

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;
- ▶ states that a municipality or county that fails to comply with moderate income housing reporting requirements shall be ineligible for certain funding;
- ▶ 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 Utah Inland Port Authority, the Point of the Mountain State Land Authority, and the School Institutional Trust Lands Administration to, if



28 appropriate, utilize land use authority to increase the supply of housing in the state;

29 ▶ modifies reporting requirements; and

30 ▶ makes technical changes.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **10-9a-408**, as last amended by Laws of Utah 2023, Chapters 88, 501 and 529 and last
38 amended by Coordination Clause, Laws of Utah 2023, Chapter 88

39 **11-58-203**, as last amended by Laws of Utah 2022, Chapter 82

40 **11-59-203**, as last amended by Laws of Utah 2022, Chapter 406

41 **17-27a-408**, as last amended by Laws of Utah 2023, Chapters 88, 501 and 529 and last
42 amended by Coordination Clause, Laws of Utah 2023, Chapter 88

43 **17C-1-102**, as last amended by Laws of Utah 2023, Chapter 15

44 **17C-1-412**, as last amended by Laws of Utah 2023, Chapters 471, 492

45 **35A-8-504**, as last amended by Laws of Utah 2022, Chapter 406

46 **35A-8-2401**, as enacted by Laws of Utah 2023, Chapter 88

47 **53C-1-204**, as last amended by Laws of Utah 2011, Chapter 247

48 **59-7-607**, as last amended by Laws of Utah 2023, Chapter 88

49 **59-10-1010**, as last amended by Laws of Utah 2023, Chapter 88

50 **59-12-352**, as last amended by Laws of Utah 2023, Chapter 263

51

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

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

54 **10-9a-408. Moderate income housing report -- Contents -- Prioritization for**
55 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

56 (1) As used in this section:

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

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

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

64 (d) "Moderate income housing strategy" means a strategy described in Subsection
65 10-9a-403(2)(b)(iii).

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

67 (f) "Specified municipality" means:

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

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

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

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

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

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

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

82 (c) The initial report shall:

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

86 (ii) include an implementation plan.

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

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

91 (b) The subsequent progress report shall include:

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

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

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

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

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

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

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

110 (vi) any recommendations on how the state can support the specified municipality in
111 implementing the moderate income housing strategies.

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

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

119 (ii) demonstrates in the subsequent progress report that the action taken under
120 Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified

121 municipality's implementation plan.

122 (d) A specified municipality's report shall be in a form:

123 (i) approved by the division; and

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

126 (4) Within 90 days after the day on which the division receives a specified
127 municipality's report, the division shall:

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

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

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

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

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

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

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

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

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

144 (b) A subsequent progress report does not comply with this section unless the report:

145 (i) demonstrates to the division that the specified municipality made plans to
146 implement:

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

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

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

183 receive priority consideration; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

214 legislative body of the specified municipality within 30 days after the day on which the
215 corrected report is submitted.

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

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

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

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

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

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

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

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

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

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

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

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

240 (i) the specified municipality fails to submit a report to the division;

241 (ii) after submitting a report to the division, the division determines that the report does
242 not comply with this section and the specified municipality fails to:

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

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

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

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

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

256 (i) the executive director of the Department of Transportation may not program funds
257 to projects located within the boundaries of the specified municipality in accordance with
258 Subsection [72-2-124\(5\)](#) from:

259 (A) the Transportation Investment Fund of 2005, including the Transit Transportation
260 Investment Fund~~[, to projects located within the boundaries of the specified municipality in~~
261 ~~accordance with Subsection [72-2-124\(5\)](#)];~~

262 (B) the Transit Transportation Investment Fund created in Section [72-2-124](#); or

263 (C) the State Infrastructure Bank Fund created in Section [72-2-202](#);

264 (ii) the executive director of the Department of Natural Resources may not award funds
265 to projects located within the boundaries of the specified municipality from:

266 (A) the Outdoor Recreational Infrastructure Grant Program created in Section
267 [79-8-401](#); or

268 (B) the Recreation Restoration Infrastructure Grant Program created in Section
269 [79-8-202](#);

270 [(~~ti~~)] (iii) beginning with a report submitted in 2024, the specified municipality shall
271 pay a fee to the Olene Walker Housing Loan Fund in the amount of \$250 per day that the
272 specified municipality:

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

275 (B) fails to cure the deficiencies in the report, beginning the day after the day by which

276 the cure was required to occur as described in the notice of noncompliance under Subsection
277 (7); and

278 ~~[(iii)]~~ (iv) beginning with the report submitted in 2025, the specified municipality shall
279 pay a fee to the Olene Walker Housing Loan Fund in the amount of \$500 per day that the
280 specified municipality, in a consecutive year:

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

283 (B) fails to cure the deficiencies in the report, beginning the day after the day by which
284 the cure was required to occur as described in the notice of noncompliance under Subsection
285 ~~[(6)]~~ (7).

286 (c) Upon determining that a specified municipality is ineligible for funds under this
287 Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the division
288 shall send a notice of ineligibility to:

289 (i) the legislative body of the specified municipality~~[-];~~;

290 (ii) the Department of Transportation~~[-];~~;

291 (iii) the State Tax Commission ~~[and];~~;

292 (iv) the Governor's Office of Planning and Budget~~[-]; and~~

293 (v) the Department of Natural Resources.

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

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

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

297 (iii) describe the fee the specified municipality is required to pay under Subsection
298 (9)(b), if applicable~~[-];~~ and

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

301 (e) The division shall notify the legislative body of a specified municipality, ~~[and]~~ the
302 Department of Transportation, the State Tax Commission, the Governor's Office of Planning
303 and Budget, and the Department of Natural Resources in writing if the division determines that
304 the provisions of this Subsection (9) no longer apply to the specified municipality.

305 (f) The division may not determine that a specified municipality that is required to pay
306 a fee under Subsection (9)(b) is in compliance with the reporting requirements of this section

307 until the specified municipality pays all outstanding fees required under Subsection (9)(b) to
308 the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene
309 Walker Housing Loan Fund.

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

313 Section 2. Section 11-58-203 is amended to read:

314 **11-58-203. Policies and objectives of the authority -- Additional duties of the**
315 **authority.**

316 (1) The policies and objectives of the authority are to:

317 (a) maximize long-term economic benefits to the area, the region, and the state;

318 (b) maximize the creation of high-quality jobs;

319 (c) respect and maintain sensitivity to the unique natural environment of areas in
320 proximity to the authority jurisdictional land and land in other authority project areas;

321 (d) improve air quality and minimize resource use;

322 (e) respect existing land use and other agreements and arrangements between property
323 owners within the authority jurisdictional land and within other authority project areas and
324 applicable governmental authorities;

325 (f) promote and encourage development and uses that are compatible with or
326 complement uses in areas in proximity to the authority jurisdictional land or land in other
327 authority project areas;

328 (g) take advantage of the authority jurisdictional land's strategic location and other
329 features, including the proximity to transportation and other infrastructure and facilities, that
330 make the authority jurisdictional land attractive to:

331 (i) businesses that engage in regional, national, or international trade; and

332 (ii) businesses that complement businesses engaged in regional, national, or
333 international trade;

334 (h) facilitate the transportation of goods;

335 (i) coordinate trade-related opportunities to export Utah products nationally and
336 internationally;

337 (j) support and promote land uses on the authority jurisdictional land and land in other

338 authority project areas that generate economic development, including rural economic
339 development;

340 (k) establish a project of regional significance;

341 (l) facilitate an intermodal facility;

342 (m) support uses of the authority jurisdictional land for inland port uses, including
343 warehousing, light manufacturing, and distribution facilities;

344 (n) facilitate an increase in trade in the region and in global commerce;

345 (o) promote the development of facilities that help connect local businesses to potential
346 foreign markets for exporting or that increase foreign direct investment;

347 (p) encourage all class 5 through 8 designated truck traffic entering the authority
348 jurisdictional land to meet the heavy-duty highway compression-ignition diesel engine and
349 urban bus exhaust emission standards for year 2007 and later;

350 (q) encourage the development and use of cost-efficient renewable energy in project
351 areas;

352 (r) aggressively pursue world-class businesses that employ cutting-edge technologies to
353 locate within a project area; ~~and~~

354 (s) pursue land remediation and development opportunities for publicly owned land to
355 add value to a project area[-] and

356 (t) if appropriate, exercise its land use authority to increase the supply of housing in the
357 state.

