

Representative Stephen L. Whyte proposes the following substitute bill:

1                   **HOUSING AFFORDABILITY REVISIONS**

2                   2024 GENERAL SESSION

3                   STATE OF UTAH

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

5                   Senate Sponsor: Lincoln Fillmore

---

---

6                   **LONG TITLE**

7                   **General Description:**

8                   This bill addresses funding issues related to housing affordability.

9                   **Highlighted Provisions:**

10                  This bill:

- 11                 ▶ defines terms and modifies definitions;
- 12                 ▶ modifies the requirements for a moderate income housing report;
- 13                 ▶ authorizes redevelopment agencies and community development agencies to use
- 14                 funding to pay for or contribute to the acquisition, construction, or rehabilitation of
- 15                 income targeted housing, under certain circumstances;

16                 ▶ authorizes up to 6% of the Olene Walker Housing Loan Fund to be used to offset  
17                 administrative expenses;

18                 ▶ requires the Department of Workforce Services to create pass-through funding  
19                 agreements;

20                 ▶ describes the minimum requirements of a pass-through funding agreement,  
21                 including requirements that state funds be spent on certain affordable housing  
22                 investments;

23                 ▶ modifies the Utah low-income housing tax credit;  
24                 ▶ encourages the Point of the Mountain State Land Authority to, if appropriate, utilize



26 land use authority to increase the supply of housing in the state;  
27       ▸ modifies reporting requirements; and  
28       ▸ makes technical changes.

29 **Money Appropriated in this Bill:**

30       None

31 **Other Special Clauses:**

32       None

33 **Utah Code Sections Affected:**

34 AMENDS:

35       **10-9a-408**, as last amended by Laws of Utah 2023, Chapters 88, 501 and 529 and last  
36 amended by Coordination Clause, Laws of Utah 2023, Chapter 88

37       **11-59-203**, as last amended by Laws of Utah 2022, Chapter 406

38       **17-27a-408**, as last amended by Laws of Utah 2023, Chapters 88, 501 and 529 and last  
39 amended by Coordination Clause, Laws of Utah 2023, Chapter 88

40       **17C-1-102**, as last amended by Laws of Utah 2023, Chapter 15

41       **17C-1-412**, as last amended by Laws of Utah 2023, Chapters 471, 492

42       **35A-8-504**, as last amended by Laws of Utah 2022, Chapter 406

43       **35A-8-2401**, as enacted by Laws of Utah 2023, Chapter 88

44       **59-7-538**, as enacted by Laws of Utah 2022, Chapter 258

45       **59-7-607**, as last amended by Laws of Utah 2023, Chapter 88

46       **59-10-552**, as last amended by Laws of Utah 2023, Chapter 471

47       **59-10-1010**, as last amended by Laws of Utah 2023, Chapter 88

48       **59-12-352**, as last amended by Laws of Utah 2023, Chapter 263

---

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

50           Section 1. Section **10-9a-408** is amended to read:

51           **10-9a-408. Moderate income housing report -- Contents -- Prioritization for  
funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

52           (1) As used in this section:

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

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

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

62           (d) "Moderate income housing strategy" means a strategy described in Subsection  
63 10-9a-403(2)(b)(iii).

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

65           (f) "Specified municipality" means:

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

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

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

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

71           (2) (a) The legislative body of a specified municipality shall submit an initial report to  
72 the division.

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

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

80           (c) The initial report shall:

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

84           (ii) include an implementation plan.

85           (3) (a) After the division approves a specified municipality's initial report under this  
86 section, the specified municipality shall, as an administrative act, annually submit to the  
87 division a subsequent progress report on or before August 1 of each year after the year in which

88 the specified municipality is required to submit the initial report.

89 (b) The subsequent progress report shall include:

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

94 (ii) a description of each land use regulation or land use decision made by the specified  
95 municipality during the previous 12-month period to implement the moderate income housing  
96 strategies, including an explanation of how the land use regulation or land use decision  
97 supports the specified municipality's efforts to implement the moderate income housing  
98 strategies;

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

101 (iv) information regarding the number of internal and external or detached accessory  
102 dwelling units located within the specified municipality for which the specified municipality:

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

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

105 (v) the number of residential dwelling units that have been entitled ~~S~~ → [~~, according to the~~  
106 ~~specified municipality's zoning map,~~] ← ~~S~~ that have not received a building permit as of the  
107 submission date of the progress report;

108 (vi) shapefiles, or website links if shapefiles are not available, to current maps and  
109 tables related to zoning;

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

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

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

- 119                   (i) has already adopted an ordinance, approved a land use application, made an  
120 investment, or approved an agreement or financing that substantially promotes the  
121 implementation of a moderate income housing strategy identified in the initial report; and  
122                   (ii) demonstrates in the subsequent progress report that the action taken under  
123 Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified  
124 municipality's implementation plan.
- 125                   (d) A specified municipality's report shall be in a form:  
126                   (i) approved by the division; and  
127                   (ii) made available by the division on or before May 1 of the year in which the report is  
128 required.
- 129                   (4) Within 90 days after the day on which the division receives a specified  
130 municipality's report, the division shall:  
131                   (a) post the report on the division's website;  
132                   (b) send a copy of the report to the Department of Transportation, the Governor's  
133 Office of Planning and Budget, the association of governments in which the specified  
134 municipality is located, and, if the specified municipality is located within the boundaries of a  
135 metropolitan planning organization, the appropriate metropolitan planning organization; and  
136                   (c) subject to Subsection (5), review the report to determine compliance with this  
137 section.
- 138                   (5) (a) An initial report does not comply with this section unless the report:  
139                   (i) includes the information required under Subsection (2)(c);  
140                   (ii) demonstrates to the division that the specified municipality made plans to  
141 implement:  
142                   (A) three or more moderate income housing strategies if the specified municipality  
143 does not have a fixed guideway public transit station; or  
144                   (B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing  
145 strategies if the specified municipality has a fixed guideway public transit station; and  
146                   (iii) is in a form approved by the division.  
147                   (b) A subsequent progress report does not comply with this section unless the report:  
148                   (i) demonstrates to the division that the specified municipality made plans to  
149 implement:

- 150                   (A) three or more moderate income housing strategies if the specified municipality  
151 does not have a fixed guideway public transit station; or  
152                   (B) subject to the requirements of Subsection 10-9a-403(2)(a)(iii)(D), five or more  
153 moderate income housing strategies if the specified municipality has a fixed guideway public  
154 transit station;
- 155                   (ii) is in a form approved by the division; and  
156                   (iii) provides sufficient information for the division to:  
157                   (A) assess the specified municipality's progress in implementing the moderate income  
158 housing strategies;  
159                   (B) monitor compliance with the specified municipality's implementation plan;  
160                   (C) identify a clear correlation between the specified municipality's land use  
161 regulations and land use decisions and the specified municipality's efforts to implement the  
162 moderate income housing strategies;  
163                   (D) identify how the market has responded to the specified municipality's selected  
164 moderate income housing strategies; and  
165                   (E) identify any barriers encountered by the specified municipality in implementing the  
166 selected moderate income housing strategies.
- 167                 (6) (a) A specified municipality qualifies for priority consideration under this  
168 Subsection (6) if the specified municipality's report:  
169                   (i) complies with this section; and  
170                   (ii) demonstrates to the division that the specified municipality made plans to  
171 implement:  
172                   (A) five or more moderate income housing strategies if the specified municipality does  
173 not have a fixed guideway public transit station; or  
174                   (B) six or more moderate income housing strategies if the specified municipality has a  
175 fixed guideway public transit station.  
176                 (b) The Transportation Commission may, in accordance with Subsection  
177 72-1-304(3)(c), give priority consideration to transportation projects located within the  
178 boundaries of a specified municipality described in Subsection (6)(a) until the Department of  
179 Transportation receives notice from the division under Subsection (6)(e).  
180                 (c) Upon determining that a specified municipality qualifies for priority consideration

181 under this Subsection (6), the division shall send a notice of prioritization to the legislative  
182 body of the specified municipality and the Department of Transportation.

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

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

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

187 (iii) state the basis for the division's determination that the specified municipality  
188 qualifies for priority consideration.

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

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

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

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

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

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

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

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

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

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

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

210 (d) For purposes of curing the deficiencies in a report under this Subsection (7), if the  
211 action needed to cure the deficiency as described by the division requires the specified

212 municipality to make a legislative change, the specified municipality may cure the deficiency  
213 by making that legislative change within the 90-day cure period.

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

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

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

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

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

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

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

234 (i) one individual appointed by the Utah League of Cities and Towns;  
235 (ii) one individual appointed by the Utah Homebuilders Association; and  
236 (iii) one individual appointed by the presiding member of the association of  
237 governments, established pursuant to an interlocal agreement under Title 11, Chapter 13,  
238 Interlocal Cooperation Act, of which the specified municipality is a member.

