide the operation of a propane system within its boundaries;
- 19 ▶ authorizes the Division of Housing and Community Development to make rules regarding the content and form of a moderate income housing report;

**HB0037S01**

## HB0037S01 compared with HB0037S05

21       ▸ requires the Governor's Office of Planning and Budget (GOPB) to develop a state housing plan  
by December 31, 2025;

23       ▸ requires GOPB to submit an annual written report on the implementation of the state housing  
plan to the Political Subdivisions Interim Committee; and

25       ▸ makes technical and conforming changes.

### 26 **Money Appropriated in this Bill:**

27       None

### 28 **Other Special Clauses:**

29       None

### 31 **AMENDS:**

32       **10-2a-201.5** , as last amended by Laws of Utah 2024, Chapters 342, 518 and 534 , as last amended  
by Laws of Utah 2024, Chapters 342, 518 and 534

33       **10-9a-102** , as last amended by Laws of Utah 2019, Chapter 384 , as last amended by Laws of Utah  
2019, Chapter 384

34       **10-9a-403** , as last amended by Laws of Utah 2024, Chapters 431, 537 , as last amended by Laws of  
Utah 2024, Chapters 431, 537

35       **10-9a-408** , as last amended by Laws of Utah 2024, Chapters 413, 438 , as last amended by Laws of  
Utah 2024, Chapters 413, 438

36       **10-9a-535** , as enacted by Laws of Utah 2022, Chapter 355 , as enacted by Laws of Utah 2022,  
Chapter 355

37       **17-27a-102** , as last amended by Laws of Utah 2022, Chapter 307 , as last amended by Laws of  
Utah 2022, Chapter 307

38       **17-27a-403** , as last amended by Laws of Utah 2024, Chapters 381, 431 , as last amended by Laws  
of Utah 2024, Chapters 381, 431

39       **17-27a-408** , as last amended by Laws of Utah 2024, Chapters 381, 413 , as last amended by Laws  
of Utah 2024, Chapters 381, 413

40       **17-27a-531** , as enacted by Laws of Utah 2022, Chapter 355 , as enacted by Laws of Utah 2022,  
Chapter 355

41       **17B-1-202** , as last amended by Laws of Utah 2024, Chapters 53, 388 , as last amended by Laws of  
Utah 2024, Chapters 53, 388

42

## HB0037S01 compared with HB0037S05

35A-8-202 , as last amended by Laws of Utah 2021, Chapter 281 , as last amended by Laws of Utah 2021, Chapter 281

43 72-1-304 , as last amended by Laws of Utah 2024, Chapter 517 , as last amended by Laws of Utah 2024, Chapter 517

44 72-2-124 , as last amended by Laws of Utah 2024, Chapters 498, 501 , as last amended by Laws of Utah 2024, Chapters 498, 501

45 ENACTS:

46 10-9a-403.2 , Utah Code Annotated 1953 , Utah Code Annotated 1953

47 10-9a-403.3 , Utah Code Annotated 1953 , Utah Code Annotated 1953

48 17-27a-403.1 , Utah Code Annotated 1953 , Utah Code Annotated 1953

49 17-27a-403.2 , Utah Code Annotated 1953 , Utah Code Annotated 1953

50 63J-4-402 , Utah Code Annotated 1953 , Utah Code Annotated 1953

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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 [400] 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 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.

## HB0037S01 compared with HB0037S05

- 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 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 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 federal  
government unless:
- 77 (a) the area, including the land owned by the United States federal government, is contiguous; and
- 79 (b)
- (i) incorporating the land is necessary to connect separate areas that share a demonstrable community  
interest; or
- 81 (ii) excluding the land from the incorporating area would create an unincorporated island within the  
proposed municipality.
- 83 (4)
- (a) Except as provided in Subsection (4)(b), an area incorporating under this part may not include some  
or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:
- 86 (i) was filed before the filing of the request for a feasibility study, described in 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 Subsection (4)(a)(i)  
is filed.
- 90 (b) A feasibility request may propose for incorporation an area that includes some or all of an area  
proposed for annexation in an annexation petition described in Subsection (4)(a) if:
- 93 (i) the proposed annexation area that is part of the area proposed for incorporation 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) with respect to  
excluding the proposed annexation area from the area proposed for incorporation; and
- 98

## HB0037S01 compared with HB0037S05

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

101 (c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each feasibility  
request to which Subsection (4)(b) applies as not proposing the 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 property and exclude part of that same parcel unless the owner of the parcel gives 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 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 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 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, resolutions, and rules and may enter into other forms of land use controls and development agreements that the municipality considers necessary or appropriate for the use and development of land within

## HB0037S01 compared with HB0037S05

the municipality, including ordinances, resolutions, 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 landowner's private property interests and associated statutory and constitutional protections.
- 147 (3)
- (a) Any ordinance, resolution, or rule enacted by a municipality pursuant to its authority under this chapter shall comply with the state's exclusive jurisdiction to 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 activity incident to an oil and gas activity if the municipality demonstrates that the 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 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)

## HB0037S01 compared with HB0037S05

- (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.
- 164 (b) The planning commission shall make and recommend to the legislative body a 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 planning commission's judgment, those areas are related to the planning of the municipality's territory.
- 169 (d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that 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, and descriptive and explanatory matter, shall include the planning commission's 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, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;
- 182 (B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;
- 185 (C) except for a city of the fifth class or a town, is coordinated to integrate the 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 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, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

## HB0037S01 compared with HB0037S05

- 194 (B) for a municipality that has access to a major transit investment corridor, addresses the municipality's  
plan for residential and commercial development around major transit investment corridors to  
maintain and improve the connections between housing, employment, education, recreation, and  
commerce;
- 199 (C) for a municipality that does not have access to a major transit investment corridor, addresses the  
municipality's plan for residential and commercial development in areas that will maintain and  
improve the connections between housing, transportation, employment, education, recreation, and  
commerce; and
- 203 (D) correlates with the population projections, the employment projections, and 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 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 recommendation to  
implement three or more of the moderate income housing strategies described in Subsection (2)(b)  
(iii);
- 211 (C) for a specified municipality, as defined in Section 10-9a-408, that does not have a fixed guideway  
public transit station, shall include a recommendation to implement three or more of the moderate  
income housing strategies described in Subsection (2)(b)(iii) or at least one of the moderate income  
housing 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 guideway public  
transit station, shall include:
- 218 (I) ~~[-]~~ a recommendation to implement five or more of the moderate income housing strategies described  
in Subsection (2)(b)(iii), of which one shall be the moderate income housing strategy described in  
Subsection ~~[(2)(b)(iii)(W)]~~ ~~{~~ ~~{ (2)(b)(iii)(U) }~~ ~~}~~ ; (2)(b)(iii)(U) and one shall be a moderate income  
housing strategy described in Subsection (2)(b)(iii)(G) ~~[-]~~ or (H) ~~[- or (Q) -]~~ ; or
- 223 (II) a recommendation to implement the moderate income housing strategy described in Subsection (2)  
(b)(iii)(U), one of the moderate income housing strategies described in Subsections (2)(b)(iii)(X)  
through (CC), and one 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 implementation plan  
as provided in Subsection (2)(c); and



## HB0037S01 compared with HB0037S05

- 229 (iv) except for a city of the fifth class or a town, a water use and preservation element that  
addresses:
- 231 (A) the effect of permitted development or patterns of development on water demand and water  
infrastructure;
- 233 (B) methods of reducing water demand and per capita consumption for future development;
- 235 (C) methods of reducing water demand and per capita consumption for existing development; and
- 237 (D) opportunities for the municipality to modify the municipality's operations to 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 reasonable  
opportunity for a variety of housing, including moderate income housing:
- 243 (A) to meet the needs of people of various income levels living, working, or desiring to live or work in  
the community; and
- 245 (B) to allow people with various incomes to benefit from and fully participate in all aspects of  
neighborhood and community life;
- 247 (ii) for a [~~town~~] municipality that is not a specified municipality, may include, and for a specified  
municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will  
provide a realistic opportunity for the development of moderate income housing within the next five  
years;
- 251 (iii) for a [~~town~~] municipality that is not a specified municipality, may include, and for a specified  
municipality as defined in Section 10-9a-408, shall include a recommendation to implement  
the required number of any of the following moderate income housing strategies as specified in  
Subsection (2)(a)(iii):
- 255 (A) rezone for densities necessary to facilitate the production of moderate income housing;
- 257 (B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the  
construction of moderate income housing;
- 259 (C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate  
income housing;
- 261 (D) identify and utilize general fund subsidies or other sources of revenue to waive construction related  
fees that are otherwise generally imposed by the municipality for the construction or rehabilitation  
of moderate income housing;

## HB0037S01 compared with HB0037S05

- 264 (E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units  
in residential zones;
- 266 (F) zone or rezone for higher density or moderate income residential development in commercial or  
mixed-use zones near major transit investment corridors, commercial centers, or employment  
centers;
- 269 (G) amend land use regulations to allow for higher density or new moderate income residential  
development in commercial or mixed-use zones near major transit investment corridors;
- 272 (H) amend land use regulations to eliminate or reduce parking requirements for residential development  
where a resident is less likely to rely on the resident's own vehicle, such as residential development  
near major transit investment 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 utilizing a landlord  
incentive program, providing for deed restricted units through a grant program, or, notwithstanding  
Section 10-9a-535, establishing a 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 for moderate income  
housing;
- 285 (N) implement a mortgage assistance program for employees of the municipality, an employer that  
provides contracted services to the municipality, or any other 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 incentives to promote  
the construction of moderate income housing, an entity that applies for programs offered by  
the Utah Housing Corporation within that agency's funding capacity, an entity that applies for  
affordable housing programs administered by the Department of Workforce Services, an entity that  
applies for affordable housing programs administered by an association of governments established  
by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that  
applies for services provided by a public housing authority to preserve and create moderate income  
housing, or any other entity that applies for programs or services that promote the construction or  
preservation of moderate income housing;

