

**Senator Lincoln Fillmore** proposes the following substitute bill:

**HOUSING AFFORDABILITY AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen L. Whyte**

Senate Sponsor: Lincoln Fillmore

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions related to the moderate income housing reporting requirements for certain cities and counties;
- ▶ allows a city or county to appeal the Housing and Community Development Division's determination of noncompliance in relation to city and county moderate income housing reports;
- ▶ establishes an appeal board to hear and decide appeals in relation to city and county moderate income housing reports;
- ▶ requires the Department of Workforce Services to report annually on expenditures authorized by the Utah Housing Preservation Fund;
- ▶ allows for state low-income housing tax credits to be allocated, by pass-through, to certain business entities;
- ▶ increases the aggregate annual amount of state low-income housing tax credits that may be allocated in certain years;



- 26           ▶ allows a taxpayer to claim a state low-income housing tax credit before final
- 27 certification from the Utah Housing Corporation in certain circumstances;
- 28           ▶ requires the Legislature to conduct reviews of the aggregate annual amount of state
- 29 low-income housing tax credits that the Utah Housing Corporation is authorized to
- 30 allocate and has allocated; and
- 31           ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33           None

34 **Other Special Clauses:**

35           This bill provides a special effective date.

36           This bill provides retrospective operation.

37 **Utah Code Sections Affected:**

38 AMENDS:

39           **10-9a-401**, as last amended by Laws of Utah 2022, Chapters 282, 406

40           **10-9a-403**, as last amended by Laws of Utah 2022, Chapters 282, 406 and last amended  
41 by Coordination Clause, Laws of Utah 2022, Chapter 406

42           **10-9a-408**, as last amended by Laws of Utah 2022, Chapter 406

43           **17-27a-401**, as last amended by Laws of Utah 2022, Chapters 282, 406

44           **17-27a-403**, as last amended by Laws of Utah 2022, Chapters 282, 406

45           **17-27a-408**, as last amended by Laws of Utah 2022, Chapter 406

46           **59-7-607**, as last amended by Laws of Utah 2020, Chapter 241

47           **59-9-108**, as enacted by Laws of Utah 2020, Chapter 241

48           **59-10-1010**, as last amended by Laws of Utah 2020, Chapter 241

49           **63J-4-802**, as last amended by Laws of Utah 2022, Chapter 406

50           **72-1-304**, as last amended by Laws of Utah 2022, Chapter 406

51           **72-2-124**, as last amended by Laws of Utah 2022, Chapters 69, 259 and 406

52 ENACTS:

53           **35A-8-2401**, Utah Code Annotated 1953



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

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

57 **10-9a-401. General plan required -- Content.**

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

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

62 (2) The general plan may provide for:

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

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

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

- 68 (i) food and water; and
- 69 (ii) drainage, sanitary, and other facilities and resources;

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

71 (e) the protection of urban development;

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

74 (g) the protection and promotion of air quality;

75 (h) historic preservation;

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

78 (j) an official map.

79 (3) (a) The general plan of a specified municipality, as defined in Section 10-9a-408,  
80 shall include a moderate income housing element that meets the requirements of Subsection  
81 10-9a-403(2)(a)(iii).

82 ~~[(b) On or before October 1, 2022, a specified municipality, as defined in Section~~  
83 ~~10-9a-408, with a general plan that does not comply with Subsection (3)(a) shall amend the~~  
84 ~~general plan to comply with Subsection (3)(a)]~~

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

87 (ii) As of January 1, if a municipality described in Subsection (3)(b)(i) changes from

88 one class to another or grows in population to qualify as a specified municipality as defined in  
89 Section 10-9a-408, the municipality shall amend the municipality's general plan to comply with  
90 Subsection (3)(a) on or before August 1 of the first calendar year beginning on January 1 in  
91 which the municipality qualifies as a specified municipality.

