

CHAPTER 356

GOVERNMENT - STATE

HOUSE BILL 21-1271

BY REPRESENTATIVE(S) McCluskie and Jodeh, Bacon, Benavidez, Bennett, Bird, Boesenecker, Caraveo, Cutter, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Herod, Hooton, Jackson, Kennedy, Kipp, Lontine, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Ricks, Roberts, Tipper, Titone, Valdez A., Valdez D., Weissman, Woodrow, Young, Amabile, Sirota, Sullivan;
also SENATOR(S) Gonzales, Bridges, Buckner, Danielson, Donovan, Fenberg, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Story, Winter, Garcia.

AN ACT

CONCERNING THE ESTABLISHMENT OF PROGRAMS OFFERING STATE ASSISTANCE TO LOCAL GOVERNMENTS TO PROMOTE THE DEVELOPMENT OF INNOVATIVE AFFORDABLE HOUSING STRATEGIES IN A MANNER THAT IS COMPATIBLE WITH BEST LOCAL LAND USE PRACTICES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) Coloradans have identified housing affordability as the biggest issue facing the state as one in every seven Colorado households is spending more than half of its income on housing according to a study by Shift Research Lab;

(b) The median home price to median income ratio has increased across markets all across the nation. As of 2019, the price-to-income ratio was considerably larger for renters than owners, with the gap most significant in major metropolitan areas with a population greater than three million people. Across large metropolitan areas with a population greater than one million but less than three million, the gap in price-to-income ratio for renters was largest in Providence, Denver, and Salt Lake City.

(c) The same measurement on a statewide scale puts Colorado among just five states with a greater than sixty percent gap between home price and income growth between 2009 and 2019. Between 2012 and 2019, Colorado fell from being one of

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

the most affordable states to one of the least affordable states in the country based on median income to median pricing.

(d) Currently, Colorado has a shortage of nearly 121,000 affordable rental units, and the Colorado housing and finance authority reports that nearly half of all Colorado renters are considered cost burdened, with an additional twenty-four percent being severely cost burdened;

(e) By this act, the general assembly is focusing a portion of the stimulus dollars it has received from the federal government to begin to remedy this affordable housing crisis in Colorado with innovative legislation that will jumpstart the production of housing statewide in the next three years through three programs detailed in the act. In combination, these programs focus on removing regulatory barriers to affordable housing development and offering incentives to local governments to make policy changes, as well as a mechanism for local governments to receive expertise or financial assistance from the state.

(f) The general assembly recognizes that local governments throughout the state vary in their stages of meeting the housing needs of their communities. In order to help local governments respond to these needs and to encourage them to extend their ability to create housing and more liveable and vibrant communities, the divisions of local government and housing within the department of local affairs will focus on three programs.

(g) When a local government is at the nascent phase of addressing affordable housing needs, it may require additional help to develop an overall strategy. The housing toolkit program grant would offer local governments comprehensive support to make effective change by assessing housing needs, building effective communication strategies around the need for affordable housing, understanding which actions might have the biggest impact, and supporting the local government through the steps preparatory to taking action to address these housing needs.

(h) When a local government is at an intermediate phase of addressing affordable housing needs, it may require particular expertise to help it refine and advance its housing strategy. The planning grant program awards local governments funding to hire assistance to adopt qualifying land use strategies that prepare the local government to meet this phase of its housing needs by conducting a needs assessment, reviewing model land use codes, or making investments in its community that would enable the local government to be competitive in applying for a housing development incentives grant.

(i) If a local government is demonstrating an ongoing commitment to advancing its land use regulations and policies to address the affordable housing needs in its community, it may be eligible to apply for a housing development incentives grant. This grant is focused on allowing local governments to adopt effective tools to spur housing creation. The menu of strategy options is broad enough that any community can be successful in finding the right mix of strategies that fit its community, or the local government may introduce its own innovative or unique approach. Local governments would choose the strategies that best fits the character of their community to pursue the grant funding from the state whether they are in an urban, rural, mountain resort, or eastern plains location. Additionally, the department of

local affairs would have the discretion to select novel, creative, or innovative proposals from communities that offer an additional approach to create affordable housing or would be able to consider how those local governments that have already taken steps to address housing affordability would be eligible to continue and advance their approaches if they have already undertaken some of the best practice approaches. The most competitive local governments will demonstrate a continued commitment to removing barriers to affordable housing development.

(j) On March 11, 2021, the federal government enacted the "American Rescue Plan Act of 2021", Pub.L. 117-2, referred to in this section as the "federal act", pursuant to which Colorado will receive \$3,828,761,790 from the federal coronavirus state fiscal recovery fund to be used for certain specified purposes;

(k) These specified purposes include providing programs, services, or other assistance for populations disproportionately impacted by the COVID-19 public health emergency;

(l) More specifically, pursuant to 31 C.F.R. 35.6 (b), these specified purposes include programs or services that address housing insecurity, lack of affordable housing, or homelessness, including supportive housing or other programs or services to improve access to stable affordable housing among individuals who are homeless; the development of affordable housing to increase the supply of affordable housing developments that are livable, vibrant, and driven by community benefits; and housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity;

(m) The three grant programs funded by the bill will enable local governments across the state at various stages of development in their ability to provide affordable housing to create and implement the programs or services that address housing insecurity, lack of affordable housing, or homelessness to enable populations, households, or geographic areas disproportionately affected by the COVID-19 public health emergency to obtain affordable housing. Accordingly, pursuant to 31 C.F.R. 35.6 (b), the assistance that will be provided by the three grant programs funded by the bill is an eligible use of money received by the state under the federal act.