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

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

242 (9) (a) A specified municipality is ineligible for funds under this Subsection (9) if:

243                   (i) the specified municipality fails to submit a report to the division;  
244                   (ii) after submitting a report to the division, the division determines that the report does  
245 not comply with this section and the specified municipality fails to:  
246                   (A) cure each deficiency in the report within 90 days after the day on which the notice  
247 of noncompliance is sent; or  
248                   (B) request an appeal of the division's determination of noncompliance within 10 days  
249 after the day on which the notice of noncompliance is sent;  
250                   (iii) after submitting to the division a corrected report to cure the deficiencies in a  
251 [previously-submitted] previously submitted report, the division determines that the corrected  
252 report does not comply with this section and the specified municipality fails to request an  
253 appeal of the division's determination of noncompliance within 10 days after the day on which  
254 the second notice of noncompliance is sent; or  
255                   (iv) after submitting a request for an appeal under Subsection (8), the appeal board  
256 issues a written decision upholding the division's determination of noncompliance.

257                 (b) The following apply to a specified municipality described in Subsection (9)(a) until  
258 the division provides notice under Subsection (9)(e):

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

263                   (ii) beginning with a report submitted in 2024, the specified municipality shall pay a  
264 fee to the Olene Walker Housing Loan Fund in the amount of \$250 per day that the specified  
265 municipality:

266                   (A) fails to submit the report to the division in accordance with this section, beginning  
267 the day after the day on which the report was due; or

268                   (B) fails to cure the deficiencies in the report, beginning the day after the day by which  
269 the cure was required to occur as described in the notice of noncompliance under Subsection  
270 (7); and

271                   (iii) beginning with the report submitted in 2025, the specified municipality shall pay a  
272 fee to the Olene Walker Housing Loan Fund in the amount of \$500 per day that the specified  
273 municipality, in a consecutive year:

274                   (A) fails to submit the report to the division in accordance with this section, beginning  
275                   the day after the day on which the report was due; or

276                   (B) fails to cure the deficiencies in the report, beginning the day after the day by which  
277                   the cure was required to occur as described in the notice of noncompliance under Subsection  
278                   [~~(6)~~] (7).

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

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

285                   (i) name the specified municipality that is ineligible for funds;  
286                   (ii) describe the funds for which the specified municipality is ineligible to receive;  
287                   (iii) describe the fee the specified municipality is required to pay under Subsection  
288                   (9)(b), if applicable[;]; and

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

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

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

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

302                   Section 2. Section **11-59-203** is amended to read:

303                   **11-59-203. Authority duties and responsibilities.**

304                   (1) As the authority plans, manages, and implements the development of the point of

305 the mountain state land, the authority shall pursue development strategies and objectives  
306 designed to:

307       (a) maximize the creation of high-quality jobs and encourage and facilitate a highly  
308 trained workforce;

309       (b) ensure strategic residential and commercial growth;

310       (c) promote a high quality of life for residents on and surrounding the point of the  
311 mountain state land, including strategic planning to facilitate:

312       (i) jobs close to where people live;

313       (ii) vibrant urban centers;

314       (iii) housing types that incorporate affordability factors and match workforce needs;

315       (iv) parks, connected trails, and open space, including the preservation of natural lands  
316 to the extent practicable and consistent with the overall development plan; and

317       (v) preserving and enhancing recreational opportunities;

318       (d) complement the development on land in the vicinity of the point of the mountain  
319 state land;

320       (e) improve air quality and minimize resource use; ~~[and]~~

321       (f) accommodate and incorporate the planning, funding, and development of an  
322 enhanced and expanded future transit and transportation infrastructure and other investments,  
323 including:

324       (i) the acquisition of rights-of-way and property necessary to ensure transit access to  
325 the point of the mountain state land; and

326       (ii) a world class mass transit infrastructure, to service the point of the mountain state  
327 land and to enhance mobility and protect the environment~~[-]~~; ~~and~~

328       (g) if appropriate, exercise its land use authority to increase the supply of housing in  
329 the state.

330       (2) In planning the development of the point of the mountain state land, the authority  
331 shall:

332       (a) consult with applicable governmental planning agencies, including:

333       (i) relevant metropolitan planning organizations;

334       (ii) Draper City and Salt Lake County planning and governing bodies; and

335       (iii) in regards to the factors described in Subsections (1)(c)(i) and (iii), the Unified

336 Economic Opportunity Commission created in Section 63N-1a-201;  
337       (b) research and explore the feasibility of attracting a nationally recognized research  
338 center; and  
339       (c) research and explore the appropriateness of including labor training centers and a  
340 higher education presence on the point of the mountain state land.

341       Section 3. Section **17-27a-408** is amended to read:

342       **17-27a-408. Moderate income housing report -- Contents -- Prioritization for  
343 funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

344       (1) As used in this section:  
345           (a) "Division" means the Housing and Community Development Division within the  
346 Department of Workforce Services.

347           (b) "Implementation plan" means the implementation plan adopted as part of the  
348 moderate income housing element of a specified county's general plan as provided in  
349 Subsection **17-27a-403(2)(e)**.

350           (c) "Initial report" means the one-time moderate income housing report described in  
351 Subsection (2).

352           (d) "Moderate income housing strategy" means a strategy described in Subsection  
353 **17-27a-403(2)(b)(ii)**.

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

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

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

359       (2) (a) The legislative body of a specified county shall annually submit an initial report  
360 to the division.

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

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

367                   (c) The initial report shall:  
368                   (i) identify each moderate income housing strategy selected by the specified county for  
369 continued, ongoing, or one-time implementation, using the exact language used to describe the  
370 moderate income housing strategy in Subsection 17-27a-403(2)(b)(ii); and

371                   (ii) include an implementation plan.

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

376                   (b) The subsequent progress report shall include:

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

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

384                   (iii) a description of any barriers encountered by the specified county in the previous  
385 12-month period in implementing the moderate income housing strategies;

386                   (iv) the number of residential dwelling units that have been entitled ~~S~~ → [, according to the  
387 specified county's zoning map,] ← ~~S~~ that have not received a building permit as of the submission  
388 date of the progress report;

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

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

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

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

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

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

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

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

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

410 (d) A specified county's report shall be in a form:

411 (i) approved by the division; and

412 (ii) made available by the division on or before May 1 of the year in which the report is  
413 required.

414 (4) Within 90 days after the day on which the division receives a specified county's  
415 report, the division shall:

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

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

422 (c) subject to Subsection (5), review the report to determine compliance with this  
423 section.

424 (5) (a) An initial report does not comply with this section unless the report:

425 (i) includes the information required under Subsection (2)(c);

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

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

429                         (b) A subsequent progress report does not comply with this section unless the report:  
430                             (i) subject to Subsection (5)(c), demonstrates to the division that the specified county  
431 made plans to implement three or more moderate income housing strategies;  
432                             (ii) is in a form approved by the division; and  
433                             (iii) provides sufficient information for the division to:  
434                                 (A) assess the specified county's progress in implementing the moderate income  
435 housing strategies;  
436                                 (B) monitor compliance with the specified county's implementation plan;  
437                                 (C) identify a clear correlation between the specified county's land use decisions and  
438 efforts to implement the moderate income housing strategies;  
439                                 (D) identify how the market has responded to the specified county's selected moderate  
440 income housing strategies; and  
441                                 (E) identify any barriers encountered by the specified county in implementing the  
442 selected moderate income housing strategies.

443                         (c) (i) This Subsection (5)(c) applies to a specified county that has created a small  
444 public transit district, as defined in Section [17B-2a-802](#), on or before January 1, 2022.  
445                         (ii) In addition to the requirements of Subsections (5)(a) and (b), a report for a  
446 specified county described in Subsection (5)(c)(i) does not comply with this section unless the  
447 report demonstrates to the division that the specified county:  
448                                 (A) made plans to implement the moderate income housing strategy described in  
449 Subsection [17-27a-403](#)(2)(b)(ii)(Q); and  
450                                 (B) is in compliance with Subsection [63N-3-603](#)(8).

451                         (6) (a) A specified county qualifies for priority consideration under this Subsection (6)  
452 if the specified county's report:  
453                                 (i) complies with this section; and  
454                                 (ii) demonstrates to the division that the specified county made plans to implement five  
455 or more moderate income housing strategies.

456                         (b) The Transportation Commission may, in accordance with Subsection  
457 [72-1-304](#)(3)(c), give priority consideration to transportation projects located within the  
458 unincorporated areas of a specified county described in Subsection (6)(a) until the Department  
459 of Transportation receives notice from the division under Subsection (6)(e).

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

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

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

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

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

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

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

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

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

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

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

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

483                   (ii) state that the specified county has an opportunity to:

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

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

488                   (iii) state that failure to take action under Subsection (7)(c)(ii) will result in the  
489 specified county's ineligibility for funds and fees owed under Subsection (9).

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

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

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

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

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

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

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

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

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

513 (i) one individual appointed by the Utah Association of Counties;  
514 (ii) one individual appointed by the Utah Homebuilders Association; and  
515 (iii) one individual appointed by the presiding member of the association of  
516 governments, established pursuant to an interlocal agreement under Title 11, Chapter 13,  
517 Interlocal Cooperation Act, of which the specified county is a member.