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

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

95 **10-9a-403. General plan preparation.**

96 (1) (a) The planning commission shall provide notice, as provided in Section  
97 10-9a-203, of the planning commission's intent to make a recommendation to the municipal  
98 legislative body for a general plan or a comprehensive general plan amendment when the  
99 planning commission initiates the process of preparing the planning commission's  
100 recommendation.

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

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

106 (d) Except as otherwise provided by law or with respect to a municipality's power of  
107 eminent domain, when the plan of a municipality involves territory outside the boundaries of  
108 the municipality, the municipality may not take action affecting that territory without the  
109 concurrence of the county or other municipalities affected.

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

113 (i) a land use element that:

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

118 (B) includes a statement of the projections for and standards of population density and

119 building intensity recommended for the various land use categories covered by the plan;

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

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

124 (ii) a transportation and traffic circulation element that:

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

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

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

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

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

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

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

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

149 (D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed

150 guideway public transit station, shall include a recommendation to implement five or more of  
151 the moderate income housing strategies described in Subsection (2)(b)(iii), of which one shall  
152 be the moderate income housing strategy described in Subsection (2)(b)(iii)(V), and one shall  
153 be a moderate income housing strategy described in Subsection (2)(b)(iii)(G), (H), or (Q); and  
154 ~~[(C)]~~ (E) ~~[includes]~~ for a specified municipality, as defined in Section 10-9a-408, shall  
155 include an implementation plan as provided in Subsection (2)(c); and

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

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

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

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

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

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

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

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

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

173 (ii) for a town, may include, and for a specified municipality as defined in Section  
174 10-9a-408, shall include, an analysis of how the municipality will provide a realistic  
175 opportunity for the development of moderate income housing within the next five years;

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

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

- 181 housing;
- 182 (B) demonstrate investment in the rehabilitation or expansion of infrastructure that
- 183 facilitates the construction of moderate income housing;
- 184 (C) demonstrate investment in the rehabilitation of existing uninhabitable housing
- 185 stock into moderate income housing;
- 186 (D) identify and utilize general fund subsidies or other sources of revenue to waive
- 187 construction related fees that are otherwise generally imposed by the municipality for the
- 188 construction or rehabilitation of moderate income housing;
- 189 (E) create or allow for, and reduce regulations related to, internal or detached accessory
- 190 dwelling units in residential zones;
- 191 (F) zone or rezone for higher density or moderate income residential development in
- 192 commercial or mixed-use zones near major transit investment corridors, commercial centers, or
- 193 employment centers;
- 194 (G) amend land use regulations to allow for higher density or new moderate income
- 195 residential development in commercial or mixed-use zones near major transit investment
- 196 corridors;
- 197 (H) amend land use regulations to eliminate or reduce parking requirements for
- 198 residential development where a resident is less likely to rely on the resident's own vehicle,
- 199 such as residential development near major transit investment corridors or senior living
- 200 facilities;
- 201 (I) amend land use regulations to allow for single room occupancy developments;
- 202 (J) implement zoning incentives for moderate income units in new developments;
- 203 (K) preserve existing and new moderate income housing and subsidized units by
- 204 utilizing a landlord incentive program, providing for deed restricted units through a grant
- 205 program, or, notwithstanding Section [10-9a-535](#), establishing a housing loss mitigation fund;
- 206 (L) reduce, waive, or eliminate impact fees related to moderate income housing;
- 207 (M) demonstrate creation of, or participation in, a community land trust program for
- 208 moderate income housing;
- 209 (N) implement a mortgage assistance program for employees of the municipality, an
- 210 employer that provides contracted services to the municipality, or any other public employer
- 211 that operates within the municipality;

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

262 (ii) avoid proposing a use of land within an agriculture protection area that is

263 inconsistent with or detrimental to the use of the land for agriculture; and

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

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

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

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

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

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

277 (i) shall consider:

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

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

282 (ii) shall include a recommendation for:

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

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

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

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

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

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

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

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

296 (E) reduction of yard waste; and

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

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

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

304 (B) water distribution planning, including master plans, infrastructure asset

305 management programs and plans, infrastructure replacement plans, and impact fee facilities  
306 plans;

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

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

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

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

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

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

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

321 (A) commercial, industrial, or institutional development;

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

323 (C) multifamily housing project.