SECTION 2. In Colorado Revised Statutes, 24-32-104, **add** (4) and (5) as follows:

24-32-104. Functions of the division - definition. (4) THE DIVISION SHALL ADMINISTER THE LOCAL GOVERNMENT AFFORDABLE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM CREATED IN SECTION 24-32-130 (2) AND THE LOCAL GOVERNMENT PLANNING GRANT PROGRAM CREATED IN SECTION 24-32-130 (5).

(5) THE DIVISION SHALL CONSULT WITH THE DIVISION OF HOUSING CREATED IN SECTION 24-32-704 IN CONNECTION WITH THE CREATION AND ADMINISTRATION OF THE HOUSING TOOLKIT PROGRAM IN ACCORDANCE WITH SECTION 24-32-721.5 (2)(a).

SECTION 3. In Colorado Revised Statutes, **add** 24-32-130 as follows:

24-32-130. Local government affordable housing development incentives grant program - local government planning grant program - creation - report - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AFFORDABLE HOUSING" MEANS:

(I) FOR A HOUSEHOLD RESIDING IN HOUSING ON A RENTAL BASIS, ANNUAL INCOME OF THE HOUSEHOLD IS AT OR BELOW EIGHTY PERCENT OF THE AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE IN THE COUNTY IN WHICH THE HOUSING IS LOCATED;

(II) FOR A HOUSEHOLD RESIDING IN HOUSING ON A HOME OWNERSHIP BASIS, ANNUAL INCOME OF THE HOUSEHOLD IS AT OR BELOW ONE HUNDRED FORTY PERCENT OF THE AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE IN THE COUNTY IN WHICH THE HOUSING IS LOCATED; OR

(III) HOUSING THAT INCORPORATES MIXED-INCOME DEVELOPMENT.

(b) "DEPARTMENT" MEANS THE DEPARTMENT OF LOCAL AFFAIRS.

(c) "ELIGIBLE RECIPIENT" MEANS A LOCAL GOVERNMENT THAT IS ELIGIBLE TO RECEIVE A GRANT THROUGH THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM OR THE PLANNING GRANT PROGRAM.

(d) "HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM" MEANS THE LOCAL GOVERNMENT AFFORDABLE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM CREATED IN SUBSECTION (2) OF THIS SECTION.

(e) "LOCAL GOVERNMENT" MEANS A COUNTY, A MUNICIPALITY, OR A CITY AND COUNTY.

(f) "MIXED INCOME DEVELOPMENT" MEANS HOUSING THAT INCORPORATES MIXED INCOME DEVELOPMENT IN THAT SOME, BUT NOT ALL, HOUSING UNITS WITHIN A PARTICULAR DEVELOPMENT HAVE RESTRICTED RATES AT OR BELOW THE INCOME LEVELS SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION IN ADDITION TO SOME UNITS THAT ARE ABOVE SUCH INCOME LEVELS WITH OR WITHOUT SUCH RESTRICTED RATES.

(g) "PLANNING GRANT PROGRAM" MEANS THE LOCAL GOVERNMENT PLANNING GRANT PROGRAM CREATED IN SUBSECTION (5) OF THIS SECTION.

(2) THERE IS HEREBY CREATED IN THE DEPARTMENT THE LOCAL GOVERNMENT AFFORDABLE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM TO PROVIDE GRANTS TO LOCAL GOVERNMENTS THAT ADOPT ONE OR MORE POLICY OR REGULATORY TOOLS THAT CREATE INCENTIVES TO PROMOTE THE DEVELOPMENT OF AFFORDABLE HOUSING. A LOCAL GOVERNMENT THAT ADOPTS SUCH TOOLS IN ACCORDANCE WITH THIS SECTION IS ELIGIBLE FOR A GRANT FROM THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM AS AN INCENTIVE TO DEVELOP ONE OR MORE AFFORDABLE HOUSING DEVELOPMENTS IN THEIR COMMUNITY OR REGION THAT ARE DRIVEN BY COMMUNITY BENEFITS AND THAT FOCUS ON CRITICAL HOUSING NEEDS AS IDENTIFIED BY THE LOCAL GOVERNMENT. THE DIVISION SHALL ADMINISTER THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM.

(3) (a) AS PART OF THE POLICIES, PROCEDURES, AND GUIDELINES THE DIVISION IS REQUIRED TO ADOPT FOR THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION, THE DIVISION SHALL DEVELOP A MENU OF DIFFERENT POLICY OR REGULATORY TOOLS THAT LOCAL GOVERNMENTS MAY ADOPT AS INCENTIVES TO PROMOTE AFFORDABLE HOUSING DEVELOPMENT WITHIN THEIR TERRITORIAL BOUNDARIES OR ACROSS THEIR REGION.

(b) (I) THE MENU OF TOOLS THE DIVISION MUST DEVELOP PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION MUST INCLUDE SUCH INCENTIVES TO PROMOTE AFFORDABLE HOUSING DEVELOPMENT INCLUDING BUT NOT LIMITED TO:

(A) THE USE OF VACANT PUBLICLY OWNED REAL PROPERTY WITHIN THE LOCAL GOVERNMENT FOR THE DEVELOPMENT OF AFFORDABLE HOUSING;

(B) THE CREATION OF A PROGRAM TO SUBSIDIZE OR OTHERWISE REDUCE LOCAL DEVELOPMENT REVIEW OR FEES, INCLUDING BUT NOT LIMITED TO BUILDING PERMIT FEES, PLANNING WAIVERS, AND WATER AND SEWER TAP FEES, FOR AFFORDABLE HOUSING DEVELOPMENT;

(C) THE CREATION OF AN EXPEDITED DEVELOPMENT REVIEW PROCESS FOR AFFORDABLE HOUSING AIMED AT HOUSEHOLDS THE ANNUAL INCOME OF WHICH IS AT OR BELOW ONE HUNDRED TWENTY PERCENT OF THE AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE IN THE COUNTY IN WHICH THE HOUSING IS LOCATED;

