

HB0364S06 compared with HB0364S05

~~text~~ shows text that was in HB0364S05 but was deleted in HB0364S06.

text shows text that was not in HB0364S05 but was inserted into HB0364S06.

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Senator Lincoln Fillmore proposes the following substitute bill:

HOUSING AFFORDABILITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen L. Whyte

Senate Sponsor: ~~_____~~ Lincoln Fillmore

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ modifies provisions related to the moderate income housing reporting requirements for certain cities and counties;
- ▶ allows a city or county to appeal the Housing and Community Development Division's determination of noncompliance in relation to city and county moderate income housing reports;
- ▶ establishes an appeal board to hear and decide appeals in relation to city and county moderate income housing reports;

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- ▶ requires the Department of Workforce Services to report annually on expenditures authorized by the Utah Housing Preservation Fund;
- ▶ allows for state low-income housing tax credits to be allocated, by pass-through, to certain business entities;
- ▶ increases the aggregate annual amount of state low-income housing tax credits that may be allocated in certain years;
- ▶ allows a taxpayer to claim a state low-income housing tax credit before final certification from the Utah Housing Corporation in certain circumstances;
- ▶ requires the Legislature to conduct reviews of the aggregate annual amount of state low-income housing tax credits that the Utah Housing Corporation is authorized to allocate and has allocated; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

ENACTS:

35A-8-2401, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

10-9a-408, Utah Code Annotated 1953

17-27a-408, Utah Code Annotated 1953

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

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

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

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

- (a) present and future needs of the municipality; and
- (b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

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

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

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

(i) food and water; and

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

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

(e) the protection of urban development;

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

(g) the protection and promotion of air quality;

(h) historic preservation;

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

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(j) an official map.

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

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

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

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

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

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

10-9a-403. General plan preparation.

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

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

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

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the

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concurrence of the county or other municipalities affected.

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

(i) a land use element that:

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

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

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

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

(ii) a transportation and traffic circulation element that:

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

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

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

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

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

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

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

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

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

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

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

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

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

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

(D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water.

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

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

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(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for ~~[other municipalities]~~ a specified municipality as defined in Section 10-9a-408, shall include, a recommendation to implement ~~[three or more of the following]~~ the required number of any of the following moderate income housing strategies as specified in Subsection (2)(a)(iii):

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

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;

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

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

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

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

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

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

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

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

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

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

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

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

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

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

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

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

(U) develop a moderate income housing project for residents who are disabled or 55

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years old or older;

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

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

(X) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) shall consider:

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

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

(ii) shall include a recommendation for:

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

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

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

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

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

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

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

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

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unnecessary water evaporation;

(E) reduction of yard waste; and

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

(v) shall consult with the public water system or systems serving the municipality with drinking water regarding how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

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

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

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing development such as modification of existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(vii) for a town, may include, and for another municipality, shall include, a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

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(i) the protection, conservation, development, and use of natural resources, including the quality of:

- (A) air;
- (B) forests;
- (C) soils;
- (D) rivers;
- (E) groundwater and other waters;
- (F) harbors;
- (G) fisheries;
- (H) wildlife;
- (I) minerals; and
- (J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

- (C) the prevention, control, and correction of the erosion of soils;
- (D) the preservation and enhancement of watersheds and wetlands; and
- (E) the mapping of known geologic hazards;

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

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

- (i) historic preservation;
- (ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and
- (iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal

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revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

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

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

(g) any other element the municipality considers appropriate.

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The initial report shall:

(i) [a description of] identify each moderate income housing strategy selected by the specified municipality for continued, ongoing, or one-time implementation, restating the exact language used to describe the moderate income housing strategy in Subsection 10-9a-403(2)(b)(iii); and

(ii) include an implementation plan.

~~[(c)] (3) (a) [The moderate income housing report submitted in each calendar year after 2022]~~ After the division approves a specified municipality's initial report under this section, the specified municipality shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified municipality is required to submit the initial report.

(b) The subsequent progress report shall include:

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

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

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

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

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previous ~~[fiscal year]~~ 12-month period in implementing the moderate income housing strategies;

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

(A) issued a building permit to construct; or

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

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

~~[(vii)]~~ (vi) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.

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

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

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

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

(i) approved by the division; and

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

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

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

(b) send a copy of the report to the Department of Transportation, the Governor's

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Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

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

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

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

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

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

(B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station; and

(iii) is in a form approved by the division.