358 (2) In fulfilling its duties and responsibilities relating to the development of the
359 authority jurisdictional land and land in other authority project areas and to achieve and
360 implement the development policies and objectives under Subsection (1), the authority shall:

361 (a) work to identify funding sources, including federal, state, and local government
362 funding and private funding, for capital improvement projects in and around the authority
363 jurisdictional land and land in other authority project areas and for an inland port;

364 (b) review and identify land use and zoning policies and practices to recommend to
365 municipal land use policymakers and administrators that are consistent with and will help to
366 achieve:

367 (i) the policies and objectives stated in Subsection (1); and

368 (ii) the mutual goals of the state and local governments that have authority

369 jurisdictional land with their boundaries with respect to the authority jurisdictional land;

370 (c) consult and coordinate with other applicable governmental entities to improve and
371 enhance transportation and other infrastructure and facilities in order to maximize the potential
372 of the authority jurisdictional land to attract, retain, and service users who will help maximize
373 the long-term economic benefit to the state; and

374 (d) pursue policies that the board determines are designed to avoid or minimize
375 negative environmental impacts of development.

376 (3) The board may consider the emissions profile of road, yard, or rail vehicles:

377 (a) in determining access by those vehicles to facilities that the authority owns or
378 finances; or

379 (b) in setting fees applicable to those vehicles for the use of facilities that the authority
380 owns or finances.

381 Section 3. Section **11-59-203** is amended to read:

382 **11-59-203. Authority duties and responsibilities.**

383 (1) As the authority plans, manages, and implements the development of the point of
384 the mountain state land, the authority shall pursue development strategies and objectives
385 designed to:

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

388 (b) ensure strategic residential and commercial growth;

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

391 (i) jobs close to where people live;

392 (ii) vibrant urban centers;

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

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

396 (v) preserving and enhancing recreational opportunities;

397 (d) complement the development on land in the vicinity of the point of the mountain
398 state land;

399 (e) improve air quality and minimize resource use; **[and]**

400 (f) accommodate and incorporate the planning, funding, and development of an
401 enhanced and expanded future transit and transportation infrastructure and other investments,
402 including:

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

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

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

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

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

412 (i) relevant metropolitan planning organizations;

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

414 (iii) in regards to the factors described in Subsections (1)(c)(i) and (iii), the Unified
415 Economic Opportunity Commission created in Section [63N-1a-201](#);

416 (b) research and explore the feasibility of attracting a nationally recognized research
417 center; and

418 (c) research and explore the appropriateness of including labor training centers and a
419 higher education presence on the point of the mountain state land.

420 Section 4. Section **17-27a-408** is amended to read:

421 **17-27a-408. Moderate income housing report -- Contents -- Prioritization for**
422 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

423 (1) As used in this section:

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

426 (b) "Implementation plan" means the implementation plan adopted as part of the
427 moderate income housing element of a specified county's general plan as provided in
428 Subsection [17-27a-403\(2\)\(e\)](#).

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

431 (d) "Moderate income housing strategy" means a strategy described in Subsection
432 17-27a-403(2)(b)(ii).

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

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

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

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

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

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

446 (c) The initial report shall:

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

450 (ii) include an implementation plan.

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

455 (b) The subsequent progress report shall include:

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

459 (ii) a description of each land use regulation or land use decision made by the specified
460 county during the previous 12-month period to implement the moderate income housing
461 strategies, including an explanation of how the land use regulation or land use decision

462 supports the specified county's efforts to implement the moderate income housing strategies;

463 (iii) a description of any barriers encountered by the specified county in the previous
464 12-month period in implementing the moderate income housing strategies;

465 (iv) information regarding the number of internal and external or detached accessory
466 dwelling units located within the specified county for which the specified county:

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

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

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

472 (vi) any recommendations on how the state can support the specified county in
473 implementing the moderate income housing strategies.

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

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

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

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

485 (i) approved by the division; and

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

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

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

491 (b) send a copy of the report to the Department of Transportation, the Governor's
492 Office of Planning and Budget, the association of governments in which the specified county is

493 located, and, if the unincorporated area of the specified county is located within the boundaries
494 of a metropolitan planning organization, the appropriate metropolitan planning organization;
495 and

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

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

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

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

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

503 (b) A subsequent progress report does not comply with this section unless the report:

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

506 (ii) is in a form approved by the division; and

507 (iii) provides sufficient information for the division to:

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

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

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

513 (D) identify how the market has responded to the specified county's selected moderate
514 income housing strategies; and

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

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

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

522 (A) made plans to implement the moderate income housing strategy described in
523 Subsection [17-27a-403\(2\)\(b\)\(ii\)\(Q\)](#); and

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

525 (6) (a) A specified county qualifies for priority consideration under this Subsection (6)
526 if the specified county's report:

527 (i) complies with this section; and

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

530 (b) The Transportation Commission may, in accordance with Subsection
531 72-1-304(3)(c), give priority consideration to transportation projects located within the
532 unincorporated areas of a specified county described in Subsection (6)(a) until the Department
533 of Transportation receives notice from the division under Subsection (6)(e).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

586 decision on the appeal:

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

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

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

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

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

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

593 determination of noncompliance.

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

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

596 (9) if:

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

598 (ii) after submitting a report to the division, the division determines that the report does

599 not comply with this section and the specified county fails to:

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

601 of noncompliance is sent; or

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

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

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

605 [~~previously-submitted~~] previously submitted report, the division determines that the corrected

606 report does not comply with this section and the specified county fails to request an appeal of

607 the division's determination of noncompliance within 10 days after the day on which the

608 second notice of noncompliance is sent; or

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

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

611 (b) The following apply to a specified county described in Subsection (9)(a) until the

612 division provides notice under Subsection (9)(e):

613 (i) the executive director of the Department of Transportation may not program funds

614 to projects located within the unincorporated areas of the specified county in accordance with

615 Subsection 72-2-124(5) from:

616 (A) the Transportation Investment Fund of 2005, including the Transit Transportation

617 Investment Fund[, to projects located within the unincorporated areas of the specified county in
618 accordance with Subsection ~~72-2-124(6)~~];

619 (B) the Transit Transportation Fund created in Section 72-2-124; or

620 (C) the State Infrastructure Bank Fund created in Section 72-2-202;

621 (ii) the executive director of the Department of Natural Resources may not award funds
622 to projects located within the unincorporated areas of the specified county from:

623 (A) the Outdoor Recreational Infrastructure Grant Program created in Section
624 79-8-401; or

625 (B) the Recreation Restoration Infrastructure Grant Program created in Section
626 79-8-202;

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

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

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

635 [(iii)] (iv) beginning with the report submitted in 2025, the specified county shall pay a
636 fee to the Olene Walker Housing Loan Fund in the amount of \$500 per day that the specified
637 county, for a consecutive year:

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

640 (B) fails to cure the deficiencies in the report, beginning the day after the day by which
641 the cure was required to occur as described in the notice of noncompliance under Subsection
642 (7).