(D) THE CREATION OF AN EXPEDITED DEVELOPMENT REVIEW PROCESS FOR ACQUIRING OR REPURPOSING UNDERUTILIZED COMMERCIAL PROPERTY THAT CAN BE REZONED TO INCLUDE AFFORDABLE HOUSING UNITS, INCLUDING THE PRESERVATION OF EXISTING AFFORDABLE HOUSING UNITS;

(E) THE ESTABLISHMENT OF A DENSITY BONUS PROGRAM TO INCREASE THE CONSTRUCTION OF UNITS THAT MEET CRITICAL HOUSING NEEDS IN THE LOCAL COMMUNITY;

(F) WITH RESPECT TO WATER UTILITY CHARGES, THE CREATION OF PROCESSES TO PROMOTE THE USE OF SUB-METERING OF UTILITY CHARGES FOR AFFORDABLE HOUSING PROJECTS AND THE CREATION OF EXPERTISE IN WATER UTILITY MATTERS DEDICATED TO AFFORDABLE HOUSING PROJECTS;

(G) WITH RESPECT TO INFRASTRUCTURE, THE CREATION OF A DEDICATED FUNDING SOURCE TO SUBSIDIZE INFRASTRUCTURE COSTS AND ASSOCIATED FEES RELATED TO PUBLICLY OWNED WATER, SANITARY SEWER, STORM SEWERS, AND ROADWAYS INFRASTRUCTURE;

(H) GRANTING DUPLEXES, TRIPLEXES, OR OTHER APPROPRIATE MULTI-FAMILY HOUSING OPTIONS AS A USE BY RIGHT IN SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS;

(I) THE CLASSIFICATION OF A PROPOSED AFFORDABLE HOUSING DEVELOPMENT AS A USE BY RIGHT WHEN IT MEETS THE BUILDING DENSITY AND DESIGN STANDARDS OF A GIVEN ZONING DISTRICT;

(J) AUTHORIZING ACCESSORY DWELLING UNITS AS A USE BY RIGHT ON PARCELS IN SINGLE FAMILY ZONING DISTRICTS THAT MEET THE SAFETY AND INFRASTRUCTURE CAPACITY CONSIDERATIONS OF LOCAL GOVERNMENTS;

(K) ALLOWING PLANNED UNIT DEVELOPMENTS WITH INTEGRATED AFFORDABLE HOUSING UNITS;

(L) ALLOWING THE DEVELOPMENT OF SMALL SQUARE FOOTAGE RESIDENTIAL UNIT SIZES;

(M) LESSENERED MINIMUM PARKING REQUIREMENTS FOR NEW AFFORDABLE HOUSING DEVELOPMENTS; AND

(N) THE CREATION OF A LAND DONATION, LAND ACQUISITION, OR LAND BANKING PROGRAM.

(II) IN ADDITION TO THE ITEMS LISTED IN SUBSECTION (3)(b)(I) OF THIS SECTION, THE POLICIES, PROCEDURES, AND GUIDELINES ADOPTED BY THE DIVISION MUST ALSO ALLOW FOR THE ADOPTION BY A LOCAL GOVERNMENT OF ADDITIONAL POLICY OR REGULATORY TOOLS THAT PROVIDE NOVEL, CREATIVE, OR INNOVATIVE INCENTIVES TO THE DEVELOPMENT OF AFFORDABLE HOUSING.

(4)(a) IN THE POLICIES, PROCEDURES, AND GUIDELINES THE DIVISION IS REQUIRED TO ADOPT FOR THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION, THE DIVISION SHALL SPECIFY, WITHOUT LIMITATION:

(I) THE MANNER BY WHICH A LOCAL GOVERNMENT BECOMES AN ELIGIBLE RECIPIENT FOR THE GRANT PROGRAM AND THE CRITERIA USED TO DETERMINE ELIGIBILITY;

(II) THE MANNER IN WHICH A LOCAL GOVERNMENT'S ONGOING COMMITMENT TO REFINE AND EXPAND ITS LAND USE POLICIES AFFECTS THE COMPETITIVENESS OF ITS GRANT APPLICATION; AND

(III) A REQUIREMENT THAT A LOCAL GOVERNMENT SHALL SELECT NOT LESS THAN THREE OPTIONS FROM THE MENU OF POLICY OR REGULATORY TOOLS SPECIFIED IN SUBSECTION (3)(b) OF THIS SECTION.

(b) IN EVALUATING APPLICATIONS FOR GRANTS FROM THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM, THE DIVISION SHALL PRIORITIZE PROPOSALS SUBMITTED BY LOCAL GOVERNMENTS BASED ON THE DEGREE TO WHICH THE GRANT AWARD, EITHER ON ITS OWN, OR AS PART OF OTHER INCENTIVES MADE AVAILABLE TO THE ELIGIBLE RECIPIENT:

(I) REPRESENTS GEOGRAPHIC DIVERSITY THROUGHOUT THE STATE WITH RESPECT TO THE DIFFERENT KINDS OF COMMUNITIES BEING AWARDED GRANTS;

(II) SATISFIES THE GOAL OF ACHIEVING BEST PRACTICES IN AFFORDABLE HOUSING DEVELOPMENT WHETHER WITH RESPECT TO THE MENU OF POLICY OR REGULATORY TOOLS ADOPTED BY THE LOCAL GOVERNMENT OR THAT REPRESENTS A NOVEL,

CREATIVE, OR INNOVATIVE APPROACH TO THE DEVELOPMENT OF AFFORDABLE HOUSING;

(III) OFFERS MAXIMUM IMPACT IN INITIATING AFFORDABLE HOUSING CREATION WITHIN THE LOCAL COMMUNITY OR REGION THAT IS DRIVEN BY COMMUNITY BENEFITS AND THAT FOCUSES ON CRITICAL HOUSING NEEDS AS IDENTIFIED BY THE LOCAL GOVERNMENT;

