HB0465S03 compared with HB0465S02

~~{deleted text}~~ shows text that was in HB0465S02 but was deleted in HB0465S03.

inserted text shows text that was not in HB0465S02 but was inserted into HB0465S03.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative ~~{Candice B}~~Stephen L. ~~{Pierucci}~~Whyte proposes the following substitute bill:

HOUSING AFFORDABILITY REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen L. Whyte

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill addresses funding issues related to housing affordability.

Highlighted Provisions:

This bill:

- defines terms and modifies definitions;
- modifies the requirements for a moderate income housing report;
- authorizes redevelopment agencies and community development agencies to use funding to pay for or contribute to the acquisition, construction, or rehabilitation of income targeted housing, under certain circumstances;
- authorizes up to 6% of the Olene Walker Housing Loan Fund to be used to offset administrative expenses;

- requires the Department of Workforce Services to create pass-through funding agreements;
- describes the minimum requirements of a pass-through funding agreement, including requirements that state funds be spent on certain affordable housing investments;
- modifies the Utah low-income housing tax credit;
- encourages the ~~{Utah Inland Port Authority, the }~~Point of the Mountain State Land Authority~~{, and the School Institutional Trust Lands Administration}~~ to, if appropriate, utilize land use authority to increase the supply of housing in the state;
- modifies reporting requirements; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

~~**{53C-1-204}**~~**59-7-538**, as ~~{last amended}~~enacted by Laws of Utah ~~{2011}~~2022, Chapter ~~{247}~~258

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

(f) "Specified municipality" means:

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

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

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

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

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

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

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

calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.

(c) The initial report shall:

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

(ii) include an implementation plan.

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

(b) The subsequent progress report shall include:

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

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

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

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

(A) issued a building permit to construct; or

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

(v) the number of residential dwelling units that have been entitled, according to the specified municipality's zoning map, that have not received a building permit as of the submission date of the progress report;

(vi) shapefiles, or website links if shapefiles are not available, to current maps and

tables related to zoning;

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

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

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

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

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

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

(i) approved by the division; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) provides sufficient information for the division to:

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

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

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

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

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

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

(i) complies with this section; and

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

implement:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

deficiency;

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

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

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

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

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

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

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

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

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

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

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

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

decision on the appeal:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) beginning with a report submitted in 2024, the specified municipality shall pay a

fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified municipality:

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

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

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

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

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

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

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

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

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

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

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

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

(f) The division may not determine that a specified municipality that is required to pay

a fee under Subsection (9)(b) is in compliance with the reporting requirements of this section until the specified municipality pays all outstanding fees required under Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

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

Section 2. Section ~~{11-58-203}~~11-59-203 is amended to read:

~~{ 11-58-203. Policies and objectives of the authority -- Additional duties of the authority.~~

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

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

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

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

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

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

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

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

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

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

~~(h) facilitate the transportation of goods;~~

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

~~(j) support and promote land uses on the authority jurisdictional land and land in other authority project areas that generate economic development, including rural economic development;~~

~~(k) establish a project of regional significance;~~

~~(l) facilitate an intermodal facility;~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(ii) the mutual goals of the state and local governments that have authority jurisdictional land with their boundaries with respect to the authority jurisdictional land;~~

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

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

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

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

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

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

~~}~~ **11-59-203. Authority duties and responsibilities.**

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

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

(b) ensure strategic residential and commercial growth;

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

(i) jobs close to where people live;

(ii) vibrant urban centers;

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

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

(v) preserving and enhancing recreational opportunities;

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

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

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

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

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

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

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

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

(i) relevant metropolitan planning organizations;

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

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

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

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

Section ~~{4}~~3. Section **17-27a-408** is amended to read:

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

(1) As used in this section:

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

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

(c) "Initial report" means the one-time moderate income housing report described in

Subsection (2).

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

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

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

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

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

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

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

(c) The initial report shall:

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

(ii) include an implementation plan.

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

(b) The subsequent progress report shall include:

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

(ii) a description of each land use regulation or land use decision made by the specified county during the previous 12-month period to implement the moderate income housing

strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;

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

(iv) the number of residential dwelling units that have been entitled, according to the specified county's zoning map, that have not received a building permit as of the submission date of the progress report;

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

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

(A) issued a building permit to construct; or

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

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

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

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

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

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

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

(i) approved by the division; and

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

required.