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

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

521 (9) (a) A specified county is ineligible for funds and owes a fee under this Subsection

522 (9) if:

523 (i) the specified county fails to submit a report to the division;

524 (ii) after submitting a report to the division, the division determines that the report does  
525 not comply with this section and the specified county fails to:

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

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

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

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

537 (b) The following apply to a specified county described in Subsection (9)(a) until the  
538 division provides notice under Subsection (9)(e):

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

543 (ii) beginning with the report submitted in 2024, the specified county shall pay a fee to  
544 the Olene Walker Housing Loan Fund in the amount of \$250 per day that the specified county:

545 (A) fails to submit the report to the division in accordance with this section, beginning  
546 the day after the day on which the report was due; or

547 (B) fails to cure the deficiencies in the report, beginning the day after the day by which  
548 the cure was required to occur as described in the notice of noncompliance under Subsection  
549 (7); and

550 (iii) beginning with the report submitted in 2025, the specified county shall pay a fee to  
551 the Olene Walker Housing Loan Fund in the amount of \$500 per day that the specified county,  
552 for a consecutive year:

553           (A) fails to submit the report to the division in accordance with this section, beginning  
554 the day after the day on which the report was due; or

555           (B) fails to cure the deficiencies in the report, beginning the day after the day by which  
556 the cure was required to occur as described in the notice of noncompliance under Subsection  
557 (7).

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

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

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

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

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

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

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

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

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

581           Section 4. Section **17C-1-102** is amended to read:

582           **17C-1-102. Definitions.**

583           As used in this title:

584               (1) "Active project area" means a project area that has not been dissolved in accordance  
585 with Section 17C-1-702.

586               (2) "Adjusted tax increment" means the percentage of tax increment, if less than  
587 100%, that an agency is authorized to receive:

588               (a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax  
589 increment under Subsection 17C-1-403(3);

590               (b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax  
591 increment under Section 17C-1-406;

592               (c) under a project area budget approved by a taxing entity committee; or

593               (d) under an interlocal agreement that authorizes the agency to receive a taxing entity's  
594 tax increment.

595               (3) "Affordable housing" means housing owned or occupied by a low or moderate  
596 income family, as determined by resolution of the agency.

597               (4) "Agency" or "community reinvestment agency" means a separate body corporate  
598 and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community  
599 development and renewal agency under previous law:

600               (a) that is a political subdivision of the state;

601               (b) that is created to undertake or promote project area development as provided in this  
602 title; and

603               (c) whose geographic boundaries are coterminous with:

604               (i) for an agency created by a county, the unincorporated area of the county; and

605               (ii) for an agency created by a municipality, the boundaries of the municipality.

606               (5) "Agency funds" means money that an agency collects or receives for agency  
607 operations, implementing a project area plan or an implementation plan as defined in Section  
608 17C-1-1001, or other agency purposes, including:

609               (a) project area funds;

610               (b) income, proceeds, revenue, or property derived from or held in connection with the  
611 agency's undertaking and implementation of project area development or agency-wide project  
612 development as defined in Section 17C-1-1001;

613               (c) a contribution, loan, grant, or other financial assistance from any public or private  
614 source;

- 615           (d) project area incremental revenue as defined in Section 17C-1-1001; or  
616           (e) property tax revenue as defined in Section 17C-1-1001.

617           (6) "Annual income" means the same as that term is defined in regulations of the  
618 United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as  
619 amended or as superseded by replacement regulations.

620           (7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

621           (8) "Base taxable value" means, unless otherwise adjusted in accordance with  
622 provisions of this title, a property's taxable value as shown upon the assessment roll last  
623 equalized during the base year.

624           (9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year  
625 during which the assessment roll is last equalized:

626           (a) for a pre-July 1, 1993, urban renewal or economic development project area plan,  
627 before the project area plan's effective date;

628           (b) for a post-June 30, 1993, urban renewal or economic development project area  
629 plan, or a community reinvestment project area plan that is subject to a taxing entity  
630 committee:

631           (i) before the date on which the taxing entity committee approves the project area  
632 budget; or

633           (ii) if taxing entity committee approval is not required for the project area budget,  
634 before the date on which the community legislative body adopts the project area plan;

635           (c) for a project on an inactive airport site, after the later of:

636           (i) the date on which the inactive airport site is sold for remediation and development;  
637 or

638           (ii) the date on which the airport that operated on the inactive airport site ceased  
639 operations; or

640           (d) for a community development project area plan or a community reinvestment  
641 project area plan that is subject to an interlocal agreement, as described in the interlocal  
642 agreement.

643           (10) "Basic levy" means the portion of a school district's tax levy constituting the  
644 minimum basic levy under Section 59-2-902.

645           (11) "Board" means the governing body of an agency, as described in Section

646     17C-1-203.

647       (12) "Budget hearing" means the public hearing on a proposed project area budget  
648 required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,  
649 Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection  
650 17C-5-302(2)(e) for a community reinvestment project area budget.

651       (13) "Closed military base" means land within a former military base that the Defense  
652 Base Closure and Realignment Commission has voted to close or realign when that action has  
653 been sustained by the president of the United States and Congress.

654       (14) "Combined incremental value" means the combined total of all incremental values  
655 from all project areas, except project areas that contain some or all of a military installation or  
656 inactive industrial site, within the agency's boundaries under project area plans and project area  
657 budgets at the time that a project area budget for a new project area is being considered.

658       (15) "Community" means a county or municipality.

659       (16) "Community development project area plan" means a project area plan adopted  
660 under Chapter 4, Part 1, Community Development Project Area Plan.

661       (17) "Community legislative body" means the legislative body of the community that  
662 created the agency.

663       (18) "Community reinvestment project area plan" means a project area plan adopted  
664 under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

665       (19) "Contest" means to file a written complaint in the district court of the county in  
666 which the agency is located.

667       (20) "Development impediment" means a condition of an area that meets the  
668 requirements described in Section 17C-2-303 for an urban renewal project area or Section  
669 17C-5-405 for a community reinvestment project area.

670       (21) "Development impediment hearing" means a public hearing regarding whether a  
671 development impediment exists within a proposed:

672           (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section  
673 17C-2-302; or

674           (b) community reinvestment project area under Section 17C-5-404.

675       (22) "Development impediment study" means a study to determine whether a  
676 development impediment exists within a survey area as described in Section 17C-2-301 for an

677 urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

678 (23) "Economic development project area plan" means a project area plan adopted  
679 under Chapter 3, Part 1, Economic Development Project Area Plan.

680 (24) "Fair share ratio" means the ratio derived by:

681 (a) for a municipality, comparing the percentage of all housing units within the  
682 municipality that are publicly subsidized income targeted housing units to the percentage of all  
683 housing units within the county in which the municipality is located that are publicly  
684 subsidized income targeted housing units; or

685 (b) for the unincorporated part of a county, comparing the percentage of all housing  
686 units within the unincorporated county that are publicly subsidized income targeted housing  
687 units to the percentage of all housing units within the whole county that are publicly subsidized  
688 income targeted housing units.

689 (25) "Family" means the same as that term is defined in regulations of the United  
690 States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended  
691 or as superseded by replacement regulations.

692 (26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

693 (27) "Hazardous waste" means any substance defined, regulated, or listed as a  
694 hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant,  
695 or toxic substance, or identified as hazardous to human health or the environment, under state  
696 or federal law or regulation.

697 (28) "Housing allocation" means project area funds allocated for housing under Section  
698 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

699 (29) "Housing fund" means a fund created by an agency for purposes described in  
700 Section 17C-1-411 or 17C-1-412 that is comprised of:

701 (a) project area funds, project area incremental revenue as defined in Section  
702 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the  
703 purposes described in Section 17C-1-411; or

704 (b) an agency's housing allocation.

705 (30) (a) "Inactive airport site" means land that:

706 (i) consists of at least 100 acres;

707 (ii) is occupied by an airport:

708                   (A) (I) that is no longer in operation as an airport; or  
709                   (II) (Aa) that is scheduled to be decommissioned; and  
710                   (Bb) for which a replacement commercial service airport is under construction; and  
711                   (B) that is owned or was formerly owned and operated by a public entity; and  
712                   (iii) requires remediation because:  
713                      (A) of the presence of hazardous waste or solid waste; or  
714                      (B) the site lacks sufficient public infrastructure and facilities, including public roads,  
715                       electric service, water system, and sewer system, needed to support development of the site.

716                   (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land  
717 described in Subsection (30)(a).

718                   (31) (a) "Inactive industrial site" means land that:  
719                      (i) consists of at least 1,000 acres;  
720                      (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial  
721 facility; and  
722                      (iii) requires remediation because of the presence of hazardous waste or solid waste.

723                   (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land  
724 described in Subsection (31)(a).

725                   (32) "Income targeted housing" means housing that is:  
726                      (a) owned and occupied by a family whose annual income is at or below 120% of the  
727 median annual income for a family within the county in which the housing is located; or  
728                      (b) occupied by a family whose annual income is at or below 80% of the median  
729 annual income for a family within the county in which the housing is located.