(IV) EXTENDS OR ADVANCES EXISTING APPROACHES BY THE LOCAL GOVERNMENT TO INITIATE HOUSING CREATION WHETHER WITH RESPECT TO THE PRODUCTION OF HOUSING UNITS OR LONGER TERM POLICY CHANGES;

(V) REPRESENTS DIVERSITY IN THE TYPE OF AFFORDABLE HOUSING CREATED FOR RENTAL HOUSING IN ACCORDANCE WITH SUBSECTION (1)(a)(I) OF THIS SECTION AND FOR HOME OWNERSHIP IN ACCORDANCE WITH SUBSECTION (1)(a)(II) OF THIS SECTION;

(VI) INITIATES OR PRESERVES HOUSING AFFORDABILITY THAT CAN BE MAINTAINED FOR A LONG-TERM PERIOD OF AFFORDABILITY AS NEGOTIATED BY THE DEPARTMENT AND THE LOCAL GOVERNMENT AND THAT ALLOWS THE LOCAL GOVERNMENT TO DETERMINE THE METHOD FOR ACHIEVING AFFORDABILITY; AND

(VII) SUPPORTS SUSTAINABLE DEVELOPMENT PATTERNS SUCH AS INFILL AND THE REDEVELOPMENT OF EXISTING BUILDINGS.

(c) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WITH RESPECT TO THE AWARDING OF GRANTS UNDER THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM, THE DIVISION SHALL PRIORITIZE ITS FUNDING IN FAVOR OF THOSE LOCAL GOVERNMENTS THAT DEMONSTRATE THE SUFFICIENT USE OF LOCAL INCENTIVES FOR AFFORDABLE HOUSING DEVELOPMENT IN SUCH MANNER AS TO BE ABLE TO LEVERAGE FUNDING FOR THE MAXIMUM IMPACT ON THE NUMBER OF AFFORDABLE HOUSING UNITS BUILT OVER TIME AND THAT ARE AFFORDABLE AS NEGOTIATED BY THE DEPARTMENT AND LOCAL GOVERNMENTS.

(5) THERE IS HEREBY CREATED IN THE DEPARTMENT THE LOCAL GOVERNMENT PLANNING GRANT PROGRAM TO PROVIDE GRANTS TO LOCAL GOVERNMENTS THAT LACK ONE OR MORE OF THE POLICY AND REGULATORY TOOLS THAT PROVIDE INCENTIVES TO PROMOTE THE DEVELOPMENT OF AFFORDABLE HOUSING AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION AND THAT COULD BENEFIT FROM ADDITIONAL FUNDING TO BE ABLE TO CREATE AND MAKE USE OF THESE POLICY AND REGULATORY TOOLS. MONEY UNDER THE PLANNING GRANT PROGRAM WILL BE AVAILABLE TO A LOCAL GOVERNMENT TO ENABLE THE GOVERNMENT TO RETAIN A CONSULTANT OR A RELATED PROFESSIONAL SERVICE TO ASSESS THE HOUSING NEEDS OF ITS COMMUNITY, INCLUDING CONSIDERATIONS OF EQUITY, OR TO MAKE CHANGES TO ITS POLICIES, PROGRAMS, DEVELOPMENT REVIEW PROCESSES, LAND USE CODES, AND RELATED RULES TO BECOME AN ELIGIBLE RECIPIENT OF A GRANT UNDER THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM. THE PLANNING GRANT PROGRAM WILL BE ADMINISTERED BY THE DIVISION. AS PART OF ITS ADMINISTRATION OF THE PLANNING GRANT PROGRAM, THE DIVISION SHALL PROVIDE ASSISTANCE TO LOCAL GOVERNMENTS ON BEST LAND USE PRACTICES AND TOOLS AND SHALL UPDATE AND PUBLISH MODEL COUNTY AND MUNICIPAL LAND USE CODES

FOR THE BENEFIT OF LOCAL GOVERNMENTS ACROSS THE STATE.

(6) (a) ON OR BEFORE SEPTEMBER 1, 2021, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL ADOPT POLICIES, PROCEDURES, AND GUIDELINES FOR THE HOUSING INCENTIVES GRANT PROGRAM AND PLANNING GRANT PROGRAM THAT INCLUDE, WITHOUT LIMITATION:

(I) PROCEDURES AND TIMELINES BY WHICH AN ELIGIBLE RECIPIENT MAY APPLY FOR A GRANT;

(II) CRITERIA FOR DETERMINING THE AMOUNT OF GRANT AWARDS;

(III) PERFORMANCE CRITERIA FOR GRANT RECIPIENTS' PROJECTS; AND

(IV) REPORTING REQUIREMENTS FOR GRANT RECIPIENTS.

(b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE AMOUNT OF ANY GRANT AWARD UNDER EITHER THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM OR THE PLANNING GRANT PROGRAM AND ANY RESTRICTIONS OR CONDITIONS PLACED UPON THE USE OF GRANT MONEY AWARDED IS WITHIN THE DISCRETION OF THE DIVISION IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

(c) TO THE EXTENT APPLICABLE, AND UNLESS OTHERWISE REQUIRED BY THIS SECTION, REQUIREMENTS GOVERNING THE PROCESS OF AWARDING A COLORADO HERITAGE PLANNING GRANT UNDER PART 32 OF THIS TITLE 24 GOVERN THE PROCESS FOR OBTAINING A GRANT FROM THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM OR THE PLANNING GRANT PROGRAM UNDER THIS SECTION.

