

1                                   **HOUSING AFFORDABILITY AMENDMENTS**

2   2023 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Stephen L. Whyte**

5                                   Senate Sponsor: Lincoln Fillmore

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies provisions relating to affordable housing and the provision of  
10 services related to affordable housing.

11 **Highlighted Provisions:**

12           This bill:

13           ▶ modifies provisions related to the moderate income housing reporting requirements  
14 for certain cities and counties;

15           ▶ allows a city or county to appeal the Housing and Community Development  
16 Division's determination of noncompliance in relation to city and county moderate  
17 income housing reports;

18           ▶ establishes an appeal board to hear and decide appeals in relation to city and county  
19 moderate income housing reports;

20           ▶ requires the Department of Workforce Services to report annually on expenditures  
21 authorized by the Utah Housing Preservation Fund;

22           ▶ allows for state low-income housing tax credits to be allocated, by pass-through, to  
23 certain business entities;

24           ▶ increases the aggregate annual amount of state low-income housing tax credits that  
25 may be allocated in certain years;

26           ▶ allows a taxpayer to claim a state low-income housing tax credit before final  
27 certification from the Utah Housing Corporation in certain circumstances;

28           ▶ requires the Legislature to conduct reviews of the aggregate annual amount of state

29 low-income housing tax credits that the Utah Housing Corporation is authorized to allocate and  
30 has allocated; and

31       ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33       None

34 **Other Special Clauses:**

35       This bill provides a special effective date.

36       This bill provides retrospective operation.

37       This bill provides a coordination clause.

38 **Utah Code Sections Affected:**

39 AMENDS:

40       **10-9a-401**, as last amended by Laws of Utah 2022, Chapters 282, 406

41       **10-9a-403**, as last amended by Laws of Utah 2022, Chapters 282, 406 and last amended  
42 by Coordination Clause, Laws of Utah 2022, Chapter 406

43       **10-9a-408**, as last amended by Laws of Utah 2022, Chapter 406

44       **17-27a-401**, as last amended by Laws of Utah 2022, Chapters 282, 406

45       **17-27a-403**, as last amended by Laws of Utah 2022, Chapters 282, 406

46       **17-27a-408**, as last amended by Laws of Utah 2022, Chapter 406

47       **59-7-607**, as last amended by Laws of Utah 2020, Chapter 241

48       **59-9-108**, as enacted by Laws of Utah 2020, Chapter 241

49       **59-10-1010**, as last amended by Laws of Utah 2020, Chapter 241

50       **63J-4-802**, as last amended by Laws of Utah 2022, Chapter 406

51       **72-1-304**, as last amended by Laws of Utah 2022, Chapter 406

52       **72-2-124**, as last amended by Laws of Utah 2022, Chapters 69, 259 and 406

53 ENACTS:

54       **35A-8-2401**, Utah Code Annotated 1953

55 **Utah Code Sections Affected by Coordination Clause:**

56 **10-9a-408**, Utah Code Annotated 1953

57 **17-27a-408**, Utah Code Annotated 1953

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

60 Section 1. Section **10-9a-401** is amended to read:

61 **10-9a-401. General plan required -- Content.**

62 (1) To accomplish the purposes of this chapter, a municipality shall prepare and adopt  
63 a comprehensive, long-range general plan for:

64 (a) present and future needs of the municipality; and

65 (b) growth and development of all or any part of the land within the municipality.

66 (2) The general plan may provide for:

67 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic  
68 activities, aesthetics, and recreational, educational, and cultural opportunities;

69 (b) the reduction of the waste of physical, financial, or human resources that result  
70 from either excessive congestion or excessive scattering of population;

71 (c) the efficient and economical use, conservation, and production of the supply of:

72 (i) food and water; and

73 (ii) drainage, sanitary, and other facilities and resources;

74 (d) the use of energy conservation and solar and renewable energy resources;

75 (e) the protection of urban development;

76 (f) if the municipality is a town, the protection or promotion of moderate income  
77 housing;

78 (g) the protection and promotion of air quality;

79 (h) historic preservation;

80 (i) identifying future uses of land that are likely to require an expansion or significant  
81 modification of services or facilities provided by an affected entity; and

82 (j) an official map.

83 (3) (a) The general plan of a specified municipality, as defined in Section 10-9a-408,  
84 shall include a moderate income housing element that meets the requirements of Subsection  
85 10-9a-403(2)(a)(iii).

86 ~~[(b) On or before October 1, 2022, a specified municipality, as defined in Section~~  
87 ~~10-9a-408, with a general plan that does not comply with Subsection (3)(a) shall amend the~~  
88 ~~general plan to comply with Subsection (3)(a)]~~

89 (b) (i) This Subsection (3)(b) applies to a municipality that is not a specified  
90 municipality as of January 1, 2023.

91 (ii) As of January 1, if a municipality described in Subsection (3)(b)(i) changes from  
92 one class to another or grows in population to qualify as a specified municipality as defined in  
93 Section 10-9a-408, the municipality shall amend the municipality's general plan to comply with  
94 Subsection (3)(a) on or before August 1 of the first calendar year beginning on January 1 in  
95 which the municipality qualifies as a specified municipality.

96 (4) Subject to Subsection 10-9a-403(2), the municipality may determine the  
97 comprehensiveness, extent, and format of the general plan.

98 Section 2. Section 10-9a-403 is amended to read:

99 **10-9a-403. General plan preparation.**

100 (1) (a) The planning commission shall provide notice, as provided in Section  
101 10-9a-203, of the planning commission's intent to make a recommendation to the municipal  
102 legislative body for a general plan or a comprehensive general plan amendment when the  
103 planning commission initiates the process of preparing the planning commission's  
104 recommendation.

105 (b) The planning commission shall make and recommend to the legislative body a  
106 proposed general plan for the area within the municipality.

107 (c) The plan may include areas outside the boundaries of the municipality if, in the  
108 planning commission's judgment, those areas are related to the planning of the municipality's  
109 territory.

110 (d) Except as otherwise provided by law or with respect to a municipality's power of  
111 eminent domain, when the plan of a municipality involves territory outside the boundaries of  
112 the municipality, the municipality may not take action affecting that territory without the  
113 concurrence of the county or other municipalities affected.

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

117 (i) a land use element that:

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

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

124 (C) except for a city of the fifth class or a town, is coordinated to integrate the land use  
125 element with the water use and preservation element; and

126 (D) except for a city of the fifth class or a town, accounts for the effect of land use  
127 categories and land uses on water demand;

128 (ii) a transportation and traffic circulation element that:

129 (A) provides the general location and extent of existing and proposed freeways, arterial  
130 and collector streets, public transit, active transportation facilities, and other modes of  
131 transportation that the planning commission considers appropriate;

132 (B) for a municipality that has access to a major transit investment corridor, addresses  
133 the municipality's plan for residential and commercial development around major transit  
134 investment corridors to maintain and improve the connections between housing, employment,  
135 education, recreation, and commerce;

136 (C) for a municipality that does not have access to a major transit investment corridor,

137 addresses the municipality's plan for residential and commercial development in areas that will  
138 maintain and improve the connections between housing, transportation, employment,  
139 education, recreation, and commerce; and

140 (D) correlates with the population projections, the employment projections, and the  
141 proposed land use element of the general plan;

142 (iii) [~~for a specified municipality as defined in Section 10-9a-408;~~] a moderate income  
143 housing element that:

144 (A) provides a realistic opportunity to meet the need for additional moderate income  
145 housing within the municipality during the next five years;

146 (B) [~~selects~~] for a town, may include a recommendation to implement three or more of  
147 the moderate income housing strategies described in Subsection (2)(b)(iii) [for implementation,  
148 including one additional moderate income housing strategy as provided in Subsection (2)(b)(iv)  
149 for a specified municipality that has a fixed guideway public transit station];

150 (C) for a specified municipality, as defined in Section 10-9a-408, that does not have a  
151 fixed guideway public transit station, shall include a recommendation to implement three or  
152 more of the moderate income housing strategies described in Subsection (2)(b)(iii);

153 (D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed  
154 guideway public transit station, shall include a recommendation to implement five or more of  
155 the moderate income housing strategies described in Subsection (2)(b)(iii), of which one shall  
156 be the moderate income housing strategy described in Subsection (2)(b)(iii)(V), and one shall  
157 be a moderate income housing strategy described in Subsection (2)(b)(iii)(G), (H), or (Q); and

158 [~~(C)~~] (E) [~~includes~~] for a specified municipality, as defined in Section 10-9a-408, shall  
159 include an implementation plan as provided in Subsection (2)(c); and

160 (iv) except for a city of the fifth class or a town, a water use and preservation element  
161 that addresses:

162 (A) the effect of permitted development or patterns of development on water demand  
163 and water infrastructure;

- 164 (B) methods of reducing water demand and per capita consumption for future  
165 development;
  - 166 (C) methods of reducing water demand and per capita consumption for existing  
167 development; and
  - 168 (D) opportunities for the municipality to modify the municipality's operations to  
169 eliminate practices or conditions that waste water.
- 170 (b) In drafting the moderate income housing element, the planning commission:
- 171 (i) shall consider the Legislature's determination that municipalities shall facilitate a  
172 reasonable opportunity for a variety of housing, including moderate income housing:
    - 173 (A) to meet the needs of people of various income levels living, working, or desiring to  
174 live or work in the community; and
    - 175 (B) to allow people with various incomes to benefit from and fully participate in all  
176 aspects of neighborhood and community life;
    - 177 (ii) for a town, may include, and for a specified municipality as defined in Section  
178 [10-9a-408](#), shall include, an analysis of how the municipality will provide a realistic  
179 opportunity for the development of moderate income housing within the next five years;
    - 180 (iii) for a town, may include, and for ~~[other municipalities]~~ a specified municipality as  
181 defined in Section [10-9a-408](#), shall include, a recommendation to implement ~~[three or more of~~  
182 the following] the required number of any of the following moderate income housing strategies  
183 as specified in Subsection (2)(a)(iii):
      - 184 (A) rezone for densities necessary to facilitate the production of moderate income  
185 housing;
      - 186 (B) demonstrate investment in the rehabilitation or expansion of infrastructure that  
187 facilitates the construction of moderate income housing;
      - 188 (C) demonstrate investment in the rehabilitation of existing uninhabitable housing  
189 stock into moderate income housing;
      - 190 (D) identify and utilize general fund subsidies or other sources of revenue to waive

191 construction related fees that are otherwise generally imposed by the municipality for the  
192 construction or rehabilitation of moderate income housing;

193 (E) create or allow for, and reduce regulations related to, internal or detached accessory  
194 dwelling units in residential zones;

195 (F) zone or rezone for higher density or moderate income residential development in  
196 commercial or mixed-use zones near major transit investment corridors, commercial centers, or  
197 employment centers;

198 (G) amend land use regulations to allow for higher density or new moderate income  
199 residential development in commercial or mixed-use zones near major transit investment  
200 corridors;

201 (H) amend land use regulations to eliminate or reduce parking requirements for  
202 residential development where a resident is less likely to rely on the resident's own vehicle,  
203 such as residential development near major transit investment corridors or senior living  
204 facilities;

205 (I) amend land use regulations to allow for single room occupancy developments;

206 (J) implement zoning incentives for moderate income units in new developments;

207 (K) preserve existing and new moderate income housing and subsidized units by  
208 utilizing a landlord incentive program, providing for deed restricted units through a grant  
209 program, or, notwithstanding Section [10-9a-535](#), establishing a housing loss mitigation fund;

210 (L) reduce, waive, or eliminate impact fees related to moderate income housing;

211 (M) demonstrate creation of, or participation in, a community land trust program for  
212 moderate income housing;

213 (N) implement a mortgage assistance program for employees of the municipality, an  
214 employer that provides contracted services to the municipality, or any other public employer  
215 that operates within the municipality;

216 (O) apply for or partner with an entity that applies for state or federal funds or tax  
217 incentives to promote the construction of moderate income housing, an entity that applies for



218 programs offered by the Utah Housing Corporation within that agency's funding capacity, an  
219 entity that applies for affordable housing programs administered by the Department of  
220 Workforce Services, an entity that applies for affordable housing programs administered by an  
221 association of governments established by an interlocal agreement under Title 11, Chapter 13,  
222 Interlocal Cooperation Act, an entity that applies for services provided by a public housing  
223 authority to preserve and create moderate income housing, or any other entity that applies for  
224 programs or services that promote the construction or preservation of moderate income  
225 housing;

226 (P) demonstrate utilization of a moderate income housing set aside from a community  
227 reinvestment agency, redevelopment agency, or community development and renewal agency  
228 to create or subsidize moderate income housing;

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

231 (R) eliminate impact fees for any accessory dwelling unit that is not an internal  
232 accessory dwelling unit as defined in Section [10-9a-530](#);

233 (S) create a program to transfer development rights for moderate income housing;

234 (T) ratify a joint acquisition agreement with another local political subdivision for the  
235 purpose of combining resources to acquire property for moderate income housing;

236 (U) develop a moderate income housing project for residents who are disabled or 55  
237 years old or older;

238 (V) develop and adopt a station area plan in accordance with Section [10-9a-403.1](#);

239 (W) create or allow for, and reduce regulations related to, multifamily residential  
240 dwellings compatible in scale and form with detached single-family residential dwellings and  
241 located in walkable communities within residential or mixed-use zones; and

242 (X) demonstrate implementation of any other program or strategy to address the  
243 housing needs of residents of the municipality who earn less than 80% of the area median  
244 income, including the dedication of a local funding source to moderate income housing or the

245 adoption of a land use ordinance that requires 10% or more of new residential development in a  
246 residential zone be dedicated to moderate income housing; and

247 ~~[(iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a~~  
248 ~~municipality that has a fixed guideway public transit station, shall include a recommendation to~~  
249 ~~implement:]~~

250 ~~[(A) the strategy described in Subsection (2)(b)(iii)(V); and]~~

251 ~~[(B) a strategy described in Subsection (2)(b)(iii)(G), (H), or (Q).]~~

252 (iv) shall identify each moderate income housing strategy recommended to the  
253 legislative body for implementation by restating the exact language used to describe the  
254 strategy in Subsection (2)(b)(iii).

255 (c) (i) In drafting the implementation plan portion of the moderate income housing  
256 element as described in Subsection (2)(a)(iii)(C), the planning commission shall ~~[establish]~~  
257 recommend to the legislative body the establishment of a five-year timeline for implementing  
258 each of the moderate income housing strategies selected by the municipality for  
259 implementation.

260 (ii) The timeline described in Subsection (2)(c)(i) shall:

261 (A) identify specific measures and benchmarks for implementing each moderate  
262 income housing strategy selected by the municipality, whether one-time or ongoing; and

263 (B) provide flexibility for the municipality to make adjustments as needed.

264 (d) In drafting the land use element, the planning commission shall:

265 (i) identify and consider each agriculture protection area within the municipality;

266 (ii) avoid proposing a use of land within an agriculture protection area that is  
267 inconsistent with or detrimental to the use of the land for agriculture; and

268 (iii) consider and coordinate with any station area plans adopted by the municipality if  
269 required under Section [10-9a-403.1](#).