643 (c) Upon determining that a specified county is ineligible for funds under this
644 Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the division
645 shall send a notice of ineligibility to the legislative body of the specified county, the
646 Department of Transportation, the State Tax Commission, [and] the Governor's Office of
647 Planning and Budget[-], and the Department of Natural Resources.

- 648 (d) The notice described in Subsection (9)(c) shall:
- 649 (i) name the specified county that is ineligible for funds;
- 650 (ii) describe the funds for which the specified county is ineligible to receive;
- 651 (iii) describe the fee the specified county is required to pay under Subsection (9)(b), if
- 652 applicable; and
- 653 (iv) state the basis for the division's determination that the specified county is ineligible
- 654 for funds.

655 (e) The division shall notify the legislative body of a specified county, ~~and~~ the

656 Department of Transportation, the State Tax Commission, and the Department of Natural

657 Resources in writing if the division determines that the provisions of this Subsection (9) no

658 longer apply to the specified county.

659 (f) The division may not determine that a specified county that is required to pay a fee

660 under Subsection (9)(b) is in compliance with the reporting requirements of this section until

661 the specified county pays all outstanding fees required under Subsection (9)(b) to the Olene

662 Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing

663 Loan Fund.

664 (10) In a civil action seeking enforcement or claiming a violation of this section or of

665 Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only

666 injunctive or other equitable relief.

667 Section 5. Section 17C-1-102 is amended to read:

668 **17C-1-102. Definitions.**

669 As used in this title:

670 (1) "Active project area" means a project area that has not been dissolved in accordance

671 with Section 17C-1-702.

672 (2) "Adjusted tax increment" means the percentage of tax increment, if less than

673 100%, that an agency is authorized to receive:

674 (a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax

675 increment under Subsection 17C-1-403(3);

676 (b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax

677 increment under Section 17C-1-406;

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

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

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

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

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

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

689 (c) whose geographic boundaries are coterminous with:

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

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

692 (5) "Agency funds" means money that an agency collects or receives for agency
693 operations, implementing a project area plan or an implementation plan as defined in Section
694 17C-1-1001, or other agency purposes, including:

695 (a) project area funds;

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

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

701 (d) project area incremental revenue as defined in Section 17C-1-1001; or

702 (e) property tax revenue as defined in Section 17C-1-1001.

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

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

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

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

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

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

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

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

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

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

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

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

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

731 (11) "Board" means the governing body of an agency, as described in Section
732 17C-1-203.

733 (12) "Budget hearing" means the public hearing on a proposed project area budget
734 required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,
735 Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection
736 17C-5-302(2)(e) for a community reinvestment project area budget.

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

740 (14) "Combined incremental value" means the combined total of all incremental values

741 from all project areas, except project areas that contain some or all of a military installation or
742 inactive industrial site, within the agency's boundaries under project area plans and project area
743 budgets at the time that a project area budget for a new project area is being considered.

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

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

747 (17) "Community legislative body" means the legislative body of the community that
748 created the agency.

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

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

753 (20) "Development impediment" means a condition of an area that meets the
754 requirements described in Section 17C-2-303 for an urban renewal project area or Section
755 17C-5-405 for a community reinvestment project area.

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

758 (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section
759 17C-2-302; or

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

761 (22) "Development impediment study" means a study to determine whether a
762 development impediment exists within a survey area as described in Section 17C-2-301 for an
763 urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

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

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

767 (a) for a municipality, comparing the percentage of all housing units within the
768 municipality that are publicly subsidized income targeted housing units to the percentage of all
769 housing units within the county in which the municipality is located that are publicly
770 subsidized income targeted housing units; or

771 (b) for the unincorporated part of a county, comparing the percentage of all housing

772 units within the unincorporated county that are publicly subsidized income targeted housing
773 units to the percentage of all housing units within the whole county that are publicly subsidized
774 income targeted housing units.

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

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

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

783 (28) "Housing allocation" means project area funds allocated for housing under Section
784 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

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

787 (a) project area funds, project area incremental revenue as defined in Section
788 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the
789 purposes described in Section 17C-1-411; or

790 (b) an agency's housing allocation.

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

792 (i) consists of at least 100 acres;

793 (ii) is occupied by an airport:

794 (A) (I) that is no longer in operation as an airport; or

795 (II) (Aa) that is scheduled to be decommissioned; and

796 (Bb) for which a replacement commercial service airport is under construction; and

797 (B) that is owned or was formerly owned and operated by a public entity; and

798 (iii) requires remediation because:

799 (A) of the presence of hazardous waste or solid waste; or

800 (B) the site lacks sufficient public infrastructure and facilities, including public roads,
801 electric service, water system, and sewer system, needed to support development of the site.

802 (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land

803 described in Subsection (30)(a).

804 (31) (a) "Inactive industrial site" means land that:

805 (i) consists of at least 1,000 acres;

806 (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial
807 facility; and

808 (iii) requires remediation because of the presence of hazardous waste or solid waste.

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

811 (32) "Income targeted housing" means housing that is:

812 (a) owned by a family whose annual income is at or below 120% of the median annual
813 income for a family within the county in which the housing is located; or

814 (b) occupied by a family whose annual income is at or below 80% of the median
815 annual income for a family within the county in which the housing is located.

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

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

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

824 (i) a fire station;

825 (ii) a police station;

826 (iii) a city hall; or

827 (iv) a court or other judicial building.

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

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

832 (37) "Marginal value" means the difference between actual taxable value and base
833 taxable value.

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

837 (39) "Municipality" means a city, town, or metro township as defined in Section
838 10-2a-403.

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

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

843 (a) includes a description of:

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

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

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

847 and

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

849 (42) "Plan hearing" means the public hearing on a proposed project area plan required
850 under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection
851 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d)
852 for a community development project area plan, or Subsection 17C-5-104(3)(e) for a
853 community reinvestment project area plan.

854 (43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or
855 after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project
856 area plan's adoption.

857 (44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July
858 1, 1993, whether or not amended subsequent to the project area plan's adoption.

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

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

864 (47) "Project area budget" means a multiyear projection of annual or cumulative

865 revenues and expenses and other fiscal matters pertaining to a project area prepared in
866 accordance with:

867 (a) for an urban renewal project area, Section 17C-2-201;

868 (b) for an economic development project area, Section 17C-3-201;

869 (c) for a community development project area, Section 17C-4-204; or

870 (d) for a community reinvestment project area, Section 17C-5-302.

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

874 (a) promoting, creating, or retaining public or private jobs within the state or a
875 community;

876 (b) providing office, manufacturing, warehousing, distribution, parking, or other
877 facilities or improvements;

878 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or
879 remediating environmental issues;

880 (d) providing residential, commercial, industrial, public, or other structures or spaces,
881 including recreational and other facilities incidental or appurtenant to the structures or spaces;

882 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating
883 existing structures;

884 (f) providing open space, including streets or other public grounds or space around
885 buildings;

886 (g) providing public or private buildings, infrastructure, structures, or improvements;

887 (h) relocating a business;

888 (i) improving public or private recreation areas or other public grounds;

889 (j) eliminating a development impediment or the causes of a development impediment;

890 (k) redevelopment as defined under the law in effect before May 1, 2006; or

891 (l) any activity described in this Subsection (48) outside of a project area that the board
892 determines to be a benefit to the project area.

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

896 (50) "Project area funds collection period" means the period of time that:
897 (a) begins the day on which the first payment of project area funds is distributed to an
898 agency under a project area budget approved by a taxing entity committee or an interlocal
899 agreement; and

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

903 (51) "Project area plan" means an urban renewal project area plan, an economic
904 development project area plan, a community development project area plan, or a community
905 reinvestment project area plan that, after the project area plan's effective date, guides and
906 controls the project area development.