730                   (33) "Incremental value" means a figure derived by multiplying the marginal value of  
731 the property located within a project area on which tax increment is collected by a number that  
732 represents the adjusted tax increment from that project area that is paid to the agency.

733                   (34) "Loan fund board" means the Olene Walker Housing Loan Fund Board,  
734 established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

735                   (35) (a) "Local government building" means a building owned and operated by a  
736 community for the primary purpose of providing one or more primary community functions,  
737 including:

738                      (i) a fire station;

739                   (ii) a police station;

740                   (iii) a city hall; or

741                   (iv) a court or other judicial building.

742                   (b) "Local government building" does not include a building the primary purpose of  
743 which is cultural or recreational in nature.

744                   (36) "Major transit investment corridor" means the same as that term is defined in  
745 Section [10-9a-103](#).

746                   (37) "Marginal value" means the difference between actual taxable value and base  
747 taxable value.

748                   (38) "Military installation project area" means a project area or a portion of a project  
749 area located within a federal military installation ordered closed by the federal Defense Base  
750 Realignment and Closure Commission.

751                   (39) "Municipality" means a city, town, or metro township as defined in Section  
752 [10-2a-403](#).

753                   (40) "Participant" means one or more persons that enter into a participation agreement  
754 with an agency.

755                   (41) "Participation agreement" means a written agreement between a person and an  
756 agency that:

757                   (a) includes a description of:

758                   (i) the project area development that the person will undertake;

759                   (ii) the amount of project area funds the person may receive; and

760                   (iii) the terms and conditions under which the person may receive project area funds;

761 and

762                   (b) is approved by resolution of the board.

763                   (42) "Plan hearing" means the public hearing on a proposed project area plan required  
764 under Subsection [17C-2-102\(1\)\(a\)\(vi\)](#) for an urban renewal project area plan, Subsection

765 [17C-3-102\(1\)\(d\)](#) for an economic development project area plan, Subsection [17C-4-102\(1\)\(d\)](#)

766 for a community development project area plan, or Subsection [17C-5-104\(3\)\(e\)](#) for a

767 community reinvestment project area plan.

768                   (43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or  
769 after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project

770 area plan's adoption.

771 (44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July  
772 1, 1993, whether or not amended subsequent to the project area plan's adoption.

773 (45) "Private," with respect to real property, means property not owned by a public  
774 entity or any other governmental entity.

775 (46) "Project area" means the geographic area described in a project area plan within  
776 which the project area development described in the project area plan takes place or is  
777 proposed to take place.

778 (47) "Project area budget" means a multiyear projection of annual or cumulative  
779 revenues and expenses and other fiscal matters pertaining to a project area prepared in  
780 accordance with:

- 781 (a) for an urban renewal project area, Section 17C-2-201;
- 782 (b) for an economic development project area, Section 17C-3-201;
- 783 (c) for a community development project area, Section 17C-4-204; or
- 784 (d) for a community reinvestment project area, Section 17C-5-302.

785 (48) "Project area development" means activity within a project area that, as  
786 determined by the board, encourages, promotes, or provides development or redevelopment for  
787 the purpose of implementing a project area plan, including:

- 788 (a) promoting, creating, or retaining public or private jobs within the state or a  
789 community;
- 790 (b) providing office, manufacturing, warehousing, distribution, parking, or other  
791 facilities or improvements;
- 792 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or  
793 remediating environmental issues;
- 794 (d) providing residential, commercial, industrial, public, or other structures or spaces,  
795 including recreational and other facilities incidental or appurtenant to the structures or spaces;
- 796 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating  
797 existing structures;
- 798 (f) providing open space, including streets or other public grounds or space around  
799 buildings;
- 800 (g) providing public or private buildings, infrastructure, structures, or improvements;

801                         (h) relocating a business;  
802                         (i) improving public or private recreation areas or other public grounds;  
803                         (j) eliminating a development impediment or the causes of a development impediment;  
804                         (k) redevelopment as defined under the law in effect before May 1, 2006; or  
805                         (l) any activity described in this Subsection (48) outside of a project area that the board  
806 determines to be a benefit to the project area.

807                         (49) "Project area funds" means tax increment or sales and use tax revenue that an  
808 agency receives under a project area budget adopted by a taxing entity committee or an  
809 interlocal agreement.

810                         (50) "Project area funds collection period" means the period of time that:

811                         (a) begins the day on which the first payment of project area funds is distributed to an  
812 agency under a project area budget approved by a taxing entity committee or an interlocal  
813 agreement; and

814                         (b) ends the day on which the last payment of project area funds is distributed to an  
815 agency under a project area budget approved by a taxing entity committee or an interlocal  
816 agreement.

817                         (51) "Project area plan" means an urban renewal project area plan, an economic  
818 development project area plan, a community development project area plan, or a community  
819 reinvestment project area plan that, after the project area plan's effective date, guides and  
820 controls the project area development.

821                         (52) (a) "Property tax" means each levy on an ad valorem basis on tangible or  
822 intangible personal or real property.

823                         (b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege  
824 Tax.

825                         (53) "Public entity" means:

826                         (a) the United States, including an agency of the United States;  
827                         (b) the state, including any of the state's departments or agencies; or  
828                         (c) a political subdivision of the state, including a county, municipality, school district,  
829 special district, special service district, community reinvestment agency, or interlocal  
830 cooperation entity.

831                         (54) "Publicly owned infrastructure and improvements" means water, sewer, storm

832 drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets,  
833 roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or  
834 other facilities, infrastructure, and improvements benefitting the public and to be publicly  
835 owned or publicly maintained or operated.

836 (55) "Record property owner" or "record owner of property" means the owner of real  
837 property, as shown on the records of the county in which the property is located, to whom the  
838 property's tax notice is sent.

839 (56) "Sales and use tax revenue" means revenue that is:

840 (a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act;  
841 and

842 (b) distributed to a taxing entity in accordance with Sections [59-12-204](#) and [59-12-205](#).

843 (57) "Superfund site":

844 (a) means an area included in the National Priorities List under the Comprehensive  
845 Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

846 (b) includes an area formerly included in the National Priorities List, as described in  
847 Subsection (57)(a), but removed from the list following remediation that leaves on site the  
848 waste that caused the area to be included in the National Priorities List.

849 (58) "Survey area" means a geographic area designated for study by a survey area  
850 resolution to determine whether:

851 (a) one or more project areas within the survey area are feasible; or

852 (b) a development impediment exists within the survey area.

853 (59) "Survey area resolution" means a resolution adopted by a board that designates a  
854 survey area.

855 (60) "Taxable value" means:

856 (a) the taxable value of all real property a county assessor assesses in accordance with  
857 Title 59, Chapter 2, Part 3, County Assessment, for the current year;

858 (b) the taxable value of all real and personal property the commission assesses in  
859 accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

860 (c) the year end taxable value of all personal property a county assessor assesses in  
861 accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's  
862 tax rolls of the taxing entity.

863                         (61) (a) "Tax increment" means the difference between:  
864                             (i) the amount of property tax revenue generated each tax year by a taxing entity from  
865                             the area within a project area designated in the project area plan as the area from which tax  
866                             increment is to be collected, using the current assessed value of the property and each taxing  
867                             entity's current certified tax rate as defined in Section 59-2-924; and  
868                             (ii) the amount of property tax revenue that would be generated from that same area  
869                             using the base taxable value of the property and each taxing entity's current certified tax rate as  
870                             defined in Section 59-2-924.

871                             (b) "Tax increment" does not include taxes levied and collected under Section  
872                             59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:  
873                             (i) the project area plan was adopted before May 4, 1993, whether or not the project  
874                             area plan was subsequently amended; and  
875                             (ii) the taxes were pledged to support bond indebtedness or other contractual  
876                             obligations of the agency.

877                             (62) "Taxing entity" means a public entity that:  
878                             (a) levies a tax on property located within a project area; or  
879                             (b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

880                             (63) "Taxing entity committee" means a committee representing the interests of taxing  
881                             entities, created in accordance with Section 17C-1-402.

882                             (64) "Unincorporated" means not within a municipality.

883                             (65) "Urban renewal project area plan" means a project area plan adopted under  
884                             Chapter 2, Part 1, Urban Renewal Project Area Plan.