270 (e) In drafting the transportation and traffic circulation element, the planning  
271 commission shall:

272 (i) (A) consider and coordinate with the regional transportation plan developed by the  
273 municipality's region's metropolitan planning organization, if the municipality is within the  
274 boundaries of a metropolitan planning organization; or

275 (B) consider and coordinate with the long-range transportation plan developed by the  
276 Department of Transportation, if the municipality is not within the boundaries of a  
277 metropolitan planning organization; and

278 (ii) consider and coordinate with any station area plans adopted by the municipality if  
279 required under Section 10-9a-403.1.

280 (f) In drafting the water use and preservation element, the planning commission:

281 (i) shall consider:

282 (A) applicable regional water conservation goals recommended by the Division of  
283 Water Resources; and

284 (B) if Section 73-10-32 requires the municipality to adopt a water conservation plan  
285 pursuant to Section 73-10-32, the municipality's water conservation plan;

286 (ii) shall include a recommendation for:

287 (A) water conservation policies to be determined by the municipality; and

288 (B) landscaping options within a public street for current and future development that  
289 do not require the use of lawn or turf in a parkstrip;

290 (iii) shall review the municipality's land use ordinances and include a recommendation  
291 for changes to an ordinance that promotes the inefficient use of water;

292 (iv) shall consider principles of sustainable landscaping, including the:

293 (A) reduction or limitation of the use of lawn or turf;

294 (B) promotion of site-specific landscape design that decreases stormwater runoff or  
295 runoff of water used for irrigation;

296 (C) preservation and use of healthy trees that have a reasonable water requirement or  
297 are resistant to dry soil conditions;

298 (D) elimination or regulation of ponds, pools, and other features that promote

299 unnecessary water evaporation;

300 (E) reduction of yard waste; and

301 (F) use of an irrigation system, including drip irrigation, best adapted to provide the

302 optimal amount of water to the plants being irrigated;

303 (v) shall consult with the public water system or systems serving the municipality with

304 drinking water regarding how implementation of the land use element and water use and

305 preservation element may affect:

306 (A) water supply planning, including drinking water source and storage capacity

307 consistent with Section 19-4-114; and

308 (B) water distribution planning, including master plans, infrastructure asset

309 management programs and plans, infrastructure replacement plans, and impact fee facilities

310 plans;

311 (vi) may include recommendations for additional water demand reduction strategies,

312 including:

313 (A) creating a water budget associated with a particular type of development;

314 (B) adopting new or modified lot size, configuration, and landscaping standards that

315 will reduce water demand for new single family development;

316 (C) providing one or more water reduction incentives for existing development such as

317 modification of existing landscapes and irrigation systems and installation of water fixtures or

318 systems that minimize water demand;

319 (D) discouraging incentives for economic development activities that do not adequately

320 account for water use or do not include strategies for reducing water demand; and

321 (E) adopting water concurrency standards requiring that adequate water supplies and

322 facilities are or will be in place for new development; and

323 (vii) for a town, may include, and for another municipality, shall include, a

324 recommendation for low water use landscaping standards for a new:

325 (A) commercial, industrial, or institutional development;

- 326 (B) common interest community, as defined in Section 57-25-102; or
- 327 (C) multifamily housing project.
- 328 (3) The proposed general plan may include:
- 329 (a) an environmental element that addresses:
- 330 (i) the protection, conservation, development, and use of natural resources, including
- 331 the quality of:
- 332 (A) air;
- 333 (B) forests;
- 334 (C) soils;
- 335 (D) rivers;
- 336 (E) groundwater and other waters;
- 337 (F) harbors;
- 338 (G) fisheries;
- 339 (H) wildlife;
- 340 (I) minerals; and
- 341 (J) other natural resources; and
- 342 (ii) (A) the reclamation of land, flood control, prevention and control of the pollution
- 343 of streams and other waters;
- 344 (B) the regulation of the use of land on hillsides, stream channels and other
- 345 environmentally sensitive areas;
- 346 (C) the prevention, control, and correction of the erosion of soils;
- 347 (D) the preservation and enhancement of watersheds and wetlands; and
- 348 (E) the mapping of known geologic hazards;
- 349 (b) a public services and facilities element showing general plans for sewage, water,
- 350 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
- 351 police and fire protection, and other public services;
- 352 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and

353 programs for:

354 (i) historic preservation;

355 (ii) the diminution or elimination of a development impediment as defined in Section  
356 17C-1-102; and

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

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

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

366 (f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3);  
367 and

368 (g) any other element the municipality considers appropriate.

369 Section 3. Section 10-9a-408 is amended to read:

370 **10-9a-408. Moderate income housing report -- Contents -- Prioritization for**  
371 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

372 (1) As used in this section:

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

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

378 (c) [~~"Moderate income housing report" or "report"~~] "Initial report" or "initial moderate  
379 income housing report" means the one-time report described in Subsection [~~(2)(a)~~] (2).

380 (d) "Moderate income housing strategy" means a strategy described in Subsection  
 381 [10-9a-403\(2\)\(b\)\(iii\)](#).

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

383 ~~[(e)]~~ (f) "Specified municipality" means:

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

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

387 (iii) a metro township with a population of 5,000 or more.

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

389 (2) (a) ~~[Beginning in 2022, on or before October 1 of each calendar year, the]~~ The  
 390 legislative body of a specified municipality shall ~~[annually submit a written moderate income~~  
 391 ~~housing report]~~ submit an initial report to the division.

392 ~~[(b) The moderate income housing report submitted in 2022 shall include:]~~

393 (b) (i) This Subsection (2)(b) applies to a municipality that is not a specified  
 394 municipality as of January 1, 2023.

395 (ii) As of January 1, if a municipality described in Subsection (2)(b)(i) changes from  
 396 one class to another or grows in population to qualify as a specified municipality, the  
 397 municipality shall submit an initial plan to the division on or before August 1 of the first  
 398 calendar year beginning on January 1 in which the municipality qualifies as a specified  
 399 municipality.

400 (c) The initial report shall:

401 (i) ~~[a description of]~~ identify each moderate income housing strategy selected by the  
 402 specified municipality for continued, ongoing, or one-time implementation, restating the exact  
 403 language used to describe the moderate income housing strategy in Subsection

404 [10-9a-403\(2\)\(b\)\(iii\)](#); and

405 (ii) include an implementation plan.

406 ~~[(e)]~~ (3) (a) ~~[The moderate income housing report submitted in each calendar year after~~

407 ~~2022]~~ After the division approves a specified municipality's initial report under this section, the  
408 specified municipality shall, as an administrative act, annually submit to the division a  
409 subsequent progress report on or before August 1 of each year after the year in which the  
410 specified municipality is required to submit the initial report.

411 (b) The subsequent progress report shall include:

412 ~~[(i) the information required under Subsection (2)(b);]~~

413 ~~[(ii)]~~ (i) subject to Subsection (3)(c), a description of each action, whether one-time or  
414 ongoing, taken by the specified municipality during the previous [fiscal year] 12-month period  
415 to implement the moderate income housing strategies [selected by the specified municipality]  
416 identified in the initial report for implementation;

417 ~~[(iii)]~~ (ii) a description of each land use regulation or land use decision made by the  
418 specified municipality during the previous [fiscal year] 12-month period to implement the  
419 moderate income housing strategies, including an explanation of how the land use regulation or  
420 land use decision supports the specified municipality's efforts to implement the moderate  
421 income housing strategies;

422 ~~[(iv)]~~ (iii) a description of any barriers encountered by the specified municipality in the  
423 previous [fiscal year] 12-month period in implementing the moderate income housing  
424 strategies;

425 ~~[(v)]~~ (iv) information regarding the number of internal and external or detached  
426 accessory dwelling units located within the specified municipality for which the specified  
427 municipality:

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

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

430 ~~[(vi)]~~ (v) a description of how the market has responded to the selected moderate  
431 income housing strategies, including the number of entitled moderate income housing units or  
432 other relevant data; and

433 ~~[(vii)]~~ (vi) any recommendations on how the state can support the specified



434 municipality in implementing the moderate income housing strategies.

435 (c) For purposes of describing actions taken by a specified municipality under  
 436 Subsection (3)(b)(i), the specified municipality may include an ongoing action taken by the  
 437 specified municipality prior to the 12-month reporting period applicable to the subsequent  
 438 progress report if the specified municipality:

439 (i) has already adopted an ordinance, approved a land use application, made an  
 440 investment, or approved an agreement or financing that substantially promotes the  
 441 implementation of a moderate income housing strategy identified in the initial report; and

442 (ii) demonstrates in the subsequent progress report that the action taken under  
 443 Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified  
 444 municipality's implementation plan.

445 (d) ~~[The moderate income housing]~~ A specified municipality's report shall be in a  
 446 form:

447 (i) approved by the division; and

448 (ii) made available by the division on or before ~~[July]~~ May 1 of the year in which the  
 449 report is required.

450 ~~[(3)]~~ (4) Within 90 days after the day on which the division receives a specified  
 451 municipality's ~~[moderate income housing]~~ report, the division shall:

452 (a) post the report on the division's website;

453 (b) send a copy of the report to the Department of Transportation, the Governor's  
 454 Office of Planning and Budget, the association of governments in which the specified  
 455 municipality is located, and, if the specified municipality is located within the boundaries of a  
 456 metropolitan planning organization, the appropriate metropolitan planning organization; and

457 (c) subject to Subsection ~~[(4)]~~ (5), review the report to determine compliance with  
 458 ~~[Subsection (2)]~~ this section.

459 ~~[(4)]~~ (5) (a) ~~[The report described in Subsection (2)(b) complies with Subsection (2) if]~~  
 460 An initial report does not comply with this section unless the report:

- 461 (i) includes the information required under Subsection ~~[(2)(b)]~~ (2)(c);
- 462 (ii) demonstrates to the division that the specified municipality made plans to
- 463 implement:
- 464 (A) three or more moderate income housing strategies if the specified municipality
- 465 does not have a fixed guideway public transit station; or
- 466 (B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing
- 467 strategies if the specified municipality has a fixed guideway public transit station; and
- 468 (iii) is in a form approved by the division.
- 469 (b) ~~[The report described in Subsection (2)(c) complies with Subsection (2) if]~~ A
- 470 subsequent progress report does not comply with this section unless the report:
- 471 ~~[(i) includes the information required under Subsection (2)(c);]~~
- 472 ~~[(ii)]~~ (i) demonstrates to the division that the specified municipality made plans to
- 473 implement:
- 474 (A) three or more moderate income housing strategies if the specified municipality
- 475 does not have a fixed guideway public transit station; or
- 476 (B) ~~[four]~~ subject to the requirements of Subsection 10-9a-403(2)(a)(iii)(D), five or
- 477 more moderate income housing strategies if the specified municipality has a fixed guideway
- 478 public transit station;
- 479 ~~[(iii)]~~ (ii) is in a form approved by the division; and
- 480 ~~[(iv)]~~ (iii) provides sufficient information for the division to:
- 481 (A) assess the specified municipality's progress in implementing the moderate income
- 482 housing strategies;
- 483 (B) monitor compliance with the specified municipality's implementation plan;
- 484 (C) identify a clear correlation between the specified municipality's land use
- 485 regulations and land use decisions and the specified municipality's efforts to implement the
- 486 moderate income housing strategies; ~~[and]~~
- 487 (D) identify how the market has responded to the specified municipality's selected

488 moderate income housing strategies~~[-]; and~~

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

491 ~~[(5)]~~ (6) (a) A specified municipality qualifies for priority consideration under this  
492 Subsection ~~[(5)]~~ (6) if the specified municipality's ~~[moderate income housing]~~ report:

493 (i) complies with ~~[Subsection (2)]~~ this section; and

494 (ii) demonstrates to the division that the specified municipality made plans to  
495 implement:

496 (A) five or more moderate income housing strategies if the specified municipality does  
497 not have a fixed guideway public transit station; or

498 (B) six or more moderate income housing strategies if the specified municipality has a  
499 fixed guideway public transit station.

500 (b) ~~The [following apply to]~~ Transportation Commission may, in accordance with  
501 Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within  
502 the boundaries of a specified municipality described in Subsection [(5)(a) during the fiscal year  
503 immediately following the fiscal year in which the report is required:] (6)(a) until the  
504 Department of Transportation receives notice from the division under Subsection (6)(e).

505 ~~[(i) the Transportation Commission may give priority consideration to transportation~~  
506 ~~projects located within the boundaries of the specified municipality in accordance with~~  
507 ~~Subsection 72-1-304(3)(c); and]~~

508 ~~[(ii) the Governor's Office of Planning and Budget may give priority consideration for~~  
509 ~~awarding financial grants to the specified municipality under the COVID-19 Local Assistance~~  
510 ~~Matching Grant Program in accordance with Subsection 63J-4-802(6).]~~

511 (c) Upon determining that a specified municipality qualifies for priority consideration  
512 under this Subsection ~~[(5)]~~ (6), the division shall send a notice of prioritization to the  
513 legislative body of the specified municipality~~[-]; and~~ the Department of Transportation~~[-; and the~~  
514 ~~Governor's Office of Planning and Budget].~~

515 (d) The notice described in Subsection ~~[(5)(c)]~~ (6)(c) shall:  
516 (i) name the specified municipality that qualifies for priority consideration;  
517 (ii) describe the funds or projects for which the specified municipality qualifies to  
518 receive priority consideration; and  
519 ~~[(iii) specify the fiscal year during which the specified municipality qualifies for~~  
520 ~~priority consideration; and]~~  
521 ~~[(iv)]~~ (iii) state the basis for the division's determination that the specified municipality  
522 qualifies for priority consideration.  
523 (e) The division shall notify the legislative body of a specified municipality and the  
524 Department of Transportation in writing if the division determines that the specified  
525 municipality no longer qualifies for priority consideration under this Subsection (6).  
526 ~~[(6)]~~ (7) (a) If the division, after reviewing a specified municipality's [~~moderate income~~  
527 ~~housing~~] report, determines that the report does not comply with ~~[Subsection (2)]~~ this section,  
528 the division shall send a notice of noncompliance to the legislative body of the specified  
529 municipality.  
530 (b) A specified municipality that receives a notice of noncompliance may:  
531 (i) cure each deficiency in the report within 90 days after the day on which the notice of  
532 noncompliance is sent; or  
533 (ii) request an appeal of the division's determination of noncompliance within 10 days  
534 after the day on which the notice of noncompliance is sent.  
535 ~~[(b)]~~ (c) The notice described in Subsection ~~[(6)(a)]~~ (7)(a) shall:  
536 (i) describe each deficiency in the report and the actions needed to cure each  
537 deficiency;  
538 (ii) state that the specified municipality has an opportunity to ~~[cure the deficiencies]~~;  
539 (A) submit to the division a corrected report that cures each deficiency in the report  
540 within 90 days after the day on which the notice of compliance is sent; [and] or  
541 (B) submit to the division a request for an appeal of the division's determination of

542 noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

543 (iii) state that failure to [~~cure the deficiencies within 90 days after the day on which the~~  
544 ~~notice is sent~~] take action under Subsection (7)(c)(ii) will result in the specified municipality's  
545 ineligibility for funds under Subsection [~~(7)~~] (9).

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

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

555 (ii) A specified municipality that receives a second notice of noncompliance may  
556 submit to the division a request for an appeal of the division's determination of noncompliance  
557 within 10 days after the day on which the second notice of noncompliance is sent.