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

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

911 (53) "Public entity" means:

912 (a) the United States, including an agency of the United States;

913 (b) the state, including any of the state's departments or agencies; or

914 (c) a political subdivision of the state, including a county, municipality, school district,
915 special district, special service district, community reinvestment agency, or interlocal
916 cooperation entity.

917 (54) "Publicly owned infrastructure and improvements" means water, sewer, storm
918 drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets,
919 roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or
920 other facilities, infrastructure, and improvements benefitting the public and to be publicly
921 owned or publicly maintained or operated.

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

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

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

927 and

928 (b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

929 (57) "Superfund site":

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

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

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

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

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

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

941 (60) "Taxable value" means:

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

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

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

949 (61) (a) "Tax increment" means the difference between:

950 (i) the amount of property tax revenue generated each tax year by a taxing entity from
951 the area within a project area designated in the project area plan as the area from which tax
952 increment is to be collected, using the current assessed value of the property and each taxing
953 entity's current certified tax rate as defined in Section 59-2-924; and

954 (ii) the amount of property tax revenue that would be generated from that same area
955 using the base taxable value of the property and each taxing entity's current certified tax rate as
956 defined in Section 59-2-924.

957 (b) "Tax increment" does not include taxes levied and collected under Section

958 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

959 (i) the project area plan was adopted before May 4, 1993, whether or not the project
960 area plan was subsequently amended; and

961 (ii) the taxes were pledged to support bond indebtedness or other contractual
962 obligations of the agency.

963 (62) "Taxing entity" means a public entity that:

964 (a) levies a tax on property located within a project area; or

965 (b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

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

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

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

971 Section 6. Section 17C-1-412 is amended to read:

972 **17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance**
973 **of bonds for housing -- Action to compel agency to provide housing allocation.**

974 (1) (a) An agency shall use the agency's housing allocation to:

975 (i) pay part or all of the cost of land or construction of income targeted housing within
976 the boundary of the agency, if practicable in a mixed income development or area;

977 (ii) pay part or all of the cost of rehabilitation of income targeted housing within the
978 boundary of the agency;

979 (iii) lend, grant, or contribute money to a person, public entity, housing authority,
980 private entity or business, or nonprofit corporation for income targeted housing within the
981 boundary of the agency;

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

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

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

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

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

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

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

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

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

1000 (ix) relocate mobile home park residents displaced by project area development;

1001 (x) subject to Subsection (7), transfer funds to a community that created the agency; or

1002 (xi) pay for or make a contribution toward the acquisition, construction, or
1003 rehabilitation of housing that:

1004 (A) is located in the same county as the agency;

1005 (B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit
1006 college or university; and

1007 (C) only students of the relevant college or university, including the students'
1008 immediate families, occupy.

1009 (b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or
1010 any portion of the agency's housing allocation to:

1011 (i) the community for use as described in Subsection (1)(a);

1012 (ii) a housing authority that provides income targeted housing within the community
1013 for use in providing income targeted housing within the community;

1014 (iii) a housing authority established by the county in which the agency is located for
1015 providing:

1016 (A) income targeted housing within the county;

1017 (B) permanent housing, permanent supportive housing, or a transitional facility, as
1018 defined in Section [35A-5-302](#), within the county; or

1019 (C) homeless assistance within the county;

1020 (iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8,
1021 Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within
1022 the community;

1023 (v) pay for or make a contribution toward the acquisition, construction, or
1024 rehabilitation of income targeted housing that is outside of the community if the housing is
1025 located along or near a major transit investment corridor that services the community and the
1026 related project has been approved by the community in which the housing is or will be located;
1027 [~~or~~]

1028 (vi) pay for or make a contribution toward the acquisition, construction, or
1029 rehabilitation of income targeted housing that is outside of the community if there is an
1030 interlocal agreement between the agency and the receiving community for the funds to be
1031 encumbered and spent within six years from the day on which the agency makes the first
1032 payment or contribution; or

1033 [~~(vi)~~] (vii) pay for or make a contribution toward the expansion of child care facilities
1034 within the boundary of the agency, provided that any recipient of funds from the agency's
1035 housing allocation reports annually to the agency on how the funds were used.

1036 (2) (a) An agency may combine all or any portion of the agency's housing allocation
1037 with all or any portion of one or more additional agency's housing allocations if the agencies
1038 execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation
1039 Act.

1040 (b) An agency that has entered into an interlocal agreement as described in Subsection
1041 (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation
1042 meets the requirements for at least one agency that is a party to the interlocal agreement.

1043 (3) The agency shall create a housing fund and separately account for the agency's
1044 housing allocation, together with all interest earned by the housing allocation and all payments
1045 or repayments for loans, advances, or grants from the housing allocation.

1046 (4) An agency may:

1047 (a) issue bonds to finance a housing-related project under this section, including the
1048 payment of principal and interest upon advances for surveys and plans or preliminary loans;
1049 and

1050 (b) issue refunding bonds for the payment or retirement of bonds under Subsection

1051 (4)(a) previously issued by the agency.

1052 (5) (a) Except as provided in Subsection (5)(b), an agency shall allocate money to the
1053 housing fund each year in which the agency receives sufficient tax increment to make a
1054 housing allocation required by the project area budget.

1055 (b) Subsection (5)(a) does not apply in a year in which tax increment is insufficient.

1056 (6) (a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing
1057 allocation in accordance with the project area budget and the housing plan adopted under
1058 Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to
1059 provide the housing allocation.

1060 (b) In an action under Subsection (6)(a), the court:

1061 (i) shall award the loan fund board reasonable attorney fees, unless the court finds that
1062 the action was frivolous; and

1063 (ii) may not award the agency the agency's attorney fees, unless the court finds that the
1064 action was frivolous.

1065 (7) For the purpose of offsetting the community's annual local contribution to the
1066 Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in
1067 a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and
1068 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in
1069 Subsection 59-12-205(4).

1070 Section 7. Section 35A-8-504 is amended to read:

1071 **35A-8-504. Distribution of fund money.**

1072 (1) As used in this section:

1073 (a) "Community" means the same as that term is defined in Section 17C-1-102.

1074 (b) "Income targeted housing" means the same as that term is defined in Section
1075 17C-1-102.

1076 (2) The executive director shall:

1077 (a) make grants and loans from the fund for any of the activities authorized by Section
1078 35A-8-505, as directed by the board;

1079 (b) establish the criteria with the approval of the board by which loans and grants will
1080 be made; and

1081 (c) determine with the approval of the board the order in which projects will be funded.

1082 (3) The executive director shall distribute, as directed by the board, any federal money
1083 contained in the fund according to the procedures, conditions, and restrictions placed upon the
1084 use of the money by the federal government.

1085 (4) The executive director shall distribute, as directed by the board, any funds received
1086 under Section 17C-1-412 to pay the costs of providing income targeted housing within the
1087 community that created the community reinvestment agency under Title 17C, Limited Purpose
1088 Local Government Entities - Community Reinvestment Agency Act.

1089 (5) Except for federal money, money received under Section 17C-1-412, and money
1090 appropriated for use in accordance with Section 35A-8-2105, the executive director shall
1091 distribute, as directed by the board, money in the fund according to the following requirements:

1092 (a) the executive director shall distribute at least 70% of the money in the fund to
1093 benefit persons whose annual income is at or below 50% of the median family income for the
1094 state;

1095 (b) the executive director may use up to [~~3~~] 6% of the revenues of the fund, including
1096 any appropriation to the fund, to offset department or board administrative expenses;

1097 (c) the executive director shall distribute any remaining money in the fund to benefit
1098 persons whose annual income is at or below 80% of the median family income for the state;
1099 and

1100 (d) if the executive director or the executive director's designee makes a loan in
1101 accordance with this section, the interest rate of the loan shall be based on the borrower's
1102 ability to pay.