(7) ALL FUNDING OF ANY GRANTS AWARDED UNDER EITHER THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM OR THE PLANNING GRANT PROGRAM MUST BE MADE ENTIRELY OUT OF THE MONEY TRANSFERRED FROM THE GENERAL FUND AND THE AFFORDABLE HOUSING AND HOME OWNERSHIP CASH FUND CREATED IN SECTION 24-75-229 (3)(a), THAT ORIGINATES FROM MONEY THE STATE RECEIVED FROM THE FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUND, TO THE COLORADO HERITAGE COMMUNITIES FUND CREATED IN SECTION 24-32-3207 (1) IN ACCORDANCE WITH SECTION 24-32-3207 (6). ALL COSTS INCURRED BY THE DIVISION IN ADMINISTERING EITHER THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM OR THE PLANNING GRANT PROGRAM MUST BE PAID OUT OF THE MONEY TRANSFERRED UNDER SECTION 24-32-3207 (6). THE DIVISION MAY USE UP TO FOUR PERCENT OF ANY MONEY TRANSFERRED TO IT UNDER THIS SECTION TO COVER ITS ADMINISTRATIVE COSTS IN ADMINISTERING OR EVALUATING EITHER THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM OR THE PLANNING GRANT PROGRAM. ALL MONEY TRANSFERRED INTO THE COLORADO HERITAGE COMMUNITIES FUND IN ACCORDANCE WITH SECTION 24-32-3207 (6) MUST BE EXPENDED BY JULY 1, 2024. ANY MONEY TRANSFERRED INTO THE FUND IN ACCORDANCE WITH THIS SUBSECTION (7) THAT IS NOT EXPENDED OR ENCUMBERED FROM ANY APPROPRIATION AT THE END OF ANY FISCAL YEAR IS AVAILABLE FOR EXPENDITURE BY JULY 1, 2024, WITHOUT FURTHER APPROPRIATION.

(8) (a) ON OR BEFORE NOVEMBER 1, 2022, AND ON OR BEFORE NOVEMBER 1,

2023, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL PUBLISH A REPORT SUMMARIZING THE USE OF ALL MONEY THAT WAS AWARDED AS GRANTS FROM THE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM IN THE PRECEDING FISCAL YEAR. AT A MINIMUM, THE REPORT MUST SPECIFY THE NUMBER OF LOCAL GOVERNMENTS THAT APPLIED FOR A GRANT AWARD, INCLUDING THE NUMBER OF LOCAL GOVERNMENTS THAT WERE NOT AWARDED A GRANT; THE POLICY OR REGULATORY TOOLS ADOPTED BY THE LOCAL GOVERNMENTS THAT QUALIFIED FOR A GRANT AWARD; THE AMOUNT OF GRANT MONEY DISTRIBUTED TO EACH GRANT RECIPIENT; AND A DESCRIPTION OF EACH GRANT RECIPIENT'S USE OF THE GRANT MONEY. IN THE REPORT, THE DIVISION SHALL ALSO PROVIDE ITS RECOMMENDATIONS CONCERNING FUTURE ADMINISTRATION OF THE GRANT PROGRAM. THE REPORT MUST BE SHARED WITH THE GENERAL ASSEMBLY AND POSTED ON THE DEPARTMENT'S WEBSITE.

(b) ON OR BEFORE NOVEMBER 1, 2022, AND ON OR BEFORE NOVEMBER 1, 2023, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL PUBLISH A REPORT SUMMARIZING THE USE OF ALL MONEY THAT WAS AWARDED AS GRANTS FROM THE PLANNING GRANT PROGRAM IN THE PRECEDING FISCAL YEAR. AT A MINIMUM, THE REPORT MUST SPECIFY THE AMOUNT OF GRANT MONEY DISTRIBUTED TO EACH GRANT RECIPIENT AND A DESCRIPTION OF EACH GRANT RECIPIENT'S USE OF THE GRANT MONEY. IN THE REPORT, THE DIVISION SHALL ALSO PROVIDE ITS RECOMMENDATIONS CONCERNING FUTURE ADMINISTRATION OF THE GRANT PROGRAM. THE REPORT MUST BE SHARED WITH THE GENERAL ASSEMBLY AND POSTED ON THE DEPARTMENT'S WEBSITE.

SECTION 4. In Colorado Revised Statutes, 24-32-705, **add** (7) as follows:

24-32-705. Functions of division. (7) THE DIVISION SHALL ADMINISTER THE AFFORDABLE HOUSING GUIDED TOOLKIT AND LOCAL OFFICIALS GUIDE PROGRAM IN ACCORDANCE WITH SECTION 24-32-721.5.

SECTION 5. In Colorado Revised Statutes, 24-32-721, **amend** (1); and **add** (6) as follows:

24-32-721. Colorado affordable housing construction grants and loans - housing development grant fund - creation - housing assistance for persons with behavioral, mental health, or substance use disorders - cash fund - appropriation - report to general assembly - rules - definitions - repeal.

(1) There is hereby created in the state treasury the housing development grant fund, which fund is administered by the division and is referred to in this section as the "fund". The fund consists of money credited to the fund in accordance with section 39-26-123 (3)(b); money transferred to the fund in accordance with section 24-22-118 (2); money appropriated to the fund by the general assembly; all money transferred to the fund from the marijuana tax cash fund created in section 39-28.8-501 (1) and any other cash fund maintained by the state; ALL MONEY TRANSFERRED TO THE FUND FROM THE GENERAL FUND PURSUANT TO SUBSECTION (6) OF THIS SECTION; all money collected by the division for purposes of this section from federal grants, from other contributions, gifts, grants, and donations received from any other organization, entity, or individual, public or private; and from any fees or interest earned on such money. The division is hereby authorized and directed to solicit, accept, expend, and disburse all money collected for the fund

from the sources specified in this subsection (1) for the purpose of making grants, ~~or loans~~, OR OTHER FORMS OF ASSISTANCE THAT MAY BE AWARDED UNDER SECTION 24-32-721.5 and for program administration as provided in this section. All such money must be transmitted to the state treasurer to be credited to the fund. The money in the fund is continuously appropriated to the division for the purposes of this section.