558 (iii) The notice described in Subsection (7)(e)(i) shall:

559 (A) state that the specified municipality has an opportunity to submit to the division a  
560 request for an appeal of the division's determination of noncompliance within 10 days after the  
561 day on which the second notice of noncompliance is sent; and

562 (B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the  
563 specified municipality's ineligibility for funds under Subsection (9).

564 (8) (a) A specified municipality that receives a notice of noncompliance under  
565 Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of  
566 noncompliance within 10 days after the day on which the notice of noncompliance is sent.

567 (b) Within 90 days after the day on which the division receives a request for an appeal,  
568 an appeal board consisting of the following three members shall review and issue a written

569 decision on the appeal:  
570       (i) one individual appointed by the Utah League of Cities and Towns;  
571       (ii) one individual appointed by the Utah Homebuilders Association; and  
572       (iii) one individual appointed by the presiding member of the association of  
573 governments, established pursuant to an interlocal agreement under Title 11, Chapter 13,  
574 Interlocal Cooperation Act, of which the specified municipality is a member.  
575       (c) The written decision of the appeal board shall either uphold or reverse the division's  
576 determination of noncompliance.  
577       (d) The appeal board's written decision on the appeal is final.  
578       ~~[(7)]~~ (9) (a) A specified municipality is ineligible for funds under this Subsection ~~[(7)~~  
579 ~~if the specified municipality]~~ (9) if:  
580       (i) the specified municipality fails to submit a [moderate income housing] report to the  
581 division; [or]  
582       (ii) [fails to cure the deficiencies in the specified municipality's moderate income  
583 housing report] after submitting a report to the division, the division determines that the report  
584 does not comply with this section and the specified municipality fails to:  
585       (A) cure each deficiency in the report within 90 days after the day on which the notice  
586 of noncompliance is sent; or  
587       (B) request an appeal of the division's determination of noncompliance within [90] 10  
588 days after the day on which the [division sent to the specified municipality a] notice of  
589 noncompliance [under Subsection (6):] is sent;  
590       (iii) after submitting to the division a corrected report to cure the deficiencies in a  
591 previously-submitted report, the division determines that the corrected report does not comply  
592 with this section and the specified municipality fails to request an appeal of the division's  
593 determination of noncompliance within 10 days after the day on which the second notice of  
594 noncompliance is sent; or  
595       (iv) after submitting a request for an appeal under Subsection (8), the appeal board

596 issues a written decision upholding the division's determination of noncompliance.

597 (b) The following apply to a specified municipality described in Subsection ~~[(7)(a)]~~  
598 ~~during the fiscal year immediately following the fiscal year in which the report is required]~~  
599 (9)(a) until the division provides notice under Subsection (9)(e):

600 (i) the executive director of the Department of Transportation may not program funds  
601 from the Transportation Investment Fund of 2005, including the Transit Transportation  
602 Investment Fund, to projects located within the boundaries of the specified municipality in  
603 accordance with Subsection 72-2-124(5); and

604 (ii) the Governor's Office of Planning and Budget may not award financial grants to the  
605 specified municipality under the COVID-19 Local Assistance Matching Grant Program in  
606 accordance with Subsection 63J-4-802(7).

607 (c) Upon determining that a specified municipality is ineligible for funds under this  
608 Subsection ~~[(7)]~~ (9), the division shall send a notice of ineligibility to the legislative body of  
609 the specified municipality, the Department of Transportation, and the Governor's Office of  
610 Planning and Budget.

611 (d) The notice described in Subsection ~~[(7)(c)]~~ (9)(c) shall:

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

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

614 ~~[(iii) specify the fiscal year during which the specified municipality is ineligible for~~  
615 ~~funds; and]~~

616 ~~[(iv)]~~ (iii) state the basis for the division's determination that the specified municipality  
617 is ineligible for funds.

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

621 ~~[(8)]~~ (10) In a civil action seeking enforcement or claiming a violation of this section  
622 or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded

623 only injunctive or other equitable relief.

624 Section 4. Section **17-27a-401** is amended to read:

625 **17-27a-401. General plan required -- Content -- Resource management plan --**  
626 **Provisions related to radioactive waste facility.**

627 (1) To accomplish the purposes of this chapter, a county shall prepare and adopt a  
628 comprehensive, long-range general plan:

629 (a) for present and future needs of the county;

630 (b) (i) for growth and development of all or any part of the land within the  
631 unincorporated portions of the county; or

632 (ii) if a county has designated a mountainous planning district, for growth and  
633 development of all or any part of the land within the mountainous planning district; and

634 (c) as a basis for communicating and coordinating with the federal government on land  
635 and resource management issues.

636 (2) To promote health, safety, and welfare, the general plan may provide for:

637 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic  
638 activities, aesthetics, and recreational, educational, and cultural opportunities;

639 (b) the reduction of the waste of physical, financial, or human resources that result  
640 from either excessive congestion or excessive scattering of population;

641 (c) the efficient and economical use, conservation, and production of the supply of:

642 (i) food and water; and

643 (ii) drainage, sanitary, and other facilities and resources;

644 (d) the use of energy conservation and solar and renewable energy resources;

645 (e) the protection of urban development;

646 (f) the protection and promotion of air quality;

647 (g) historic preservation;

648 (h) identifying future uses of land that are likely to require an expansion or significant  
649 modification of services or facilities provided by an affected entity; and



650 (i) an official map.

651 (3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408,  
652 shall include a moderate income housing element that meets the requirements of Subsection  
653 17-27a-403(2)(a)(iii).

654 ~~[(ii) On or before October 1, 2022, a specified county, as defined in Section~~  
655 ~~17-27a-408, with a general plan that does not comply with Subsection (3)(a)(i) shall amend the~~  
656 ~~general plan to comply with Subsection (3)(a)(i).]~~

657 (ii) (A) This Subsection (3)(a)(ii) applies to a county that does not qualify as a  
658 specified county as of January 1, 2023.

659 (B) As of January 1, if a county described in Subsection (3)(a)(ii)(A) changes from one  
660 class to another or grows in population to qualify as a specified county as defined in Section  
661 17-27a-408, the county shall amend the county's general plan to comply with Subsection  
662 (3)(a)(i) on or before August 1 of the first calendar year beginning on January 1 in which the  
663 county qualifies as a specified county.

664 (iii) A county described in Subsection (3)(a)(ii)(B) shall send a copy of the county's  
665 amended general plan to the association of governments, established pursuant to an interlocal  
666 agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a  
667 member.

668 (b) The general plan shall contain a resource management plan for the public lands, as  
669 defined in Section 63L-6-102, within the county.

670 (c) The resource management plan described in Subsection (3)(b) shall address:

671 (i) mining;

672 (ii) land use;

673 (iii) livestock and grazing;

674 (iv) irrigation;

675 (v) agriculture;

676 (vi) fire management;

- 677 (vii) noxious weeds;
  - 678 (viii) forest management;
  - 679 (ix) water rights;
  - 680 (x) ditches and canals;
  - 681 (xi) water quality and hydrology;
  - 682 (xii) flood plains and river terraces;
  - 683 (xiii) wetlands;
  - 684 (xiv) riparian areas;
  - 685 (xv) predator control;
  - 686 (xvi) wildlife;
  - 687 (xvii) fisheries;
  - 688 (xviii) recreation and tourism;
  - 689 (xix) energy resources;
  - 690 (xx) mineral resources;
  - 691 (xxi) cultural, historical, geological, and paleontological resources;
  - 692 (xxii) wilderness;
  - 693 (xxiii) wild and scenic rivers;
  - 694 (xxiv) threatened, endangered, and sensitive species;
  - 695 (xxv) land access;
  - 696 (xxvi) law enforcement;
  - 697 (xxvii) economic considerations; and
  - 698 (xxviii) air.
- 699 (d) For each item listed under Subsection (3)(c), a county's resource management plan
- 700 shall:
- 701 (i) establish findings pertaining to the item;
  - 702 (ii) establish defined objectives; and
  - 703 (iii) outline general policies and guidelines on how the objectives described in

704 Subsection (3)(d)(ii) are to be accomplished.

705 (4) (a) (i) The general plan shall include specific provisions related to an area within, or  
706 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a  
707 county, which are proposed for the siting of a storage facility or transfer facility for the  
708 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as  
709 these wastes are defined in Section 19-3-303.

710 (ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the  
711 proposed site upon the health and general welfare of citizens of the state, and shall provide:

712 (A) the information identified in Section 19-3-305;

713 (B) information supported by credible studies that demonstrates that Subsection  
714 19-3-307(2) has been satisfied; and

715 (C) specific measures to mitigate the effects of high-level nuclear waste and greater  
716 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

717 (b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance  
718 indicating that all proposals for the siting of a storage facility or transfer facility for the  
719 placement of high-level nuclear waste or greater than class C radioactive waste wholly or  
720 partially within the county are rejected.

721 (c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

722 (d) The county shall send a certified copy of the ordinance described in Subsection  
723 (4)(b) to the executive director of the Department of Environmental Quality by certified mail  
724 within 30 days of enactment.

725 (e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

726 (i) comply with Subsection (4)(a) as soon as reasonably possible; and

727 (ii) send a certified copy of the repeal to the executive director of the Department of  
728 Environmental Quality by certified mail within 30 days after the repeal.

729 (5) The general plan may define the county's local customs, local culture, and the  
730 components necessary for the county's economic stability.

731 (6) Subject to Subsection 17-27a-403(2), the county may determine the  
732 comprehensiveness, extent, and format of the general plan.

733 (7) If a county has designated a mountainous planning district, the general plan for the  
734 mountainous planning district is the controlling plan.

735 (8) Nothing in this part may be construed to limit the authority of the state to manage  
736 and protect wildlife under Title 23, Wildlife Resources Code of Utah.

737 (9) On or before December 31, 2025, a county that has a general plan that does not  
738 include a water use and preservation element that complies with Section 17-27a-403 shall  
739 amend the county's general plan to comply with Section 17-27a-403.

740 Section 5. Section 17-27a-403 is amended to read:

741 **17-27a-403. Plan preparation.**

742 (1) (a) The planning commission shall provide notice, as provided in Section  
743 17-27a-203, of the planning commission's intent to make a recommendation to the county  
744 legislative body for a general plan or a comprehensive general plan amendment when the  
745 planning commission initiates the process of preparing the planning commission's  
746 recommendation.

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

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

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

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

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

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

761 (i) a land use element that:

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

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

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

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

771 (ii) a transportation and traffic circulation element that:

772 (A) provides the general location and extent of existing and proposed freeways, arterial  
773 and collector streets, public transit, active transportation facilities, and other modes of  
774 transportation that the planning commission considers appropriate;

775 (B) addresses the county's plan for residential and commercial development around  
776 major transit investment corridors to maintain and improve the connections between housing,  
777 employment, education, recreation, and commerce; and

778 (C) correlates with the population projections, the employment projections, and the  
779 proposed land use element of the general plan;

780 (iii) for a specified county as defined in Section [17-27a-408](#), a moderate income  
781 housing element that:

782 (A) provides a realistic opportunity to meet the need for additional moderate income  
783 housing within the next five years;

784 (B) selects three or more moderate income housing strategies described in Subsection

785 (2)(b)(ii) for implementation;

786 (C) includes an implementation plan as provided in Subsection (2)(e);

787 (iv) a resource management plan detailing the findings, objectives, and policies

788 required by Subsection 17-27a-401(3); and

789 (v) a water use and preservation element that addresses:

790 (A) the effect of permitted development or patterns of development on water demand

791 and water infrastructure;

792 (B) methods of reducing water demand and per capita consumption for future

793 development;

794 (C) methods of reducing water demand and per capita consumption for existing

795 development; and

796 (D) opportunities for the county to modify the county's operations to eliminate

797 practices or conditions that waste water.

798 (b) In drafting the moderate income housing element, the planning commission:

799 (i) shall consider the Legislature's determination that counties should facilitate a

800 reasonable opportunity for a variety of housing, including moderate income housing:

801 (A) to meet the needs of people of various income levels living, working, or desiring to

802 live or work in the community; and

803 (B) to allow people with various incomes to benefit from and fully participate in all

804 aspects of neighborhood and community life; and

805 (ii) shall include an analysis of how the county will provide a realistic opportunity for

806 the development of moderate income housing within the planning horizon, including a

807 recommendation to implement three or more of the following moderate income housing

808 strategies:

809 (A) rezone for densities necessary to facilitate the production of moderate income

810 housing;

811 (B) demonstrate investment in the rehabilitation or expansion of infrastructure that

- 812 facilitates the construction of moderate income housing;
- 813           (C) demonstrate investment in the rehabilitation of existing uninhabitable housing
- 814 stock into moderate income housing;
- 815           (D) identify and utilize county general fund subsidies or other sources of revenue to
- 816 waive construction related fees that are otherwise generally imposed by the county for the
- 817 construction or rehabilitation of moderate income housing;
- 818           (E) create or allow for, and reduce regulations related to, internal or detached accessory
- 819 dwelling units in residential zones;
- 820           (F) zone or rezone for higher density or moderate income residential development in
- 821 commercial or mixed-use zones, commercial centers, or employment centers;
- 822           (G) amend land use regulations to allow for higher density or new moderate income
- 823 residential development in commercial or mixed-use zones near major transit investment
- 824 corridors;
- 825           (H) amend land use regulations to eliminate or reduce parking requirements for
- 826 residential development where a resident is less likely to rely on the resident's own vehicle,
- 827 such as residential development near major transit investment corridors or senior living
- 828 facilities;
- 829           (I) amend land use regulations to allow for single room occupancy developments;
- 830           (J) implement zoning incentives for moderate income units in new developments;
- 831           (K) preserve existing and new moderate income housing and subsidized units by
- 832 utilizing a landlord incentive program, providing for deed restricted units through a grant
- 833 program, or establishing a housing loss mitigation fund;
- 834           (L) reduce, waive, or eliminate impact fees related to moderate income housing;
- 835           (M) demonstrate creation of, or participation in, a community land trust program for
- 836 moderate income housing;
- 837           (N) implement a mortgage assistance program for employees of the county, an
- 838 employer that provides contracted services for the county, or any other public employer that

839 operates within the county;

840 (O) apply for or partner with an entity that applies for state or federal funds or tax  
841 incentives to promote the construction of moderate income housing, an entity that applies for  
842 programs offered by the Utah Housing Corporation within that agency's funding capacity, an  
843 entity that applies for affordable housing programs administered by the Department of  
844 Workforce Services, an entity that applies for services provided by a public housing authority  
845 to preserve and create moderate income housing, or any other entity that applies for programs  
846 or services that promote the construction or preservation of moderate income housing;

847 (P) demonstrate utilization of a moderate income housing set aside from a community  
848 reinvestment agency, redevelopment agency, or community development and renewal agency  
849 to create or subsidize moderate income housing;

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

852 (R) eliminate impact fees for any accessory dwelling unit that is not an internal  
853 accessory dwelling unit as defined in Section [10-9a-530](#);

854 (S) create a program to transfer development rights for moderate income housing;

855 (T) ratify a joint acquisition agreement with another local political subdivision for the  
856 purpose of combining resources to acquire property for moderate income housing;

857 (U) develop a moderate income housing project for residents who are disabled or 55  
858 years old or older;

859 (V) create or allow for, and reduce regulations related to, multifamily residential  
860 dwellings compatible in scale and form with detached single-family residential dwellings and  
861 located in walkable communities within residential or mixed-use zones; and

862 (W) demonstrate implementation of any other program or strategy to address the  
863 housing needs of residents of the county who earn less than 80% of the area median income,  
864 including the dedication of a local funding source to moderate income housing or the adoption  
865 of a land use ordinance that requires 10% or more of new residential development in a



866 residential zone be dedicated to moderate income housing.