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

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

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

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

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

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

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

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

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

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

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

(iii) provides sufficient information for the division to:

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

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

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

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

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

(c) (i) This Subsection (5)(c) applies to a specified county that has created a small

public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

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

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

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

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

(i) complies with this section; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the

specified county's ineligibility for funds under Subsection (9).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{5}~~4. Section **17C-1-102** is amended to read:

17C-1-102. Definitions.

As used in this title:

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

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

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

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

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

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

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

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community

development and renewal agency under previous law:

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

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

(c) whose geographic boundaries are coterminous with:

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

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

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

(a) project area funds;

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

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

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

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

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

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

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

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

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

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

committee:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) an agency's housing allocation.

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

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

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

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

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

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

(iii) requires remediation because:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

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

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

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

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

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

(40) "Participant" means one or more persons that enter into a participation agreement

with an agency.

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

(a) includes a description of:

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

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

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

(b) is approved by resolution of the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) relocating a business;

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

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

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

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

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

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

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

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

agreement.

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

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

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

(53) "Public entity" means:

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

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

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

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

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

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

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

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

(57) "Superfund site":

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

(b) includes an area formerly included in the National Priorities List, as described in

Subsection (57)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

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

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

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

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

(60) "Taxable value" means:

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

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

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

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

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

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

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

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

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

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

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

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

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

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

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

Section ~~{6}~~5. Section **17C-1-412** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(viii) if the community's fair share ratio at the time of the first adoption of the project

area budget is at least 1.1 to 1.0, make payments on bonds:

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

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

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

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

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

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

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

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

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

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

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

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

(A) income targeted housing within the county;

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

(C) homeless assistance within the county;

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

(v) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if the housing is located along or near a major transit investment corridor that services the community and the

related project has been approved by the community in which the housing is or will be located; [~~or~~]

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

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

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

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

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

(4) An agency may:

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

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

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

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

(6) (a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing

allocation in accordance with the project area budget and the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.

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

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

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

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

(8) An agency may expend funds under this section for six years, beginning the day on which the agency makes the first expenditure.

Section ~~{7}~~6. Section **35A-8-504** is amended to read:

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

(1) As used in this section:

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

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

(2) The executive director shall:

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

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

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

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

(4) The executive director shall distribute, as directed by the board, any funds received

under Section 17C-1-412 to pay the costs of providing income targeted housing within the community that created the community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

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

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

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

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

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

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

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

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

Section ~~{8}~~7. Section **35A-8-2401** is amended to read:

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

(1) As used in this section:

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

(i) manages a portfolio of investments;

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

(iii) is controlled by a registered nonprofit.

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

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

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

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

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

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

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

(a) the housing organization match pass-through funding with private funding at no less than a 70% private, 30% state split;

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

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

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

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

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

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

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

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

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

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

(iii) progress and status of funded projects; and

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

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

Section ~~{9}~~8. Section ~~{**53C-1-204**}~~**59-7-538** is amended to read:

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

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

~~(b) The policies shall:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{10}~~9. Section **59-7-607** is amended to read:

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) that is located in the state.

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

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

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

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

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

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

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

(A) 12.5 cents; and

(B) the population of Utah.

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

(A) 34.5 cents; and

(B) the population of Utah.

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

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

(A) any tax credits allocated in a calendar year that are subsequently returned to the corporation or recaptured by the corporation may be allocated in the following year, except no

tax credits under this Subsection (2)(c)(iv) shall be allocated after December 31, 2028; and

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

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

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

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

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

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

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

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

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

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

(e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

evidence of the allocation.

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

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

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

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

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

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

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

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

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

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

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

(b) (i) If a qualified development is required to recapture a portion of any federal low-income housing tax credit, then each qualified taxpayer that has been allocated a portion of

a tax credit under this section shall also be required to recapture a portion of the tax credit under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) that is located in the state.

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

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

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

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

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

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

(c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to

this section and Section 59-7-607 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

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

(A) 34.5 cents; and

(B) the population of Utah.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the number of affordable housing units to be created in Utah for low and moderate

income persons in a qualified development;

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

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

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

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

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

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

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

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

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

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

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

(c) The amount of tax credit that may be claimed in the first year of the credit period

may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

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

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

(9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is

earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) (a) Except as provided in Subsection (5), the governing body of a municipality may impose a tax of not to exceed 1% on charges for the accommodations and services described in

Subsection 59-12-103(1)(i).

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

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

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

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

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

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

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

(i) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

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

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

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

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

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

under this part.

Section 13. **Effective date.**

This bill takes effect on May 1, 2024.