299

## HB0037S01 compared with HB0037S05

- (P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;
- 303 ~~[(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;]~~
- 305 ~~[(R) create a home ownership promotion zone pursuant to Part 10, Home Ownership Promotion Zone for Municipalities;]~~
- 307 ~~[(S)]~~ (Q) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;
- 309 ~~[(T)]~~ (R) create a program to transfer development rights for moderate income housing;
- 311 ~~[(U)]~~ (S) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;
- 314 ~~[(V)]~~ (T) develop a moderate income housing project for residents who are disabled or 55 years old or older;
- 316 ~~[(W)]~~ (U) develop and adopt a station area plan in accordance with Section 10-9a-403.1;
- 318 ~~[(X)]~~ (V) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones;
- 322 ~~[(Y) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act; and]~~
- 324 ~~[(Z)]~~ (W) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing; ~~[-{f} and]~~
- 330 (X) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;
- 332 (Y) create a home ownership promotion zone pursuant to Part 10, Home Ownership Promotion Zone for Municipalities;
- 334 (Z) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act;

## HB0037S01 compared with HB0037S05

- 336 (AA) approve a project that receives funding from, or qualifies to receive funding from, the Utah  
339 Homes Investment Program created in Title 51, Chapter 12, Utah Homes Investment Program;
- 341 (BB) adopt or approve {an-} a qualifying affordable home ownership density bonus for single-family  
346 residential units, as described in Section 10-9a-403.2; and
- 343 (CC) adopt or approve {an-} a qualifying affordable home ownership density bonus for multi-family  
346 residential units, as described in Section 10-9a-403.3; and
- 346 (iv) shall identify each moderate income housing strategy recommended to the legislative body for  
implementation by restating the exact language used to describe the strategy in Subsection (2)(b)  
(iii).
- 346 (c)
- 346 (i) In drafting the implementation plan portion of the moderate income housing element as described  
in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body  
the establishment of a five-year timeline for implementing each of the moderate income housing  
strategies selected by the 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 income housing  
strategy selected by the municipality, whether one-time or 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 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 if required under  
Section 10-9a-403.1.
- 362 (e) In drafting the transportation and traffic circulation element, the planning commission shall:
- 364 (i)
- 368 (A) consider and coordinate with the regional transportation plan developed by the municipality's  
region's metropolitan planning organization, if the municipality is within the boundaries of a  
metropolitan planning organization; or

## HB0037S01 compared with HB0037S05

- (B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization; and
- 371 (ii) consider and coordinate with any station area plans adopted by the municipality if 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 Water Resources;  
and
- 377 (B) if Section 73-10-32 requires the municipality to adopt a water conservation 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 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 recommendation for changes to  
an ordinance that promotes the inefficient use of 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 or runoff of water  
used for irrigation;
- 390 (C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry  
soil conditions;
- 392 (D) elimination or regulation of ponds, pools, and other features that promote unnecessary water  
evaporation;
- 394 (E) reduction of yard waste; and
- 395 (F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of  
water to the plants being irrigated;
- 397 (v) shall consult with the public water system or systems serving the municipality with drinking water  
regarding how implementation of the land use element and water use and preservation element may  
affect:

## HB0037S01 compared with HB0037S05

- 400 (A) water supply planning, including drinking water source and storage capacity consistent with Section  
19-4-114; and
- 402 (B) water distribution planning, including master plans, infrastructure asset management programs and  
plans, infrastructure replacement plans, and impact fee facilities plans;
- 405 (vi) shall consult with the Division of Water Resources for information and technical resources  
regarding regional water conservation goals, including how implementation of the land use element  
and the water use and preservation element may affect the Great Salt Lake;
- 409 (vii) may include recommendations for additional water demand reduction strategies, 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 that will reduce water  
demand for new single family development;
- 414 (C) providing one or more water reduction incentives for existing development such as modification  
of existing landscapes and irrigation systems and installation of water fixtures or systems that  
minimize water demand;
- 417 (D) discouraging incentives for economic development activities that do not adequately account for  
water use or do not include strategies for reducing water demand; and
- 420 (E) adopting water concurrency standards requiring that adequate water supplies 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 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 the quality of:
- 431 (A) air;
- 432 (B) forests;
- 433 (C) soils;
- 434 (D) rivers;
- 435 (E) groundwater and other waters;

## HB0037S01 compared with HB0037S05

- 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 pollution of streams and other waters;  
443 (B) the regulation of the use of land on hillsides, stream channels and other 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, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;  
451 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:  
453 (i) historic preservation;  
454 (ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and  
456 (iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;  
458 (d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;  
463 (e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, 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 4 is enacted to read:

## HB0037S01 compared with HB0037S05

- 469 **10-9a-403.2. Affordable home ownership density bonus for single-family 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 with a gross  
income of no more than 120% of area median income for the county 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 no more than 80%  
of area median income for the county in which the residential unit is offered for rent.
- 479 (b) "Owner-occupier" means an individual who owns, solely or jointly, a housing unit in 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 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 more, municipal  
approval of a density at least 0.5 residential units per acre greater than the underlying zoning density  
for the area.
- 481 (2) If a municipality approves {an area to be developed at } a {minimum} qualifying affordable home  
ownership single-family density {of six residential units per acre} bonus, either through a zoning  
ordinance or a development agreement, the municipality may adopt requirements for the qualifying  
affordable home ownership single-family density bonus area to ensure:
- 484 {(a) {adopt requirements to ensure:}-}
- 485 {(i) {that some or all of the residential units offered for sale in the area be deed-restricted for at least  
five years to ensure owner-occupancy; or}-}
- 487 {(ii) {that some or all of the residential units in the area qualify as affordable housing; and}-}
- 489 {(b) {approve an applicant's request for additional single-family residential units per acre in the area in  
exchange for one or more of the following:}-}
- 491 {(i)} (a) {requiring} at least 60% of the total single-family residential units {being} be deed-restricted  
to owner-occupancy for at least five years;
- 493 {(ii)} (b) {requiring} at least 25% of the total single-family residential units {being offered for sale to  
an owner-occupier at a price point 80% or less of the median county home price for housing of that  
type} qualify as affordable housing;



## HB0037S01 compared with HB0037S05

- 496 ~~{(iii)}~~ (c) ~~{requiring}~~ at least 25% of the single-family residential units per acre to be no larger than  
1,600 square feet~~{, excluding a garage}~~; or
- 498 ~~{(iv)}~~ (d) the applicant ~~{creating}~~ creates a preferential qualifying buyer program in which a single-  
family residential unit is initially offered for sale, for up to 30 days, to a category of preferred  
qualifying buyers established by the municipality, in accordance with provisions of the Fair Housing  
Act, 42 U.S.C. Sec. 3601.
- 501 (3) A municipality may offer additional incentives in ~~{an}~~ a qualifying affordable home ownership  
single-family density bonus area approved for single-family residential units to promote owner-  
occupied, affordable housing.
- 503 Section 5. Section **5** is enacted to read:
- 504 **10-9a-403.3. Affordable home ownership density bonus for multi-family 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 municipal approval of a  
density of at least 20 residential units per acre.
- 509 (2) If a municipality approves ~~{an area to be developed at}~~ a ~~{minimum}~~ qualifying affordable home  
ownership multi-family density ~~{of 20 residential units per acre}~~ bonus, either through a zoning  
ordinance or a development agreement, the municipality may adopt requirements for the qualifying  
affordable home ownership multi-family density bonus area to ensure:
- 512 ~~{(a) {approve an applicant's request to build:}}~~
- 513 ~~{(i)}~~ (a) ~~{up to}~~ at least 20% more residential units per acre than are otherwise allowed in the area~~{, if  
the residential units are intended for owner-occupiers}~~; ~~{and}~~ or
- 515 ~~{(ii) {one or more additional stories of height on a multi-family residential building above the limit  
otherwise allowed, if the housing units in the multi-family residential building are intended for  
owner-occupiers; and}}~~
- 518 ~~{(b) {if the municipality approves a request described in Subsection (2)(a), implement one or more of  
the following requirements:}}~~
- 520 ~~{(i)}~~ (b) ~~{requiring}~~ at least 60% of the total units in the multi-family residential building ~~{being}~~ be  
deed-restricted to owner-occupancy for at least five years;
- 522

## HB0037S01 compared with HB0037S05

{(ii)} (c) ~~{requiring}~~ at least 25% of the total units in the multi-family residential building ~~{being offered for sale to an owner-occupier at a price point 80% or less of the median county home price for housing of that type}~~ qualify as affordable housing;

525 {(iii)} (d) ~~{requiring}~~ at least 25% of the total units in a multi-family residential building to be no larger than 1,600 square feet ~~{, excluding a garage}~~; or

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

530 (3) A municipality may offer additional incentives in ~~{an}~~ a qualifying affordable home ownership multi-family density bonus area ~~{approved}~~ for multi-family residential units to promote 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 funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

535 (1) As used in this section:

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

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

541 (c) "Initial report" or "initial moderate income housing report" means the one-time report described in Subsection (2).

543 (d) "Moderate income housing strategy" means a strategy described in Subsection 10-9a-403(2)(b)(iii).

545 (e) "Report" means an initial report or a subsequent progress report.

546 (f) "Specified municipality" means:

547 (i) a city of the first, second, third, or fourth class; or

548 (ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class.

550 (g) "Subsequent progress report" means the annual report described in Subsection (3).