1103 (6) The executive director may, with the approval of the board:

1104 (a) enact rules to establish procedures for the grant and loan process by following the
1105 procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
1106 and

1107 (b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the
1108 servicing of loans made by the fund.

1109 Section 8. Section 35A-8-2401 is amended to read:

1110 **35A-8-2401. Pass-through funding agreements -- Accounting for expenditures of**
1111 **a housing organization.**

1112 (1) As used in this section:

- 1113 (a) "Housing organization" means an entity that:
1114 (i) manages a portfolio of investments;
1115 (ii) is dedicated to the preservation, enhancement, improvement, and rehabilitation of
1116 affordable housing through property investment; and
1117 (iii) is controlled by a registered nonprofit.
1118 (b) "Pass-through funding" means state money appropriated by the Legislature to the
1119 department with the intent that the department grant or otherwise disburse the state money to a
1120 third party.
1121 (c) "Rural" means the same as that term is defined in Section [35A-8-501](#).
1122 (2) This section applies to funds appropriated by the Legislature to the department for
1123 pass-through to [~~the Utah Housing Preservation Fund~~] a housing organization.
1124 (3) (a) The department shall create agreements governing the use of pass-through
1125 funding as described in this section.
1126 (b) Before a housing organization may accept pass-through funding pursuant to this
1127 section, the entity shall enter into an agreement with the department governing the use of
1128 pass-through funding.
1129 (4) An agreement for pass-through funding shall require, at a minimum:
1130 (a) the housing organization match pass-through funding with private funding at no
1131 less than a 70% private, 30% state split;
1132 (b) all pass-through funding be used by the housing organization to invest in housing
1133 units that are rented at rates affordable to households with an annual income at or below 80%
1134 of the area median income for a family within the county in which the housing is located;
1135 (c) that 50% of pass-through funding be used by the housing organization to invest in
1136 housing units that are rented at rates affordable to households with an annual income at or
1137 below 50% of the area median income for a family within the county in which the housing is
1138 located;
1139 (d) that at least 30% of pass-through funding be used by the housing organization to
1140 invest in housing units that are located in a rural county;
1141 (e) that any property purchased with pass-through funding be subject to a deed
1142 restriction for a minimum of 40 years to ensure the property remains a rental property
1143 affordable to households as described in Subsection (4)(b);

1144 (f) that returns on investment generated by pass-through funding shall be reinvested by
1145 the housing organization the same as if the returns on investment are pass-through funding; and

1146 (g) that the housing organization shall provide the division with the following
1147 information at the end of each fiscal year:

1148 (i) the housing organization's annual audit, including:

1149 (A) a third-party independent auditor's findings on the housing organization's
1150 compliance with this section and the terms of the housing organization's agreement for
1151 pass-through funding; and

1152 (B) the audited financial statements for a legal entity used by the housing organization
1153 to carry out activities authorized by this section;

1154 (ii) allocation of pass-through funds by county and housing type;

1155 (iii) progress and status of funded projects; and

1156 (iv) impact of pass-through funds on the availability of affordable housing across the
1157 state and by region.

1158 ~~[(2)]~~ (5) The department shall include in the annual written report described in Section
1159 35A-1-109 a report accounting for the expenditures authorized by ~~[the Utah Housing~~
1160 ~~Preservation Fund]~~ a housing organization pursuant to an agreement with the department.

1161 Section 9. Section 53C-1-204 is amended to read:

1162 **53C-1-204. Policies established by board -- Director.**

1163 (1) (a) The board shall establish policies for the management of the School and
1164 Institutional Trust Lands Administration.

1165 (b) The policies shall:

1166 (i) be consistent with the Utah Enabling Act, the Utah Constitution, and state law;

1167 (ii) reflect undivided loyalty to the beneficiaries consistent with fiduciary duties;

1168 (iii) require the return of not less than fair market value for the use, sale, or exchange
1169 of school and institutional trust assets;

1170 (iv) seek to optimize trust land revenues and increase the value of trust land holdings
1171 consistent with the balancing of short and long-term interests, so that long-term benefits are not
1172 lost in an effort to maximize short-term gains;

1173 (v) maintain the integrity of the trust and prevent the misapplication of its lands and its
1174 revenues; and

1175 (vi) have regard for and seek General Fund appropriation compensation for the general
1176 public's use of natural and cultural resources consistent with the duties of the administration as
1177 trustee for the beneficiaries.

1178 (2) The board shall ensure that the administration is managed according to law.

1179 (3) The board shall establish due process procedures governing adjudicative
1180 proceedings conducted by the board and the administration.

1181 (4) The board and the director shall recommend to the governor and the Legislature any
1182 necessary or desirable changes in statutes relating to the trust or their trust responsibilities.

1183 (5) The board shall develop policies for the long-term benefit of the trust utilizing the
1184 broad discretion and power granted to it in this title.

1185 (6) In harmony with its other duties, the board shall exercise its land use authority to
1186 increase the supply of housing in the state.

1187 [~~(6)~~] (7) (a) (i) On at least three occasions during each calendar year and in cooperation
1188 with the director, the board shall consult with an advisory committee consisting of five county
1189 commissioners appointed by the Utah Association of Counties concerning the impact of trust
1190 land management practices on rural economies.

1191 (ii) The director shall notify the chair of the committee prior to any proposed board
1192 actions. At the request of the committee and prior to taking the proposed action, the board
1193 shall meet with the committee at the next scheduled board meeting.

1194 (b) The association shall appoint the commissioners from five different counties based
1195 on such factors as a county's total acreage of trust lands, the revenues generated from trust
1196 lands in the county, and the potential for economic development of trust lands within the
1197 county.

1198 (c) The advisory committee may request additional consultations it considers necessary
1199 or appropriate, to be scheduled within a reasonable time after receipt of the request by the
1200 administration.

1201 [~~(7)~~] (8) The board shall utilize the services of the attorney general as provided in
1202 Section 53C-1-305.

1203 [~~(8)~~] (9) The board may:

1204 (a) (i) establish advisory committees to advise the board, director, or administration on
1205 policies affecting the management of the trust, and pay the compensation and travel expenses

1206 in accordance with rules adopted by the Division of Finance; and

1207 (ii) after conferring with the director, hire consultants to advise the board, director, or
1208 administration on issues affecting the management of the trust, and pay compensation to the
1209 consultants from money appropriated for that purpose;

1210 (b) with the consent of the state risk manager, authorize the director to manage lands or
1211 interests in lands held by any other public or private party, if:

1212 (i) all management costs are compensated by the parties;

1213 (ii) there is a commensurate return to the beneficiaries; and

1214 (iii) the additional responsibilities do not detract from the administration's
1215 responsibilities and its duty of undivided loyalty to the beneficiaries;

1216 (c) issue subpoenas or authorize a hearing officer to issue subpoenas, to compel the
1217 attendance of witnesses and the production of documents in adjudicative proceedings
1218 authorized by law and administer oaths in the performance of official duties; and

1219 (d) submit in writing to the director a request for responses, to be made within a
1220 reasonable time, to questions concerning policies and practices affecting the management of
1221 the trust.

1222 [~~9~~] (10) Board members shall be given access to all administration records and
1223 personnel consistent with law and as necessary to permit the board to accomplish its
1224 responsibilities to ensure that the administration is in full compliance with applicable policies
1225 and law.

1226 Section 10. Section **59-7-607** is amended to read:

1227 **59-7-607. Utah low-income housing tax credit.**

1228 (1) As used in this section:

1229 (a) "Allocation certificate" means a certificate in a form prescribed by the commission
1230 and issued by the corporation to a housing sponsor that specifies the aggregate amount of the
1231 tax credit awarded under this section to a qualified development and includes:

1232 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one
1233 or more qualified taxpayers; and

1234 (ii) the credit period over which the tax credit may be claimed by one or more qualified
1235 taxpayers.