324 (3) The proposed general plan may include:

325 (a) an environmental element that addresses:

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

328 (A) air;

329 (B) forests;

330 (C) soils;

331 (D) rivers;

332 (E) groundwater and other waters;

333 (F) harbors;

334 (G) fisheries;

335 (H) wildlife;

336 (I) minerals; and  
337 (J) other natural resources; and  
338 (ii) (A) the reclamation of land, flood control, prevention and control of the pollution  
339 of streams and other waters;  
340 (B) the regulation of the use of land on hillsides, stream channels and other  
341 environmentally sensitive areas;  
342 (C) the prevention, control, and correction of the erosion of soils;  
343 (D) the preservation and enhancement of watersheds and wetlands; and  
344 (E) the mapping of known geologic hazards;  
345 (b) a public services and facilities element showing general plans for sewage, water,  
346 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,  
347 police and fire protection, and other public services;  
348 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and  
349 programs for:  
350 (i) historic preservation;  
351 (ii) the diminution or elimination of a development impediment as defined in Section  
352 17C-1-102; and  
353 (iii) redevelopment of land, including housing sites, business and industrial sites, and  
354 public building sites;  
355 (d) an economic element composed of appropriate studies and forecasts, as well as an  
356 economic development plan, which may include review of existing and projected municipal  
357 revenue and expenditures, revenue sources, identification of basic and secondary industry,  
358 primary and secondary market areas, employment, and retail sales activity;  
359 (e) recommendations for implementing all or any portion of the general plan, including  
360 the adoption of land and water use ordinances, capital improvement plans, community  
361 development and promotion, and any other appropriate action;  
362 (f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3);  
363 and  
364 (g) any other element the municipality considers appropriate.  
365 Section 3. Section 10-9a-408 is amended to read:  
366 **10-9a-408. Moderate income housing report -- Contents -- Prioritization for**

367 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

368 (1) As used in this section:

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

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

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

376 (d) "Moderate income housing strategy" means a strategy described in Subsection  
377 10-9a-403(2)(b)(iii).

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

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

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

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

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

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

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

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

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

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

396 (c) The initial report shall:

397 (i) [~~a description of~~] identify each moderate income housing strategy selected by the

398 specified municipality for continued, ongoing, or one-time implementation, restating the exact  
399 language used to describe the moderate income housing strategy in Subsection  
400 10-9a-403(2)(b)(iii); and

401 (ii) include an implementation plan.

402 ~~[(c)] (3) (a) [The moderate income housing report submitted in each calendar year after~~  
403 ~~2022]~~ After the division approves a specified municipality's initial report under this section,  
404 the specified municipality shall, as an administrative act, annually submit to the division a  
405 subsequent progress report on or before August 1 of each year after the year in which the  
406 specified municipality is required to submit the initial report.

407 (b) The subsequent progress report shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

443 (i) approved by the division; and

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

446 ~~[(3)]~~ (4) Within 90 days after the day on which the division receives a specified  
 447 municipality's ~~[moderate income housing]~~ report, the division shall:

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

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

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

455 ~~[(4)]~~ (5) (a) ~~[The report described in Subsection (2)(b) complies with Subsection (2) if]~~  
 456 An initial report does not comply with this section unless the report:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

487 ~~[(5)]~~ (6) (a) A specified municipality qualifies for priority consideration under this  
488 Subsection ~~[(5)]~~ (6) if the specified municipality's ~~[moderate income housing]~~ report:

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

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



491 implement:

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

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

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

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

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

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

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

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

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

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

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

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

522 ~~[(6)]~~ (7) (a) If the division, after reviewing a specified municipality's [~~moderate income~~  
523 ~~housing~~] report, determines that the report does not comply with [~~Subsection (2)]~~ this section,  
524 the division shall send a notice of noncompliance to the legislative body of the specified  
525 municipality.