551 (2)

## HB0037S01 compared with HB0037S05

- 553 (a) The legislative body of a specified municipality shall submit an initial report to the division.  
(b)
- 555 (i) This Subsection (2)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.  
(ii) As of January 1, if a municipality described in Subsection (2)(b)(i) changes from one class to another or grows in population to qualify as a specified municipality, the municipality shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.
- 560 (c) The initial report shall:  
561 (i) identify each moderate income housing strategy selected by the specified municipality for continued, ongoing, or one-time implementation, restating the exact language used to describe the moderate income housing strategy in Subsection 10-9a-403(2)(b)(iii); and  
565 (ii) include an implementation plan.  
566 (3)
- (a) After the division approves a specified municipality's initial report under this section, the specified municipality shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified municipality is required to submit the initial report.
- 570 (b) The subsequent progress report shall include:  
571 (i) subject to Subsection (3)(c), a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous 12-month period to implement the moderate income housing strategies identified in the initial report for implementation;  
575 (ii) a description of each land use regulation or land use decision made by the specified municipality during the previous 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;  
580 (iii) a description of any barriers encountered by the specified municipality in the previous 12-month period in implementing the moderate income housing strategies;  
583 (iv) information regarding the number of internal and external or detached accessory dwelling units located within the specified municipality for which the specified municipality:  
586 (A) issued a building permit to construct; or

## HB0037S01 compared with HB0037S05

- 587 (B) issued a business license or comparable license or permit to rent;
- 588 (v) the number of residential dwelling units that have been entitled that have not received a building permit as of the submission date of the progress report;
- 590 (vi) shapefiles, or website links if shapefiles are not available, to current maps and tables related to zoning;
- 592 (vii) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and
- 595 (viii) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.
- 597 (c) For purposes of describing actions taken by a specified municipality under Subsection (3)(b)(i), the specified municipality may include an ongoing action taken by the specified municipality prior to the 12-month reporting period applicable to the subsequent progress report if the specified municipality:
- 601 (i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and
- 605 (ii) demonstrates in the subsequent progress report that the action taken under Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified municipality's implementation plan.
- 608 (d) A specified municipality's report shall be in a form:
- 609 (i) approved by the division; and
- 610 (ii) made available by the division on or before May 1 of the year in which the report is required.
- 612 (4) Within 90 days after the day on which the division receives a specified municipality's report, the division shall:
- 614 (a) post the report on the division's website;
- 615 (b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and
- 620 (c) subject to Subsection (5), review the report to determine compliance with this section.
- 621 (5)
- (a) An initial report [~~does not comply~~] complies with this section [~~unless~~] if the report:

## HB0037S01 compared with HB0037S05

- 622 (i) includes the information required under Subsection (2)(c);
- 623 (ii) demonstrates to the division that the specified municipality made plans to implement:
- 625 (A) ~~{except as provided in Subsection (5)(e), }~~ three or more moderate income housing strategies if the  
specified municipality does not have a fixed guideway public transit station; or
- 628 (B) ~~[subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies]~~ if the  
specified municipality has a fixed guideway public transit station: ~~{-}~~
- 631 (I) ~~five or more of the moderate income housing strategies described in Subsection {(2)(b)(iii)}~~  
10-9a-403(2)(b)(iii), of which one shall be the moderate income housing strategy described in  
Subsection ~~{(2)(b)(iii)(U)}~~ 10-9a-403(2)(b)(iii)(U) and one shall be a moderate income housing  
strategy described in Subsection ~~{(2)(b)(iii)(G)}~~ 10-9a-403(2)(b)(iii)(G) or (H); or
- 635 (II) ~~the moderate income housing strategy described in Subsection {(2)(b)(iii)(U)}~~ 10-9a-403(2)(b)  
(iii)(U), one of the moderate income housing strategies described in ~~{Sections (2)(b)(iii)(X)}~~  
Subsections 10-9a-403(2)(b)(iii)(X) through (CC), and one moderate income strategy described in  
Subsection ~~{(2)(b)(iii)}~~ 10-9a-403(2)(b)(iii); and
- 639 (iii) is in a form approved by the division.
- 640 (b) A subsequent progress report ~~[does not comply]~~ complies with this section ~~[unless]~~ if the report:
- 642 (i) demonstrates to the division that the specified municipality made plans to implement:
- 644 (A) ~~{except as provided in Subsection (5)(e), }~~ three or more moderate income housing strategies if the  
specified municipality does not have a fixed guideway public transit station; or
- 647 (B) ~~[subject to the requirements of Subsection 10-9a-403(2)(a)(iii)(D), five or more moderate income~~  
~~housing strategies]~~ if the specified municipality has a fixed guideway public transit station ~~{:}{:}~~
- 650 ~~{(I)}~~ ~~{five or more of the moderate income housing strategies described in Subsection 10-9a-403(2)~~  
~~(b)(iii), of which one shall be the moderate income housing strategy described in Subsection~~  
~~10-9a-403(2)(b)(iii)(U) and one shall be a moderate income housing strategy described in~~  
~~Subsection 10-9a-403(2)(b)(iii)(G) or (H); or } :~~
- 655 ~~{(II)}~~ ~~{the moderate income housing strategy described in Subsection (2)(b)(iii)(U), one of the~~  
~~moderate income housing strategies described in Sections (2)(b)(iii)(X) through (CC), and one~~  
~~moderate income strategy described in Subsection (2)(b)(iii); }~~
- 659 ~~{(ii)}~~
- 646 (I) five or more of the moderate income housing strategies described in Subsection 10-9a-403(2)  
(b)(iii), of which one shall be the moderate income housing strategy described in Subsection

## HB0037S01 compared with HB0037S05

10-9a-403(2)(b)(iii)(U) and one shall be a moderate income housing strategy described in Subsection 10-9a-403(2)(b)(iii)(G) or (H); or

651 (II) the moderate income housing strategy described in Subsection 10-9a-403(2)(b)(iii)(U), one of the moderate income housing strategies described in Subsections 10-9a-403(2)(b)(iii)(X) through (CC), and one moderate income housing strategy described in Subsection 10-9a-403(2)(b)(iii);

656 (ii) is in a form approved by the division; and

660 (iii) provides sufficient information for the division to:

661 (A) assess the specified municipality's progress in implementing the moderate income housing strategies;

663 (B) monitor compliance with the specified municipality's implementation plan;

664 (C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies;

667 (D) identify how the market has responded to the specified municipality's selected moderate income housing strategies; and

669 (E) identify any barriers encountered by the specified municipality in implementing the selected moderate income housing strategies.

668 (c)

671 {(e)} (i) {If} Notwithstanding the requirements of Subsection (5)(a)(ii)(A) or (b)(i)(A), if a specified municipality {that does not have} without a fixed guideway public transit station implements or is implementing, by ordinance or development agreement, one of the following moderate income housing strategies, the division shall consider that one moderate income housing strategy to be the equivalent of three moderate income housing strategies:

675 {(f)} (A) a housing and {rapid} transit reinvestment zone, as described in Subsection 10-9a-403(2)(a)(iii)(X);

677 {(g)} (B) a home ownership promotion zone, as described in Subsection 10-9a-403(2)(a)(iii)(Y);

679 {(h)} (C) a first home {ownership promotion} investment zone, described in Subsection 10-9a-403(2)(a)(iii)(Z);

681 {(i)} (D) the approval of a project described in Subsection 10-9a-403(2)(a)(iii)(AA);

682 {(j)} (E) {an} a qualifying affordable home ownership density bonus for single-family residential units, as described in Subsection 10-9a-403(2)(a)(iii)(BB); or

## HB0037S01 compared with HB0037S05

- 684 ~~{(vi)}~~ (F) ~~{an}~~ a qualifying affordable home ownership density bonus for multi-family residential  
units, as described in Subsection 10-9a-403(2)(a)(iii)(CC).
- 686 ~~{(6)}~~
- ~~{(a)}~~ If the division considers one moderate income housing strategy described in Subsection (5)(c)(i)  
as the equivalent of three moderate income housing strategies, the division shall also consider the  
specified municipality compliant with the reporting requirement described in this section for:
- 688 (A) the year in which the specified municipality submits the initial report or subsequent report; and  
690 (B) two subsequent reporting years.
- 691 (6)
- (a) A specified municipality qualifies for priority consideration under this Subsection (6) if the specified  
municipality's report:
- 688 (i) complies with this section; and
- 689 (ii) demonstrates to the division that the specified municipality made plans to implement:
- 691 (A) five or more moderate income housing strategies if the specified municipality does not have a fixed  
guideway public transit station; or
- 693 (B) six or more moderate income housing strategies if the specified municipality has a fixed guideway  
public transit station.
- 695 (b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority  
consideration to transportation projects located within the boundaries of a specified municipality  
described in Subsection (6)(a) until the Department of Transportation receives notice from the  
division under Subsection (6)(e).
- 699 (c) Upon determining that a specified municipality qualifies for priority consideration under this  
Subsection (6), the division shall send a notice of prioritization to the legislative body of the  
specified municipality and the Department of Transportation.
- 702 (d) The notice described in Subsection (6)(c) shall:
- 703 (i) name the specified municipality that qualifies for priority consideration;
- 704 (ii) describe the funds or projects for which the specified municipality qualifies to receive priority  
consideration; and
- 706 (iii) state the basis for the division's determination that the specified municipality qualifies for priority  
consideration.

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## HB0037S01 compared with HB0037S05

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

711 (7)

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

714 (b) A specified municipality that receives a notice of noncompliance may:

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

717 (ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

719 (c) The notice described in Subsection (7)(a) shall:

720 (i) describe each deficiency in the report and the actions needed to cure each deficiency;

722 (ii) state that the specified municipality has an opportunity to:

723 (A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of compliance is sent; or

725 (B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

728 (iii) state that failure to take action under Subsection (7)(c)(ii) will result in the specified municipality's ineligibility for funds under Subsection (9).

730 (d) For purposes of curing the deficiencies in a report under this Subsection (7), if the action needed to cure the deficiency as described by the division requires the specified municipality to make a legislative change, the specified municipality may cure the deficiency by making that legislative change within the 90-day cure period.

734 (e)

(i) If a specified municipality submits to the division a corrected report in accordance with Subsection (7)(b)(i) and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified municipality within 30 days after the day on which the corrected report is submitted.