867 (iii) If a specified county, as defined in Section 17-27a-408, has created a small public  
868 transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified  
869 county shall include as part of the specified county's recommended strategies under Subsection  
870 (2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q).

871 (iv) The planning commission shall identify each moderate income housing strategy  
872 recommended to the legislative body for implementation by restating the exact language used  
873 to describe the strategy in Subsection (2)(b)(ii).

874 (c) In drafting the land use element, the planning commission shall:

875 (i) identify and consider each agriculture protection area within the unincorporated area  
876 of the county or mountainous planning district;

877 (ii) avoid proposing a use of land within an agriculture protection area that is  
878 inconsistent with or detrimental to the use of the land for agriculture; and

879 (iii) consider and coordinate with any station area plans adopted by municipalities  
880 located within the county under Section 10-9a-403.1.

881 (d) In drafting the transportation and traffic circulation element, the planning  
882 commission shall:

883 (i) (A) consider and coordinate with the regional transportation plan developed by the  
884 county's region's metropolitan planning organization, if the relevant areas of the county are  
885 within the boundaries of a metropolitan planning organization; or

886 (B) consider and coordinate with the long-range transportation plan developed by the  
887 Department of Transportation, if the relevant areas of the county are not within the boundaries  
888 of a metropolitan planning organization; and

889 (ii) consider and coordinate with any station area plans adopted by municipalities  
890 located within the county under Section 10-9a-403.1.

891 (e) (i) In drafting the implementation plan portion of the moderate income housing  
892 element as described in Subsection (2)(a)(iii)(C), the planning commission shall [~~establish a~~]

893 recommend to the legislative body the establishment of a five-year timeline for implementing  
894 each of the moderate income housing strategies selected by the county for implementation.

895 (ii) The timeline described in Subsection (2)(e)(i) shall:

896 (A) identify specific measures and benchmarks for implementing each moderate  
897 income housing strategy selected by the county; and

898 (B) provide flexibility for the county to make adjustments as needed.

899 (f) In drafting the water use and preservation element, the planning commission:

900 (i) shall consider applicable regional water conservation goals recommended by the  
901 Division of Water Resources;

902 (ii) shall include a recommendation for:

903 (A) water conservation policies to be determined by the county; and

904 (B) landscaping options within a public street for current and future development that  
905 do not require the use of lawn or turf in a parkstrip;

906 (iii) shall review the county's land use ordinances and include a recommendation for  
907 changes to an ordinance that promotes the inefficient use of water;

908 (iv) shall consider principles of sustainable landscaping, including the:

909 (A) reduction or limitation of the use of lawn or turf;

910 (B) promotion of site-specific landscape design that decreases stormwater runoff or  
911 runoff of water used for irrigation;

912 (C) preservation and use of healthy trees that have a reasonable water requirement or  
913 are resistant to dry soil conditions;

914 (D) elimination or regulation of ponds, pools, and other features that promote  
915 unnecessary water evaporation;

916 (E) reduction of yard waste; and

917 (F) use of an irrigation system, including drip irrigation, best adapted to provide the  
918 optimal amount of water to the plants being irrigated;

919 (v) may include recommendations for additional water demand reduction strategies,

- 920 including:
- 921 (A) creating a water budget associated with a particular type of development;
- 922 (B) adopting new or modified lot size, configuration, and landscaping standards that
- 923 will reduce water demand for new single family development;
- 924 (C) providing one or more water reduction incentives for existing landscapes and
- 925 irrigation systems and installation of water fixtures or systems that minimize water demand;
- 926 (D) discouraging incentives for economic development activities that do not adequately
- 927 account for water use or do not include strategies for reducing water demand; and
- 928 (E) adopting water concurrency standards requiring that adequate water supplies and
- 929 facilities are or will be in place for new development; and
- 930 (vi) shall include a recommendation for low water use landscaping standards for a new:
- 931 (A) commercial, industrial, or institutional development;
- 932 (B) common interest community, as defined in Section [57-25-102](#); or
- 933 (C) multifamily housing project.
- 934 (3) The proposed general plan may include:
- 935 (a) an environmental element that addresses:
- 936 (i) to the extent not covered by the county's resource management plan, the protection,
- 937 conservation, development, and use of natural resources, including the quality of:
- 938 (A) air;
- 939 (B) forests;
- 940 (C) soils;
- 941 (D) rivers;
- 942 (E) groundwater and other waters;
- 943 (F) harbors;
- 944 (G) fisheries;
- 945 (H) wildlife;
- 946 (I) minerals; and

- 947 (J) other natural resources; and
- 948 (ii) (A) the reclamation of land, flood control, prevention and control of the pollution  
949 of streams and other waters;
- 950 (B) the regulation of the use of land on hillsides, stream channels and other  
951 environmentally sensitive areas;
- 952 (C) the prevention, control, and correction of the erosion of soils;
- 953 (D) the preservation and enhancement of watersheds and wetlands; and
- 954 (E) the mapping of known geologic hazards;
- 955 (b) a public services and facilities element showing general plans for sewage, water,  
956 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,  
957 police and fire protection, and other public services;
- 958 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and  
959 programs for:
- 960 (i) historic preservation;
- 961 (ii) the diminution or elimination of a development impediment as defined in Section  
962 [17C-1-102](#); and
- 963 (iii) redevelopment of land, including housing sites, business and industrial sites, and  
964 public building sites;
- 965 (d) an economic element composed of appropriate studies and forecasts, as well as an  
966 economic development plan, which may include review of existing and projected county  
967 revenue and expenditures, revenue sources, identification of basic and secondary industry,  
968 primary and secondary market areas, employment, and retail sales activity;
- 969 (e) recommendations for implementing all or any portion of the general plan, including  
970 the adoption of land and water use ordinances, capital improvement plans, community  
971 development and promotion, and any other appropriate action;
- 972 (f) provisions addressing any of the matters listed in Subsection [17-27a-401\(2\)](#) or  
973 (3)(a)(i); and

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

975 Section 6. Section **17-27a-408** is amended to read:

976 **17-27a-408. Moderate income housing report -- Contents -- Prioritization for**  
977 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

978 (1) As used in this section:

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

981 (b) "Implementation plan" means the implementation plan adopted as part of the  
982 moderate income housing element of a specified county's general plan as provided in  
983 Subsection [~~10-9a-403(2)(c)~~] 17-27a-403(2)(e).

984 (c) [~~"Moderate income housing report" or "report"~~] "Initial report" means the one-time  
985 moderate income housing report described in Subsection [~~(2)(a)~~] (2).

986 (d) "Moderate income housing strategy" means a strategy described in Subsection  
987 17-27a-403(2)(b)(ii).

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

989 [~~(e)~~] (f) "Specified county" means a county of the first, second, or third class, which  
990 has a population of more than 5,000 in the county's unincorporated areas.

991 (g) "Subsequent progress report" means the annual moderate income housing report  
992 described in Subsection (3).

993 (2) (a) [~~Beginning in 2022, on or before October 1 of each calendar year, the~~] The  
994 legislative body of a specified county shall annually submit [a written moderate income  
995 housing] an initial report to the division.

996 (b) (i) This Subsection (2)(b) applies to a county that is not a specified county as of  
997 January 1, 2023.

998 (ii) As of January 1, if a county described in Subsection (2)(b)(i) changes from one  
999 class to another or grows in population to qualify as a specified county, the county shall submit  
1000 an initial plan to the division on or before August 1 of the first calendar year beginning on

1001 January 1 in which the county qualifies as a specified county.

1002 ~~[(b) The moderate income housing report submitted in 2022 shall include:]~~

1003 (c) The initial report shall:

1004 (i) ~~[a description of]~~ identify each moderate income housing strategy selected by the

1005 specified county for continued, ongoing, or one-time implementation, using the exact language

1006 used to describe the moderate income housing strategy in Subsection 17-27a-403(2)(b)(ii); and

1007 (ii) include an implementation plan.

1008 ~~[(e) (3) (a) [The moderate income housing report submitted in each calendar year after~~

1009 ~~2022] After the division approves a specified county's initial report under this section, the~~

1010 specified county shall, as an administrative act, annually submit to the division a subsequent

1011 progress report on or before August 1 of each year after the year in which the specified county

1012 is required to submit the initial report.

1013 (b) The subsequent progress report shall include:

1014 ~~[(i) the information required under Subsection (2)(b);]~~

1015 ~~[(ii)]~~ (i) subject to Subsection (3)(c), a description of each action, whether one-time or

1016 ongoing, taken by the specified county during the previous [fiscal year] 12-month period to

1017 implement the moderate income housing strategies [selected by the specified county] identified

1018 in the initial report for implementation;

1019 ~~[(iii)]~~ (ii) a description of each land use regulation or land use decision made by the

1020 specified county during the previous [fiscal year] 12-month period to implement the moderate

1021 income housing strategies, including an explanation of how the land use regulation or land use

1022 decision supports the specified county's efforts to implement the moderate income housing

1023 strategies;

1024 ~~[(iv)]~~ (iii) a description of any barriers encountered by the specified county in the

1025 previous [fiscal year] 12-month period in implementing the moderate income housing

1026 strategies; [and]

1027 ~~[(v)]~~ (iv) information regarding the number of internal and external or detached

1028 accessory dwelling units located within the specified county for which the specified county:  
1029 (A) issued a building permit to construct; or  
1030 (B) issued a business license or comparable license or permit to rent;  
1031 [~~(vi)~~] (v) a description of how the market has responded to the selected moderate  
1032 income housing strategies, including the number of entitled moderate income housing units or  
1033 other relevant data; [~~and~~]  
1034 [~~(vii)~~] (vi) any recommendations on how the state can support the specified county in  
1035 implementing the moderate income housing strategies.  
1036 (c) For purposes of describing actions taken by a specified county under Subsection  
1037 (3)(b)(i), the specified county may include an ongoing action taken by the specified county  
1038 prior to the 12-month reporting period applicable to the subsequent progress report if the  
1039 specified county:  
1040 (i) has already adopted an ordinance, approved a land use application, made an  
1041 investment, or approved an agreement or financing that substantially promotes the  
1042 implementation of a moderate income housing strategy identified in the initial report; and  
1043 (ii) demonstrates in the subsequent progress report that the action taken under  
1044 Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified county's  
1045 implementation plan.  
1046 (d) [~~The moderate income housing~~] A specified county's report shall be in a form:  
1047 (i) approved by the division; and  
1048 (ii) made available by the division on or before [~~July~~] May 1 of the year in which the  
1049 report is required.  
1050 [~~(3)~~] (4) Within 90 days after the day on which the division receives a specified  
1051 county's [~~moderate income housing~~] report, the division shall:  
1052 (a) post the report on the division's website;  
1053 (b) send a copy of the report to the Department of Transportation, the Governor's  
1054 Office of Planning and Budget, the association of governments in which the specified county is

1055 located, and, if the unincorporated area of the specified county is located within the boundaries  
1056 of a metropolitan planning organization, the appropriate metropolitan planning organization;  
1057 and

1058 (c) subject to Subsection ~~[(4)]~~ (5), review the report to determine compliance with  
1059 ~~[Subsection (2)]~~ this section.

1060 ~~[(4)]~~ (5) (a) ~~[The report described in Subsection (2)(b) complies with Subsection (2) if]~~  
1061 An initial report does not comply with this section unless the report:

- 1062 (i) includes the information required under Subsection ~~[(2)(b)]~~ (2)(c);
- 1063 (ii) subject to Subsection (5)(c), demonstrates to the division that the specified county  
1064 made plans to implement three or more moderate income housing strategies; and
- 1065 (iii) is in a form approved by the division.

1066 (b) ~~[The report described in Subsection (2)(c) complies with Subsection (2) if]~~ A  
1067 subsequent progress report does not comply with this section unless the report:

- 1068 ~~[(i) includes the information required under Subsection (2)(c);]~~
- 1069 ~~[(ii)]~~ (i) subject to Subsection (5)(c), demonstrates to the division that the specified  
1070 county made plans to implement three or more moderate income housing strategies;
- 1071 ~~[(iii)]~~ (ii) is in a form approved by the division; and
- 1072 ~~[(iv)]~~ (iii) provides sufficient information for the division to:

1073 (A) assess the specified county's progress in implementing the moderate income  
1074 housing strategies;

1075 (B) monitor compliance with the specified county's implementation plan;

1076 (C) identify a clear correlation between the specified county's land use decisions and  
1077 efforts to implement the moderate income housing strategies; ~~[and]~~

1078 (D) identify how the market has responded to the specified county's selected moderate  
1079 income housing strategies~~[-];~~ and

1080 (E) identify any barriers encountered by the specified county in implementing the  
1081 selected moderate income housing strategies.



1082 (c) (i) This Subsection (5)(c) applies to a specified county that has created a small  
1083 public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

1084 (ii) In addition to the requirements of Subsections (5)(a) and (b), a report for a  
1085 specified county described in Subsection (5)(c)(i) does not comply with this section unless the  
1086 report demonstrates to the division that the specified county:

1087 (A) made plans to implement the moderate income housing strategy described in  
1088 Subsection 17-27a-403(2)(b)(ii)(Q); and

1089 (B) is in compliance with Subsection 63N-3-603(8).

1090 ~~[(5)]~~ (6) (a) A specified county qualifies for priority consideration under this  
1091 Subsection ~~[(5)]~~ (6) if the specified county's ~~[moderate income housing]~~ report:

1092 (i) complies with ~~[Subsection (2)]~~ this section; and

1093 (ii) demonstrates to the division that the specified county made plans to implement five  
1094 or more moderate income housing strategies.

1095 (b) The ~~[following apply to]~~ Transportation Commission may, in accordance with  
1096 Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within  
1097 the unincorporated areas of a specified county described in Subsection ~~[(5)(a) during the fiscal~~  
1098 year immediately following the fiscal year in which the report is required:] (6)(a) until the  
1099 Department of Transportation receives notice from the division under Subsection (6)(e).

1100 ~~[(i) the Transportation Commission may give priority consideration to transportation~~  
1101 ~~projects located within the unincorporated areas of the specified county in accordance with~~  
1102 ~~Subsection 72-1-304(3)(c); and]~~

1103 ~~[(ii) the Governor's Office of Planning and Budget may give priority consideration for~~  
1104 ~~awarding financial grants to the specified county under the COVID-19 Local Assistance~~  
1105 ~~Matching Grant Program in accordance with Subsection 63J-4-802(6).]~~

1106 (c) Upon determining that a specified county qualifies for priority consideration under  
1107 this Subsection ~~[(5)]~~ (6), the division shall send a notice of prioritization to the legislative body  
1108 of the specified county~~[-]~~ and the Department of Transportation~~[-]~~ and the Governor's Office of

1109 ~~Planning and Budget~~].

1110 (d) The notice described in Subsection [~~(5)(c)~~] (6)(c) shall:

1111 (i) name the specified county that qualifies for priority consideration;

1112 (ii) describe the funds or projects for which the specified county qualifies to receive  
1113 priority consideration; and

1114 [~~(iii) specify the fiscal year during which the specified county qualifies for priority  
1115 consideration; and]~~

1116 [~~(iv)~~] (iii) state the basis for the division's determination that the specified county  
1117 qualifies for priority consideration.