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

~~[(i) includes the information required under Subsection (2)(c);]~~

~~[(ii)]~~ (i) demonstrates to the division that the specified municipality made plans to implement:

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

(B) ~~[four]~~ subject to the requirements of Subsection 10-9a-403(2)(a)(iii)(D), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station;

~~[(iii)]~~ (ii) is in a form approved by the division; and

~~[(iv)]~~ (iii) provides sufficient information for the division to:

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

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

(C) identify a clear correlation between the specified municipality's land use

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regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies; ~~and~~

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

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

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

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

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

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

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

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

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

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

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

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

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(i) name the specified municipality that qualifies for priority consideration;
(ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration; and

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

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

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

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

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

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

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

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

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

(ii) state that the specified municipality has an opportunity to [~~cure the deficiencies~~]:

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

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

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

(d) For purposes of curing the deficiencies in a report under this Subsection (7), if the

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action needed to cure the deficiency as described by the division requires the specified municipality to make a legislative change, the specified municipality may cure the deficiency by making that legislative change within the 90-day cure period.

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

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

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

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

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

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

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

(i) one individual appointed by the Utah League of Cities and Towns;

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

(iii) one individual appointed by the presiding member of the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified municipality is a member.

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

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

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

(i) the specified municipality fails to submit a ~~[moderate income housing]~~ report to the division; ~~[or]~~

(ii) ~~[fails to cure the deficiencies in the specified municipality's moderate income housing report]~~ after submitting a report to the division, the division determines that the report does not comply with this section and the specified municipality fails to:

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

(B) request an appeal of the division's determination of noncompliance within ~~[90]~~ 10 days after the day on which the ~~[division sent to the specified municipality a]~~ notice of noncompliance ~~[under Subsection (6):]~~ is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a previously-submitted report, the division determines that the corrected report does not comply with this section and the specified municipality fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written decision upholding the division's determination of noncompliance.

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

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

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

(c) Upon determining that a specified municipality is ineligible for funds under this Subsection ~~[(7)]~~ (9), the division shall send a notice of ineligibility to the legislative body of

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the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) the reduction of the waste of physical, financial, or human resources that result

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from either excessive congestion or excessive scattering of population;

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

(i) food and water; and

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

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

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation;

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

(i) an official map.

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

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

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

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

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

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

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

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- (i) mining;
- (ii) land use;
- (iii) livestock and grazing;
- (iv) irrigation;
- (v) agriculture;
- (vi) fire management;
- (vii) noxious weeds;
- (viii) forest management;
- (ix) water rights;
- (x) ditches and canals;
- (xi) water quality and hydrology;
- (xii) flood plains and river terraces;
- (xiii) wetlands;
- (xiv) riparian areas;
- (xv) predator control;
- (xvi) wildlife;
- (xvii) fisheries;
- (xviii) recreation and tourism;
- (xix) energy resources;
- (xx) mineral resources;
- (xxi) cultural, historical, geological, and paleontological resources;
- (xxii) wilderness;
- (xxiii) wild and scenic rivers;
- (xxiv) threatened, endangered, and sensitive species;
- (xxv) land access;
- (xxvi) law enforcement;
- (xxvii) economic considerations; and
- (xxviii) air.

(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:

- (i) establish findings pertaining to the item;

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(ii) establish defined objectives; and

(iii) outline general policies and guidelines on how the objectives described in Subsection (3)(d)(ii) are to be accomplished.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17-27a-403. Plan preparation.

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

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

(i) the unincorporated area within the county; or

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

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

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

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

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry,

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agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

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

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

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

(ii) a transportation and traffic circulation element that:

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

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

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

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

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

(B) selects three or more moderate income housing strategies described in Subsection (2)(b)(ii) for implementation;

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

(iv) a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3); and

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

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

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

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

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development; and

(D) opportunities for the county to modify the county's operations to eliminate practices or conditions that waste water.

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

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:

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

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;

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

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones, commercial centers, or employment centers;

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

(H) amend land use regulations to eliminate or reduce parking requirements for

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residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

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

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

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries

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of a metropolitan planning organization; and

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

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

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

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

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

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

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

(ii) shall include a recommendation for:

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

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

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

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

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

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

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

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

(E) reduction of yard waste; and

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

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

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

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(vi) shall include a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

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(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

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

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

(i) historic preservation;

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

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

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

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

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

(g) any other element the county considers appropriate.

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

(c) The initial report shall:

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

(ii) include an implementation plan.

[~~(c)~~] (3) (a) [~~The moderate income housing report submitted in each calendar year after 2022~~] After the division approves a specified county's initial report under this section, the specified county shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified county

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is required to submit the initial report.

(b) The subsequent progress report shall include:

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

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

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

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

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

(A) issued a building permit to construct; or

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

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

~~[(vii)]~~ (vi) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.

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

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

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

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

(i) approved by the division; and

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

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

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

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

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

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

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

(ii) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies; and

(iii) is in a form approved by the division.