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## HB0037S01 compared with HB0037S05

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

## HB0037S01 compared with HB0037S05

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

## HB0037S01 compared with HB0037S05

ineligibility to the legislative body of the specified municipality, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

- 809 (d) The notice described in Subsection (9)(c) shall:
- 810 (i) name the specified municipality that is ineligible for funds;
- 811 (ii) describe the funds for which the specified municipality is ineligible to receive;
- 812 (iii) describe the fee the specified municipality is required to pay under Subsection (9)(b), if applicable;  
and
- 814 (iv) state the basis for the division's determination that the specified municipality is ineligible for funds.
- 816 (e) The division shall notify the legislative body of a specified municipality and the Department of Transportation in writing if the division determines that the provisions of this Subsection (9) no longer apply to the specified municipality.
- 819 (f) The division may not determine that a specified municipality that is required to pay a fee under Subsection (9)(b) is in compliance with the reporting requirements of this section until the specified municipality pays all outstanding fees required under Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.
- 824 (10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

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

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

- 829 (1) A municipality may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:
- 831 (a) the municipality and the applicant enter into a written agreement regarding the number of moderate income housing units; ~~[{f} or]~~
- 833 (b) the municipality provides incentives for an applicant who agrees to include moderate income housing units in a development ~~[.]~~ ; or
- 835 (c) the municipality offers or approves, and an applicant accepts, an incentive described in Section 10-9a-403.2 or 10-9a-403.3.
- 837 (2) If an applicant does not agree to participate in the development of moderate income housing units under Subsection (1)(a) or (b), a municipality may not take into consideration the applicant's decision in the municipality's determination of whether to approve or deny a land use application.

## HB0037S01 compared with HB0037S05

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

848 (1)

(a) The purposes of this chapter are to:

849 (i) provide for the health, safety, and welfare;

850 (ii) promote the prosperity;

851 (iii) improve the morals, peace, good order, comfort, convenience, and aesthetics of each county  
and each county's present and future inhabitants and businesses;

853 (iv) protect the tax base;

854 (v) secure economy in governmental expenditures;

855 (vi) foster the state's agricultural and other industries;

856 (vii) protect both urban and nonurban development;

857 (viii) protect and ensure access to sunlight for solar energy devices;

858 (ix) provide fundamental fairness in land use regulation;

859 (x) facilitate orderly growth, ~~and~~ allow growth in a variety of housing types, and contribute  
toward housing affordability; and

861 (xi) protect property values.

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

869 (i) uses;

870 (ii) density;

871 (iii) open spaces;

872 (iv) structures;

## HB0037S01 compared with HB0037S05

- 873 (v) buildings;
- 874 (vi) energy-efficiency;
- 875 (vii) light and air;
- 876 (viii) air quality;
- 877 (ix) transportation and public or alternative transportation;
- 878 (x) infrastructure;
- 879 (xi) street and building orientation and width requirements;
- 880 (xii) public facilities;
- 881 (xiii) fundamental fairness in land use regulation; and
- 882 (xiv) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.
- 885 (2) Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.
- 889 (3)
- (a) Any ordinance, resolution, or rule enacted by a county pursuant to its authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.
- 892 (b) A county may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the county demonstrates that the regulation:
- 894 (i) is necessary for the purposes of this chapter;
- 895 (ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and
- 896 (iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.
- 898 (4)
- (a) This Subsection (4) applies to development agreements entered into on or after May 5, 2021.
- 900 (b) A provision in a county development agreement is unenforceable if the provision requires an individual or an entity, as a condition for issuing building permits or otherwise regulating development activities within an unincorporated area of the county, to initiate a process for a

## HB0037S01 compared with HB0037S05

municipality to annex the unincorporated area in accordance with Title 10, Chapter 2, Part 4, Annexation.

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

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

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

909 (1)

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

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

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

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

919 (c)

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

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

926 (2)

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

929 (i) a land use element that:

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

## HB0037S01 compared with HB0037S05

- 935 (B) includes a statement of the projections for and standards of population density and building  
intensity recommended for the various land use categories covered by the plan;
- 938 (C) is coordinated to integrate the land use element with the water use and preservation element; and
- 940 (D) accounts for the effect of land use categories and land uses on water demand;
- 941 (ii) a transportation and traffic circulation element that:
- 942 (A) provides the general location and extent of existing and proposed freeways, arterial and collector  
streets, public transit, active transportation facilities, and other modes of transportation that the  
planning commission considers appropriate;
- 946 (B) addresses the county's plan for residential and commercial development around major transit  
investment corridors to maintain and improve the connections between housing, employment,  
education, recreation, and commerce; and
- 950 (C) correlates with the population projections, the employment projections, and the proposed land use  
element of the general plan;
- 952 (iii) for a specified county as defined in Section 17-27a-408, a moderate income housing element  
that:
- 954 (A) provides a realistic opportunity to meet the need for additional moderate income housing within the  
next five years;
- 956 (B) selects three or more moderate income housing strategies described in [~~Subsection~~] Subsections  
~~(2)(b)(ii)~~ (A) Subsections (2)(b)(ii)(A) through (V), or one moderate income housing strategy  
described in Subsections (2)(b)(ii)(W) through (BB), for implementation; and
- 960 (C) includes an implementation plan as provided in Subsection [~~(2)(e)~~] (2)(g);
- 961 (iv) a resource management plan detailing the findings, objectives, and policies required by  
Subsection 17-27a-401(3); and
- 963 (v) a water use and preservation element that addresses:
- 964 (A) the effect of permitted development or patterns of development on water demand and water  
infrastructure;
- 966 (B) methods of reducing water demand and per capita consumption for future development;
- 968 (C) methods of reducing water demand and per capita consumption for existing development; and
- 970 (D) opportunities for the county to modify the county's operations to eliminate practices or conditions  
that waste water.
- 972 (b) In drafting the moderate income housing element, the planning commission:

## HB0037S01 compared with HB0037S05

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



## HB0037S01 compared with HB0037S05

- 1009 (L) reduce, waive, or eliminate impact fees related to moderate income housing;
- 1010 (M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;
- 1012 (N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county;
- 1015 (O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;
- 1024 (P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;
- 1028 [~~(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;~~]
- 1030 [~~(R) create a home ownership promotion zone pursuant to Part 12, Home Ownership Promotion Zone for Counties;~~]
- 1032 [~~(S)~~] (Q) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;
- 1034 [~~(T)~~] (R) create a program to transfer development rights for moderate income housing;
- 1036 [~~(U)~~] (S) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;
- 1039 [~~(V)~~] (T) develop a moderate income housing project for residents who are disabled or 55 years old or older;
- 1041 [~~(W)~~] (U) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; ~~[and]~~
- 1045 [~~(X)~~] (V) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication

## HB0037S01 compared with HB0037S05

of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing[-] ;

- 1051 (W) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;
- 1053 (X) create a home ownership investment zone in accordance with Part 12, Home Ownership Promotion Zone for Counties;
- 1055 (Y) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act;
- 1057 (Z) approve a project that receives funding from, or qualifies to receive funding from, the Utah Homes Investment Program created in Title 51, Chapter 12, Utah Homes Investment Program;
- 1060 (AA) adopt or approve an affordable home ownership density bonus for single-family residential units, as described in Section 17-27a-403.1; and
- 1062 (BB) adopt or approve an affordable home ownership density bonus for multi-family residential units, as described in Section 17-27a-403.2.
- 1064 (c) If a specified county, as defined in Section 17-27a-408, has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified county shall include as part of the specified county's recommended strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy described in Subsection [~~(2)(b)(ii)(Q)~~] (2)(b)(ii)(W).
- 1069 (d) The planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(ii).
- 1072 (e) In drafting the land use element, the planning commission shall:
- 1073 (i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district;
- 1075 (ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and
- 1077 (iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.
- 1079 (f) In drafting the transportation and traffic circulation element, the planning commission shall:
- 1081 (i)

## HB0037S01 compared with HB0037S05

- (A) consider and coordinate with the regional transportation plan developed by the county's region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or
- 1085 (B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and
- 1088 (ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.
- 1090 (g)
- (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the county for implementation.
- 1095 (ii) The timeline described in Subsection (2)(g)(i) shall:
- 1096 (A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and
- 1098 (B) provide flexibility for the county to make adjustments as needed.
- 1099 (h) In drafting the water use and preservation element, the planning commission:
- 1100 (i) shall consider applicable regional water conservation goals recommended by the Division of Water Resources;
- 1102 (ii) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and water use and preservation element may affect the Great Salt Lake;
- 1106 (iii) shall notify the community water systems serving drinking water within the unincorporated portion of the county and request feedback from the community water systems about how implementation of the land use element and water use and preservation element may affect:
- 1110 (A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and
- 1112 (B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;
- 1115

## HB0037S01 compared with HB0037S05

- (iv) shall consider the potential opportunities and benefits of planning for regionalization of public water systems;
- 1117 (v) shall consult with the Department of Agriculture and Food for information and technical resources regarding the potential benefits of agriculture conservation easements and potential implementation of agriculture water optimization projects that would support regional water conservation goals;
- 1121 (vi) shall notify an irrigation or canal company located in the county so that the irrigation or canal company can be involved in the protection and integrity of the irrigation or canal company's delivery systems;
- 1124 (vii) shall include a recommendation for:
  - 1125 (A) water conservation policies to be determined by the county; and
  - 1126 (B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;
- 1128 (viii) shall review the county's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;
- 1130 (ix) shall consider principles of sustainable landscaping, including the:
  - 1131 (A) reduction or limitation of the use of lawn or turf;
  - 1132 (B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;
  - 1134 (C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;
  - 1136 (D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;
  - 1138 (E) reduction of yard waste; and
  - 1139 (F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;
- 1141 (x) may include recommendations for additional water demand reduction strategies, including:
  - 1143 (A) creating a water budget associated with a particular type of development;
  - 1144 (B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;
  - 1146 (C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

## HB0037S01 compared with HB0037S05

- 1149 (D) discouraging incentives for economic development activities that do not adequately account for  
water use or do not include strategies for reducing water demand; and
- 1152 (E) adopting water concurrency standards requiring that adequate water supplies and facilities are or  
will be in place for new development; and
- 1154 (xi) shall include a recommendation for low water use landscaping standards for a new:
- 1156 (A) commercial, industrial, or institutional development;
- 1157 (B) common interest community, as defined in Section 57-25-102; or
- 1158 (C) multifamily housing project.
- 1159 (3) The proposed general plan may include:
- 1160 (a) an environmental element that addresses:
- 1161 (i) to the extent not covered by the county's resource management plan, the protection, conservation,  
development, and use of natural resources, including the quality of:
- 1164 (A) air;
- 1165 (B) forests;
- 1166 (C) soils;
- 1167 (D) rivers;
- 1168 (E) groundwater and other waters;
- 1169 (F) harbors;
- 1170 (G) fisheries;
- 1171 (H) wildlife;
- 1172 (I) minerals; and
- 1173 (J) other natural resources; and
- 1174 (ii)
- (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other  
waters;
- 1176 (B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive  
areas;
- 1178 (C) the prevention, control, and correction of the erosion of soils;
- 1179 (D) the preservation and enhancement of watersheds and wetlands; and
- 1180 (E) the mapping of known geologic hazards;
- 1181

## HB0037S01 compared with HB0037S05

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

1184 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

1186 (i) historic preservation;

1187 (ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

1189 (iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

1191 (d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

1196 (e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

1199 (f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

1201 (g) any other element the county considers appropriate.