1118 (e) The division shall notify the legislative body of a specified county and the  
1119 Department of Transportation in writing if the division determines that the specified county no  
1120 longer qualifies for priority consideration under this Subsection (6).

1121 [~~(6)~~] (7) (a) If the division, after reviewing a specified county's [~~moderate income  
1122 housing~~] report, determines that the report does not comply with [~~Subsection (2)~~] this section,  
1123 the division shall send a notice of noncompliance to the legislative body of the specified  
1124 county.

1125 (b) A specified county that receives a notice of noncompliance may:

1126 (i) cure each deficiency in the report within 90 days after the day on which the notice of  
1127 noncompliance is sent; or

1128 (ii) request an appeal of the division's determination of noncompliance within 10 days  
1129 after the day on which the notice of noncompliance is sent.

1130 [~~(b)~~] (c) The notice described in Subsection [~~(6)(a)~~] (7)(a) shall:

1131 (i) describe each deficiency in the report and the actions needed to cure each  
1132 deficiency;

1133 (ii) state that the specified county has an opportunity to [~~cure the deficiencies~~];

1134 (A) submit to the division a corrected report that cures each deficiency in the report  
1135 within 90 days after the day on which the notice of noncompliance is sent; [~~and~~] or

1136 (B) submit to the division a request for an appeal of the division's determination of  
1137 noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

1138 (iii) state that failure to [~~cure the deficiencies within 90 days after the day on which the~~  
1139 ~~notice is sent~~] take action under Subsection (7)(c)(ii) will result in the specified county's  
1140 ineligibility for funds under Subsection [(7)] (9).

1141 (d) For purposes of curing the deficiencies in a report under this Subsection (7), if the  
1142 action needed to cure the deficiency as described by the division requires the specified county  
1143 to make a legislative change, the specified county may cure the deficiency by making that  
1144 legislative change within the 90-day cure period.

1145 (e) (i) If a specified county submits to the division a corrected report in accordance  
1146 with Subsection (7)(b)(i), and the division determines that the corrected report does not comply  
1147 with this section, the division shall send a second notice of noncompliance to the legislative  
1148 body of the specified county.

1149 (ii) A specified county that receives a second notice of noncompliance may request an  
1150 appeal of the division's determination of noncompliance within 10 days after the day on which  
1151 the second notice of noncompliance is sent.

1152 (iii) The notice described in Subsection (7)(e)(i) shall:

1153 (A) state that the specified county has an opportunity to submit to the division a request  
1154 for an appeal of the division's determination of noncompliance within 10 days after the day on  
1155 which the second notice of noncompliance is sent; and

1156 (B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the  
1157 specified county's ineligibility for funds under Subsection (9).

1158 (8) (a) A specified county that receives a notice of noncompliance under Subsection  
1159 (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance  
1160 within 10 days after the day on which the notice of noncompliance is sent.

1161 (b) Within 90 days after the day on which the division receives a request for an appeal,  
1162 an appeal board consisting of the following three members shall review and issue a written

1163 decision on the appeal:

1164       (i) one individual appointed by the Utah Association of Counties;

1165       (ii) one individual appointed by the Utah Homebuilders Association; and

1166       (iii) one individual appointed by the presiding member of the association of

1167 governments, established pursuant to an interlocal agreement under Title 11, Chapter 13,

1168 Interlocal Cooperation Act, of which the specified county is a member.

1169       (c) The written decision of the appeal board shall either uphold or reverse the division's

1170 determination of noncompliance.

1171       (d) The appeal board's written decision on the appeal is final.

1172       ~~[(7)]~~ (9) (a) A specified county is ineligible for funds under this Subsection ~~[(7) if the~~

1173 ~~specified county]~~ (9) if:

1174       (i) the specified county fails to submit a [moderate income housing] report to the

1175 division; [or]

1176       (ii) ~~[fails to cure the deficiencies in the specified county's moderate income housing~~

1177 ~~report]~~ after submitting a report to the division, the division determines that the report does not

1178 comply with this section and the specified county fails to:

1179       (A) cure each deficiency in the report within 90 days after the day on which the

1180 [division sent to the specified county a] notice of noncompliance [under Subsection (6)] is sent;

1181 or

1182       (B) request an appeal of the division's determination of noncompliance within 10 days

1183 after the day on which the notice of noncompliance is sent;

1184       (iii) after submitting to the division a corrected report to cure the deficiencies in a

1185 previously-submitted report, the division determines that the corrected report does not comply

1186 with this section and the specified county fails to request an appeal of the division's

1187 determination of noncompliance within 10 days after the day on which the second notice of

1188 noncompliance is sent; or

1189       (iv) after submitting a request for an appeal under Subsection (8), the appeal board

1190 issues a written decision upholding the division's determination of noncompliance.

1191 (b) The following apply to a specified county described in Subsection [~~(7)(a)~~ during the  
1192 ~~fiscal year immediately following the fiscal year in which the report is required]~~ (9)(a) until the  
1193 division provides notice under Subsection (9)(e):

1194 (i) the executive director of the Department of Transportation may not program funds  
1195 from the Transportation Investment Fund of 2005, including the Transit Transportation  
1196 Investment Fund, to projects located within the unincorporated areas of the specified county in  
1197 accordance with Subsection [72-2-124\(6\)](#); and

1198 (ii) the Governor's Office of Planning and Budget may not award financial grants to the  
1199 specified county under the COVID-19 Local Assistance Matching Grant Program in  
1200 accordance with Subsection [63J-4-802\(7\)](#).

1201 (c) Upon determining that a specified county is ineligible for funds under this  
1202 Subsection [~~(7)~~] (9), the division shall send a notice of ineligibility to the legislative body of  
1203 the specified county, the Department of Transportation, and the Governor's Office of Planning  
1204 and Budget.

1205 (d) The notice described in Subsection [~~(7)(c)~~] (9)(c) shall:

1206 (i) name the specified county that is ineligible for funds;

1207 (ii) describe the funds for which the specified county is ineligible to receive; and

1208 [~~(iii) specify the fiscal year during which the specified county is ineligible for funds;~~

1209 and]

1210 [~~(iv)~~] (iii) state the basis for the division's determination that the specified county is  
1211 ineligible for funds.

1212 (e) The division shall notify the legislative body of a specified county and the  
1213 Department of Transportation in writing if the division determines that the provisions of this  
1214 Subsection (9) no longer apply to the specified county.

1215 [~~(8)~~] (10) In a civil action seeking enforcement or claiming a violation of this section  
1216 or of Subsection [17-27a-404\(5\)\(c\)](#), a plaintiff may not recover damages but may be awarded

1217 only injunctive or other equitable relief.

1218 Section 7. Section **35A-8-2401** is enacted to read:

1219 **Part 24. Miscellaneous**

1220 **35A-8-2401. Accounting for expenditures authorized by the Utah Housing**  
1221 **Preservation Fund.**

1222 (1) This section applies to funds appropriated by the Legislature to the department for  
1223 pass-through to the Utah Housing Preservation Fund.

1224 (2) The department shall include in the annual written report described in Section  
1225 35A-1-109 a report accounting for the expenditures authorized by the Utah Housing  
1226 Preservation Fund.

1227 Section 8. Section **59-7-607** is amended to read:

1228 **59-7-607. Utah low-income housing tax credit.**

1229 (1) As used in this section:

1230 (a) "Allocation certificate" means a certificate in a form prescribed by the commission  
1231 and issued by the [~~Utah Housing Corporation~~] corporation to a housing sponsor that specifies  
1232 the aggregate amount of the tax credit awarded under this section to a qualified development  
1233 and includes:

1234 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one  
1235 or more qualified taxpayers [~~that have been issued a special low-income housing tax credit~~  
1236 ~~certificate~~]; and

1237 (ii) the credit period over which the tax credit may be claimed by one or more qualified  
1238 taxpayers [~~that have been issued a special low-income housing tax credit certificate~~].

1239 (b) "Building" means a qualified low-income building as defined in Section 42(c),  
1240 Internal Revenue Code.

1241 (c) "Corporation" means the Utah Housing Corporation created in Section 63H-8-201.

1242 [~~(c)~~] (d) [~~"Credit period" means the "credit period" as~~] Except as provided in  
1243 Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1),

1244 Internal Revenue Code.

1245 ~~[(d)]~~ (e) ~~[(f)]~~ "Designated reporter" means, as selected by a housing sponsor, the  
1246 housing sponsor ~~[itself]~~ or one of the housing sponsor's direct or indirect partners, members, or  
1247 shareholders that will provide information to the ~~[Utah Housing Corporation]~~ commission  
1248 regarding the ~~[assignment]~~ allocation of tax credits under this section.

1249 ~~[(ii) Before the Utah Housing Corporation may issue an allocation certificate to a~~  
1250 ~~housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's~~  
1251 ~~designated reporter to the Utah Housing Corporation.]~~

1252 ~~[(iii) Before the Utah Housing Corporation may issue a special low-income housing tax~~  
1253 ~~credit certificate to a qualified taxpayer, a designated reporter shall provide the information~~  
1254 ~~described in Subsection (6) to the Utah Housing Corporation.]~~

1255 ~~[(e)]~~ (f) "Federal low-income housing tax credit" means the federal tax credit described  
1256 in Section 42, Internal Revenue Code.

1257 ~~[(f)]~~ (g) "Housing sponsor" means an entity that owns a qualified development.

1258 (h) "Pass-through entity" means the same as that term is defined in Section  
1259 [59-10-1402](#).

1260 (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as  
1261 that term is defined in Section [59-10-1402](#).

1262 (ii) The determination of whether a pass-through entity taxpayer is considered a  
1263 partner, member, or shareholder of a pass-through entity shall be made in accordance with  
1264 applicable state law governing the pass-through entity.

1265 ~~[(g)]~~ (j) "Qualified allocation plan" means a qualified allocation plan adopted by the  
1266 ~~[Utah Housing Corporation]~~ corporation in accordance with Section 42(m), Internal Revenue  
1267 Code.

1268 ~~[(h)]~~ (k) "Qualified development" means a "qualified low-income housing project":

1269 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1270 (ii) that is located in the state.

1271           ~~[(i)]~~ (1) (i) "Qualified taxpayer" means a person that:  
1272           (A) owns a direct interest or an indirect interest, through one or more pass-through  
1273 entities, in a qualified development; and  
1274           (B) meets the requirements to claim a tax credit under this section.  
1275           (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit  
1276 under this section is passed through by a pass-through entity.  
1277           ~~[(i) If a housing sponsor is a partnership, limited liability company, or S corporation, a~~  
1278 ~~"qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor~~  
1279 ~~as determined by the governing documents of the housing sponsor.]~~  
1280           ~~[(j) (i) "Special low-income housing tax credit certificate" means a certificate:]~~  
1281           ~~[(A) in a form prescribed by the commission;]~~  
1282           ~~[(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year~~  
1283 ~~in accordance with this section; and]~~  
1284           ~~[(C) that specifies the amount of the tax credit a qualified taxpayer may claim under~~  
1285 ~~this section.]~~  
1286           ~~[(ii) The Utah Housing Corporation may only issue one or more special low-income~~  
1287 ~~housing tax credit certificates if the aggregate specified amount on all special low-income~~  
1288 ~~housing tax credit certificates issued in relation to a qualified development does not exceed the~~  
1289 ~~aggregate amount of tax credit awarded to the qualified development and issued to a housing~~  
1290 ~~sponsor in an allocation certificate.]~~  
1291           (2) (a) ~~[For taxable years beginning on or after January 1, 1995, a qualified taxpayer~~  
1292 ~~who has been issued a special low-income housing tax credit certificate by the Utah Housing~~  
1293 ~~Corporation may claim] A qualified taxpayer may claim a nonrefundable tax credit under this  
1294 section against taxes otherwise due under this chapter, Chapter 8, Gross Receipts Tax on  
1295 Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter  
1296 9, Taxation of Admitted Insurers.  
1297           (b) The tax credit shall be in an amount equal to the tax credit amount specified on the~~



1298 ~~[special low-income housing tax credit]~~ allocation certificate that the ~~[Utah Housing~~  
1299 ~~Corporation]~~ corporation issues to a ~~[qualified taxpayer]~~ housing sponsor under this section.

1300 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate  
1301 annual tax credit that the ~~[Utah Housing Corporation]~~ corporation may allocate for each year of  
1302 the credit period ~~[described in Section 42(f), Internal Revenue Code,]~~ pursuant to this section  
1303 and Section 59-10-1010 is an amount equal to the product of:

1304 (A) 12.5 cents; and

1305 (B) the population of Utah.

1306 (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or  
1307 before December 31, 2022, the aggregate annual tax credit that the ~~[Utah Housing Corporation]~~  
1308 corporation may allocate for each year of the credit period ~~[described in Section 42(f), Internal~~  
1309 ~~Revenue Code,]~~ pursuant to this section and Section 59-10-1010 is an amount equal to the  
1310 product of:

1311 (A) 34.5 cents; and

1312 (B) the population of Utah.

1313 (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or  
1314 before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for  
1315 each year of the credit period pursuant to this section and Section 59-10-1010 is \$10,000,000.

1316 (iv) For a calendar year beginning on or after January 1, 2029, the aggregate annual tax  
1317 credit that the corporation may allocate for each year of the credit period pursuant to this  
1318 section and Section 59-10-1010 is the amount described in Subsection (2)(c)(ii).

1319 ~~[(iii)]~~ (v) For purposes of this ~~[section]~~ Subsection (2)(c), the population of Utah shall  
1320 be determined in accordance with Section 146(j), Internal Revenue Code.

1321 (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity  
1322 may allocate a tax credit under this section to one or more of the pass-through entity's  
1323 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1324 (A) the pass-through entity taxpayer is eligible to claim any portion of a federal

1325 low-income housing tax credit for the qualified development;  
1326 (B) the allocation of the tax credit has substantial economic effect within the meaning  
1327 of Section 704(b), Internal Revenue Code; or  
1328 (C) the pass-through entity taxpayer is considered a partner for federal income tax  
1329 purposes.  
1330 (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity  
1331 taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity  
1332 under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the  
1333 pass-through entity is:  
1334 (A) acquired on or before December 31 of the tax year to which the tax credit relates;  
1335 and  
1336 (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax  
1337 credit relates.  
1338 (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another  
1339 taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity,  
1340 including the pass-through entity taxpayer's interest in the tax credit associated with the  
1341 ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax  
1342 credit so long as the assignee's ownership interest in the pass-through entity is:  
1343 (i) acquired on or before December 31 of the tax year to which the tax credit relates;  
1344 and  
1345 (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax  
1346 credit relates.  
1347 (3) (a) The [~~Utah Housing Corporation~~] corporation shall determine criteria and  
1348 procedures for allocating the tax credit under this section and Section 59-10-1010 and  
1349 incorporate the criteria and procedures into the [~~Utah Housing Corporation's~~] corporation's  
1350 qualified allocation plan.  
1351 (b) The [~~Utah Housing Corporation~~] corporation shall create the criteria under

1352 Subsection (3)(a) based on:

1353 (i) the number of affordable housing units to be created in Utah for low and moderate  
1354 income persons in a qualified development;

1355 (ii) the level of area median income being served by a qualified development;

1356 (iii) the need for the tax credit for the economic feasibility of a qualified development;

1357 and

1358 (iv) the extended period for which a qualified development commits to remain as  
1359 affordable housing.