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

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

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

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

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

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

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

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

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

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

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

551 (ii) A specified municipality that receives a second notice of noncompliance may  
552 submit to the division a request for an appeal of the division's determination of noncompliance

553 within 10 days after the day on which the second notice of noncompliance is sent.

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

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

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

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

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

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

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

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

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

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

574 ~~[(7)]~~ (9) (a) A specified municipality is ineligible for funds under this Subsection [(7)  
 575 if the specified municipality] (9) if:

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

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

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

583 (B) request an appeal of the division's determination of noncompliance within [90] 10

584 days after the day on which the [~~division sent to the specified municipality a~~] notice of  
585 noncompliance [~~under Subsection (6).~~] is sent;

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

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

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

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

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

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

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

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

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

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

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

614 (e) The division shall notify the legislative body of a specified municipality and the

615 Department of Transportation in writing if the division determines that the provisions of this  
616 Subsection (9) no longer apply to the specified municipality.

617 [~~8~~] (10) In a civil action seeking enforcement or claiming a violation of this section  
618 or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded  
619 only injunctive or other equitable relief.

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

621 **17-27a-401. General plan required -- Content -- Resource management plan --**  
622 **Provisions related to radioactive waste facility.**

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

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

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

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

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

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

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

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

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

638 (i) food and water; and

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

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

641 (e) the protection of urban development;

642 (f) the protection and promotion of air quality;

643 (g) historic preservation;

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

646 (i) an official map.

647 (3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408,  
648 shall include a moderate income housing element that meets the requirements of Subsection  
649 17-27a-403(2)(a)(iii).

650 ~~[(ii) On or before October 1, 2022, a specified county, as defined in Section~~  
651 ~~17-27a-408, with a general plan that does not comply with Subsection (3)(a)(i) shall amend the~~  
652 ~~general plan to comply with Subsection (3)(a)(i).]~~

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

655 (B) As of January 1, if a county described in Subsection (3)(a)(ii)(A) changes from one  
656 class to another or grows in population to qualify as a specified county as defined in Section  
657 17-27a-408, the county shall amend the county's general plan to comply with Subsection  
658 (3)(a)(i) on or before August 1 of the first calendar year beginning on January 1 in which the  
659 county qualifies as a specified county.

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

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

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

667 (i) mining;

668 (ii) land use;

669 (iii) livestock and grazing;

670 (iv) irrigation;

671 (v) agriculture;

672 (vi) fire management;

673 (vii) noxious weeds;

674 (viii) forest management;

675 (ix) water rights;

676 (x) ditches and canals;

- 677 (xi) water quality and hydrology;
  - 678 (xii) flood plains and river terraces;
  - 679 (xiii) wetlands;
  - 680 (xiv) riparian areas;
  - 681 (xv) predator control;
  - 682 (xvi) wildlife;
  - 683 (xvii) fisheries;
  - 684 (xviii) recreation and tourism;
  - 685 (xix) energy resources;
  - 686 (xx) mineral resources;
  - 687 (xxi) cultural, historical, geological, and paleontological resources;
  - 688 (xxii) wilderness;
  - 689 (xxiii) wild and scenic rivers;
  - 690 (xxiv) threatened, endangered, and sensitive species;
  - 691 (xxv) land access;
  - 692 (xxvi) law enforcement;
  - 693 (xxvii) economic considerations; and
  - 694 (xxviii) air.
- 695 (d) For each item listed under Subsection (3)(c), a county's resource management plan  
696 shall:
- 697 (i) establish findings pertaining to the item;
  - 698 (ii) establish defined objectives; and
  - 699 (iii) outline general policies and guidelines on how the objectives described in  
700 Subsection (3)(d)(ii) are to be accomplished.
- 701 (4) (a) (i) The general plan shall include specific provisions related to an area within, or  
702 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a  
703 county, which are proposed for the siting of a storage facility or transfer facility for the  
704 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as  
705 these wastes are defined in Section [19-3-303](#).
- 706 (ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the  
707 proposed site upon the health and general welfare of citizens of the state, and shall provide:

- 708 (A) the information identified in Section 19-3-305;
- 709 (B) information supported by credible studies that demonstrates that Subsection
- 710 19-3-307(2) has been satisfied; and
- 711 (C) specific measures to mitigate the effects of high-level nuclear waste and greater
- 712 than class C radioactive waste and guarantee the health and safety of the citizens of the state.
- 713 (b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance
- 714 indicating that all proposals for the siting of a storage facility or transfer facility for the
- 715 placement of high-level nuclear waste or greater than class C radioactive waste wholly or
- 716 partially within the county are rejected.
- 717 (c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.
- 718 (d) The county shall send a certified copy of the ordinance described in Subsection
- 719 (4)(b) to the executive director of the Department of Environmental Quality by certified mail
- 720 within 30 days of enactment.
- 721 (e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:
- 722 (i) comply with Subsection (4)(a) as soon as reasonably possible; and
- 723 (ii) send a certified copy of the repeal to the executive director of the Department of
- 724 Environmental Quality by certified mail within 30 days after the repeal.
- 725 (5) The general plan may define the county's local customs, local culture, and the
- 726 components necessary for the county's economic stability.
- 727 (6) Subject to Subsection 17-27a-403(2), the county may determine the
- 728 comprehensiveness, extent, and format of the general plan.
- 729 (7) If a county has designated a mountainous planning district, the general plan for the
- 730 mountainous planning district is the controlling plan.
- 731 (8) Nothing in this part may be construed to limit the authority of the state to manage
- 732 and protect wildlife under Title 23, Wildlife Resources Code of Utah.
- 733 (9) On or before December 31, 2025, a county that has a general plan that does not
- 734 include a water use and preservation element that complies with Section 17-27a-403 shall
- 735 amend the county's general plan to comply with Section 17-27a-403.
- 736 Section 5. Section 17-27a-403 is amended to read:
- 737 **17-27a-403. Plan preparation.**
- 738 (1) (a) The planning commission shall provide notice, as provided in Section



739 17-27a-203, of the planning commission's intent to make a recommendation to the county  
740 legislative body for a general plan or a comprehensive general plan amendment when the  
741 planning commission initiates the process of preparing the planning commission's  
742 recommendation.

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

745 (i) the unincorporated area within the county; or

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

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

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

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

757 (i) a land use element that:

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

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

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

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

767 (ii) a transportation and traffic circulation element that:

768 (A) provides the general location and extent of existing and proposed freeways, arterial  
769 and collector streets, public transit, active transportation facilities, and other modes of

770 transportation that the planning commission considers appropriate;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

831 (M) demonstrate creation of, or participation in, a community land trust program for

832 moderate income housing;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

882 (B) consider and coordinate with the long-range transportation plan developed by the  
883 Department of Transportation, if the relevant areas of the county are not within the boundaries  
884 of a metropolitan planning organization; and