885                             Section 5. Section 17C-1-412 is amended to read:

886                             **17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance  
887                             of bonds for housing -- Action to compel agency to provide housing allocation.**

888                             (1) (a) An agency shall use the agency's housing allocation to:  
889                             (i) pay part or all of the cost of land or construction of income targeted housing within  
890                             the boundary of the agency, if practicable in a mixed income development or area;  
891                             (ii) pay part or all of the cost of rehabilitation of income targeted housing within the  
892                             boundary of the agency;  
893                             (iii) lend, grant, or contribute money to a person, public entity, housing authority,

894 private entity or business, or nonprofit corporation for income targeted housing within the  
895 boundary of the agency;

896 (iv) plan or otherwise promote income targeted housing within the boundary of the  
897 agency;

898 (v) pay part or all of the cost of land or installation, construction, or rehabilitation of  
899 any building, facility, structure, or other housing improvement, including infrastructure  
900 improvements, related to housing located in a project area where a board has determined that a  
901 development impediment exists;

902 (vi) replace housing units lost as a result of the project area development;

903 (vii) make payments on or establish a reserve fund for bonds:

904 (A) issued by the agency, the community, or the housing authority that provides  
905 income targeted housing within the community; and

906 (B) all or part of the proceeds of which are used within the community for the purposes  
907 stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

908 (viii) if the community's fair share ratio at the time of the first adoption of the project  
909 area budget is at least 1.1 to 1.0, make payments on bonds:

910 (A) that were previously issued by the agency, the community, or the housing authority  
911 that provides income targeted housing within the community; and

912 (B) all or part of the proceeds of which were used within the community for the  
913 purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

914 (ix) relocate mobile home park residents displaced by project area development;

915 (x) subject to Subsection (7), transfer funds to a community that created the agency; or

916 (xi) pay for or make a contribution toward the acquisition, construction, or  
917 rehabilitation of housing that:

918 (A) is located in the same county as the agency;

919 (B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit  
920 college or university; and

921 (C) only students of the relevant college or university, including the students'  
922 immediate families, occupy.

923 (b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or  
924 any portion of the agency's housing allocation to:

925                   (i) the community for use as described in Subsection (1)(a);

926                   (ii) a housing authority that provides income targeted housing within the community  
927 for use in providing income targeted housing within the community;

928                   (iii) a housing authority established by the county in which the agency is located for  
929 providing:

930                   (A) income targeted housing within the county;

931                   (B) permanent housing, permanent supportive housing, or a transitional facility, as  
932 defined in Section [35A-5-302](#), within the county; or

933                   (C) homeless assistance within the county;

934                   (iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8,  
935 Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within  
936 the community;

937                   (v) pay for or make a contribution toward the acquisition, construction, or  
938 rehabilitation of income targeted housing that is outside of the community if the housing is  
939 located along or near a major transit investment corridor that services the community and the  
940 related project has been approved by the community in which the housing is or will be located;

941 [or]

942                   (vi) pay for or make a contribution toward the acquisition, construction, or  
943 rehabilitation of income targeted housing that is outside of the community if there is an  
944 interlocal agreement between the agency and the receiving community; or

945                   [(vii)] (vii) pay for or make a contribution toward the expansion of child care facilities  
946 within the boundary of the agency, provided that any recipient of funds from the agency's  
947 housing allocation reports annually to the agency on how the funds were used.

948                   (2) (a) An agency may combine all or any portion of the agency's housing allocation  
949 with all or any portion of one or more additional agency's housing allocations if the agencies  
950 execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation  
951 Act.

952                   (b) An agency that has entered into an interlocal agreement as described in Subsection  
953 (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation  
954 meets the requirements for at least one agency that is a party to the interlocal agreement.

955                   (3) The agency shall create a housing fund and separately account for the agency's

956 housing allocation, together with all interest earned by the housing allocation and all payments  
957 or repayments for loans, advances, or grants from the housing allocation.

958 (4) An agency may:

959 (a) issue bonds to finance a housing-related project under this section, including the  
960 payment of principal and interest upon advances for surveys and plans or preliminary loans;  
961 and

962 (b) issue refunding bonds for the payment or retirement of bonds under Subsection  
963 (4)(a) previously issued by the agency.

964 (5) (a) Except as provided in Subsection (5)(b), an agency shall allocate money to the  
965 housing fund each year in which the agency receives sufficient tax increment to make a  
966 housing allocation required by the project area budget.

967 (b) Subsection (5)(a) does not apply in a year in which tax increment is insufficient.

968 (6) (a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing  
969 allocation in accordance with the project area budget and the housing plan adopted under  
970 Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to  
971 provide the housing allocation.

972 (b) In an action under Subsection (6)(a), the court:

973 (i) shall award the loan fund board reasonable attorney fees, unless the court finds that  
974 the action was frivolous; and

975 (ii) may not award the agency the agency's attorney fees, unless the court finds that the  
976 action was frivolous.

977 (7) For the purpose of offsetting the community's annual local contribution to the  
978 Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in  
979 a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and  
980 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in  
981 Subsection 59-12-205(4).

982 (8) ~~S→ [An agency may expend funds under this section for six years, beginning the day on  
983 which the agency makes the first expenditure.] An agency shall spend, encumber, or allot the  
983a money contributed to the housing fund under Subsection (5)(a) within six years from the day  
983b on which the agency first receives the money. ←S~~

984 Section 6. Section 35A-8-504 is amended to read:

985 **35A-8-504. Distribution of fund money.**

986 (1) As used in this section:

- 987               (a) "Community" means the same as that term is defined in Section 17C-1-102.
- 988               (b) "Income targeted housing" means the same as that term is defined in Section
- 989 17C-1-102.
- 990               (2) The executive director shall:
- 991               (a) make grants and loans from the fund for any of the activities authorized by Section
- 992 35A-8-505, as directed by the board;
- 993               (b) establish the criteria with the approval of the board by which loans and grants will
- 994 be made; and
- 995               (c) determine with the approval of the board the order in which projects will be funded.
- 996               (3) The executive director shall distribute, as directed by the board, any federal money
- 997 contained in the fund according to the procedures, conditions, and restrictions placed upon the
- 998 use of the money by the federal government.
- 999               (4) The executive director shall distribute, as directed by the board, any funds received
- 1000 under Section 17C-1-412 to pay the costs of providing income targeted housing within the
- 1001 community that created the community reinvestment agency under Title 17C, Limited Purpose
- 1002 Local Government Entities - Community Reinvestment Agency Act.
- 1003               (5) Except for federal money, money received under Section 17C-1-412, and money
- 1004 appropriated for use in accordance with Section 35A-8-2105, the executive director shall
- 1005 distribute, as directed by the board, money in the fund according to the following requirements:
- 1006               (a) the executive director shall distribute at least 70% of the money in the fund to
- 1007 benefit persons whose annual income is at or below 50% of the median family income for the
- 1008 state;
- 1009               (b) the executive director may use up to [3] 6% of the revenues of the fund, including
- 1010 any appropriation to the fund, to offset department or board administrative expenses;
- 1011               (c) the executive director shall distribute any remaining money in the fund to benefit
- 1012 persons whose annual income is at or below 80% of the median family income for the state;
- 1013 and
- 1014               (d) if the executive director or the executive director's designee makes a loan in
- 1015 accordance with this section, the interest rate of the loan shall be based on the borrower's
- 1016 ability to pay.
- 1017               (6) The executive director may, with the approval of the board:

1018                   (a) enact rules to establish procedures for the grant and loan process by following the  
1019                   procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;  
1020                   and

1021                   (b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the  
1022                   servicing of loans made by the fund.

1023                   Section 7. Section **35A-8-2401** is amended to read:

1024                  **35A-8-2401. Pass-through funding agreements -- Accounting for expenditures of  
1025                  a housing organization.**

1026                   (1) As used in this section:

1027                   (a) "Housing organization" means an entity that:

1028                   (i) manages a portfolio of investments;

1029                   (ii) is dedicated to the preservation, enhancement, improvement, and rehabilitation of  
1030                  affordable housing through property investment; and

1031                   (iii) is controlled by a registered nonprofit.

1032                   (b) "Pass-through funding" means state money appropriated by the Legislature to the  
1033                  department with the intent that the department grant or otherwise disburse the state money to a  
1034                  third party.

1035                   (c) "Rural" means the same as that term is defined in Section **35A-8-501**.

1036                   (2) (a) This section applies to funds appropriated by the Legislature to the department  
1037                  for pass-through to [the Utah Housing Preservation Fund] a housing organization.

1038                   (b) The department shall ensure that pass-through funding granted or distributed before  
1039                  May 1, 2024 to a housing organization is subject to an agreement as described in this section,  
1040                  either through amending existing agreements or canceling existing agreements and issuing new  
1041                  agreements.

1042                   (3) (a) The department shall create agreements governing the use of pass-through  
1043                  funding as described in this section.

1044                   (b) Before a housing organization may accept pass-through funding pursuant to this  
1045                  section, the entity shall enter into an agreement with the department governing the use of  
1046                  pass-through funding.