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

~~[(i) includes the information required under Subsection (2)(c);]~~

~~[(ii)]~~ (i) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies;

~~[(iii)]~~ (ii) is in a form approved by the division; and

~~[(iv)]~~ (iii) provides sufficient information for the division to:

(A) assess the specified county's progress in implementing the moderate income

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housing strategies;

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified county under the COVID-19 Local Assistance~~

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~~Matching Grant Program in accordance with Subsection 63J-4-802(6):]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified county is a member.

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

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

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

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

(ii) [fails to cure the deficiencies in the specified county's moderate income housing report] after submitting a report to the division, the division determines that the report does not comply with this section and the specified county fails to:

(A) cure each deficiency in the report within 90 days after the day on which the [division sent to the specified county a] notice of noncompliance [under Subsection (6)] is sent;
or

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

(iii) after submitting to the division a corrected report to cure the deficiencies in a previously-submitted report, the division determines that the corrected report does not comply with this section and the specified county fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written decision upholding the division's determination of noncompliance.

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

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

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

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

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

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

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

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

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

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

~~[(8)] (10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.~~

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

Part 24. Miscellaneous

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

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

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

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

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

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(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) that is located in the state.

~~[(t)] (l)~~ (i) "Qualified taxpayer" means a person that:

(A) owns a direct interest or an indirect interest, through one or more pass-through entities, in a qualified development; and

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

(ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit under this section is passed through by a pass-through entity.

~~[(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor as determined by the governing documents of the housing sponsor.]~~

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

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

~~[(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year in accordance with this section; and]~~

~~[(C) that specifies the amount of the tax credit a qualified taxpayer may claim under this section.]~~

~~[(ii) The Utah Housing Corporation may only issue one or more special low-income housing tax credit certificates if the aggregate specified amount on all special low-income housing tax credit certificates issued in relation to a qualified development does not exceed the aggregate amount of tax credit awarded to the qualified development and issued to a housing sponsor in an allocation certificate.]~~

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(2) (a) [~~For taxable years beginning on or after January 1, 1995, a qualified taxpayer who has been issued a special low-income housing tax credit certificate by the Utah Housing Corporation may claim~~] A qualified taxpayer may claim a nonrefundable tax credit under this section against taxes otherwise due under this chapter, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.

(b) The tax credit shall be in an amount equal to the tax credit amount specified on the [~~special low-income housing tax credit~~] allocation certificate that the [~~Utah Housing Corporation~~] corporation issues to a [~~qualified taxpayer~~] housing sponsor under this section.

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

- (A) 12.5 cents; and
- (B) the population of Utah.

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

- (A) 34.5 cents; and
- (B) the population of Utah.

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

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

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

(d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity

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may allocate a tax credit under this section to one or more of the pass-through entity's pass-through entity taxpayers in any manner agreed upon, regardless of whether:

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

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

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

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

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

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

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

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

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

(3) (a) The [~~Utah Housing Corporation~~] corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria and procedures into the [~~Utah Housing Corporation's~~] corporation's qualified allocation plan.

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

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

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

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

and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[(c)] (iii) [an aggregate list of the tax credit amount assigned related to a qualified development demonstrating that the aggregate annual amount of the tax credits assigned does not exceed the aggregate annual tax credit awarded in the allocation certificate] any other information, as prescribed by the commission, to demonstrate that the aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate annual tax credit amount specified in the allocation certificate.

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

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

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

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

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

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

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

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

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

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

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

- (i) before the application of the tax credits earned in the current year; and
- (ii) on a first-earned first-used basis.

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

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

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

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

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

~~[(i) the person had met the requirements of this section to claim the tax credit, if the person files a return under this chapter, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers; or]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) the person has been [~~assigned a special~~] allocated a low-income housing tax credit

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in accordance with [~~Subsection 59-7-607(11) or Subsection 59-10-1010(11)~~] Section 59-7-607 or 59-10-1010, and the person does not claim the tax credit under [~~Title 59, Chapter 7, Corporate Franchise and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or under Title 59, Chapter 10, Individual Income Tax Act~~] Chapter 7, Corporate Franchise and Income Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 10, Individual Income Tax Act.

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

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

- (i) before the application of tax credits earned in the current year; and
- (ii) on a first-earned, first-used basis.

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) that is located in the state.

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

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(A) owns a direct or indirect interest, through one or more pass-through entities, in a qualified development; and

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

(ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit under this section is passed through by a pass-through entity.