1207 Section 10. Section 10 is enacted to read:

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

1205 (1) As used in this section:

1206 (a) "Affordable housing" means the same as that term is defined in Section 10-9a-403.2.

1207 (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 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 more, county approval of a density at least 0.5 residential units per acre greater than the underlying zoning density for the area.

1208 (2) If a county approves {an unincorporated area to be developed at} a {minimum} qualifying affordable home ownership single-family density {of six residential units per ace} bonus, either

## HB0037S01 compared with HB0037S05

through a zoning ordinance or a development agreement, the county may adopt requirements for the qualifying affordable home ownership single-family density bonus area to ensure:

- 1211 { (a) { adopt requirements to ensure: } }
- 1212 { (i) { that some or all of the residential units offered for sale in the area be deed-restricted for at least five years to ensure owner-occupancy; or } }
- 1214 { (ii) { that some or all of the residential units in the area qualify as affordable housing; and } }
- 1216 { (b) { approve an applicant's request for additional single-family residential units per acre in the area in exchange for one or more of the following: } }
- 1218 { (i) } (a) { requiring } at least 60% of the total single-family residential units { being } be deed-restricted to owner-occupancy for at least five years;
- 1220 { (ii) } (b) { requiring } at least 25% of the total single-family residential units { being offered for sale to an owner-occupier at a price point 80% or less of the median county home price for housing of that type } qualify as affordable housing:
- 1223 { (iii) } (c) { requiring } at least 25% of the single-family residential units per acre to be no larger than 1,600 square feet { , excluding a garage } ; or
- 1225 { (iv) } (d) the applicant { creating } creates a preferential qualifying buyer program in which a single-family residential unit is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the county, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.
- 1228 (3) A county may offer additional incentives in { an } a qualifying affordable home ownership single-family density bonus area approved for single-family residential units to promote owner-occupied, affordable housing.

1235 Section 11. Section **11** is enacted to read:

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

1233 (1) As used in this section:

1234 (a) "Affordable housing" means the same as that term is defined in Section 10-9a-403.2.

1235 (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 approval of a density of at least 20 residential units per acre.

1236 (2) If a county approves { an area to be developed at } a { minimum } qualifying affordable home ownership multi-family density { of 20 residential units per acre } bonus, either through a zoning

## HB0037S01 compared with HB0037S05

ordinance or a development agreement, the county may adopt requirements for the qualifying affordable home ownership multi-family density bonus area to ensure:

- 1239 { (a) ~~{ approve an applicant's request to build: }~~ }
- 1240 {(i)} (a) ~~{ up to }~~ at least 20% more residential units per acre than are otherwise allowed in the area ~~{, if the residential units are intended for owner-occupiers; and }~~ ;
- 1242 {(ii)} ~~{ one or more additional stories of height on a multi-family residential building above the limit otherwise allowed, if the housing units in the multi-family residential building are intended for owner-occupiers; and }~~ }
- 1245 {(b)} ~~{ if the county approves a request described in Subsection (2)(a), implement one or more of the following requirements: }~~ }
- 1247 {(i)} (b) ~~{ requiring }~~ at least 60% of the total units in the multi-family residential building ~~{ being }~~ be deed-restricted to owner-occupancy for at least five years;
- 1249 {(ii)} (c) ~~{ requiring }~~ at least 25% of the total units in the multi-family residential building ~~{ being offered for sale to an owner-occupier at a price point 80% or less of the median county home price for housing of that type }~~ qualify as affordable housing;
- 1252 {(iii)} (d) ~~{ requiring }~~ at least 25% of the total units in a multi-family residential building to be no larger than 1,600 square feet ~~{, excluding a garage }~~ ; or
- 1254 {(iv)} (e) the applicant ~~{ creating }~~ creates a preferential qualifying buyer program in which a unit in a multi-family residential building is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the ~~{ municipality }~~ county, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.
- 1257 (3) A county may offer additional incentives in ~~{ an }~~ a qualifying affordable home ownership multi-family density bonus area ~~{ approved }~~ for multi-family residential units to promote 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 funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

1262 (1) As used in this section:

1263 (a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

1265



## HB0037S01 compared with HB0037S05

- 1268 (b) "Implementation plan" means the implementation plan adopted as part of the moderate income  
housing element of a specified county's general plan as provided in Subsection 17-27a-403(2)(g).
- 1270 (c) "Initial report" means the one-time moderate income housing report described in Subsection (2).
- 1272 (d) "Moderate income housing strategy" means a strategy described in Subsection 17-27a-403(2)(b)(ii).
- 1273 (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 population of  
more than 5,000 in the county's unincorporated areas.
- 1277 (g) "Subsequent progress report" means the annual moderate income housing report described in  
Subsection (3).
- 1279 (2)
- 1281 (a) The legislative body of a specified county shall annually submit an initial report to the division.
- 1286 (b)
- 1287 (i) This Subsection (2)(b) applies to a county that is not a specified county as of January 1, 2023.
- 1291 (ii) As of January 1, if a county described in Subsection (2)(b)(i) changes from one class to another or  
grows in population to qualify as a specified county, the county shall submit an initial plan to the  
division on or before August 1 of the first calendar year beginning on January 1 in which the county  
qualifies as a specified county.
- 1292 (c) The initial report shall:
- 1296 (i) identify each moderate income housing strategy selected by the specified county for continued,  
ongoing, or one-time implementation, using the exact language used to describe the moderate  
income housing strategy in Subsection 17-27a-403(2)(b)(ii); and
- 1297 (ii) include an implementation plan.
- 1298 (3)
- 1299 (a) After the division approves a specified county's initial report under this section, the specified county  
shall, as an administrative act, annually submit to the division a subsequent progress report on or  
before August 1 of each year after the year in which the specified county is required to submit the  
initial report.
- 1300 (b) The subsequent progress report shall include:
- 1301 (i) subject to Subsection (3)(c), a description of each action, whether one-time or ongoing, taken by the  
specified county during the previous 12-month period to implement the moderate income housing  
strategies identified in the initial report for implementation;

## HB0037S01 compared with HB0037S05

- 1301 (ii) a description of each land use regulation or land use decision made by the specified county during  
the previous 12-month period to implement the moderate income housing strategies, including an  
1306 explanation of how the land use regulation or land use decision supports the specified county's  
efforts to implement the moderate income housing strategies;
- 1306 (iii) a description of any barriers encountered by the specified county in the previous 12-month period  
in implementing the moderate income housing strategies;
- 1308 (iv) the number of residential dwelling units that have been entitled that have not received a building  
permit as of the submission date of the progress report;
- 1310 (v) shapefiles, or website links if shapefiles are not available, to current maps and tables related to  
zoning;
- 1312 (vi) information regarding the number of internal and external or detached accessory dwelling units  
located within the specified county for which the specified county:
- 1314 (A) issued a building permit to construct; or
- 1315 (B) issued a business license or comparable license or permit to rent;
- 1316 (vii) a description of how the market has responded to the selected moderate income housing strategies,  
including the number of entitled moderate income housing units or other relevant data; and
- 1319 (viii) any recommendations on how the state can support the specified county in implementing the  
moderate income housing strategies.
- 1321 (c) For purposes of describing actions taken by a specified county under Subsection (3)(b)(i), the  
specified county may include an ongoing action taken by the specified county prior to the 12-month  
reporting period applicable to the subsequent progress report if the specified county:
- 1325 (i) has already adopted an ordinance, approved a land use application, made an investment, or approved  
an agreement or financing that substantially promotes the implementation of a moderate income  
housing strategy identified in the initial report; and
- 1329 (ii) demonstrates in the subsequent progress report that the action taken under Subsection (3)(c)(i) is  
relevant to making meaningful progress towards the specified county's implementation plan.
- 1332 (d) A specified county's report shall be in a form:
- 1333 (i) approved by the division; and
- 1334 (ii) made available by the division on or before May 1 of the year in which the report is required.
- 1336 (4) Within 90 days after the day on which the division receives a specified county's report, the division  
shall:

## HB0037S01 compared with HB0037S05

- 1338 (a) post the report on the division's website;
- 1339 (b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and
- 1344 (c) subject to Subsection (5), review the report to determine compliance with this section.
- 1345 (5)
- (a) An initial report [~~does not comply~~] complies with this section [~~unless~~] if the report:
- 1346 (i) includes the information required under Subsection (2)(c);
- 1347 (ii) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies described in Subsection 17-27a-403(2)(b)(ii)(A) though (V) or at least one moderate income housing strategy described in Subsections 17-27a-403(2)(b)(ii)(W) through (BB); and
- 1352 (iii) is in a form approved by the division.
- 1353 (b) A subsequent progress report [~~does not comply~~] complies with this section [~~unless~~] if the report:
- 1355 (i) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to implement or is implementing three or more moderate income housing strategies described in Subsection 17-27a-403(2)(b)(ii)(A) though (V) or at least one moderate income housing strategy described in Subsections 17-27a-403(2)(b)(ii)(W) through (BB);
- 1360 (ii) is in a form approved by the division; and
- 1361 (iii) provides sufficient information for the division to:
- 1362 (A) assess the specified county's progress in implementing the moderate income housing strategies;
- 1364 (B) monitor compliance with the specified county's implementation plan;
- 1365 (C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies;
- 1367 (D) identify how the market has responded to the specified county's selected moderate income housing strategies; and
- 1369 (E) identify any barriers encountered by the specified county in implementing the selected moderate income housing strategies.
- 1371 (c)