(6) ON THE EFFECTIVE DATE OF THIS SUBSECTION (6), THE STATE TREASURER SHALL TRANSFER ONE MILLION SIX HUNDRED THOUSAND DOLLARS FROM THE GENERAL FUND TO THE HOUSING DEVELOPMENT GRANT FUND CREATED IN SUBSECTION (1) OF THIS SECTION. THE DIVISION SHALL USE THE MONEY TRANSFERRED PURSUANT TO THIS SUBSECTION (6) FOR THE AFFORDABLE HOUSING GUIDED TOOLKIT AND LOCAL OFFICIALS GUIDE PROGRAM CREATED IN SECTION 24-32-721.5.

SECTION 6. In Colorado Revised Statutes, **add** 24-32-721.5 as follows:

24-32-721.5. Affordable housing guided toolkit and local officials guide program - creation. (1) (a) THERE IS HEREBY CREATED WITHIN THE DIVISION THE AFFORDABLE HOUSING GUIDED TOOLKIT AND LOCAL OFFICIALS GUIDE PROGRAM, REFERRED TO IN THIS SECTION AS THE "HOUSING TOOLKIT PROGRAM". THE PURPOSE OF THE HOUSING TOOLKIT PROGRAM IS TO AWARD FUNDING TO QUALIFIED COUNTIES, MUNICIPALITIES, AND FEDERALLY RECOGNIZED TRIBES WITHIN THE STATE SELECTED IN A COMPETITIVE PROCESS WHO COMMIT TO THE ADOPTION OF BEST LAND USE PRACTICES WITH DEMONSTRATED SUCCESS IN THE DEVELOPMENT OF AFFORDABLE HOUSING. UNDER THE HOUSING TOOLKIT PROGRAM, TECHNICAL ASSISTANCE WILL BE PROVIDED BY CONSULTANTS AND RELATED PROFESSIONALS TO ENABLE LOCAL GOVERNMENTS TO ACHIEVE AN UNDERSTANDING OF THE HOUSING NEEDS OF THEIR COMMUNITIES, INCLUDING THE EQUITY IMPACTS OF THEIR LAND USE POLICIES AND REGULATIONS, TAKE STEPS TO ENGAGE THEIR ENTIRE COMMUNITIES IN THIS PROCESS, MAKE CHANGES TO THEIR LAND USE CODES AND RELATED PROCESSES THAT PROVIDE INCENTIVES AND REDUCE BARRIERS TO THE DEVELOPMENT OF AFFORDABLE HOUSING, OBTAIN AND SUPPORT VIABLE SITES IN THEIR COMMUNITIES FOR THE DEVELOPMENT OF AFFORDABLE HOUSING, AND ATTRACT DEVELOPERS COMMITTED TO MAKING SUCH INVESTMENTS IN THEIR COMMUNITIES. THE DIVISION SHALL ADMINISTER THE HOUSING TOOLKIT PROGRAM.

(b) ALL FUNDING OF ANY ASSISTANCE AWARDED UNDER THE HOUSING TOOLKIT PROGRAM MUST BE MADE ENTIRELY OUT OF THE MONEY TRANSFERRED FROM THE GENERAL FUND TO THE HOUSING DEVELOPMENT GRANT FUND CREATED IN SECTION 24-32-721 (1) IN ACCORDANCE WITH SECTION 24-32-721 (6). ALL COSTS INCURRED BY THE DIVISION IN ADMINISTERING THE HOUSING TOOLKIT PROGRAM MUST BE PAID OUT OF THE MONEY TRANSFERRED IN ACCORDANCE WITH SECTION 24-32-721 (6). THE DIVISION MAY USE UP TO EIGHT PERCENT OF ANY MONEY APPROPRIATED TO IT UNDER THIS SECTION TO COVER ITS ADMINISTRATIVE COSTS IN ADMINISTERING THE HOUSING TOOLKIT PROGRAM. ALL MONEY TRANSFERRED TO THE HOUSING DEVELOPMENT GRANT FUND IN ACCORDANCE WITH SECTION 24-32-721 (6) MUST BE EXPENDED OVER THE SUBSEQUENT THREE STATE FISCAL YEARS.

(2) (a) IN EVALUATING APPLICATIONS FOR TECHNICAL ASSISTANCE UNDER THE HOUSING TOOLKIT PROGRAM, THE DIVISION SHALL PRIORITIZE PROJECTS BASED UPON

WHETHER THE APPLICATION WILL, IN THE DISCRETION OF THE DIVISION, CREATE THE MAXIMUM IMPACT ON THE DEVELOPMENT OF AFFORDABLE HOUSING IN THE AREAS OF GREATEST NEED ACROSS THE STATE AND WILL SATISFY ONE OR MORE OF THE FACTORS SPECIFIED IN SUBSECTION (1) OF THIS SECTION. THE DIVISION SHALL CONSULT WITH THE DIVISION OF LOCAL GOVERNMENT IN CONNECTION WITH THE CREATION AND ADMINISTRATION OF THE HOUSING TOOLKIT PROGRAM.

(b) ON OR BEFORE SEPTEMBER 1, 2021, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL ADOPT POLICIES AND PROCEDURES FOR THE HOUSING TOOLKIT PROGRAM THAT INCLUDE, WITHOUT LIMITATION:

(I) PROCEDURES AND TIME LINES BY WHICH AN ELIGIBLE RECIPIENT MAY APPLY FOR ASSISTANCE UNDER THE HOUSING TOOLKIT PROGRAM;

(II) CRITERIA FOR DETERMINING THE AMOUNT OR NATURE OF THE ASSISTANCE AWARDED;

(III) PERFORMANCE CRITERIA FOR GRANT RECIPIENTS' PROJECTS; AND

(IV) REPORTING REQUIREMENTS FOR GRANT RECIPIENTS.