1360 (4) Any housing sponsor may apply to the [~~Utah Housing Corporation~~] corporation for  
1361 a tax credit allocation under this section.

1362 (5) (a) (i) The [~~Utah Housing Corporation~~] corporation shall determine the amount of  
1363 the tax credit to allocate to a qualified development in accordance with the qualified allocation  
1364 plan [~~of the Utah Housing Corporation~~].

1365 (ii) (A) Before the allocation certificate is issued to the housing sponsor, the  
1366 corporation shall send to the housing sponsor written notice of the corporation's preliminary  
1367 determination of the tax credit amount to be allocated to the qualified development.

1368 (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's  
1369 preliminary determination of the tax credit amount to be allocated to the qualified development  
1370 for each year of the credit period and state that allocation of the tax credit is contingent upon  
1371 the issuance of an allocation certificate.

1372 [~~(b)~~] (iii) [~~(i) The Utah Housing Corporation~~] Upon approving a final cost certification  
1373 in accordance with the qualified allocation plan, the corporation shall issue an allocation  
1374 certificate to [a] the housing sponsor as evidence of the allocation.

1375 [~~(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the~~  
1376 ~~tax credit allocated to a qualified development as determined by the Utah Housing~~  
1377 ~~Corporation.~~]

1378 [~~(e)~~] (iv) The amount of the tax credit specified in an allocation certificate may not

1379 exceed 100% of the federal low-income housing tax credit awarded to a qualified development.

1380 (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the  
1381 corporation for a tax credit under this section and an allocation certificate is not yet issued, a  
1382 qualified taxpayer may claim a tax credit based upon the corporation's preliminary  
1383 determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

1384 (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified  
1385 taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to  
1386 adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is  
1387 different than the amount specified in the allocation certificate.

1388 (c) The amount of tax credit that may be claimed in the first year of the credit period  
1389 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1390 (d) On or before January 31 of each year, the corporation shall provide to the  
1391 commission in a form prescribed by the commission a report that describes each allocation  
1392 certificate that the corporation issued during the previous calendar year.

1393 (6) (a) A housing sponsor shall provide to the commission identification of the housing  
1394 sponsor's designated reporter.

1395 (b) [Before the Utah Housing Corporation may issue a special low-income housing tax  
1396 credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form  
1397 prescribed by the Utah Housing Corporation] For each tax year in which a tax credit is claimed  
1398 under this section, the designated reporter shall provide to the commission in a form prescribed  
1399 by the commission:

1400 [(a)] (i) a list of each qualified taxpayer that has been [assigned] allocated a portion of  
1401 the tax credit awarded in [an] the allocation certificate for that tax year;

1402 [(b)] (ii) [for each qualified taxpayer described in Subsection (6)(a),] the amount of tax  
1403 credit that has been [assigned] allocated to each qualified taxpayer described in Subsection  
1404 (6)(b)(i) for that tax year; and

1405 [(c)] (iii) [an aggregate list of the tax credit amount assigned related to a qualified

1406 development demonstrating that the aggregate annual amount of the tax credits assigned does  
1407 not exceed the aggregate annual tax credit awarded in the allocation certificate] any other  
1408 information, as prescribed by the commission, to demonstrate that the aggregate annual amount  
1409 of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate  
1410 annual tax credit amount specified in the allocation certificate.

1411 [~~(7) The Utah Housing Corporation shall provide a special low-income housing tax~~  
1412 ~~credit certificate to a qualified taxpayer if:]~~

1413 [~~(a) a designated reporter has provided the information regarding the qualified taxpayer~~  
1414 ~~as described in Subsection (6); and]~~

1415 [~~(b) the Utah Housing Corporation has verified that the aggregate tax credit amount~~  
1416 ~~assigned with respect to a qualified development does not exceed the total tax credit awarded~~  
1417 ~~in the allocation certificate.]~~

1418 [~~(8)~~] (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal  
1419 Revenue Code, shall apply to this section.

1420 (b) (i) If a qualified development is required to recapture a portion of any federal  
1421 low-income housing tax credit, then each qualified taxpayer that has been allocated a portion of  
1422 a tax credit under this section shall also be required to recapture a portion of [~~any state tax~~  
1423 ~~credits authorized by this section]~~ the tax credit under this section.

1424 (ii) The state recapture amount shall be equal to the percentage of the state tax credit  
1425 that equals the proportion the federal recapture amount bears to the original federal low-income  
1426 housing tax credit amount subject to recapture.

1427 (iii) The designated reporter shall identify each qualified taxpayer that is required to  
1428 recapture a portion of any state tax credit as described in this Subsection [~~(8)(b).~~] (7)(b).

1429 [~~(9)~~] (8) (a) Any tax credits returned to the [~~Utah Housing Corporation~~] corporation in  
1430 any year may be reallocated within the same time period as provided in Section 42, Internal  
1431 Revenue Code.

1432 (b) Tax credits that are unallocated by the [~~Utah Housing Corporation~~] corporation in

1433 any year may be carried over for allocation in subsequent years.

1434 ~~[(10)]~~ (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it  
1435 is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax  
1436 credit may be carried back three years or may be carried forward five years as a credit against  
1437 the tax.

1438 (b) Carryover tax credits under Subsection ~~[(10)(a)]~~ (9)(a) shall be applied against the  
1439 tax:

1440 (i) before the application of the tax credits earned in the current year; and

1441 (ii) on a first-earned first-used basis.

1442 ~~[(11)(a) A qualified taxpayer may assign a special low-income housing tax credit  
1443 certificate received under Subsection (7) to another person if the qualified taxpayer provides  
1444 written notice to the Utah Housing Corporation, in a form established by the Utah Housing  
1445 Corporation, that includes:]~~

1446 ~~[(i) the qualified taxpayer's written certification or other proof that the qualified  
1447 taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income  
1448 housing tax credit certificate; and]~~

1449 ~~[(ii) contact information for the person to whom the special low-income housing tax  
1450 credit certificate is to be assigned.]~~

1451 ~~[(b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah  
1452 Housing Corporation shall issue an assigned special low-income housing tax credit certificate  
1453 to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's  
1454 special low-income housing tax credit minus any state recapture amount under Subsection  
1455 (8)(b).]~~

1456 ~~[(c) A person who is assigned a special low-income housing tax credit certificate in  
1457 accordance with this Subsection (11) may claim the tax credit as if:]~~

1458 ~~[(i) the person had met the requirements of this section to claim the tax credit, if the  
1459 person files a return under this chapter, Chapter 8, Gross Receipts Tax on Certain Corporations~~

1460 ~~Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of~~  
1461 ~~Admitted Insurers; or]~~

1462 ~~[(ii) the person had met the requirements of Section 59-10-1010 to claim the tax credit~~  
1463 ~~under Section 59-10-1010, if the person files a return under Chapter 10, Individual Income Tax~~  
1464 ~~Act.]~~

1465 ~~[(12)] (10)~~ Any tax credit taken in this section may be subject to an annual audit by the  
1466 commission.

1467 ~~[(13)] (11)~~ The ~~[Utah Housing Corporation]~~ corporation shall annually provide an  
1468 electronic report to the Revenue and Taxation Interim Committee ~~[which shall include at least]~~  
1469 that includes:

1470 (a) the purpose and effectiveness of the tax credits; ~~[and]~~

1471 (b) any recommendations for legislative changes to the aggregate tax credit amount that  
1472 the corporation is authorized to allocate each year under Subsection (2)(c); and

1473 ~~[(b)] (c)~~ the benefits of the tax credits to the state.

1474 ~~[(14)] (12)~~ The commission may, in consultation with the ~~[Utah Housing Corporation]~~  
1475 corporation, make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
1476 Rulemaking Act, to implement this section.

1477 (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation  
1478 Interim Committee shall conduct a review of the aggregate tax credit amount that the  
1479 corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

1480 (b) In a review under this Subsection (13), the Revenue and Taxation Interim  
1481 Committee shall:

1482 (i) study any recommendations provided by the corporation under Subsection (11)(b);  
1483 and

1484 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative  
1485 action to the Legislature, prepare legislation for consideration by the Legislature in the next  
1486 general session.

1487 Section 9. Section **59-9-108** is amended to read:

1488 **59-9-108. Utah low-income housing tax credit.**

1489 (1) As used in this section~~[-]~~, "qualified taxpayer" means:

1490 (a) for a person claiming a tax credit under Section 59-7-607, the same as that term is  
1491 defined in Section 59-7-607; or

1492 (b) for a person claiming a tax credit under Section 59-10-1010, the same as that term  
1493 is defined in Section 59-10-1010.

1494 [~~(a) "Qualified taxpayer" means the same as that term is defined in Section 59-7-607.]~~

1495 [~~(b) "Special low-income housing tax credit certificate" means the same as that term is  
1496 defined in Section 59-7-607.]~~

1497 (2) A person may claim a nonrefundable tax credit against a tax liability under this  
1498 section if:

1499 (a) the person is a qualified taxpayer who has been issued [~~a special low-income  
1500 housing tax credit~~] an allocation certificate by the Utah Housing Corporation under Section  
1501 59-7-607 or 59-10-1010, and the qualified taxpayer does not claim the tax credit under [~~Title  
1502 59, Chapter 7, Corporate Franchise and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax  
1503 on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or under  
1504 Title 59, Chapter 10, Individual Income Tax Act~~] Chapter 7, Corporate Franchise and Income  
1505 Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate  
1506 Franchise or Income Tax Act, or Chapter 10, Individual Income Tax Act; or

1507 (b) the person has been [~~assigned a special~~] allocated a low-income housing tax credit  
1508 in accordance with [~~Subsection 59-7-607(11) or Subsection 59-10-1010(11)] Section 59-7-607  
1509 or 59-10-1010, and the person does not claim the tax credit under [~~Title 59, Chapter 7,  
1510 Corporate Franchise and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax on Certain  
1511 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or under Title 59,  
1512 Chapter 10, Individual Income Tax Act~~] Chapter 7, Corporate Franchise and Income Taxes,  
1513 Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate~~



1514 Franchise or Income Tax Act, or Chapter 10, Individual Income Tax Act.

1515 (3) (a) If a tax credit is not claimed by a qualified taxpayer or by a person who has been  
 1516 [~~assigned a special~~] allocated a low-income housing tax credit in the year in which the credit is  
 1517 earned because the tax credit is more than the tax liability owed, the tax credit may be carried  
 1518 back three years or may be carried forward five years as a credit against the tax liability.

1519 (b) Carryover tax credits under Subsection (3)(a) shall be applied against tax liability:

1520 (i) before the application of tax credits earned in the current year; and

1521 (ii) on a first-earned, first-used basis.

1522 (4) The commission may, in consultation with the Utah Housing Corporation, make  
 1523 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to  
 1524 implement this section.

1525 Section 10. Section **59-10-1010** is amended to read:

1526 **59-10-1010. Utah low-income housing tax credit.**

1527 (1) As used in this section:

1528 (a) "Allocation certificate" means a certificate in a form prescribed by the commission  
 1529 and issued by the [~~Utah Housing Corporation~~] corporation to a housing sponsor that specifies  
 1530 the aggregate amount of the tax credit awarded under this section to a qualified development  
 1531 and includes:

1532 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one  
 1533 or more qualified taxpayers [~~that have been issued a special low-income housing tax credit~~  
 1534 ~~certificate~~]; and

1535 (ii) the credit period over which the tax credit may be claimed by one or more qualified  
 1536 taxpayers [~~that have been issued a special low-income housing tax credit certificate~~].

1537 (b) "Building" means a qualified low-income building as defined in Section 42(c),  
 1538 Internal Revenue Code.

1539 (c) "Corporation" means the Utah Housing Corporation created in Section [63H-8-201](#).

1540 [~~(c)~~] (d) [~~"Credit period" means the "credit period" as~~] Except as provided in

1541 Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1),  
1542 Internal Revenue Code.

1543 ~~[(d)]~~ (e) [(i)] "Designated reporter" means, as selected by a housing sponsor, the  
1544 housing sponsor ~~[itself]~~ or one of the housing sponsor's direct or indirect partners, members, or  
1545 shareholders that will provide information to the ~~[Utah Housing Corporation]~~ commission  
1546 regarding the ~~[assignment]~~ allocation of tax credits under this section.

1547 ~~[(ii) Before the Utah Housing Corporation may issue an allocation certificate to a~~  
1548 ~~housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's~~  
1549 ~~designated reporter to the Utah Housing Corporation.]~~

1550 ~~[(iii) Before the Utah Housing Corporation may issue a special low-income housing tax~~  
1551 ~~credit certificate to a qualified taxpayer, a designated reporter shall provide the information~~  
1552 ~~described in Subsection (6) to the Utah Housing Corporation.]~~

1553 ~~[(e)]~~ (f) "Federal low-income housing credit" means the federal low-income housing  
1554 credit described in Section 42, Internal Revenue Code.

1555 ~~[(f)]~~ (g) "Housing sponsor" means an entity that owns a qualified development.

1556 (h) "Pass-through entity" means the same as that term is defined in Section  
1557 59-10-1402.

1558 (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as  
1559 that term is defined in Section 59-10-1402.

1560 (ii) The determination of whether a pass-through entity taxpayer is considered a  
1561 partner, member, or shareholder of a pass-through entity shall be made in accordance with  
1562 applicable state law governing the pass-through entity.

1563 ~~[(g)]~~ (j) "Qualified allocation plan" means a qualified allocation plan adopted by the  
1564 ~~[Utah Housing Corporation]~~ corporation in accordance with Section 42(m), Internal Revenue  
1565 Code.

1566 ~~[(h)]~~ (k) "Qualified development" means a "qualified low-income housing project":

1567 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1568 (ii) that is located in the state.

1569 ~~[(j)]~~ (l) (i) "Qualified taxpayer" means a claimant, estate, or trust that:

1570 (A) owns a direct or indirect interest, through one or more pass-through entities, in a

1571 qualified development; and

1572 (B) meets the requirements to claim a tax credit under this section.

1573 (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit

1574 under this section is passed through by a pass-through entity.

1575 ~~[(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a~~

1576 ~~"qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor~~

1577 ~~as determined by the governing documents of the housing sponsor.]~~

1578 ~~[(j) (i) "Special low-income housing tax credit certificate" means a certificate:]~~

1579 ~~[(A) in a form prescribed by the commission;]~~

1580 ~~[(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year~~

1581 ~~in accordance with this section; and]~~

1582 ~~[(C) that specifies the amount of the tax credit a qualified taxpayer may claim under~~

1583 ~~this section.]~~

1584 ~~[(ii) The Utah Housing Corporation may only issue one or more special low-income~~

1585 ~~housing tax credit certificates if the aggregate specified amount on all special low-income~~

1586 ~~housing tax credit certificates issued in relation to a qualified development does not exceed the~~

1587 ~~aggregate amount of tax credit awarded to a qualified development and issued to a housing~~

1588 ~~sponsor in an allocation certificate.]~~

1589 (2) (a) ~~[For taxable years beginning on or after January 1, 1995, a qualified taxpayer~~

1590 ~~who has been issued a special low-income housing tax credit certificate by the Utah Housing~~

1591 ~~Corporation]~~ A qualified taxpayer may claim a nonrefundable tax credit under this section

1592 against taxes otherwise due under this chapter.