## HB0037S01 compared with HB0037S05

- (i) This Subsection (5)(c) applies to a specified county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.
- 1374 (ii) ~~[In addition to the requirements of Subsections (5)(a) and (b), a]~~ A report for a specified county described in Subsection (5)(c)(i) ~~[does not comply]~~ complies with this section ~~[unless]~~ if the report demonstrates to the division that the specified county:
- 1378 (A) made plans to implement the moderate income housing strategy described in Subsection ~~[17-27a-403(2)(b)(ii)(Q)]~~ 17-27a-403(2)(b)(ii)(W); ~~[{f} and]~~
- 1380 (B) made plans to implement or is implementing three or more moderate income housing strategies described in Subsection 17-27a-403(2)(b)(ii)(A) though (V) or at least one moderate income housing strategy described in Subsections 17-27a-403(2)(b)(ii)(W) through (BB); and
- 1384 ~~[(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 county plans to implement or is implementing at least one moderate income housing strategy described in Subsections 17-27a-403(2)(b)(ii)(W) through (BB), the division shall also consider the specified county compliant with the reporting requirement described in this section for:
- 1392 (i) the year in which the specified county submits the report; and
- 1393 (ii) two subsequent reporting years.
- 1385 (6)
- (a) A specified county qualifies for priority consideration under this Subsection (6) if the specified county's report:
- 1387 (i) complies with this section; and
- 1388 (ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.
- 1390 (b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the unincorporated areas of a specified county described in Subsection (6)(a) until the Department of Transportation receives notice from the division under Subsection (6)(e).
- 1395 (c) Upon determining that a specified county qualifies for priority consideration under this Subsection (6), the division shall send a notice of prioritization to the legislative body of the specified county and the Department of Transportation.
- 1398 (d) The notice described in Subsection (6)(c) shall:

## HB0037S01 compared with HB0037S05

- 1399 (i) name the specified county that qualifies for priority consideration;
- 1400 (ii) describe the funds or projects for which the specified county qualifies to receive priority consideration; and
- 1402 (iii) state the basis for the division's determination that the specified county qualifies for priority consideration.
- 1404 (e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the specified county no longer qualifies for priority consideration under this Subsection (6).
- 1407 (7)
- (a) If the division, after reviewing a specified county's report, determines that the report does not comply with this section, the division shall send a notice of noncompliance to the legislative body of the specified county.
- 1410 (b) A specified county that receives a notice of noncompliance may:
- 1411 (i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or
- 1413 (ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.
- 1415 (c) The notice described in Subsection (7)(a) shall:
- 1416 (i) describe each deficiency in the report and the actions needed to cure each deficiency;
- 1418 (ii) state that the specified county has an opportunity to:
- 1419 (A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or
- 1422 (B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and
- 1425 (iii) state that failure to take action under Subsection (7)(c)(ii) will result in the specified county's ineligibility for funds and fees owed under Subsection (9).
- 1427 (d) For purposes of curing the deficiencies in a report under this Subsection (7), if the action needed to cure the deficiency as described by the division requires the specified county to make a legislative change, the specified county may cure the deficiency by making that legislative change within the 90-day cure period.
- 1431 (e)

## HB0037S01 compared with HB0037S05

- (i) If a specified county submits to the division a corrected report in accordance with Subsection (7)(b)(i), and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified county.
- 1435 (ii) A specified county that receives a second notice of noncompliance may request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent.
- 1438 (iii) The notice described in Subsection (7)(e)(i) shall:
- 1439 (A) state that the specified county has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and
- 1442 (B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the specified county's ineligibility for funds under Subsection (9).
- 1444 (8)
- (a) A specified county that receives a notice of noncompliance under Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.
- 1448 (b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:
- 1451 (i) one individual appointed by the Utah Association of Counties;
- 1452 (ii) one individual appointed by the Utah Homebuilders Association; and
- 1453 (iii) one individual appointed by the presiding member of the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified county is a member.
- 1456 (c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.
- 1458 (d) The appeal board's written decision on the appeal is final.
- 1459 (9)
- (a) A specified county is ineligible for funds and owes a fee under this Subsection (9) if:
- 1461 (i) the specified county fails to submit a report to the division;
- 1462 (ii) after submitting a report to the division, the division determines that the report does not comply with this section and the specified county fails to:

## HB0037S01 compared with HB0037S05

- 1464 (A) cure each deficiency in the report within 90 days after the day on which the notice of  
noncompliance is sent; or
- 1466 (B) request an appeal of the division's determination of noncompliance within 10 days after the day on  
which the notice of noncompliance is sent;
- 1468 (iii) after submitting to the division a corrected report to cure the deficiencies in a previously  
submitted report, the division determines that the corrected report does not comply with this  
section and the specified county fails to request an appeal of the division's determination of  
noncompliance within 10 days after the day on which the second notice of noncompliance is  
sent; or
- 1473 (iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written  
decision upholding the division's determination of noncompliance.
- 1475 (b) The following apply to a specified county described in Subsection (9)(a) until the division provides  
notice under Subsection (9)(e):
- 1477 (i) the executive director of the Department of Transportation may not program funds from the  
Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund,  
to projects located within the unincorporated areas of the specified county in accordance with  
Subsection 72-2-124(6);
- 1481 (ii) beginning with the report submitted in 2024, the specified county shall pay a fee to the Olene  
Walker Housing Loan Fund in the amount of \$250 per day that the specified county:
- 1484 (A) fails to submit the report to the division in accordance with this section, beginning the day after the  
day on which the report was due; or
- 1486 (B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was  
required to occur as described in the notice of noncompliance under Subsection (7); and
- 1489 (iii) beginning with the report submitted in 2025, the specified county shall pay a fee to the Olene  
Walker Housing Loan Fund in the amount of \$500 per day that the specified county, for a  
consecutive year:
- 1492 (A) fails to submit the report to the division in accordance with this section, 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 which the cure was  
required to occur as described in the notice of noncompliance under Subsection (7).
- 1497

## HB0037S01 compared with HB0037S05

(c) Upon determining that a specified county is ineligible for funds under this Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified county, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

1502 (d) The notice described in Subsection (9)(c) shall:

1503 (i) name the specified county that is ineligible for funds;

1504 (ii) describe the funds for which the specified county is ineligible to receive;

1505 (iii) describe the fee the specified county is required to pay under Subsection (9)(b), if applicable; and

1507 (iv) state the basis for the division's determination that the specified county is ineligible for funds.

1509 (e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the provisions of this Subsection (9) no longer apply to the specified county.

1512 (f) The division may not determine that a specified county that is required to pay a fee under Subsection (9)(b) is in compliance with the reporting requirements of this section until the specified county pays all outstanding fees required under Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

1517 (10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

1529 Section 13. Section **17-27a-531** is amended to read:

1530 **17-27a-531. Moderate income housing.**

1522 (1) A county may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:

1524 (a) the county and the applicant enter into a written agreement regarding the number of moderate income housing units; ~~[{f} or]~~

1526 (b) the county provides incentives for an applicant who agrees to include moderate income housing units in a development[-] ; or

1528 (c) the county offers or approves, and an applicant accepts, an incentive described in Section 17-27a-403.1 or 17-27a-403.2.

1530



## HB0037S01 compared with HB0037S05

(2) If an applicant does not agree to participate in the development of moderate income housing units under Subsection (1)(a) or (b), a county may not take into consideration the applicant's decision in the county's determination of whether to approve or deny a land use application.

1534 (3) Notwithstanding Subsections (1) and (2), a county of the third class, which has a ski resort located within the unincorporated area of the county, may require the development of a certain number of moderate income housing units as a condition of approval of a land use application if the requirement is in accordance with an ordinance enacted by the county before January 1, 2022.

1548 Section 14. Section **17B-1-202** is amended to read:

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

1542 (1)

(a) A special district may be created as provided in this part to provide within its boundaries service consisting of:

1544 (i) the operation of an airport;

1545 (ii) the operation of a cemetery;

1546 (iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;

1548 (iv) garbage collection and disposal;

1549 (v) health care, including health department or hospital service;

1550 (vi) the operation of a library;

1551 (vii) abatement or control of mosquitos and other insects;

1552 (viii) the operation of parks or recreation facilities or services;

1553 (ix) the operation of a sewage system;

1554 (x) the operation of a propane system;

1555 [~~(x)~~] (xi) the construction and maintenance of a right-of-way, including:

1556 (A) a curb;

1557 (B) a gutter;

1558 (C) a sidewalk;

1559 (D) a street;

1560 (E) a road;

1561 (F) a water line;

1562 (G) a sewage line;

## HB0037S01 compared with HB0037S05

- 1563 (H) a storm drain;
- 1564 (I) an electricity line;
- 1565 (J) a communications line;
- 1566 (K) a natural gas line; or
- 1567 (L) street lighting;
- 1568 [~~(xi)~~] (xii) transportation, including public transit and providing streets and roads;
- 1569 [~~(xii)~~] (xiii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;
- 1574 [~~(xiii)~~] (xiv) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;
- 1578 [~~(xiv)~~] (xv) law enforcement service;
- 1579 [~~(xv)~~] (xvi) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;
- 1581 [~~(xvi)~~] (xvii) the control or abatement of earth movement or a landslide;
- 1582 [~~(xvii)~~] (xviii) the operation of animal control services and facilities;
- 1583 [~~(xviii)~~] (xix) an energy efficiency upgrade, a clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; or
- 1586 [~~(xix)~~] (xx) the financing of infrastructure, as provided in Chapter 2a, Part 13, Infrastructure Financing Districts.
- 1588 (b) Each special district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.
- 1592 (c) A groundwater management plan described in Subsection [~~(1)(a)(xiii)~~] (1)(a)(xiv) may include the banking of groundwater rights by a special district in a critical management area as defined in Section 73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.
- 1596

## HB0037S01 compared with HB0037S05

- (i) A special district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).
- 1599 (ii) A groundwater right held by a special district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.
- 1602 (iii)
- (A) A special district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).
- 1605 (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.
- 1607 (iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the special district is subject to Section 73-1-4.
- 1610 (v) A special district created in accordance with Subsection [~~(1)(a)(xiii)~~] (1)(a)(xiv) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.
- 1616 (2) As used in this section:
- 1617 (a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.
- 1621 (b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.
- 1623 (3)
- (a) A special district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).
- 1625 (b) Subsection (3)(a) may not be construed to prohibit a special district from providing more than four services if, before April 30, 2007, the special district was authorized to provide those services.