1236 (b) "Building" means a qualified low-income building as defined in Section 42(c),

1237 Internal Revenue Code.

1238 (c) "Corporation" means the Utah Housing Corporation created in Section [63H-8-201](#).

1239 (d) Except as provided in Subsection (5)(c), "credit period" means the same as that
1240 term is defined in Section 42(f)(1), Internal Revenue Code.

1241 (e) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor
1242 or one of the housing sponsor's direct or indirect partners, members, or shareholders that will
1243 provide information to the commission regarding the allocation of tax credits under this
1244 section.

1245 (f) "Federal low-income housing tax credit" means the federal tax credit described in
1246 Section 42, Internal Revenue Code.

1247 (g) "Housing sponsor" means an entity that owns a qualified development.

1248 (h) "Pass-through entity" means the same as that term is defined in Section
1249 [59-10-1402](#).

1250 (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as
1251 that term is defined in Section [59-10-1402](#).

1252 (ii) The determination of whether a pass-through entity taxpayer is considered a
1253 partner, member, or shareholder of a pass-through entity shall be made in accordance with
1254 applicable state law governing the pass-through entity.

1255 (j) "Qualified allocation plan" means a qualified allocation plan adopted by the
1256 corporation in accordance with Section 42(m), Internal Revenue Code.

1257 (k) "Qualified development" means a "qualified low-income housing project":

1258 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1259 (ii) that is located in the state.

1260 (l) (i) "Qualified taxpayer" means a person that:

1261 (A) owns a direct interest or an indirect interest, through one or more pass-through
1262 entities, in a qualified development; and

1263 (B) meets the requirements to claim a tax credit under this section.

1264 (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit
1265 under this section is passed through by a pass-through entity.

1266 (2) (a) A qualified taxpayer may claim a nonrefundable tax credit under this section
1267 against taxes otherwise due under this chapter, Chapter 8, Gross Receipts Tax on Certain

1268 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9,
1269 Taxation of Admitted Insurers.

1270 (b) The tax credit shall be in an amount equal to the tax credit amount specified on the
1271 allocation certificate that the corporation issues to a housing sponsor under this section.

1272 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate
1273 annual tax credit that the corporation may allocate for each year of the credit period pursuant to
1274 this section and Section 59-10-1010 is an amount equal to the product of:

1275 (A) 12.5 cents; and

1276 (B) the population of Utah.

1277 (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or
1278 before December 31, 2022, the aggregate annual tax credit that the corporation may allocate for
1279 each year of the credit period pursuant to this section and Section 59-10-1010 is an amount
1280 equal to the product of:

1281 (A) 34.5 cents; and

1282 (B) the population of Utah.

1283 (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or
1284 before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for
1285 each year of the credit period pursuant to this section and Section 59-10-1010 is \$10,000,000.

1286 (iv) For a calendar year beginning on or after January 1, 2024, in addition to the
1287 amount of annual tax credits available for allocation as described in Subsections (2)(c)(i)
1288 through (2)(c)(iii), the corporation shall have the following tax credit amounts available for
1289 allocation:

1290 (A) any tax credits allocated in a calendar year that are subsequently returned to the
1291 corporation or recaptured by the corporation may be allocated in the following year; and

1292 (B) if the actual amount of tax credits allocated in a calendar year to qualified
1293 developments is less than the total amount of credits available to be allocated to qualified
1294 developments, the balance of the credits but no more than 15% of the total amount of credits
1295 available for allocation to qualified developments may be allocated by the corporation to
1296 qualified developments in the following calendar year.

1297 [(iv)] (v) For a calendar year beginning on or after January 1, 2029, the aggregate
1298 annual tax credit that the corporation may allocate for each year of the credit period pursuant to

1299 this section and Section 59-10-1010 is the amount described in Subsection (2)(c)(ii).

1300 [~~(v)~~] (vi) For purposes of this Subsection (2)(c), the population of Utah shall be
1301 determined in accordance with Section 146(j), Internal Revenue Code.

1302 (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity
1303 may allocate a tax credit under this section to one or more of the pass-through entity's
1304 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1305 (A) the pass-through entity taxpayer is eligible to claim any portion of a federal
1306 low-income housing tax credit for the qualified development;

1307 (B) the allocation of the tax credit has substantial economic effect within the meaning
1308 of Section 704(b), Internal Revenue Code; or

1309 (C) the pass-through entity taxpayer is considered a partner for federal income tax
1310 purposes.

1311 (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity
1312 taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity
1313 under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the
1314 pass-through entity is:

1315 (A) acquired on or before December 31 of the tax year to which the tax credit relates;
1316 and

1317 (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax
1318 credit relates.

1319 (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another
1320 taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity,
1321 including the pass-through entity taxpayer's interest in the tax credit associated with the
1322 ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax
1323 credit so long as the assignee's ownership interest in the pass-through entity is:

1324 (i) acquired on or before December 31 of the tax year to which the tax credit relates;
1325 and

1326 (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax
1327 credit relates.

1328 (3) (a) The corporation shall determine criteria and procedures for allocating the tax
1329 credit under this section and Section 59-10-1010 and incorporate the criteria and procedures

1330 into the corporation's qualified allocation plan.

1331 (b) The corporation shall create the criteria under Subsection (3)(a) based on:

1332 (i) the number of affordable housing units to be created in Utah for low and moderate
1333 income persons in a qualified development;

1334 (ii) the level of area median income being served by a qualified development;

1335 (iii) the need for the tax credit for the economic feasibility of a qualified development;

1336 and

1337 (iv) the extended period for which a qualified development commits to remain as
1338 affordable housing.

1339 (4) Any housing sponsor may apply to the corporation for a tax credit allocation under
1340 this section.

1341 (5) (a) (i) The corporation shall determine the amount of the tax credit to allocate to a
1342 qualified development in accordance with the qualified allocation plan.

1343 (ii) (A) Before the allocation certificate is issued to the housing sponsor, the
1344 corporation shall send to the housing sponsor written notice of the corporation's preliminary
1345 determination of the tax credit amount to be allocated to the qualified development.

1346 (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's
1347 preliminary determination of the tax credit amount to be allocated to the qualified development
1348 for each year of the credit period and state that allocation of the tax credit is contingent upon
1349 the issuance of an allocation certificate.

1350 (iii) Upon approving a final cost certification in accordance with the qualified
1351 allocation plan, the corporation shall issue an allocation certificate to the housing sponsor as
1352 evidence of the allocation.

1353 (iv) The amount of the tax credit specified in an allocation certificate may not exceed
1354 100% of the federal low-income housing tax credit awarded to a qualified development.

1355 (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the
1356 corporation for a tax credit under this section and an allocation certificate is not yet issued, a
1357 qualified taxpayer may claim a tax credit based upon the corporation's preliminary
1358 determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

1359 (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified
1360 taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to

1361 adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is
1362 different than the amount specified in the allocation certificate.

1363 (c) The amount of tax credit that may be claimed in the first year of the credit period
1364 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1365 (d) On or before January 31 of each year, the corporation shall provide to the
1366 commission in a form prescribed by the commission a report that describes each allocation
1367 certificate that the corporation issued during the previous calendar year.

1368 (6) (a) A housing sponsor shall provide to the commission identification of the housing
1369 sponsor's designated reporter.

1370 (b) For each tax year in which a tax credit is claimed under this section, the designated
1371 reporter shall provide to the commission in a form prescribed by the commission:

1372 (i) a list of each qualified taxpayer that has been allocated a portion of the tax credit
1373 awarded in the allocation certificate for that tax year;

1374 (ii) the amount of tax credit that has been allocated to each qualified taxpayer described
1375 in Subsection (6)(b)(i) for that tax year; and

1376 (iii) any other information, as prescribed by the commission, to demonstrate that the
1377 aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does
1378 not exceed the aggregate annual tax credit amount specified in the allocation certificate.