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

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

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

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

- 894 (B) provide flexibility for the county to make adjustments as needed.
- 895 (f) In drafting the water use and preservation element, the planning commission:
- 896 (i) shall consider applicable regional water conservation goals recommended by the  
897 Division of Water Resources;
- 898 (ii) shall include a recommendation for:
- 899 (A) water conservation policies to be determined by the county; and
- 900 (B) landscaping options within a public street for current and future development that  
901 do not require the use of lawn or turf in a parkstrip;
- 902 (iii) shall review the county's land use ordinances and include a recommendation for  
903 changes to an ordinance that promotes the inefficient use of water;
- 904 (iv) shall consider principles of sustainable landscaping, including the:
- 905 (A) reduction or limitation of the use of lawn or turf;
- 906 (B) promotion of site-specific landscape design that decreases stormwater runoff or  
907 runoff of water used for irrigation;
- 908 (C) preservation and use of healthy trees that have a reasonable water requirement or  
909 are resistant to dry soil conditions;
- 910 (D) elimination or regulation of ponds, pools, and other features that promote  
911 unnecessary water evaporation;
- 912 (E) reduction of yard waste; and
- 913 (F) use of an irrigation system, including drip irrigation, best adapted to provide the  
914 optimal amount of water to the plants being irrigated;
- 915 (v) may include recommendations for additional water demand reduction strategies,  
916 including:
- 917 (A) creating a water budget associated with a particular type of development;
- 918 (B) adopting new or modified lot size, configuration, and landscaping standards that  
919 will reduce water demand for new single family development;
- 920 (C) providing one or more water reduction incentives for existing landscapes and  
921 irrigation systems and installation of water fixtures or systems that minimize water demand;
- 922 (D) discouraging incentives for economic development activities that do not adequately  
923 account for water use or do not include strategies for reducing water demand; and
- 924 (E) adopting water concurrency standards requiring that adequate water supplies and

925 facilities are or will be in place for new development; and  
926 (vi) shall include a recommendation for low water use landscaping standards for a new:  
927 (A) commercial, industrial, or institutional development;  
928 (B) common interest community, as defined in Section 57-25-102; or  
929 (C) multifamily housing project.  
930 (3) The proposed general plan may include:  
931 (a) an environmental element that addresses:  
932 (i) to the extent not covered by the county's resource management plan, the protection,  
933 conservation, development, and use of natural resources, including the quality of:  
934 (A) air;  
935 (B) forests;  
936 (C) soils;  
937 (D) rivers;  
938 (E) groundwater and other waters;  
939 (F) harbors;  
940 (G) fisheries;  
941 (H) wildlife;  
942 (I) minerals; and  
943 (J) other natural resources; and  
944 (ii) (A) the reclamation of land, flood control, prevention and control of the pollution  
945 of streams and other waters;  
946 (B) the regulation of the use of land on hillsides, stream channels and other  
947 environmentally sensitive areas;  
948 (C) the prevention, control, and correction of the erosion of soils;  
949 (D) the preservation and enhancement of watersheds and wetlands; and  
950 (E) the mapping of known geologic hazards;  
951 (b) a public services and facilities element showing general plans for sewage, water,  
952 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,  
953 police and fire protection, and other public services;  
954 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and  
955 programs for:

956 (i) historic preservation;  
957 (ii) the diminution or elimination of a development impediment as defined in Section  
958 17C-1-102; and

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

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

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

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

970 (g) any other element the county considers appropriate.

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

972 **17-27a-408. Moderate income housing report -- Contents -- Prioritization for**  
973 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

974 (1) As used in this section:

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

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

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

982 (d) "Moderate income housing strategy" means a strategy described in Subsection  
983 17-27a-403(2)(b)(ii).

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

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



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

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

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

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

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

999 (c) The initial report shall:

1000 (i) [~~a description of] identify~~ each moderate income housing strategy selected by the  
1001 specified county for continued, ongoing, or one-time implementation, using the exact language  
1002 used to describe the moderate income housing strategy in Subsection [17-27a-403\(2\)\(b\)\(ii\)](#); and

1003 (ii) include an implementation plan.

1004 [~~(c) (3) (a) [The moderate income housing report submitted in each calendar year after~~  
1005 2022] After the division approves a specified county's initial report under this section, the  
1006 specified county shall, as an administrative act, annually submit to the division a subsequent  
1007 progress report on or before August 1 of each year after the year in which the specified county  
1008 is required to submit the initial report.