## HB0037S01 compared with HB0037S05

- 1628 (4)
- (a) Except as provided in Subsection (4)(b), a special district may not be created to provide and may not after its creation provide to an area the same service that may already be provided to that area by another political subdivision, unless the other political subdivision gives its written consent.
- 1632 (b) For purposes of Subsection (4)(a), a special district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:
- 1636 (i) sewage system; or
- 1637 (ii) water system.
- 1638 (5)
- (a) Except for a special district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a special district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.
- 1642 (b) The area of a special district need not be contiguous.
- 1643 (6) For a special district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:
- 1645 (a) paramedic service; and
- 1646 (b) emergency service, including hazardous materials response service.
- 1647 (7) A special district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection [~~(1)(a)~~ (x)] (1)(a)(xi) on or after May 11, 2010.
- 1650 (8) A special district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection [~~(1)(a)(xii)~~] (1)(a)(xiii) on or after May 10, 2011.
- 1653 (9) A special district may not be created under this chapter for two years after the date on which a special district is dissolved as provided in Section 17B-1-217 if the special district proposed for creation:
- 1656 (a) provides the same or a substantially similar service as the dissolved special district; and
- 1658 (b) is located in substantially the same area as the dissolved special district.
- 1659

## HB0037S01 compared with HB0037S05

(10) An infrastructure financing district may not be created unless the estimated cost of the public infrastructure and improvements to be constructed within the boundary of the proposed infrastructure financing district exceeds \$1,000,000, as certified under Subsection 17B-1-208(1)(c).

1663 (11)

(a) Except as provided in Subsection (11)(b), the inclusion of an area within an infrastructure financing district does not affect whether the area may be included within another special district.

1666 (b) An infrastructure financing district may not include an area included within another infrastructure financing district.

1677 Section 15. Section **35A-8-202** is amended to read:

1678 **35A-8-202. Powers and duties of division.**

1670 (1) The division shall:

1671 (a) assist local governments and citizens in the planning, development, and maintenance of necessary public infrastructure and services;

1673 (b) cooperate with, and provide technical assistance to, counties, cities, towns, regional planning commissions, area-wide clearinghouses, zoning commissions, parks or recreation boards, community development groups, community action agencies, and other agencies created for the purpose of aiding and encouraging an orderly, productive, and coordinated development of the state and its political subdivisions;

1678 (c) assist the governor in coordinating the activities of state agencies which have an impact on the solution of community development problems and the implementation of community plans;

1681 (d) serve as a clearinghouse for information, data, and other materials which may be helpful to local governments in discharging their responsibilities and provide information on available federal and state financial and technical assistance;

1684 (e) carry out continuing studies and analyses of the problems faced by communities within the state and develop such recommendations for administrative or legislative action as appear necessary;

1687 (f) assist in funding affordable housing;

1688 (g) support economic development activities through grants, loans, and direct programs financial assistance;

1690 (h) certify project funding at the local level in conformance with federal, state, and other requirements;

1692 (i) utilize the capabilities and facilities of public and private universities and colleges within the state in carrying out its functions; and

## HB0037S01 compared with HB0037S05

- 1694 (j) assist and support local governments, community action agencies, and citizens in the planning, development, and maintenance of home weatherization, energy efficiency, and antipoverty activities.
- 1697 (2) The division may:
- 1698 (a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;
- 1700 (b) if any federal program requires the expenditure of state funds as a condition to participation by the state in any fund, property, or service, with the governor's approval, expend whatever funds are necessary out of the money provided by the Legislature for the use of the department;
- 1704 (c) in accordance with Part 9, Domestic Violence Shelters, assist in developing, constructing, and improving shelters for victims of domestic violence, as described in Section 77-36-1, through loans and grants to nonprofit and governmental entities; ~~[-{f} and]~~
- 1708 (d) assist, when requested by a county or municipality, in the development of accessible housing[-] ; and
- 1710 (e) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the form and content of a moderate income housing report, as described in Sections 10-9a-408 and 17-27a-408, to:
- 1713 (i) ensure consistency across reporting political subdivisions; and
- 1714 (ii) promote better potential analysis of report data.
- 1724 Section 16. Section **16** is enacted to read:
- 1725 **63J-4-402. State housing plan.**
- 1717 (1) The office shall develop a state housing plan by December 31, 2025.
- 1718 (2)
- (a) The office shall partner with the Legislature, municipal and county governments, the home building industry and related stakeholders, and the general public in the development of the state housing plan described in Subsection (1).
- 1721 (b) In developing the state housing plan, the office may develop regional housing plans within the state housing plan.
- 1723 (3) The state housing plan shall:
- 1724 (a) prioritize collaboration over preemption and collaboration across private and public sectors;
- 1726 (b) promote a holistic and regional approach to housing;
- 1727 (c) enable connected communities and center-based development;

## HB0037S01 compared with HB0037S05

- 1728 (d) acknowledge cross-issue policy alignment;  
1729 (e) maintain a long-range vision;  
1730 (f) promote opportunity and inclusivity;  
1731 (g) recognize complex market forces; and  
1732 (h) consider rural and urban contexts.
- 1733 (4) The state housing plan shall include data and metrics:  
1734 (a) about actual and potential housing production;  
1735 (b) about actual and potential infrastructure capacity, maintenance, and development; and  
1736 (c) allowing the office to measure success of the state housing plan over time.
- 1737 (5) In gathering data and developing metrics, the office may analyze moderate income housing reports received by the Division of Housing and Community Development and:
- 1739 (a) determine which, if any, of the moderate income **housing** strategies described in Subsections 10-9a-403(2)(b)(iii) and 17-27a-403(2)(b)(ii) are correlated with an increase in the supply of moderate income housing, either built or entitled to be built, in the political subdivision that implements the moderate income **housing** strategy; and
- 1743 (b) draw conclusions regarding any data trends identified by the office as meaningful or significant.
- 1745 (6) By no later than October 1 of each year, the office shall provide a written report on the development and implementation of the state housing plan to the Political Subdivisions Interim Committee.
- 1758 Section 17. Section **72-1-304** is amended to read:
- 1759 **72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.**
- 1751 (1)
- (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:
- 1754 (i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;
- 1756 (ii) paved pedestrian or paved nonmotorized transportation projects described in Section 72-2-124;
- 1758 (iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and

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## HB0037S01 compared with HB0037S05

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

- 1762 (b)
- (i) A local government or public transit district may nominate a project for prioritization in accordance with the process established by the commission in rule.
- 1764 (ii) If a local government or public transit district nominates a project for prioritization by the commission, the local government or public transit district shall provide data and evidence to show that:
- 1767 (A) the project will advance the purposes and goals described in Section 72-1-211;
- 1768 (B) for a public transit project, the local government or public transit district has an ongoing funding source for operations and maintenance of the proposed development; and
- 1771 (C) the local government or public transit district will provide the percentage of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).
- 1774 (2) The following shall be included in the written prioritization process under Subsection (1):
- 1776 (a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;
- 1778 (b) a definition of the type of projects to which the written prioritization process applies;
- 1779 (c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;
- 1781 (d) specification of the data that is necessary to apply the weighted ranking criteria; and
- 1782 (e) any other provisions the commission considers appropriate, which may include consideration of:
- 1784 (i) regional and statewide economic development impacts, including improved local access to:
- 1786 (A) employment;
- 1787 (B) educational facilities;
- 1788 (C) recreation;
- 1789 (D) commerce; and
- 1790 (E) residential areas, including moderate income housing as demonstrated in the local government's or public transit district's general plan pursuant to Section 10-9a-403 or 17-27a-403;
- 1793 (ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and
- 1795



## HB0037S01 compared with HB0037S05

(iii) any matching funds provided by a political subdivision or public transit district in addition to the percentage of costs required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

1798

(3)

(a) When prioritizing a public transit project that increases capacity, the commission:

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(i) may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802; and

1802

(ii) shall give priority consideration to projects that are within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

1805

(b) When prioritizing a transportation project that increases capacity, the commission may give priority consideration to projects that are:

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(i) part of a transportation reinvestment zone created under Section 11-13-227 if:

1808

(A) the state is a participant in the transportation reinvestment zone; or

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(B) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system; or

1811

(ii) within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

1813

(c) If the department receives a notice of prioritization for a municipality as described in Subsection [~~10-9a-408(5)~~] 10-9a-408(6), or a notice of prioritization for a county as described in Subsection [~~17-27a-408(5)~~] 17-27a-408(6), the commission may give priority consideration to transportation projects that are within the boundaries of the municipality or the unincorporated areas of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that the municipality or county no longer qualifies for prioritization under this Subsection (3)(c).

1821

(4) In developing the written prioritization process, the commission:

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(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

1824

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

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## HB0037S01 compared with HB0037S05

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

1830 (6) The commission shall submit the proposed rules under this section to a committee or task force  
designated by the Legislative Management Committee for review prior to taking final action on the  
proposed rules or any proposed amendment to the rules described in Subsection (5).