(c) ON OR BEFORE NOVEMBER 1, 2022, AND ON OR BEFORE NOVEMBER 1, 2023, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL PUBLISH A REPORT SUMMARIZING THE USE OF ALL ASSISTANCE THAT WAS AWARDED FROM THE HOUSING TOOLKIT PROGRAM IN THE PRECEDING FISCAL YEAR. IN THE REPORT, THE DIVISION SHALL ALSO PROVIDE ITS RECOMMENDATIONS CONCERNING FUTURE ADMINISTRATION OF THE HOUSING TOOLKIT PROGRAM. THE REPORT MUST BE SHARED WITH THE GENERAL ASSEMBLY AND POSTED ON THE DEPARTMENT'S WEBSITE.

SECTION 7. In Colorado Revised Statutes, 24-32-3202, **amend** (7); and **repeal** (6) as follows:

24-32-3202. Definitions. As used in this part 32, unless the context otherwise requires:

(6) ~~"Growth" means changes in population that impact land use, infrastructure development, and the surrounding environment.~~

(7) "Local government" means any county, city and county, city, town, or special district created pursuant to article 1 of title 32, C.R.S. ~~except that, for purposes of this part 32 in connection with section 24-32-3203 (3)(c)(i), "local government" shall be deemed to include an irrigation district, ditch company, or conservancy district.~~

SECTION 8. In Colorado Revised Statutes, 24-32-3203, **amend** (3)(c) and (3)(d); and **repeal** (3)(a) as follows:

24-32-3203. Office of smart growth - creation - powers and duties of executive director. (3) The executive director shall have the following powers and

duties in administering this part 32:

~~(a) To designate areas within Colorado as Colorado heritage communities. Areas designated as Colorado heritage communities shall be eligible for a Colorado heritage planning grant by the office out of moneys in the fund created by section 24-32-3207 in accordance with the provisions of this part 32.~~

(c) To review and approve applications for Colorado heritage planning grants awarded by the office out of ~~moneys~~ MONEY in the fund in accordance with the requirements of this part 32, and to determine the amount of money to be awarded under each such grant. An application for such a grant ~~shall~~ MUST:

~~(I) Be submitted jointly by the governing bodies of at least two local governments; except that applications regarding water banking pursuant to subparagraph (II) of this paragraph (c) may also be submitted singly or in combination by the governing body of a local government or by an irrigation district, ditch company, or conservancy district; and~~

~~(II) Address critical planning issues, including, without limitation, land use and development patterns, AFFORDABLE HOUSING, transportation planning, mitigation of environmental hazards, water banking pursuant to article 80.5 of title 37, C.R.S., and energy use.~~

~~(d) To review and approve applications for grants awarded by the office out of moneys MONEY in the fund to assist a local government, as applicable, in developing a master plan in conformity with section 30-28-106 or 31-23-206; C.R.S., and to determine the amount of money to be awarded under each such grant pursuant to section 24-32-3207(2);~~

SECTION 9. In Colorado Revised Statutes, 24-32-3207, **amend** (1); **repeal** (2); and **add** (6) as follows:

24-32-3207. Colorado heritage communities fund - creation - source of funds. (1) There is hereby created in the state treasury the Colorado heritage communities fund, which fund ~~shall be~~ is administered by the director and which ~~shall consist~~ CONSISTS of all ~~moneys~~ MONEY appropriated to ~~said~~ THE fund by the general assembly, MONEY TRANSFERRED FROM THE GENERAL FUND AND THE AFFORDABLE HOUSING AND HOME OWNERSHIP CASH FUND CREATED IN SECTION 24-75-229 (3)(a), THAT ORIGINATES FROM MONEY THE STATE RECEIVED FROM THE FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUND, TO THE FUND PURSUANT TO SUBSECTION (6) OF THIS SECTION, and all other ~~moneys~~ MONEY collected by the office for the fund from federal grants or other contributions, grants, gifts, bequests, or donations received from other agencies of state government, individuals, private organizations, or foundations. Such ~~moneys~~ MONEY shall be transmitted to the state treasurer to be credited to the fund.

(2) Not more than an amount equal to thirty percent of any moneys in the fund as of the beginning of any given fiscal year shall be made available before the end of that same fiscal year to local governments in grant moneys for the development of master plans pursuant to section 24-32-3203(3)(d).

(6) (a) ON THE EFFECTIVE DATE OF THIS SUBSECTION (6), OR AS SOON AS PRACTICABLE THEREAFTER, THE STATE TREASURER SHALL TRANSFER:

(I) THIRTY MILLION DOLLARS FROM THE AFFORDABLE HOUSING AND HOME OWNERSHIP CASH FUND CREATED IN SECTION 24-75-229 (3)(a), THAT ORIGINATES FROM MONEY THE STATE RECEIVED FROM THE FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUND, TO THE COLORADO HERITAGE COMMUNITIES FUND CREATED IN SUBSECTION (1) OF THIS SECTION; AND

(II) NINE MILLION THREE HUNDRED THOUSAND DOLLARS FROM THE GENERAL FUND TO THE COLORADO HERITAGE COMMUNITIES FUND CREATED IN SUBSECTION (1) OF THIS SECTION.

(b) THE DIVISION OF LOCAL GOVERNMENT IN THE DEPARTMENT SHALL USE THE MONEY TRANSFERRED PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION FOR THE CREATION, IMPLEMENTATION, AND ADMINISTRATION OF THE LOCAL GOVERNMENT AFFORDABLE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM CREATED IN SECTION 24-32-130 (2) IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 24-32-130.