1593 (b) The tax credit shall be in an amount equal to the tax credit amount specified on the

1594 ~~[special low-income housing tax credit]~~ allocation certificate that the ~~[Utah Housing~~

1595 ~~Corporation]~~ corporation issues to a ~~[qualified taxpayer]~~ housing sponsor under this section.

1596 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate  
1597 annual tax credit that the ~~[Utah Housing Corporation]~~ corporation may allocate for each year of  
1598 the credit period ~~[described in Section 42(f), Internal Revenue Code,]~~ pursuant to this section  
1599 and Section 59-7-607 is an amount equal to the product of:

1600 (A) 12.5 cents; and

1601 (B) the population of Utah.

1602 (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or  
1603 before December 31, 2022, the aggregate annual tax credit that the ~~[Utah Housing Corporation]~~  
1604 corporation may allocate for each year of the credit period ~~[described in Section 42(f), Internal~~  
1605 ~~Revenue Code,]~~ pursuant to this section and Section 59-7-607 is an amount equal to the  
1606 product of:

1607 (A) 34.5 cents; and

1608 (B) the population of Utah.

1609 (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or  
1610 before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for  
1611 each year of the credit period pursuant to this section and Section 59-7-607 is \$10,000,000.

1612 (iv) For a calendar year beginning on or after January 1, 2029, the aggregate annual tax  
1613 credit that the corporation may allocate for each year of the credit period pursuant to this  
1614 section and Section 59-7-607 is the amount described in Subsection (2)(c)(ii).

1615 [(iii)] (v) For purposes of this ~~[section]~~ Subsection (2)(c), the population of Utah shall  
1616 be determined in accordance with Section 146(j), Internal Revenue Code.

1617 (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity  
1618 may allocate a tax credit under this section to one or more of the pass-through entity's  
1619 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1620 (A) the pass-through entity taxpayer is eligible to claim any portion of a federal  
1621 low-income housing tax credit for the qualified development;

1622 (B) the allocation of the tax credit has substantial economic effect within the meaning  
1623 of Section 704(b), Internal Revenue Code; or

1624 (C) the pass-through entity taxpayer is considered a partner for federal income tax  
1625 purposes.

1626 (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity  
1627 taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity  
1628 under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the  
1629 pass-through entity is:

1630 (A) acquired on or before December 31 of the tax year to which the tax credit relates;  
1631 and

1632 (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax  
1633 credit relates.

1634 (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another  
1635 taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity,  
1636 including the pass-through entity taxpayer's interest in the tax credit associated with the  
1637 ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax  
1638 credit so long as the assignee's ownership interest in the pass-through entity is:

1639 (i) acquired on or before December 31 of the tax year to which the tax credit relates;  
1640 and

1641 (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax  
1642 credit relates.

1643 (3) (a) The [~~Utah Housing Corporation~~] corporation shall determine criteria and  
1644 procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate  
1645 the criteria and procedures into the [~~Utah Housing Corporation's~~] corporation's qualified  
1646 allocation plan.

1647 (b) The [~~Utah Housing Corporation~~] corporation shall create the criteria under  
1648 Subsection (3)(a) based on:

1649 (i) the number of affordable housing units to be created in Utah for low and moderate  
1650 income persons in a qualified development;

1651 (ii) the level of area median income being served by a qualified development;

1652 (iii) the need for the tax credit for the economic feasibility of a qualified development;

1653 and

1654 (iv) the extended period for which a qualified development commits to remain as  
1655 affordable housing.

1656 (4) Any housing sponsor may apply to the [~~Utah Housing Corporation~~] corporation for  
1657 a tax credit allocation under this section.

1658 (5) (a) (i) The [~~Utah Housing Corporation~~] corporation shall determine the amount of  
1659 the tax credit to allocate to a qualified development in accordance with the qualified allocation  
1660 plan [~~of the Utah Housing Corporation~~].

1661 (ii) (A) Before the allocation certificate is issued to the housing sponsor, the  
1662 corporation shall send to the housing sponsor written notice of the corporation's preliminary  
1663 determination of the tax credit amount to be allocated to the qualified development.

1664 (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's  
1665 preliminary determination of the tax credit amount to be allocated to the qualified development  
1666 for each year of the credit period and state that allocation of the tax credit is contingent upon  
1667 the issuance of an allocation certificate.

1668 [~~(b)~~] (iii) [(i) The Utah Housing Corporation] Upon approving a final cost certification  
1669 in accordance with the qualified allocation plan, the corporation shall issue an allocation  
1670 certificate to [a] the housing sponsor as evidence of the allocation.

1671 [~~(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the~~  
1672 ~~tax credit allocated to a qualified development as determined by the Utah Housing~~  
1673 ~~Corporation.]~~

1674 ~~[(e)]~~ (iv) The amount of the tax credit specified in an allocation certificate may not  
1675 exceed 100% of the federal low-income housing credit awarded to a qualified development.

1676 (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the  
1677 corporation for a tax credit under this section and an allocation certificate is not yet issued, a  
1678 qualified taxpayer may claim a tax credit based upon the corporation's preliminary  
1679 determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

1680 (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified  
1681 taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to  
1682 adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is  
1683 different than the amount specified in the allocation certificate.

1684 (c) The amount of tax credit that may be claimed in the first year of the credit period  
1685 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1686 (d) On or before January 31 of each year, the corporation shall provide to the  
1687 commission in a form prescribed by the commission a report that describes each allocation  
1688 certificate that the corporation issued during the previous calendar year.

1689 (6) (a) A housing sponsor shall provide to the commission identification of the housing  
1690 sponsor's designated reporter.

1691 (b) [Before the Utah Housing Corporation may issue a special low-income housing tax  
1692 credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form  
1693 prescribed by the Utah Housing Corporation] For each tax year in which a tax credit is claimed  
1694 under this section, the designated reporter shall provide to the commission in a form prescribed  
1695 by the commission:

1696 [(a)] (i) a list of each qualified taxpayer that has been [assigned] allocated a portion of  
1697 the tax credit awarded in [an] the allocation certificate for that tax year;

1698 [(b)] (ii) [for each qualified taxpayer described in Subsection (6)(a),] the amount of tax  
1699 credit that has been [assigned] allocated to each qualified taxpayer described in Subsection  
1700 (6)(b)(i) for that tax year; and

1701 [(c)] (iii) [an aggregate list of the tax credit amount assigned related to a qualified  
1702 development demonstrating that the aggregate annual amount of the tax credits assigned does

1703 ~~not exceed the aggregate annual tax credit awarded in the allocation certificate]~~ any other  
1704 information, as prescribed by the commission, to demonstrate that the aggregate annual amount  
1705 of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate  
1706 annual tax credit amount specified in the allocation certificate.

1707 ~~[(7) The Utah Housing Corporation shall provide a special low-income housing tax~~  
1708 ~~credit certificate to a qualified taxpayer if:]~~

1709 ~~[(a) a designated reporter has provided the information regarding the qualified taxpayer~~  
1710 ~~as described in Subsection (6); and]~~

1711 ~~[(b) the Utah Housing Corporation has verified that the aggregate tax credit amount~~  
1712 ~~assigned with respect to a qualified development does not exceed the total tax credit awarded~~  
1713 ~~in the allocation certificate.]~~

1714 ~~[(8)]~~ (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal  
1715 Revenue Code, shall apply to this section.

1716 (b) (i) If a qualified taxpayer is required to recapture a portion of any federal  
1717 low-income housing credit, the qualified taxpayer that has been allocated a portion of a tax  
1718 credit under this section shall also be required to recapture a portion of ~~[any state tax credits~~  
1719 ~~authorized by this section]~~ the tax credit under this section.

1720 (ii) The state recapture amount shall be equal to the percentage of the state tax credit  
1721 that equals the proportion the federal recapture amount bears to the original federal low-income  
1722 housing credit amount subject to recapture.

1723 (iii) The designated reporter shall identify each qualified taxpayer that is required to  
1724 recapture a portion of any state tax credits as described in this Subsection ~~[(8)(b)]~~ (7)(b).

1725 ~~[(9)]~~ (8) (a) Any tax credits returned to the ~~[Utah Housing Corporation]~~ corporation in  
1726 any year may be reallocated within the same time period as provided in Section 42, Internal  
1727 Revenue Code.

1728 (b) Tax credits that are unallocated by the ~~[Utah Housing Corporation]~~ corporation in  
1729 any year may be carried over for allocation in subsequent years.



1730           ~~[(10)]~~ (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it  
1731 is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax  
1732 credit may be carried back three years or may be carried forward five years as a credit against  
1733 the tax.

1734           (b) Carryover tax credits under Subsection ~~[(10)(a)]~~ (9)(a) shall be applied against the  
1735 tax:

1736           (i) before the application of the tax credits earned in the current year; and

1737           (ii) on a first-earned first-used basis.

1738           ~~[(11)(a) A qualified taxpayer may assign a special low-income housing tax credit~~  
1739 ~~certificate received under Subsection (7) to another person if the qualified taxpayer provides~~  
1740 ~~written notice to the Utah Housing Corporation, in a form established by the Utah Housing~~  
1741 ~~Corporation, that includes:]~~

1742           ~~[(i) the qualified taxpayer's written certification or other proof that the qualified~~  
1743 ~~taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income~~  
1744 ~~housing tax credit certificate; and]~~

1745           ~~[(ii) contact information for the person to whom the special low-income housing tax~~  
1746 ~~credit certificate is to be assigned:]~~

1747           ~~[(b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah~~  
1748 ~~Housing Corporation shall issue an assigned special low-income housing tax credit certificate~~  
1749 ~~to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's~~  
1750 ~~special low-income housing tax credit minus any state recapture amount under Subsection~~  
1751 ~~(8)(b):]~~

1752           ~~[(c) A person who is assigned a special low-income housing tax credit certificate in~~  
1753 ~~accordance with this Subsection (11) may claim the tax credit as if:]~~

1754           ~~[(i) the person had met the requirements of this section to claim the tax credit, if the~~  
1755 ~~person files a return under this chapter; or]~~

1756           ~~[(ii) the person had met the requirements of Section [59-7-607](#) to claim the tax credit~~

1757 under Section ~~59-7-607~~, if the person files a return under Chapter 7, Corporate Franchise and  
1758 Income Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay  
1759 Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.]

1760       ~~[(12)]~~ (10) Any tax credit taken in this section may be subject to an annual audit by the  
1761 commission.

1762       ~~[(13)]~~ (11) The ~~[Utah Housing Corporation]~~ corporation shall annually provide an  
1763 electronic report to the Revenue and Taxation Interim Committee ~~[which shall include at least]~~  
1764 that includes:

1765           (a) the purpose and effectiveness of the tax credits; ~~[and]~~

1766           ~~(b)~~ (b) any recommendations for legislative changes to the aggregate tax credit amount that  
1767 the corporation is authorized to allocate each year under Subsection (2)(c); and

1768           ~~[(b)]~~ (c) the benefits of the tax credits to the state.

1769       ~~[(14)]~~ (12) The commission may, in consultation with the ~~[Utah Housing Corporation]~~  
1770 corporation, promulgate rules to implement this section.

1771       (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation  
1772 Interim Committee shall conduct a review of the aggregate tax credit amount that the  
1773 corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

1774           (b) In a review under this Subsection (13), the Revenue and Taxation Interim  
1775 Committee shall:

1776           (i) study any recommendations provided by the corporation under Subsection (11)(b);  
1777 and

1778           (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative  
1779 action to the Legislature, prepare legislation for consideration by the Legislature in the next  
1780 general session.

1781       Section 11. Section **63J-4-802** is amended to read:

1782       **63J-4-802. Creation of COVID-19 Local Assistance Matching Grant Program --**  
1783 **Eligibility -- Duties of the office.**

1784 (1) There is established a grant program known as COVID-19 Local Assistance  
1785 Matching Grant Program that is administered by the office.

1786 (2) The office shall award financial grants to local governments that meet the  
1787 qualifications described in Subsection (3) to provide support for:

1788 (a) projects or services that address the economic impacts of the COVID-19 emergency  
1789 on housing insecurity, lack of affordable housing, or homelessness;

1790 (b) costs incurred in addressing public health challenges resulting from the COVID-19  
1791 emergency;

1792 (c) necessary investments in water and sewer infrastructure; or

1793 (d) any other purpose authorized under the American Rescue Plan Act.

1794 (3) To be eligible for a grant under this part, a local government shall:

1795 (a) provide matching funds in an amount determined by the office; and

1796 (b) certify that the local government will spend grant funds:

1797 (i) on a purpose described in Subsection (2);

1798 (ii) within the time period determined by the office; and

1799 (iii) in accordance with the American Rescue Plan Act.

1800 (4) As soon as is practicable, but on or before September 15, 2021, the office shall,  
1801 with recommendations from the review committee, establish:

1802 (a) procedures for applying for and awarding grants under this part, using an online  
1803 grants management system that:

1804 (i) manages each grant throughout the duration of the grant;

1805 (ii) allows for:

1806 (A) online submission of grant applications; and

1807 (B) auditing and reporting for a local government that receives grant funds; and

1808 (iii) generates reports containing information about each grant;

1809 (b) criteria for awarding grants; and

1810 (c) reporting requirements for grant recipients.

1811 (5) Subject to appropriation, the office shall award grant funds on a competitive basis  
1812 until December 31, 2024.

1813 [~~(6) If the office receives a notice of prioritization for a municipality as described in  
1814 Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection  
1815 17-27a-408(5), the office may prioritize the awarding of a financial grant under this section to  
1816 the municipality or county during the fiscal year specified in the notice.]~~

1817 [~~(7) If the office receives a notice of ineligibility for a municipality as described in  
1818 Subsection 10-9a-408(7), or a notice of ineligibility for a county as described in Subsection  
1819 17-27a-408(7), the office may not award a financial grant under this section to the municipality  
1820 or county during the fiscal year specified in the notice.]~~

1821 [(8)] (6) Before November 30 of each year, ending November 30, 2025, the office shall  
1822 submit a report to the Executive Appropriations Committee that includes:

1823 (a) a summary of the procedures, criteria, and requirements established under  
1824 Subsection (4);

1825 (b) a summary of the recommendations of the review committee under Section  
1826 63J-4-803;

1827 (c) the number of applications submitted under the grant program during the previous  
1828 year;

1829 (d) the number of grants awarded under the grant program during the previous year;

1830 (e) the aggregate amount of grant funds awarded under the grant program during the  
1831 previous year; and

1832 (f) any other information the office considers relevant to evaluating the success of the  
1833 grant program.

1834 [(9)] (7) The office may use funds appropriated by the Legislature for the grant  
1835 program to pay for administrative costs.

1836 Section 12. Section **72-1-304** is amended to read:

1837 **72-1-304. Written project prioritization process for new transportation capacity**

1838 **projects -- Rulemaking.**

1839 (1) (a) The Transportation Commission, in consultation with the department and the  
1840 metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written  
1841 prioritization process for the prioritization of:

1842 (i) new transportation capacity projects that are or will be part of the state highway  
1843 system under Chapter 4, Part 1, State Highways;

1844 (ii) paved pedestrian or paved nonmotorized transportation projects that:

1845 (A) mitigate traffic congestion on the state highway system; and

1846 (B) are part of an active transportation plan approved by the department;

1847 (iii) public transit projects that directly add capacity to the public transit systems within  
1848 the state, not including facilities ancillary to the public transit system; and

1849 (iv) pedestrian or nonmotorized transportation projects that provide connection to a  
1850 public transit system.