1844 Section 18. Section **72-2-124** is amended to read:

1845 **72-2-124. Transportation Investment Fund of 2005.**

1836 (1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

1838 (2) The fund consists of money generated from the following sources:

1839 (a) any voluntary contributions received for the maintenance, construction, reconstruction, or  
renovation of state and federal highways;

1841 (b) appropriations made to the fund by the Legislature;

1842 (c) registration fees designated under Section 41-1a-1201;

1843 (d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

1845 (e) revenues transferred to the fund in accordance with Section 72-2-106.

1846 (3)

(a) The fund shall earn interest.

1847 (b) All interest earned on fund money shall be deposited into the fund.

1848 (4)

(a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

1850 (i) the costs of maintenance, construction, reconstruction, or renovation to state and federal  
highways prioritized by the Transportation Commission through the prioritization process for  
new transportation capacity projects adopted under Section 72-1-304;

1854 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects  
described in Subsections 63B-18-401(2), (3), and (4);

1856 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus  
the costs paid from the County of the First Class Highway Projects Fund in accordance with  
Subsection 72-2-121(4)(e);

1859 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County  
Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake

## HB0037S01 compared with HB0037S05

County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

- 1864 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects  
prioritized in accordance with Section 72-2-125;
- 1866 (vi) all highway general obligation bonds that are intended to be paid from revenues in the  
Centennial Highway Fund created by Section 72-2-118;
- 1868 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway  
Projects Fund created in Section 72-2-121 to be used for the purposes described in Section  
72-2-121;
- 1871 (viii) if a political subdivision provides a contribution equal to or greater than 40% of the  
costs needed for construction, reconstruction, or renovation of paved pedestrian or paved  
nonmotorized transportation for projects that:
- 1874 (A) mitigate traffic congestion on the state highway system;
- 1875 (B) are part of an active transportation plan approved by the department; and
- 1876 (C) are prioritized by the commission through the prioritization process for new transportation capacity  
projects adopted under Section 72-1-304;
- 1878 (ix) \$705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or  
renovation of or improvement to the following projects:
- 1880 (A) the connector road between Main Street and 1600 North in the city of Vineyard;
- 1882 (B) Geneva Road from University Parkway to 1800 South;
- 1883 (C) the SR-97 interchange at 5600 South on I-15;
- 1884 (D) subject to Subsection (4)(c), two lanes on U-111 from Herriman Parkway to South Jordan Parkway;
- 1886 (E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;
- 1887 (F) improvements to 1600 North in Orem from 1200 West to State Street;
- 1888 (G) widening I-15 between mileposts 6 and 8;
- 1889 (H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;
- 1890 (I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork  
Canyon;
- 1892 (J) I-15 northbound between mileposts 43 and 56;
- 1893 (K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;
- 1895 (L) east Zion SR-9 improvements;

## HB0037S01 compared with HB0037S05

- 1896 (M) Toquerville Parkway;
- 1897 (N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;
- 1898 (O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and
- 1900 (P) an environmental impact study for Kimball Junction in Summit County; and
- 1901 (x) \$28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:
- 1905 (A) \$5,000,000 for Payson Main Street repair and replacement;
- 1906 (B) \$8,000,000 for a Bluffdale 14600 South railroad bypass;
- 1907 (C) \$5,000,000 for improvements to 4700 South in Taylorsville; and
- 1908 (D) \$10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.
- 1910 (b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).
- 1912 (c)
- (i) Construction related to the project described in Subsection (4)(a)(ix)(D) may not commence until a right-of-way not owned by a federal agency that is required for the realignment and extension of U-111, as described in the department's 2023 environmental study related to the project, is dedicated to the department.
- 1916 (ii) Notwithstanding Subsection (4)(c)(i), if a right-of-way is not dedicated for the project as described in Subsection (4)(c)(i) on or before October 1, 2024, the department may proceed with the project, except that the project will be limited to two lanes on U-111 from Herriman Parkway to 11800 South.
- 1920 (5)
- (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection [~~10-9a-408(7)~~] 10-9a-408(9), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality until the department receives notification from the Housing and Community

## HB0037S01 compared with HB0037S05

Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

- 1928 (b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:
- 1930 (i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;
- 1932 (ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;
- 1934 (iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and
- 1936 (iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.
- 1939 (c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.
- 1942 (6)
- (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection [~~17-27a-408(7)~~] 17-27a-408(9), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (6) no longer applies to the county.
- 1950 (b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:
- 1952 (i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;
- 1955 (ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;
- 1957 (iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and
- 1959

## HB0037S01 compared with HB0037S05

- (iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.
- 1962 (c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.
- 1965 (7)
  - (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.
- 1971 (b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.
- 1973 (8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.
- 1977 (9)
  - (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.
- 1979 (b) The fund shall be funded by:
- 1980 (i) contributions deposited into the fund in accordance with Section 59-12-103;
- 1981 (ii) appropriations into the account by the Legislature;
- 1982 (iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;
- 1984 (iv) transfers of local option sales and use tax revenue as described in Subsection 59-12-2220(11)(b) or (c);
- 1986 (v) private contributions; and
- 1987 (vi) donations or grants from public or private entities.
- 1988 (c)
  - (i) The fund shall earn interest.
- 1989 (ii) All interest earned on fund money shall be deposited into the fund.

## HB0037S01 compared with HB0037S05

- 1990 (d) Subject to Subsection (9)(e), the commission may prioritize money from the fund:
- 1991 (i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304;
- 1994 (ii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility; or
- 1996 (iii) up to \$500,000 per year, to be used for a public transit study.
- 1997 (e)
- (i) Subject to Subsections (9)(g), (h), and (i), the commission may only prioritize money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 30% of the costs needed for the project.
- 2002 (ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 30% requirement described in Subsection (9)(e)(i) if:
- 2006 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and
- 2008 (B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.
- 2010 (f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department \$5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.
- 2014 (g) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(b):
- 2015 (i) the commission may prioritize money from the fund for public transit projects, operations, or maintenance within the county of the first class; and
- 2017 (ii) Subsection (9)(e) does not apply.
- 2018 (h) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(c):
- 2019 (i) the commission may prioritize public transit projects, operations, or maintenance in the county from which the revenue was generated; and
- 2021 (ii) Subsection (9)(e) does not apply.
- 2022

## HB0037S01 compared with HB0037S05

- (i) The requirement to provide funds equal to or greater than 30% of the costs needed for the project described in Subsection (9)(e) does not apply to a public transit capital development project or pedestrian or nonmotorized transportation project that the department proposes.
- 2026 (j) In accordance with Part 3, Public Transit Innovation Grants, the commission may prioritize money from the fund for public transit innovation grants, as defined in Section 72-2-401, for public transit capital development projects requested by a political subdivision within a public transit district.
- 2030 (10)
- (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.
- 2032 (b) The fund shall be funded by:
- 2033 (i) money deposited into the fund in accordance with Section 59-12-103;
- 2034 (ii) appropriations into the account by the Legislature;
- 2035 (iii) private contributions; and
- 2036 (iv) donations or grants from public or private entities.
- 2037 (c)
- (i) The fund shall earn interest.
- 2038 (ii) All interest earned on fund money shall be deposited into the fund.
- 2039 (d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.
- 2041 (e) The department may use up to 2% of the revenue deposited into the account under Subsection 59-12-103(7)(b) to contract with local governments as necessary for public safety enforcement related to the Cottonwood Canyons of Salt Lake County.
- 2044 (11)
- (a) There is created in the Transportation Investment Fund of 2005 the Active Transportation Investment Fund.
- 2046 (b) The fund shall be funded by:
- 2047 (i) money deposited into the fund in accordance with Section 59-12-103;
- 2048 (ii) appropriations into the account by the Legislature; and
- 2049 (iii) donations or grants from public or private entities.
- 2050 (c)
- (i) The fund shall earn interest.



## HB0037S01 compared with HB0037S05

- 2051 (ii) All interest earned on fund money shall be deposited into the fund.
- 2052 (d) The executive director may only use fund money to pay the costs needed for:
- 2053 (i) the planning, design, construction, maintenance, reconstruction, or renovation of paved pedestrian or  
paved nonmotorized trail projects that:
- 2055 (A) are prioritized by the commission through the prioritization process for new transportation capacity  
projects adopted under Section 72-1-304;
- 2057 (B) serve a regional purpose; and
- 2058 (C) are part of an active transportation plan approved by the department or the plan described in  
Subsection (11)(d)(ii);
- 2060 (ii) the development of a plan for a statewide network of paved pedestrian or paved nonmotorized trails  
that serve a regional purpose; and
- 2062 (iii) the administration of the fund, including staff and overhead costs.
- 2063 (12)
- (a) As used in this Subsection (12), "commuter rail" means the same as that term is defined in Section  
63N-3-602.
- 2065 (b) There is created in the Transit Transportation Investment Fund the Commuter Rail Subaccount.
- 2067 (c) The subaccount shall be funded by:
- 2068 (i) contributions deposited into the subaccount in accordance with Section 59-12-103;
- 2069 (ii) appropriations into the subaccount by the Legislature;
- 2070 (iii) private contributions; and
- 2071 (iv) donations or grants from public or private entities.
- 2072 (d)
- (i) The subaccount shall earn interest.
- 2073 (ii) All interest earned on money in the subaccount shall be deposited into the subaccount.
- 2075 (e) As prioritized by the commission through the prioritization process adopted under Section 72-1-304  
or as directed by the Legislature, the department may only use money from the subaccount for  
projects that improve the state's commuter rail infrastructure, including the building or improvement  
of grade-separated crossings between commuter rail lines and public highways.
- 2080 (f) Appropriations made in accordance with this section are nonlapsing in accordance with Section  
63J-1-602.1.
- 2092 Section 19. **Effective date.**

## **HB0037S01 compared with HB0037S05**

Effective Date.

This bill takes effect on May 7, 2025.

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