1009 (b) The subsequent progress report shall include:

1010 [~~(i) the information required under Subsection (2)(b);]~~

1011 [~~(ii) (i) subject to Subsection (3)(c), a description of each action, whether one-time or~~  
1012 ongoing, taken by the specified county during the previous [~~fiscal year] 12-month period to~~  
1013 implement the moderate income housing strategies [~~selected by the specified county] identified~~  
1014 in the initial report for implementation;

1015 [~~(iii) (ii) a description of each land use regulation or land use decision made by the~~  
1016 specified county during the previous [~~fiscal year] 12-month period to implement the moderate~~  
1017 income housing strategies, including an explanation of how the land use regulation or land use

1018 decision supports the specified county's efforts to implement the moderate income housing  
1019 strategies;

1020 ~~[(iv)]~~ (iii) a description of any barriers encountered by the specified county in the  
1021 previous ~~[fiscal year]~~ 12-month period in implementing the moderate income housing  
1022 strategies; ~~[and]~~

1023 ~~[(v)]~~ (iv) information regarding the number of internal and external or detached  
1024 accessory dwelling units located within the specified county for which the specified county:

1025 (A) issued a building permit to construct; or

1026 (B) issued a business license or comparable license or permit to rent;

1027 ~~[(vi)]~~ (v) a description of how the market has responded to the selected moderate  
1028 income housing strategies, including the number of entitled moderate income housing units or  
1029 other relevant data; ~~[and]~~

1030 ~~[(vii)]~~ (vi) any recommendations on how the state can support the specified county in  
1031 implementing the moderate income housing strategies.

1032 (c) For purposes of describing actions taken by a specified county under Subsection  
1033 (3)(b)(i), the specified county may include an ongoing action taken by the specified county  
1034 prior to the 12-month reporting period applicable to the subsequent progress report if the  
1035 specified county:

1036 (i) has already adopted an ordinance, approved a land use application, made an  
1037 investment, or approved an agreement or financing that substantially promotes the  
1038 implementation of a moderate income housing strategy identified in the initial report; and

1039 (ii) demonstrates in the subsequent progress report that the action taken under  
1040 Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified county's  
1041 implementation plan.

1042 (d) ~~[The moderate income housing]~~ A specified county's report shall be in a form:

1043 (i) approved by the division; and

1044 (ii) made available by the division on or before ~~[July]~~ May 1 of the year in which the  
1045 report is required.

1046 ~~[(3)]~~ (4) Within 90 days after the day on which the division receives a specified  
1047 county's ~~[moderate income housing]~~ report, the division shall:

1048 (a) post the report on the division's website;

1049 (b) send a copy of the report to the Department of Transportation, the Governor's  
 1050 Office of Planning and Budget, the association of governments in which the specified county is  
 1051 located, and, if the unincorporated area of the specified county is located within the boundaries  
 1052 of a metropolitan planning organization, the appropriate metropolitan planning organization;  
 1053 and

1054 (c) subject to Subsection ~~[(4)]~~ (5), review the report to determine compliance with  
 1055 ~~[Subsection (2)]~~ this section.

1056 ~~[(4)]~~ (5) (a) ~~[The report described in Subsection (2)(b) complies with Subsection (2) if]~~  
 1057 An initial report does not comply with this section unless the report:

1058 (i) includes the information required under Subsection ~~[(2)(b)]~~ (2)(c);

1059 (ii) subject to Subsection (5)(c), demonstrates to the division that the specified county  
 1060 made plans to implement three or more moderate income housing strategies; and

1061 (iii) is in a form approved by the division.