1047                   (4) An agreement for pass-through funding shall require, at a minimum:

1048                   (a) the housing organization match pass-through funding with private funding at no

1049 less than a 70% private, 30% state split;

1050 (b) all pass-through funding be used by the housing organization to invest in housing  
1051 units that are rented at rates affordable to households with an annual income at or below 80%  
1052 of the area median income for a family within the county in which the housing is located;

1053 (c) that 50% of pass-through funding be used by the housing organization to invest in  
1054 housing units that are rented at rates affordable to households with an annual income at or  
1055 below 50% of the area median income for a family within the county in which the housing is  
1056 located;

1057 (d) that at least 30% of pass-through funding be used by the housing organization to  
1058 invest in housing units that are located in a rural county;

1059 (e) that any property purchased with pass-through funding be subject to a deed  
1060 restriction for a minimum of 40 years to ensure the property remains a rental property  
1061 affordable to households as described in Subsection (4)(b);

1062 (f) that returns on investment generated by pass-through funding shall be reinvested by  
1063 the housing organization the same as if the returns on investment are pass-through funding; and

1064 (g) that the housing organization shall provide the division with the following  
1065 information at the end of each fiscal year:

1066 (i) the housing organization's annual audit, including:

1067 (A) a third-party independent auditor's findings on the housing organization's  
1068 compliance with this section and the terms of the housing organization's agreement for  
1069 pass-through funding; and

1070 (B) the audited financial statements for a legal entity used by the housing organization  
1071 to carry out activities authorized by this section;

1072 (ii) allocation of pass-through funds by county and housing type;

1073 (iii) progress and status of funded projects; and

1074 (iv) impact of pass-through funds on the availability of affordable housing across the  
1075 state and by region.

1076 [②] (5) The department shall include in the annual written report described in Section  
1077 35A-1-109 a report accounting for the expenditures authorized by [the Utah Housing  
1078 Preservation Fund] a housing organization pursuant to an agreement with the department.

1079 Section 8. Section 59-7-538 is amended to read:

1080       **59-7-538. Carry forward of expired or repealed tax credit.**

1081       (1) [When] Except as provided in Subsection (2), when a nonrefundable corporate  
1082 income tax credit under Part 6, Credits, expires or is repealed, the commission shall allow a  
1083 taxpayer to carry forward any amount of the tax credit that remains for the period of time  
1084 described in the tax credit for the taxable year in which the taxpayer first claimed the tax credit.

1085       (2) Subsection (1) does not apply to a tax credit described in Subsection  
1086 59-7-607(2)(c)(iv).

1087       Section 9. Section **59-7-607** is amended to read:

1088       **59-7-607. Utah low-income housing tax credit.**

1089       (1) As used in this section:

1090       (a) "Allocation certificate" means a certificate in a form prescribed by the commission  
1091 and issued by the corporation to a housing sponsor that specifies the aggregate amount of the  
1092 tax credit awarded under this section to a qualified development and includes:

1093       (i) the aggregate annual amount of the tax credit awarded that may be claimed by one  
1094 or more qualified taxpayers; and

1095       (ii) the credit period over which the tax credit may be claimed by one or more qualified  
1096 taxpayers.

1097       (b) "Building" means a qualified low-income building as defined in Section 42(c),  
1098 Internal Revenue Code.

1099       (c) "Corporation" means the Utah Housing Corporation created in Section **63H-8-201**.

1100       (d) Except as provided in Subsection (5)(c), "credit period" means the same as that  
1101 term is defined in Section 42(f)(1), Internal Revenue Code.

1102       (e) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor  
1103 or one of the housing sponsor's direct or indirect partners, members, or shareholders that will  
1104 provide information to the commission regarding the allocation of tax credits under this  
1105 section.

1106       (f) "Federal low-income housing tax credit" means the federal tax credit described in  
1107 Section 42, Internal Revenue Code.

1108       (g) "Housing sponsor" means an entity that owns a qualified development.

1109       (h) "Pass-through entity" means the same as that term is defined in Section  
1110 **59-10-1402**.

1111                   (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as  
1112 that term is defined in Section [59-10-1402](#).

1113                   (ii) The determination of whether a pass-through entity taxpayer is considered a  
1114 partner, member, or shareholder of a pass-through entity shall be made in accordance with  
1115 applicable state law governing the pass-through entity.

1116                   (j) "Qualified allocation plan" means a qualified allocation plan adopted by the  
1117 corporation in accordance with Section 42(m), Internal Revenue Code.

1118                   (k) "Qualified development" means a "qualified low-income housing project":

1119                   (i) as defined in Section 42(g)(1), Internal Revenue Code; and  
1120                   (ii) that is located in the state.

1121                   (l) (i) "Qualified taxpayer" means a person that:

1122                   (A) owns a direct interest or an indirect interest, through one or more pass-through  
1123 entities, in a qualified development; and

1124                   (B) meets the requirements to claim a tax credit under this section.

1125                   (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit  
1126 under this section is passed through by a pass-through entity.

1127                   (2) (a) A qualified taxpayer may claim a nonrefundable tax credit under this section  
1128 against taxes otherwise due under this chapter, Chapter 8, Gross Receipts Tax on Certain  
1129 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9,  
1130 Taxation of Admitted Insurers.

1131                   (b) The tax credit shall be in an amount equal to the tax credit amount specified on the  
1132 allocation certificate that the corporation issues to a housing sponsor under this section.

1133                   (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate  
1134 annual tax credit that the corporation may allocate for each year of the credit period pursuant to  
1135 this section and Section [59-10-1010](#) is an amount equal to the product of:

1136                   (A) 12.5 cents; and

1137                   (B) the population of Utah.

1138                   (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or  
1139 before December 31, 2022, the aggregate annual tax credit that the corporation may allocate for  
1140 each year of the credit period pursuant to this section and Section [59-10-1010](#) is an amount  
1141 equal to the product of:

1142                   (A) 34.5 cents; and  
1143                   (B) the population of Utah.

1144                   (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or  
1145 before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for  
1146 each year of the credit period pursuant to this section and Section 59-10-1010 is \$10,000,000.

1147                   (iv) For a calendar year beginning on or after January 1, 2024, in addition to the  
1148 amount of annual tax credits available for allocation as described in Subsections (2)(c)(i)  
1149 through (2)(c)(iii), the corporation shall have the following tax credit amounts available for  
1150 allocation:

1151                   (A) any tax credits allocated in a calendar year that are subsequently returned to the  
1152 corporation or recaptured by the corporation may be allocated in the following year, except no  
1153 tax credits under this Subsection (2)(c)(iv) shall be allocated after December 31, 2028; and  
1154                   (B) if the actual amount of tax credits allocated in a calendar year to qualified  
1155 developments is less than the total amount of credits available to be allocated to qualified  
1156 developments, the balance of the credits but no more than 15% of the total amount of credits  
1157 available for allocation to qualified developments may be allocated by the corporation to  
1158 qualified developments in the following calendar year, except no tax credits under this  
1159 Subsection (2)(c)(iv) shall be allocated after December 31, 2028.

1160                   [(iv)] (v) For a calendar year beginning on or after January 1, 2029, the aggregate  
1161 annual tax credit that the corporation may allocate for each year of the credit period pursuant to  
1162 this section and Section 59-10-1010 is the amount described in Subsection (2)(c)(ii).

1163                   [(v)] (vi) For purposes of this Subsection (2)(c), the population of Utah shall be  
1164 determined in accordance with Section 146(j), Internal Revenue Code.

1165                   (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity  
1166 may allocate a tax credit under this section to one or more of the pass-through entity's  
1167 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1168                   (A) the pass-through entity taxpayer is eligible to claim any portion of a federal  
1169 low-income housing tax credit for the qualified development;

1170                   (B) the allocation of the tax credit has substantial economic effect within the meaning  
1171 of Section 704(b), Internal Revenue Code; or

1172                   (C) the pass-through entity taxpayer is considered a partner for federal income tax

1173 purposes.

1174       (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity  
1175 taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity  
1176 under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the  
1177 pass-through entity is:

1178           (A) acquired on or before December 31 of the tax year to which the tax credit relates;  
1179 and

1180           (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax  
1181 credit relates.

1182       (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another  
1183 taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity,  
1184 including the pass-through entity taxpayer's interest in the tax credit associated with the  
1185 ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax  
1186 credit so long as the assignee's ownership interest in the pass-through entity is:

1187           (i) acquired on or before December 31 of the tax year to which the tax credit relates;  
1188 and

1189           (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax  
1190 credit relates.

1191       (3) (a) The corporation shall determine criteria and procedures for allocating the tax  
1192 credit under this section and Section 59-10-1010 and incorporate the criteria and procedures  
1193 into the corporation's qualified allocation plan.

1194           (b) The corporation shall create the criteria under Subsection (3)(a) based on:

1195            (i) the number of affordable housing units to be created in Utah for low and moderate  
1196 income persons in a qualified development;

1197            (ii) the level of area median income being served by a qualified development;

1198            (iii) the need for the tax credit for the economic feasibility of a qualified development;

1199 and

1200           (iv) the extended period for which a qualified development commits to remain as  
1201 affordable housing.

1202       (4) Any housing sponsor may apply to the corporation for a tax credit allocation under  
1203 this section.

1204                   (5) (a) (i) The corporation shall determine the amount of the tax credit to allocate to a  
1205 qualified development in accordance with the qualified allocation plan.

1206                   (ii) (A) Before the allocation certificate is issued to the housing sponsor, the  
1207 corporation shall send to the housing sponsor written notice of the corporation's preliminary  
1208 determination of the tax credit amount to be allocated to the qualified development.