(c) ON THE EFFECTIVE DATE OF THIS SUBSECTION (6), OR AS SOON AS PRACTICABLE THEREAFTER, THE STATE TREASURER SHALL TRANSFER:

(I) FIVE MILLION DOLLARS FROM THE AFFORDABLE HOUSING AND HOME OWNERSHIP CASH FUND CREATED IN SECTION 24-75-229 (3)(a), THAT ORIGINATES FROM MONEY THE STATE RECEIVED FROM THE FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUND, TO THE COLORADO HERITAGE COMMUNITIES FUND CREATED IN SUBSECTION (1) OF THIS SECTION; AND

(II) TWO MILLION ONE HUNDRED THOUSAND DOLLARS FROM THE GENERAL FUND TO THE COLORADO HERITAGE COMMUNITIES FUND CREATED IN SUBSECTION (1) OF THIS SECTION.

(d) THE DIVISION OF LOCAL GOVERNMENT IN THE DEPARTMENT SHALL USE THE MONEY TRANSFERRED PURSUANT TO SUBSECTION (6)(c) OF THIS SECTION FOR THE CREATION, IMPLEMENTATION, AND ADMINISTRATION OF THE LOCAL GOVERNMENT PLANNING GRANT PROGRAM CREATED IN SECTION 24-32-130 (5) IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 24-32-130. WITH RESPECT TO ANY MONEY TRANSFERRED INTO THE COLORADO HERITAGE COMMUNITIES FUND PURSUANT TO SUBSECTION (6)(c) OF THIS SECTION, THE DIVISION MAY USE ANY MONEY THAT IS UNEXPENDED OR UNENCUMBERED AS OF JUNE 30, 2024 FOR PURPOSES OF THE LOCAL GOVERNMENT AFFORDABLE HOUSING DEVELOPMENT INCENTIVES GRANT PROGRAM CREATED IN SECTION 24-32-130 (2) AS NEEDED IN ACCORDANCE WITH SECTION 24-32-130.

SECTION 10. In Colorado Revised Statutes, 24-32-3208, **add** (3) as follows:

24-32-3208. Additional sources of funding. (3) AS MONEY BECOMES AVAILABLE, THE OFFICE OF SMART GROWTH CREATED IN SECTION 24-32-3203 (1) MAY PROVIDE GRANTS OR OTHER FORMS OF ASSISTANCE TO COUNTIES AND MUNICIPALITIES FOR PURPOSES CONSISTENT WITH SECTION 24-32-3203 (3)(c)(II),

INCLUDING, WITHOUT LIMITATION, THE HIRING OF CONSULTANTS AND RELATED FORMS OF PROFESSIONAL EXPERTISE; UPDATING PLANS, POLICIES, CODES, AND RELATED LAND DEVELOPMENT REVIEW PROCESSES; AND OFFERING GRANTS, LOANS, OR OTHER FORMS OF ASSISTANCE AS INCENTIVES FOR THE DEVELOPMENT OF AFFORDABLE HOUSING, WHICH FORMS OF ASSISTANCE MAY INCLUDE THE ACQUISITION OF PROPERTY, THE PROVISION OF INFRASTRUCTURE, OR THE DEVELOPMENT OF COMMUNITY AMENITIES. THE OFFICE SHALL CREATE GUIDELINES TO SPECIFY THE ACTIVITIES ON THE PART OF LOCAL GOVERNMENTS THAT WILL QUALIFY FOR GRANT FUNDING OR OTHER FORMS OF ASSISTANCE UNDER THIS SUBSECTION (3). THE OFFICE MAY ALSO USE AVAILABLE MONEY TO IMPLEMENT OR FACILITATE GRANT AND OTHER INCENTIVE PROGRAMS BY HIRING STAFF, CREATING TECHNICAL RESOURCES FOR LOCAL GOVERNMENTS, HIRING CONSULTANTS AND RELATED FORMS OF PROFESSIONAL EXPERTISE, AND OTHERWISE ADMINISTERING THE COLORADO HERITAGE GRANT PROGRAM IN ACCORDANCE WITH THIS PART 32. THE OFFICE MAY USE A PORTION OF ANY SUCH MONEY FOR HIRING AND MAINTAINING STAFF, DEFRAYING OPERATIONAL EXPENSES, AND ADMINISTRATION ASSOCIATED WITH THE PROVISION OF GRANTS AND OTHER FORMS OF INCENTIVES UNDER THIS SUBSECTION (3).

SECTION 11. In Colorado Revised Statutes, **repeal** 24-32-3206.

SECTION 12. Appropriation. (1) For the 2021-22 state fiscal year, \$39,300,000 is appropriated to the department of local affairs for use by the division of local government. This appropriation is from the Colorado heritage communities fund created in section 24-32-3207 (1), C.R.S., and is based on an assumption that the division will require an additional 0.9 FTE. To implement this act, the division shall use this appropriation for the affordable housing development incentives grant program created in section 24-32-130 (2), C.R.S.

(2) For the 2021-22 state fiscal year, \$7,100,000 is appropriated to the department of local affairs for use by the division of local government. This appropriation is from the Colorado heritage communities fund created in section 24-32-3207 (1), C.R.S., and is based on an assumption that the division will require an additional 1.7 FTE. To implement this act, the division shall use this appropriation for the local government planning grant program created in section 24-32-130 (5), C.R.S.

SECTION 13. Effective date. This act takes effect on passage; except that section 24-32-3207 (6)(a)(I) and (6)(c)(I) in section 9 of this act requiring transfers from the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a) take effect only if House Bill 21-1329 becomes law, and, in which case, section 24-32-3207 (6) (a)(I) and (6)(c)(I) take effect either upon the effective date of this act or one day after the effective date of House Bill 21-1329, whichever is later.

SECTION 14. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 27, 2021