1379 (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal
1380 Revenue Code, shall apply to this section.

1381 (b) (i) If a qualified development is required to recapture a portion of any federal
1382 low-income housing tax credit, then each qualified taxpayer that has been allocated a portion of
1383 a tax credit under this section shall also be required to recapture a portion of the tax credit
1384 under this section.

1385 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
1386 that equals the proportion the federal recapture amount bears to the original federal low-income
1387 housing tax credit amount subject to recapture.

1388 (iii) The designated reporter shall identify each qualified taxpayer that is required to
1389 recapture a portion of any state tax credit as described in this Subsection (7)(b).

1390 (8) (a) Any tax credits returned to the corporation in any year may be reallocated within
1391 the same time period as provided in Section 42, Internal Revenue Code.

1392 (b) Tax credits that are unallocated by the corporation in any year may be carried over
1393 for allocation in subsequent years.

1394 (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is
1395 earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit
1396 may be carried back three years or may be carried forward five years as a credit against the tax.

1397 (b) Carryover tax credits under Subsection (9)(a) shall be applied against the tax:

1398 (i) before the application of the tax credits earned in the current year; and

1399 (ii) on a first-earned first-used basis.

1400 (10) Any tax credit taken in this section may be subject to an annual audit by the
1401 commission.

1402 (11) The corporation shall annually provide an electronic report to the Revenue and
1403 Taxation Interim Committee that includes:

1404 (a) the purpose and effectiveness of the tax credits;

1405 (b) any recommendations for legislative changes to the aggregate tax credit amount that
1406 the corporation is authorized to allocate each year under Subsection (2)(c); and

1407 (c) the benefits of the tax credits to the state.

1408 (12) The commission may, in consultation with the corporation, make rules in
1409 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this
1410 section.

1411 (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation
1412 Interim Committee shall conduct a review of the aggregate tax credit amount that the
1413 corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

1414 (b) In a review under this Subsection (13), the Revenue and Taxation Interim
1415 Committee shall:

1416 (i) study any recommendations provided by the corporation under Subsection (11)(b);
1417 and

1418 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative
1419 action to the Legislature, prepare legislation for consideration by the Legislature in the next
1420 general session.

1421 Section 11. Section **59-10-1010** is amended to read:

1422 **59-10-1010. Utah low-income housing tax credit.**

1423 (1) As used in this section:

1424 (a) "Allocation certificate" means a certificate in a form prescribed by the commission
1425 and issued by the corporation to a housing sponsor that specifies the aggregate amount of the
1426 tax credit awarded under this section to a qualified development and includes:

1427 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one
1428 or more qualified taxpayers; and

1429 (ii) the credit period over which the tax credit may be claimed by one or more qualified
1430 taxpayers.

1431 (b) "Building" means a qualified low-income building as defined in Section 42(c),
1432 Internal Revenue Code.

1433 (c) "Corporation" means the Utah Housing Corporation created in Section 63H-8-201.

1434 (d) Except as provided in Subsection (5)(c), "credit period" means the same as that
1435 term is defined in Section 42(f)(1), Internal Revenue Code.

1436 (e) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor
1437 or one of the housing sponsor's direct or indirect partners, members, or shareholders that will
1438 provide information to the commission regarding the allocation of tax credits under this
1439 section.

1440 (f) "Federal low-income housing credit" means the federal low-income housing credit
1441 described in Section 42, Internal Revenue Code.

1442 (g) "Housing sponsor" means an entity that owns a qualified development.

1443 (h) "Pass-through entity" means the same as that term is defined in Section
1444 59-10-1402.

1445 (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as
1446 that term is defined in Section 59-10-1402.

1447 (ii) The determination of whether a pass-through entity taxpayer is considered a
1448 partner, member, or shareholder of a pass-through entity shall be made in accordance with
1449 applicable state law governing the pass-through entity.

1450 (j) "Qualified allocation plan" means a qualified allocation plan adopted by the
1451 corporation in accordance with Section 42(m), Internal Revenue Code.

1452 (k) "Qualified development" means a "qualified low-income housing project":

1453 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1454 (ii) that is located in the state.

1455 (l) (i) "Qualified taxpayer" means a claimant, estate, or trust that:

1456 (A) owns a direct or indirect interest, through one or more pass-through entities, in a
1457 qualified development; and

1458 (B) meets the requirements to claim a tax credit under this section.

1459 (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit
1460 under this section is passed through by a pass-through entity.

1461 (2) (a) A qualified taxpayer may claim a nonrefundable tax credit under this section
1462 against taxes otherwise due under this chapter.

1463 (b) The tax credit shall be in an amount equal to the tax credit amount specified on the
1464 allocation certificate that the corporation issues to a housing sponsor under this section.

1465 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate
1466 annual tax credit that the corporation may allocate for each year of the credit period pursuant to
1467 this section and Section 59-7-607 is an amount equal to the product of:

1468 (A) 12.5 cents; and

1469 (B) the population of Utah.

1470 (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or
1471 before December 31, 2022, the aggregate annual tax credit that the corporation may allocate for
1472 each year of the credit period pursuant to this section and Section 59-7-607 is an amount equal
1473 to the product of:

1474 (A) 34.5 cents; and

1475 (B) the population of Utah.

1476 (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or
1477 before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for
1478 each year of the credit period pursuant to this section and Section 59-7-607 is \$10,000,000.

1479 (iv) For a calendar year beginning on or after January 1, 2024, in addition to the
1480 amount of annual tax credits available for allocation as described in Subsections (2)(c)(i)
1481 through (2)(c)(iii), the corporation shall have the following tax credit amounts available for
1482 allocation:

1483 (A) any tax credits allocated in a calendar year that are subsequently returned to the
1484 corporation or recaptured by the corporation may be allocated in the following calendar year;

1485 and

1486 (B) if the actual amount of tax credits allocated in a calendar year to qualified
1487 developments is less than the total amount of credits available to be allocated to qualified
1488 developments, the balance of the credits but no more than 15% of the total amount of credits
1489 available for allocation to qualified developments may be allocated by the corporation to
1490 qualified developments in the following calendar year.

1491 [~~(iv)~~] (v) For a calendar year beginning on or after January 1, 2029, the aggregate
1492 annual tax credit that the corporation may allocate for each year of the credit period pursuant to
1493 this section and Section 59-7-607 is the amount described in Subsection (2)(c)(ii).

1494 [~~(v)~~] (vi) For purposes of this Subsection (2)(c), the population of Utah shall be
1495 determined in accordance with Section 146(j), Internal Revenue Code.

1496 (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity
1497 may allocate a tax credit under this section to one or more of the pass-through entity's
1498 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1499 (A) the pass-through entity taxpayer is eligible to claim any portion of a federal
1500 low-income housing tax credit for the qualified development;

1501 (B) the allocation of the tax credit has substantial economic effect within the meaning
1502 of Section 704(b), Internal Revenue Code; or

1503 (C) the pass-through entity taxpayer is considered a partner for federal income tax
1504 purposes.

1505 (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity
1506 taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity
1507 under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the
1508 pass-through entity is:

1509 (A) acquired on or before December 31 of the tax year to which the tax credit relates;

1510 and

1511 (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax
1512 credit relates.

1513 (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another
1514 taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity,
1515 including the pass-through entity taxpayer's interest in the tax credit associated with the

1516 ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax
1517 credit so long as the assignee's ownership interest in the pass-through entity is:

1518 (i) acquired on or before December 31 of the tax year to which the tax credit relates;
1519 and

1520 (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax
1521 credit relates.

