

Representative Stephen L. Whyte proposes the following substitute bill:

HOUSING AFFORDABILITY REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen L. Whyte

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill addresses funding issues related to housing affordability.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies definitions;
- ▶ modifies the requirements for a moderate income housing report;
- ▶ authorizes redevelopment agencies and community development agencies to use funding to pay for or contribute to the acquisition, construction, or rehabilitation of income targeted housing, under certain circumstances;
- ▶ authorizes up to 6% of the Olene Walker Housing Loan Fund to be used to offset administrative expenses;
- ▶ requires the Department of Workforce Services to create pass-through funding agreements;
- ▶ describes the minimum requirements of a pass-through funding agreement, including requirements that state funds be spent on certain affordable housing investments;
- ▶ modifies the Utah low-income housing tax credit;
- ▶ 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

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

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

52 **10-9a-408. Moderate income housing report -- Contents -- Prioritization for**
53 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

54 (1) As used in this section:

55 (a) "Division" means the Housing and Community Development Division within the
56 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 ~~to~~ ~~according to the~~
106 ~~specified municipality's zoning map,~~ ~~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 ~~(vii)~~ (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 ~~(viii)~~ (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 ~~to~~ according to the
387 specified county's zoning map, ~~to~~ that have not received a building permit as of the submission
388 date of the progress report;

389 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 [~~(vi)~~] (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) ~~§→ [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. ←§~~

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:

1285 **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:

1294 **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.

1423 (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the
1424 corporation for a tax credit under this section and an allocation certificate is not yet issued, a
1425 qualified taxpayer may claim a tax credit based upon the corporation's preliminary
1426 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

1444 (iii) any other information, as prescribed by the commission, to demonstrate that the
1445 aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does
1446 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.