1209                   (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's  
1210 preliminary determination of the tax credit amount to be allocated to the qualified development  
1211 for each year of the credit period and state that allocation of the tax credit is contingent upon  
1212 the issuance of an allocation certificate.

1213                   (iii) Upon approving a final cost certification in accordance with the qualified  
1214 allocation plan, the corporation shall issue an allocation certificate to the housing sponsor as  
1215 evidence of the allocation.

1216                   (iv) The amount of the tax credit specified in an allocation certificate may not exceed  
1217 100% of the federal low-income housing tax credit awarded to a qualified development.

1218                   (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the  
1219 corporation for a tax credit under this section and an allocation certificate is not yet issued, a  
1220 qualified taxpayer may claim a tax credit based upon the corporation's preliminary  
1221 determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

1222                   (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified  
1223 taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to  
1224 adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is  
1225 different than the amount specified in the allocation certificate.

1226                   (c) The amount of tax credit that may be claimed in the first year of the credit period  
1227 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1228                   (d) On or before January 31 of each year, the corporation shall provide to the  
1229 commission in a form prescribed by the commission a report that describes each allocation  
1230 certificate that the corporation issued during the previous calendar year.

1231                   (6) (a) A housing sponsor shall provide to the commission identification of the housing  
1232 sponsor's designated reporter.

1233                   (b) For each tax year in which a tax credit is claimed under this section, the designated  
1234 reporter shall provide to the commission in a form prescribed by the commission:

- 1235                   (i) a list of each qualified taxpayer that has been allocated a portion of the tax credit  
1236 awarded in the allocation certificate for that tax year;
- 1237                   (ii) the amount of tax credit that has been allocated to each qualified taxpayer described  
1238 in Subsection (6)(b)(i) for that tax year; and
- 1239                   (iii) any other information, as prescribed by the commission, to demonstrate that the  
1240 aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does  
1241 not exceed the aggregate annual tax credit amount specified in the allocation certificate.
- 1242                   (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal  
1243 Revenue Code, shall apply to this section.
- 1244                   (b) (i) If a qualified development is required to recapture a portion of any federal  
1245 low-income housing tax credit, then each qualified taxpayer that has been allocated a portion of  
1246 a tax credit under this section shall also be required to recapture a portion of the tax credit  
1247 under this section.
- 1248                   (ii) The state recapture amount shall be equal to the percentage of the state tax credit  
1249 that equals the proportion the federal recapture amount bears to the original federal low-income  
1250 housing tax credit amount subject to recapture.
- 1251                   (iii) The designated reporter shall identify each qualified taxpayer that is required to  
1252 recapture a portion of any state tax credit as described in this Subsection (7)(b).
- 1253                   (8) (a) Any tax credits returned to the corporation in any year may be reallocated within  
1254 the same time period as provided in Section 42, Internal Revenue Code.
- 1255                   (b) Tax credits that are unallocated by the corporation in any year may be carried over  
1256 for allocation in subsequent years.
- 1257                   (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is  
1258 earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit  
1259 may be carried back three years or may be carried forward five years as a credit against the tax.
- 1260                   (b) Carryover tax credits under Subsection (9)(a) shall be applied against the tax:  
1261                   (i) before the application of the tax credits earned in the current year; and  
1262                   (ii) on a first-earned first-used basis.
- 1263                   (10) Any tax credit taken in this section may be subject to an annual audit by the  
1264 commission.
- 1265                   (11) The corporation shall annually provide an electronic report to the Revenue and

1266 Taxation Interim Committee that includes:

1267 (a) the purpose and effectiveness of the tax credits;

1268 (b) any recommendations for legislative changes to the aggregate tax credit amount that  
1269 the corporation is authorized to allocate each year under Subsection (2)(c); and  
1270 (c) the benefits of the tax credits to the state.

1271 (12) The commission may, in consultation with the corporation, make rules in  
1272 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this  
1273 section.

1274 (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation  
1275 Interim Committee shall conduct a review of the aggregate tax credit amount that the  
1276 corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

1277 (b) In a review under this Subsection (13), the Revenue and Taxation Interim  
1278 Committee shall:

1279 (i) study any recommendations provided by the corporation under Subsection (11)(b);  
1280 and

1281 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative  
1282 action to the Legislature, prepare legislation for consideration by the Legislature in the next  
1283 general session.

1284 Section 10. Section **59-10-552** is amended to read:

**59-10-552. Carry forward of expired or repealed tax credit.**

1286 (1) [When] Except as provided in Subsection (2), when a nonrefundable individual  
1287 income tax credit, under Part 10, Nonrefundable Tax Credit Act, expires or is repealed, the  
1288 commission shall allow a claimant, estate, or trust to carry forward any amount of the tax credit  
1289 that remains for the period of time described in the tax credit for the taxable year in which the  
1290 claimant, estate, or trust first claimed the tax credit.

1291 (2) Subsection (1) does not apply to a tax credit described in Subsection  
1292 59-10-1010(2)(c)(iv).

1293 Section 11. Section **59-10-1010** is amended to read:

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

1295 (1) As used in this section:

1296 (a) "Allocation certificate" means a certificate in a form prescribed by the commission

1297 and issued by the corporation to a housing sponsor that specifies the aggregate amount of the  
1298 tax credit awarded under this section to a qualified development and includes:

1299 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one  
1300 or more qualified taxpayers; and

1301 (ii) the credit period over which the tax credit may be claimed by one or more qualified  
1302 taxpayers.

1303 (b) "Building" means a qualified low-income building as defined in Section 42(c),  
1304 Internal Revenue Code.

1305 (c) "Corporation" means the Utah Housing Corporation created in Section [63H-8-201](#).

1306 (d) Except as provided in Subsection (5)(c), "credit period" means the same as that  
1307 term is defined in Section 42(f)(1), Internal Revenue Code.

1308 (e) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor  
1309 or one of the housing sponsor's direct or indirect partners, members, or shareholders that will  
1310 provide information to the commission regarding the allocation of tax credits under this  
1311 section.

1312 (f) "Federal low-income housing credit" means the federal low-income housing credit  
1313 described in Section 42, Internal Revenue Code.

1314 (g) "Housing sponsor" means an entity that owns a qualified development.

1315 (h) "Pass-through entity" means the same as that term is defined in Section  
1316 [59-10-1402](#).

1317 (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as  
1318 that term is defined in Section [59-10-1402](#).

1319 (ii) The determination of whether a pass-through entity taxpayer is considered a  
1320 partner, member, or shareholder of a pass-through entity shall be made in accordance with  
1321 applicable state law governing the pass-through entity.

1322 (j) "Qualified allocation plan" means a qualified allocation plan adopted by the  
1323 corporation in accordance with Section 42(m), Internal Revenue Code.

1324 (k) "Qualified development" means a "qualified low-income housing project":

1325 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1326 (ii) that is located in the state.

1327 (l) (i) "Qualified taxpayer" means a claimant, estate, or trust that:

1328           (A) owns a direct or indirect interest, through one or more pass-through entities, in a  
1329 qualified development; and

1330           (B) meets the requirements to claim a tax credit under this section.

1331           (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit  
1332 under this section is passed through by a pass-through entity.

1333           (2) (a) A qualified taxpayer may claim a nonrefundable tax credit under this section  
1334 against taxes otherwise due under this chapter.

1335           (b) The tax credit shall be in an amount equal to the tax credit amount specified on the  
1336 allocation certificate that the corporation issues to a housing sponsor under this section.

1337           (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate  
1338 annual tax credit that the corporation may allocate for each year of the credit period pursuant to  
1339 this section and Section 59-7-607 is an amount equal to the product of:

1340           (A) 12.5 cents; and

1341           (B) the population of Utah.

1342           (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or  
1343 before December 31, 2022, the aggregate annual tax credit that the corporation may allocate for  
1344 each year of the credit period pursuant to this section and Section 59-7-607 is an amount equal  
1345 to the product of:

1346           (A) 34.5 cents; and

1347           (B) the population of Utah.

1348           (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or  
1349 before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for  
1350 each year of the credit period pursuant to this section and Section 59-7-607 is \$10,000,000.

1351           (iv) For a calendar year beginning on or after January 1, 2024, in addition to the  
1352 amount of annual tax credits available for allocation as described in Subsections (2)(c)(i)  
1353 through (2)(c)(iii), the corporation shall have the following tax credit amounts available for  
1354 allocation:

1355           (A) any tax credits allocated in a calendar year that are subsequently returned to the  
1356 corporation or recaptured by the corporation may be allocated in the following calendar year,  
1357 except no tax credits under this Subsection (2)(c)(iv) shall be allocated after December 31,  
1358 2028; and

1359           (B) if the actual amount of tax credits allocated in a calendar year to qualified  
1360       developments is less than the total amount of credits available to be allocated to qualified  
1361       developments, the balance of the credits but no more than 15% of the total amount of credits  
1362       available for allocation to qualified developments may be allocated by the corporation to  
1363       qualified developments in the following calendar year, except no tax credits under this  
1364       Subsection (2)(c)(iv) shall be allocated after December 31, 2028.