1522 (3) (a) The corporation shall determine criteria and procedures for allocating the tax
1523 credit under this section and Section 59-7-607 and incorporate the criteria and procedures into
1524 the corporation's qualified allocation plan.

1525 (b) The corporation shall create the criteria under Subsection (3)(a) based on:

1526 (i) the number of affordable housing units to be created in Utah for low and moderate
1527 income persons in a qualified development;

1528 (ii) the level of area median income being served by a qualified development;

1529 (iii) the need for the tax credit for the economic feasibility of a qualified development;
1530 and

1531 (iv) the extended period for which a qualified development commits to remain as
1532 affordable housing.

1533 (4) Any housing sponsor may apply to the corporation for a tax credit allocation under
1534 this section.

1535 (5) (a) (i) The corporation shall determine the amount of the tax credit to allocate to a
1536 qualified development in accordance with the qualified allocation plan.

1537 (ii) (A) Before the allocation certificate is issued to the housing sponsor, the
1538 corporation shall send to the housing sponsor written notice of the corporation's preliminary
1539 determination of the tax credit amount to be allocated to the qualified development.

1540 (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's
1541 preliminary determination of the tax credit amount to be allocated to the qualified development
1542 for each year of the credit period and state that allocation of the tax credit is contingent upon
1543 the issuance of an allocation certificate.

1544 (iii) Upon approving a final cost certification in accordance with the qualified
1545 allocation plan, the corporation shall issue an allocation certificate to the housing sponsor as
1546 evidence of the allocation.

1547 (iv) The amount of the tax credit specified in an allocation certificate may not exceed
1548 100% of the federal low-income housing credit awarded to a qualified development.

1549 (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the
1550 corporation for a tax credit under this section and an allocation certificate is not yet issued, a
1551 qualified taxpayer may claim a tax credit based upon the corporation's preliminary
1552 determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

1553 (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified
1554 taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to
1555 adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is
1556 different than the amount specified in the allocation certificate.

1557 (c) The amount of tax credit that may be claimed in the first year of the credit period
1558 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1559 (d) On or before January 31 of each year, the corporation shall provide to the
1560 commission in a form prescribed by the commission a report that describes each allocation
1561 certificate that the corporation issued during the previous calendar year.

1562 (6) (a) A housing sponsor shall provide to the commission identification of the housing
1563 sponsor's designated reporter.

1564 (b) For each tax year in which a tax credit is claimed under this section, the designated
1565 reporter shall provide to the commission in a form prescribed by the commission:

1566 (i) a list of each qualified taxpayer that has been allocated a portion of the tax credit
1567 awarded in the allocation certificate for that tax year;

1568 (ii) the amount of tax credit that has been allocated to each qualified taxpayer described
1569 in Subsection (6)(b)(i) for that tax year; and

1570 (iii) any other information, as prescribed by the commission, to demonstrate that the
1571 aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does
1572 not exceed the aggregate annual tax credit amount specified in the allocation certificate.

1573 (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal
1574 Revenue Code, shall apply to this section.

1575 (b) (i) If a qualified taxpayer is required to recapture a portion of any federal
1576 low-income housing credit, the qualified taxpayer that has been allocated a portion of a tax
1577 credit under this section shall also be required to recapture a portion of the tax credit under this

1578 section.

1579 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
1580 that equals the proportion the federal recapture amount bears to the original federal low-income
1581 housing credit amount subject to recapture.

1582 (iii) The designated reporter shall identify each qualified taxpayer that is required to
1583 recapture a portion of any state tax credits as described in this Subsection (7)(b).

1584 (8) (a) Any tax credits returned to the corporation in any year may be reallocated within
1585 the same time period as provided in Section 42, Internal Revenue Code.

1586 (b) Tax credits that are unallocated by the corporation in any year may be carried over
1587 for allocation in subsequent years.

1588 (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is
1589 earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit
1590 may be carried back three years or may be carried forward five years as a credit against the tax.

1591 (b) Carryover tax credits under Subsection (9)(a) shall be applied against the tax:

1592 (i) before the application of the tax credits earned in the current year; and

1593 (ii) on a first-earned first-used basis.

1594 (10) Any tax credit taken in this section may be subject to an annual audit by the
1595 commission.

1596 (11) The corporation shall annually provide an electronic report to the Revenue and
1597 Taxation Interim Committee that includes:

1598 (a) the purpose and effectiveness of the tax credits;

1599 (b) any recommendations for legislative changes to the aggregate tax credit amount that
1600 the corporation is authorized to allocate each year under Subsection (2)(c); and

1601 (c) the benefits of the tax credits to the state.

1602 (12) The commission may, in consultation with the corporation, promulgate rules to
1603 implement this section.

1604 (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation
1605 Interim Committee shall conduct a review of the aggregate tax credit amount that the
1606 corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

1607 (b) In a review under this Subsection (13), the Revenue and Taxation Interim
1608 Committee shall:

1609 (i) study any recommendations provided by the corporation under Subsection (11)(b);
1610 and

1611 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative
1612 action to the Legislature, prepare legislation for consideration by the Legislature in the next
1613 general session.

1614 Section 12. Section **59-12-352** is amended to read:

1615 **59-12-352. Transient room tax authority for municipalities, military installation**
1616 **development authority, and Point of the Mountain State Land Authority -- Purposes for**
1617 **which revenues may be used.**

1618 (1) (a) Except as provided in Subsection (5), the governing body of a municipality may
1619 impose a tax of not to exceed 1% on charges for the accommodations and services described in
1620 Subsection **59-12-103**(1)(i).

1621 (b) Subject to Section **63H-1-203**, the military installation development authority
1622 created in Section **63H-1-201** may impose a tax under this section for accommodations and
1623 services described in Subsection **59-12-103**(1)(i) within a project area described in a project
1624 area plan adopted by the authority under Title 63H, Chapter 1, Military Installation
1625 Development Authority Act, as though the authority were a municipality.

1626 (2) Subject to the limitations of Subsection (1), a governing body of a municipality
1627 may, by ordinance, increase or decrease the tax under this part.

1628 (3) A governing body of a municipality shall regulate the tax under this part by
1629 ordinance.

1630 (4) A municipality may use revenues generated by the tax under this part for general
1631 fund purposes.

1632 (5) (a) A municipality may not impose a tax under this section for accommodations and
1633 services described in Subsection **59-12-103**(1)(i) within a project area described in a project
1634 area plan adopted by the authority under Title 63H, Chapter 1, Military Installation
1635 Development Authority Act.

1636 (b) Subsection (5)(a) does not apply to the military installation development authority's
1637 imposition of a tax under this section.

1638 (6) (a) As used in this Subsection (6):

1639 (i) "Authority" means the Point of the Mountain State Land Authority, created in

1640 Section [11-59-201](#).

1641 (ii) "Authority board" means the board referred to in Section [11-59-301](#).

1642 (b) The authority may, by a resolution adopted by the authority board, impose a tax of
1643 not to exceed 5% on charges for the accommodations and services described in Subsection
1644 [59-12-103\(1\)\(i\)](#) for transactions that occur on point of the mountain state land, as defined in
1645 Section [11-59-102](#).

1646 (c) The authority board, by resolution, shall regulate the tax under this Subsection (6).

1647 (d) The authority shall use all revenue from a tax imposed under this Subsection (6) to
1648 provide affordable housing, consistent with the manner that a community reinvestment agency
1649 uses funds for [~~affordable housing~~] income targeted housing under Section [17C-1-412](#).

1650 (e) A tax under this Subsection (6) is in addition to any other tax that may be imposed
1651 under this part.

1652 Section 13. **Effective date.**

1653 This bill takes effect on May 1, 2024.