1851 (b) (i) A local government or district may nominate a project for prioritization in  
1852 accordance with the process established by the commission in rule.

1853 (ii) If a local government or district nominates a project for prioritization by the  
1854 commission, the local government or district shall provide data and evidence to show that:

1855 (A) the project will advance the purposes and goals described in Section 72-1-211;

1856 (B) for a public transit project, the local government or district has an ongoing funding  
1857 source for operations and maintenance of the proposed development; and

1858 (C) the local government or district will provide 40% of the costs for the project as  
1859 required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

1860 (2) The following shall be included in the written prioritization process under  
1861 Subsection (1):

1862 (a) a description of how the strategic initiatives of the department adopted under  
1863 Section 72-1-211 are advanced by the written prioritization process;

1864 (b) a definition of the type of projects to which the written prioritization process

1865 applies;

1866 (c) specification of a weighted criteria system that is used to rank proposed projects

1867 and how it will be used to determine which projects will be prioritized;

1868 (d) specification of the data that is necessary to apply the weighted ranking criteria; and

1869 (e) any other provisions the commission considers appropriate, which may include

1870 consideration of:

1871 (i) regional and statewide economic development impacts, including improved local

1872 access to:

1873 (A) employment;

1874 (B) educational facilities;

1875 (C) recreation;

1876 (D) commerce; and

1877 (E) residential areas, including moderate income housing as demonstrated in the local

1878 government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

1879 (ii) the extent to which local land use plans relevant to a project support and

1880 accomplish the strategic initiatives adopted under Section 72-1-211; and

1881 (iii) any matching funds provided by a political subdivision or public transit district in

1882 addition to the 40% required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

1883 (3) (a) When prioritizing a public transit project that increases capacity, the

1884 commission:

1885 (i) may give priority consideration to projects that are part of a transit-oriented

1886 development or transit-supportive development as defined in Section 17B-2a-802; and

1887 (ii) shall give priority consideration to projects that are within the boundaries of a

1888 housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6,

1889 Housing and Transit Reinvestment Zone Act.

1890 (b) When prioritizing a transportation project that increases capacity, the commission

1891 may give priority consideration to projects that are:

1892 (i) part of a transportation reinvestment zone created under Section 11-13-227 if:  
1893 (A) the state is a participant in the transportation reinvestment zone; or  
1894 (B) the commission finds that the transportation reinvestment zone provides a benefit  
1895 to the state transportation system; or  
1896 (ii) within the boundaries of a housing and transit reinvestment zone created pursuant  
1897 to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.  
1898 (c) If the department receives a notice of prioritization for a municipality as described  
1899 in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection  
1900 17-27a-408(5), the commission may~~[- during the fiscal year specified in the notice,]~~ give  
1901 priority consideration to transportation projects that are within the boundaries of the  
1902 municipality or the unincorporated areas of the county until the department receives  
1903 notification from the Housing and Community Development Division within the Department  
1904 of Workforce Services that the municipality or county no longer qualifies for prioritization  
1905 under this Subsection (3)(c).  
1906 (4) In developing the written prioritization process, the commission:  
1907 (a) shall seek and consider public comment by holding public meetings at locations  
1908 throughout the state; and  
1909 (b) may not consider local matching dollars as provided under Section 72-2-123 unless  
1910 the state provides an equal opportunity to raise local matching dollars for state highway  
1911 improvements within each county.  
1912 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1913 Transportation Commission, in consultation with the department, shall make rules establishing  
1914 the written prioritization process under Subsection (1).  
1915 (6) The commission shall submit the proposed rules under this section to a committee  
1916 or task force designated by the Legislative Management Committee for review prior to taking  
1917 final action on the proposed rules or any proposed amendment to the rules described in  
1918 Subsection (5).

1919 Section 13. Section **72-2-124** is amended to read:  
1920 **72-2-124. Transportation Investment Fund of 2005.**  
1921 (1) There is created a capital projects fund entitled the Transportation Investment Fund  
1922 of 2005.  
1923 (2) The fund consists of money generated from the following sources:  
1924 (a) any voluntary contributions received for the maintenance, construction,  
1925 reconstruction, or renovation of state and federal highways;  
1926 (b) appropriations made to the fund by the Legislature;  
1927 (c) registration fees designated under Section [41-1a-1201](#);  
1928 (d) the sales and use tax revenues deposited into the fund in accordance with Section  
1929 [59-12-103](#); and  
1930 (e) revenues transferred to the fund in accordance with Section [72-2-106](#).  
1931 (3) (a) The fund shall earn interest.  
1932 (b) All interest earned on fund money shall be deposited into the fund.  
1933 (4) (a) Except as provided in Subsection (4)(b), the executive director may only use  
1934 fund money to pay:  
1935 (i) the costs of maintenance, construction, reconstruction, or renovation to state and  
1936 federal highways prioritized by the Transportation Commission through the prioritization  
1937 process for new transportation capacity projects adopted under Section [72-1-304](#);  
1938 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway  
1939 projects described in Subsections [63B-18-401](#)(2), (3), and (4);  
1940 (iii) principal, interest, and issuance costs of bonds authorized by Section [63B-18-401](#)  
1941 minus the costs paid from the County of the First Class Highway Projects Fund in accordance  
1942 with Subsection [72-2-121](#)(4)(e);  
1943 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt  
1944 Lake County Revenue Bond Sinking Fund created by Section [72-2-121.3](#) the amount certified  
1945 by Salt Lake County in accordance with Subsection [72-2-121.3](#)(4)(c) as necessary to pay the



1946 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

1947 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101

1948 for projects prioritized in accordance with Section 72-2-125;

1949 (vi) all highway general obligation bonds that are intended to be paid from revenues in

1950 the Centennial Highway Fund created by Section 72-2-118;

1951 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First

1952 Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described

1953 in Section 72-2-121;

1954 (viii) if a political subdivision provides a contribution equal to or greater than 40% of

1955 the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved

1956 nonmotorized transportation for projects that:

1957 (A) mitigate traffic congestion on the state highway system;

1958 (B) are part of an active transportation plan approved by the department; and

1959 (C) are prioritized by the commission through the prioritization process for new

1960 transportation capacity projects adopted under Section 72-1-304;

1961 (ix) \$705,000,000 for the costs of right-of-way acquisition, construction,

1962 reconstruction, or renovation of or improvement to the following projects:

1963 (A) the connector road between Main Street and 1600 North in the city of Vineyard;

1964 (B) Geneva Road from University Parkway to 1800 South;

1965 (C) the SR-97 interchange at 5600 South on I-15;

1966 (D) two lanes on U-111 from Herriman Parkway to 11800 South;

1967 (E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

1968 (F) improvements to 1600 North in Orem from 1200 West to State Street;

1969 (G) widening I-15 between mileposts 6 and 8;

1970 (H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

1971 (I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in

1972 Spanish Fork Canyon;

1973 (J) I-15 northbound between mileposts 43 and 56;

1974 (K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43

1975 and 45.1;

1976 (L) east Zion SR-9 improvements;

1977 (M) Toquerville Parkway;

1978 (N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

1979 (O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for

1980 construction of an interchange on Bangerter Highway at 13400 South; and

1981 (P) an environmental impact study for Kimball Junction in Summit County; and

1982 (x) \$28,000,000 as pass-through funds, to be distributed as necessary to pay project

1983 costs based upon a statement of cash flow that the local jurisdiction where the project is located

1984 provides to the department demonstrating the need for money for the project, for the following

1985 projects in the following amounts:

1986 (A) \$5,000,000 for Payson Main Street repair and replacement;

1987 (B) \$8,000,000 for a Bluffdale 14600 South railroad bypass;

1988 (C) \$5,000,000 for improvements to 4700 South in Taylorsville; and

1989 (D) \$10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40

1990 between mile markers 7 and 10.

1991 (b) The executive director may use fund money to exchange for an equal or greater

1992 amount of federal transportation funds to be used as provided in Subsection (4)(a).

1993 (5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of

1994 ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director

1995 may not program fund money to a project prioritized by the commission under Section

1996 72-1-304, including fund money from the Transit Transportation Investment Fund, within the

1997 boundaries of the municipality [~~during the fiscal year specified in the notice~~] until the

1998 department receives notification from the Housing and Community Development Division

1999 within the Department of Workforce Services that ineligibility under this Subsection (5) no

2000 longer applies to the municipality.

2001 (b) Within the boundaries of a municipality described in Subsection (5)(a), the  
2002 executive director:

2003 (i) may program fund money in accordance with Subsection (4)(a) for a limited-access  
2004 facility or interchange connecting limited-access facilities;

2005 (ii) may not program fund money for the construction, reconstruction, or renovation of  
2006 an interchange on a limited-access facility;

2007 (iii) may program Transit Transportation Investment Fund money for a  
2008 multi-community fixed guideway public transportation project; and

2009 (iv) may not program Transit Transportation Investment Fund money for the  
2010 construction, reconstruction, or renovation of a station that is part of a fixed guideway public  
2011 transportation project.

2012 (c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive  
2013 director before July 1, 2022, for projects prioritized by the commission under Section  
2014 [72-1-304](#).

2015 (6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of  
2016 ineligibility for a county as described in Subsection [17-27a-408\(7\)](#), the executive director may  
2017 not program fund money to a project prioritized by the commission under Section [72-1-304](#),  
2018 including fund money from the Transit Transportation Investment Fund, within the boundaries  
2019 of the unincorporated area of the county [~~during the fiscal year specified in the notice~~] until the  
2020 department receives notification from the Housing and Community Development Division  
2021 within the Department of Workforce Services that ineligibility under this Subsection (6) no  
2022 longer applies to the county.

2023 (b) Within the boundaries of the unincorporated area of a county described in  
2024 Subsection (6)(a), the executive director:

2025 (i) may program fund money in accordance with Subsection (4)(a) for a limited-access  
2026 facility to a project prioritized by the commission under Section [72-1-304](#);

2027 (ii) may not program fund money for the construction, reconstruction, or renovation of  
2028 an interchange on a limited-access facility;

2029 (iii) may program Transit Transportation Investment Fund money for a  
2030 multi-community fixed guideway public transportation project; and

2031 (iv) may not program Transit Transportation Investment Fund money for the  
2032 construction, reconstruction, or renovation of a station that is part of a fixed guideway public  
2033 transportation project.

2034 (c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive  
2035 director before July 1, 2022, for projects prioritized by the commission under Section  
2036 [72-1-304](#).

2037 (7) (a) Before bonds authorized by Section [63B-18-401](#) or [63B-27-101](#) may be issued  
2038 in any fiscal year, the department and the commission shall appear before the Executive  
2039 Appropriations Committee of the Legislature and present the amount of bond proceeds that the  
2040 department needs to provide funding for the projects identified in Subsections [63B-18-401](#)(2),  
2041 (3), and (4) or Subsection [63B-27-101](#)(2) for the current or next fiscal year.

2042 (b) The Executive Appropriations Committee of the Legislature shall review and  
2043 comment on the amount of bond proceeds needed to fund the projects.

2044 (8) The Division of Finance shall, from money deposited into the fund, transfer the  
2045 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by  
2046 Section [63B-18-401](#) or [63B-27-101](#) in the current fiscal year to the appropriate debt service or  
2047 sinking fund.

2048 (9) (a) There is created in the Transportation Investment Fund of 2005 the Transit  
2049 Transportation Investment Fund.

2050 (b) The fund shall be funded by:

2051 (i) contributions deposited into the fund in accordance with Section [59-12-103](#);

2052 (ii) appropriations into the account by the Legislature;

2053 (iii) deposits of sales and use tax increment related to a housing and transit

2054 reinvestment zone as described in Section 63N-3-610;

2055 (iv) private contributions; and

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

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

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

2059 (d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund:

2060 (i) for public transit capital development of new capacity projects and fixed guideway

2061 capital development projects to be used as prioritized by the commission through the

2062 prioritization process adopted under Section 72-1-304;

2063 (ii) for development of the oversight plan described in Section 72-1-202(5); or

2064 (iii) to the department for oversight of a fixed guideway capital development project

2065 for which the department has responsibility.

2066 (e) (i) The Legislature may only appropriate money from the fund for a public transit

2067 capital development project or pedestrian or nonmotorized transportation project that provides

2068 connection to the public transit system if the public transit district or political subdivision

2069 provides funds of equal to or greater than 40% of the costs needed for the project.

2070 (ii) A public transit district or political subdivision may use money derived from a loan

2071 granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or

2072 part of the 40% requirement described in Subsection (9)(e)(i) if:

2073 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2,

2074 State Infrastructure Bank Fund; and

2075 (B) the proposed capital project has been prioritized by the commission pursuant to

2076 Section 72-1-303.

2077 (f) Before July 1, 2022, the department and a large public transit district shall enter into

2078 an agreement for a large public transit district to pay the department \$5,000,000 per year for 15

2079 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and

2080 trainsets for regional public transit rail systems.

2081 (10) (a) There is created in the Transportation Investment Fund of 2005 the  
2082 Cottonwood Canyons Transportation Investment Fund.

2083 (b) The fund shall be funded by:

2084 (i) money deposited into the fund in accordance with Section [59-12-103](#);

2085 (ii) appropriations into the account by the Legislature;

2086 (iii) private contributions; and

2087 (iv) donations or grants from public or private entities.

2088 (c) (i) The fund shall earn interest.

2089 (ii) All interest earned on fund money shall be deposited into the fund.

2090 (d) The Legislature may appropriate money from the fund for public transit or  
2091 transportation projects in the Cottonwood Canyons of Salt Lake County.

2092 Section 14. **Effective date.**

2093 (1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

2094 (2) If approved by two-thirds of all the members elected to each house, the actions  
2095 affecting the following sections take effect upon approval by the governor, or the day following  
2096 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's  
2097 signature, or in the case of a veto, the date of veto override:

2098 (a) Section [10-9a-401](#);

2099 (b) Section [10-9a-403](#);

2100 (c) Section [10-9a-408](#);

2101 (d) Section [17-27a-401](#);

2102 (e) Section [17-27a-403](#); and

2103 (f) Section [17-27a-408](#).

2104 Section 15. **Retrospective operation.**

2105 The changes to Sections [59-7-607](#), [59-9-108](#), and [59-10-1010](#) in this bill have  
2106 retrospective operation for a taxable year beginning on or after January 1, 2023.

2107 Section 16. **Coordinating H.B. 364 with S.B. 174 -- Superseding amendments.**

2108           If this H.B. 364 and S.B. 174, Local Land Use and Development Revisions, both pass  
2109 and become law, when the Office of Legislative Research and General Counsel prepares the  
2110 Utah Code database for publication, it is the intent of the Legislature that:

2111           (1) the amendments to Subsection 10-9a-408(5) in this bill supersede the amendments  
2112 to Subsection [10-9a-408\(5\)](#) in S.B. 174; and

2113           (2) the amendments to Subsection 17-27a-408(5) in this bill supersede the amendments  
2114 to Subsection [17-27a-408\(5\)](#) in S.B. 174.