1365       [(~~iv~~) (v)] For a calendar year beginning on or after January 1, 2029, the aggregate  
1366 annual tax credit that the corporation may allocate for each year of the credit period pursuant to  
1367 this section and Section 59-7-607 is the amount described in Subsection (2)(c)(ii).

1368       [~~v~~] (vi) For purposes of this Subsection (2)(c), the population of Utah shall be  
1369 determined in accordance with Section 146(j), Internal Revenue Code.

1370       (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity  
1371 may allocate a tax credit under this section to one or more of the pass-through entity's  
1372 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1373           (A) the pass-through entity taxpayer is eligible to claim any portion of a federal  
1374 low-income housing tax credit for the qualified development;

1375           (B) the allocation of the tax credit has substantial economic effect within the meaning  
1376 of Section 704(b), Internal Revenue Code; or

1377           (C) the pass-through entity taxpayer is considered a partner for federal income tax  
1378 purposes.

1379       (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity  
1380 taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity  
1381 under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the  
1382 pass-through entity is:

1383           (A) acquired on or before December 31 of the tax year to which the tax credit relates;  
1384 and

1385           (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax  
1386 credit relates.

1387       (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another  
1388 taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity,  
1389 including the pass-through entity taxpayer's interest in the tax credit associated with the

1390 ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax  
1391 credit so long as the assignee's ownership interest in the pass-through entity is:

1392 (i) acquired on or before December 31 of the tax year to which the tax credit relates;  
1393 and

1394 (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax  
1395 credit relates.

1396 (3) (a) The corporation shall determine criteria and procedures for allocating the tax  
1397 credit under this section and Section [59-7-607](#) and incorporate the criteria and procedures into  
1398 the corporation's qualified allocation plan.

1399 (b) The corporation shall create the criteria under Subsection (3)(a) based on:

1400 (i) the number of affordable housing units to be created in Utah for low and moderate  
1401 income persons in a qualified development;

1402 (ii) the level of area median income being served by a qualified development;

1403 (iii) the need for the tax credit for the economic feasibility of a qualified development;  
1404 and

1405 (iv) the extended period for which a qualified development commits to remain as  
1406 affordable housing.

1407 (4) Any housing sponsor may apply to the corporation for a tax credit allocation under  
1408 this section.

1409 (5) (a) (i) The corporation shall determine the amount of the tax credit to allocate to a  
1410 qualified development in accordance with the qualified allocation plan.

1411 (ii) (A) Before the allocation certificate is issued to the housing sponsor, the  
1412 corporation shall send to the housing sponsor written notice of the corporation's preliminary  
1413 determination of the tax credit amount to be allocated to the qualified development.

1414 (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's  
1415 preliminary determination of the tax credit amount to be allocated to the qualified development  
1416 for each year of the credit period and state that allocation of the tax credit is contingent upon  
1417 the issuance of an allocation certificate.

1418 (iii) Upon approving a final cost certification in accordance with the qualified  
1419 allocation plan, the corporation shall issue an allocation certificate to the housing sponsor as  
1420 evidence of the allocation.

1421 (iv) The amount of the tax credit specified in an allocation certificate may not exceed  
1422 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).

1427               (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified  
1428 taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to  
1429 adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is  
1430 different than the amount specified in the allocation certificate.

1431 (c) The amount of tax credit that may be claimed in the first year of the credit period  
1432 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1433 (d) On or before January 31 of each year, the corporation shall provide to the  
1434 commission in a form prescribed by the commission a report that describes each allocation  
1435 certificate that the corporation issued during the previous calendar year.

1436 (6) (a) A housing sponsor shall provide to the commission identification of the housing  
1437 sponsor's designated reporter.

1438 (b) For each tax year in which a tax credit is claimed under this section, the designated  
1439 reporter shall provide to the commission in a form prescribed by the commission:

1440 (i) a list of each qualified taxpayer that has been allocated a portion of the tax credit  
1441 awarded in the allocation certificate for that tax year;

1442 (ii) the amount of tax credit that has been allocated to each qualified taxpayer described  
1443 in Subsection (6)(b)(i) for that tax year; and

(iii) 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.

1447 (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal  
1448 Revenue Code, shall apply to this section.

1449 (b) (i) If a qualified taxpayer is required to recapture a portion of any federal  
1450 low-income housing credit, the qualified taxpayer that has been allocated a portion of a tax  
1451 credit under this section shall also be required to recapture a portion of the tax credit under this

1452 section.

1453 (ii) The state recapture amount shall be equal to the percentage of the state tax credit  
1454 that equals the proportion the federal recapture amount bears to the original federal low-income  
1455 housing credit amount subject to recapture.

1456 (iii) The designated reporter shall identify each qualified taxpayer that is required to  
1457 recapture a portion of any state tax credits as described in this Subsection (7)(b).

1458 (8) (a) Any tax credits returned to the corporation in any year may be reallocated within  
1459 the same time period as provided in Section 42, Internal Revenue Code.

1460 (b) Tax credits that are unallocated by the corporation in any year may be carried over  
1461 for allocation in subsequent years.

1462 (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is  
1463 earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit  
1464 may be carried back three years or may be carried forward five years as a credit against the tax.

1465 (b) Carryover tax credits under Subsection (9)(a) shall be applied against the tax:

1466 (i) before the application of the tax credits earned in the current year; and  
1467 (ii) on a first-earned first-used basis.

1468 (10) Any tax credit taken in this section may be subject to an annual audit by the  
1469 commission.

1470 (11) The corporation shall annually provide an electronic report to the Revenue and  
1471 Taxation Interim Committee that includes:

1472 (a) the purpose and effectiveness of the tax credits;

1473 (b) any recommendations for legislative changes to the aggregate tax credit amount that  
1474 the corporation is authorized to allocate each year under Subsection (2)(c); and

1475 (c) the benefits of the tax credits to the state.

1476 (12) The commission may, in consultation with the corporation, promulgate rules to  
1477 implement this section.

1478 (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation  
1479 Interim Committee shall conduct a review of the aggregate tax credit amount that the  
1480 corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

1481 (b) In a review under this Subsection (13), the Revenue and Taxation Interim  
1482 Committee shall:

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

1484                   and

1485                   (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative  
1486                   action to the Legislature, prepare legislation for consideration by the Legislature in the next  
1487                   general session.

1488                   Section 12. Section **59-12-352** is amended to read:

1489                   **59-12-352. Transient room tax authority for municipalities, military installation  
1490                   development authority, and Point of the Mountain State Land Authority -- Purposes for  
1491                   which revenues may be used.**

1492                   (1) (a) Except as provided in Subsection (5), the governing body of a municipality may  
1493                   impose a tax of not to exceed 1% on charges for the accommodations and services described in  
1494                   Subsection **59-12-103**(1)(i).

1495                   (b) Subject to Section **63H-1-203**, the military installation development authority  
1496                   created in Section **63H-1-201** may impose a tax under this section for accommodations and  
1497                   services described in Subsection **59-12-103**(1)(i) within a project area described in a project  
1498                   area plan adopted by the authority under Title 63H, Chapter 1, Military Installation  
1499                   Development Authority Act, as though the authority were a municipality.

1500                   (2) Subject to the limitations of Subsection (1), a governing body of a municipality  
1501                   may, by ordinance, increase or decrease the tax under this part.

1502                   (3) A governing body of a municipality shall regulate the tax under this part by  
1503                   ordinance.

1504                   (4) A municipality may use revenues generated by the tax under this part for general  
1505                   fund purposes.

1506                   (5) (a) A municipality may not impose a tax under this section for accommodations and  
1507                   services described in Subsection **59-12-103**(1)(i) within a project area described in a project  
1508                   area plan adopted by the authority under Title 63H, Chapter 1, Military Installation  
1509                   Development Authority Act.

1510                   (b) Subsection (5)(a) does not apply to the military installation development authority's  
1511                   imposition of a tax under this section.

1512                   (6) (a) As used in this Subsection (6):

1513                   (i) "Authority" means the Point of the Mountain State Land Authority, created in

1514 Section 11-59-201.

1515 (ii) "Authority board" means the board referred to in Section 11-59-301.

1516 (b) The authority may, by a resolution adopted by the authority board, impose a tax of  
1517 not to exceed 5% on charges for the accommodations and services described in Subsection  
1518 59-12-103(1)(i) for transactions that occur on point of the mountain state land, as defined in  
1519 Section 11-59-102.

1520 (c) The authority board, by resolution, shall regulate the tax under this Subsection (6).

1521 (d) The authority shall use all revenue from a tax imposed under this Subsection (6) to  
1522 provide affordable housing, consistent with the manner that a community reinvestment agency  
1523 uses funds for [affordable housing] income targeted housing under Section 17C-1-412.

1524 (e) A tax under this Subsection (6) is in addition to any other tax that may be imposed  
1525 under this part.

1526 **Section 13. Effective date.**

1527 This bill takes effect on May 1, 2024.