~~[(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor as determined by the governing documents of the housing sponsor.]~~

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

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

~~[(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year in accordance with this section; and]~~

~~[(C) that specifies the amount of the tax credit a qualified taxpayer may claim under this section.]~~

~~[(ii) The Utah Housing Corporation may only issue one or more special low-income housing tax credit certificates if the aggregate specified amount on all special low-income housing tax credit certificates issued in relation to a qualified development does not exceed the aggregate amount of tax credit awarded to a qualified development and issued to a housing sponsor in an allocation certificate.]~~

(2) (a) ~~[For taxable years beginning on or after January 1, 1995, a qualified taxpayer who has been issued a special low-income housing tax credit certificate by the Utah Housing Corporation]~~ A qualified taxpayer may claim a nonrefundable tax credit under this section against taxes otherwise due under this chapter.

(b) The tax credit shall be in an amount equal to the tax credit amount specified on the ~~[special low-income housing tax credit]~~ allocation certificate that the ~~[Utah Housing Corporation]~~ corporation issues to a ~~[qualified taxpayer]~~ housing sponsor under this section.

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

(A) 12.5 cents; and

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(B) the population of Utah.

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

(A) 34.5 cents; and

(B) the population of Utah.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and

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

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

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

(ii) (A) Before the allocation certificate is issued to the housing sponsor, the corporation shall send to the housing sponsor written notice of the corporation's preliminary

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determination of the tax credit amount to be allocated to the qualified development.

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

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

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

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

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

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

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

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

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

~~(b) [Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form prescribed by the Utah Housing Corporation]~~ For each tax year in which a tax credit is claimed

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under this section, the designated reporter shall provide to the commission in a form prescribed by the commission:

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

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

~~[(c)]~~ (iii) ~~[an aggregate list of the tax credit amount assigned related to a qualified development demonstrating that the aggregate annual amount of the tax credits assigned does not exceed the aggregate annual tax credit awarded in the allocation certificate]~~ any other information, as prescribed by the commission, to demonstrate that the aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate annual tax credit amount specified in the allocation certificate.

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

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

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

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

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

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

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

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

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

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

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

- (i) before the application of the tax credits earned in the current year; and
- (ii) on a first-earned first-used basis.

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

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

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

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

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

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

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~~[(ii) the person had met the requirements of Section 59-7-607 to claim the tax credit under Section 59-7-607, if the person files a return under Chapter 7, Corporate Franchise and Income Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The office shall award financial grants to local governments that meet the

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qualifications described in Subsection (3) to provide support for:

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) allows for:

(A) online submission of grant applications; and

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

(iii) generates reports containing information about each grant;

(b) criteria for awarding grants; and

(c) reporting requirements for grant recipients.

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

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

~~[(7) If the office receives a notice of ineligibility for a municipality as described in~~

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

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

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

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

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

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

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

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

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

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

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

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

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

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

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

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

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

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

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

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

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

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

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

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

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

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

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

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

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improvements within each county.

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

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

Section 13. Section **72-2-124** is amended to read:

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

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

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

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

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

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

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

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

(3) (a) The fund shall earn interest.

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

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

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

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

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance

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with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

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

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

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

(ix) \$705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

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

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

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

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

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

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

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

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

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

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

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

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

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

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

(x) \$28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

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

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

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

(D) \$10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality [~~during the fiscal year specified in the notice~~] until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

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

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access

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facility or interchange connecting limited-access facilities;

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

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

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

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

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

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

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

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

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

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

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive

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director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

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

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

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

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

(b) The fund shall be funded by:

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

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) private contributions; and

(v) donations or grants from public or private entities.

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

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

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304;

(ii) for development of the oversight plan described in Section 72-1-202(5); or

(iii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility.

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(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department \$5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

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

(b) The fund shall be funded by:

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

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

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

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

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

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

Section 14. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) If approved by two-thirds of all the members elected to each house, the actions affecting the following sections take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's

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signature, or in the case of a veto, the date of veto override:

- (a) Section 10-9a-401;
- (b) Section 10-9a-403;
- (c) Section 10-9a-408;
- (d) Section 17-27a-401;
- (e) Section 17-27a-403; and
- (f) Section 17-27a-408.

Section 15. **Retrospective operation.**

The changes to Sections 59-7-607, 59-9-108, and 59-10-1010 in this bill have retrospective operation for a taxable year beginning on or after January 1, 2023.

Section 16. **Coordinating H.B. 364 with S.B. 174 -- Superseding amendments.**

If this H.B. 364 and S.B. 174, Local Land Use and Development Revisions, both pass and become law, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication, it is the intent of the Legislature that:

(1) the amendments to Subsection 10-9a-408(5) in this bill supersede the amendments to Subsection 10-9a-408(5) in S.B. 174; and

(2) the amendments to Subsection 17-27a-408(5) in this bill supersede the amendments to Subsection 17-27a-408(5) in S.B. 174.