1062 (b) ~~[The report described in Subsection (2)(c) complies with Subsection (2) if]~~ A  
 1063 subsequent progress report does not comply with this section unless the report:

1064 ~~[(i) includes the information required under Subsection (2)(c);]~~

1065 ~~[(ii)]~~ (i) subject to Subsection (5)(c), demonstrates to the division that the specified  
 1066 county made plans to implement three or more moderate income housing strategies;

1067 ~~[(iii)]~~ (ii) is in a form approved by the division; and

1068 ~~[(iv)]~~ (iii) provides sufficient information for the division to:

1069 (A) assess the specified county's progress in implementing the moderate income  
 1070 housing strategies;

1071 (B) monitor compliance with the specified county's implementation plan;

1072 (C) identify a clear correlation between the specified county's land use decisions and  
 1073 efforts to implement the moderate income housing strategies; ~~[and]~~

1074 (D) identify how the market has responded to the specified county's selected moderate  
 1075 income housing strategies~~[-];~~ and

1076 (E) identify any barriers encountered by the specified county in implementing the  
 1077 selected moderate income housing strategies.

1078 (c) (i) This Subsection (5)(c) applies to a specified county that has created a small  
 1079 public transit district, as defined in Section [17B-2a-802](#), on or before January 1, 2022.

1080 (ii) In addition to the requirements of Subsections (5)(a) and (b), a report for a  
1081 specified county described in Subsection (5)(c)(i) does not comply with this section unless the  
1082 report demonstrates to the division that the specified county:

1083 (A) made plans to implement the moderate income housing strategy described in  
1084 Subsection 17-27a-403(2)(b)(ii)(Q); and

1085 (B) is in compliance with Subsection 63N-3-603(8).

1086 ~~[(5)]~~ (6) (a) A specified county qualifies for priority consideration under this  
1087 Subsection ~~[(5)]~~ (6) if the specified county's [moderate income housing] report:

1088 (i) complies with ~~[Subsection (2)]~~ this section; and

1089 (ii) demonstrates to the division that the specified county made plans to implement five  
1090 or more moderate income housing strategies.

1091 (b) The ~~[following apply to]~~ Transportation Commission may, in accordance with  
1092 Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within  
1093 the unincorporated areas of a specified county described in Subsection ~~[(5)(a) during the fiscal~~  
1094 year immediately following the fiscal year in which the report is required:] (6)(a) until the  
1095 Department of Transportation receives notice from the division under Subsection (6)(e).

1096 ~~[(i) the Transportation Commission may give priority consideration to transportation~~  
1097 ~~projects located within the unincorporated areas of the specified county in accordance with~~  
1098 ~~Subsection 72-1-304(3)(c); and]~~

1099 ~~[(ii) the Governor's Office of Planning and Budget may give priority consideration for~~  
1100 ~~awarding financial grants to the specified county under the COVID-19 Local Assistance~~  
1101 ~~Matching Grant Program in accordance with Subsection 63J-4-802(6).]~~

1102 (c) Upon determining that a specified county qualifies for priority consideration under  
1103 this Subsection ~~[(5)]~~ (6), the division shall send a notice of prioritization to the legislative body  
1104 of the specified county, the Department of Transportation, and the Governor's Office of  
1105 Planning and Budget.

1106 (d) The notice described in Subsection ~~[(5)(e)]~~ (6)(c) shall:

1107 (i) name the specified county that qualifies for priority consideration;

1108 (ii) describe the funds or projects for which the specified county qualifies to receive  
1109 priority consideration; and

1110 ~~[(iii) specify the fiscal year during which the specified county qualifies for priority~~

1111 ~~consideration; and]~~

1112 ~~[(iv)]~~ (iii) state the basis for the division's determination that the specified county  
1113 qualifies for priority consideration.

1114 (e) The division shall notify the legislative body of a specified county and the  
1115 Department of Transportation in writing if the division determines that the specified county no  
1116 longer qualifies for priority consideration under this Subsection (6).

1117 ~~[(6)]~~ (7) (a) If the division, after reviewing a specified county's [~~moderate income~~  
1118 ~~housing~~] report, determines that the report does not comply with [~~Subsection (2)]~~ this section,  
1119 the division shall send a notice of noncompliance to the legislative body of the specified  
1120 county.

1121 (b) A specified county that receives a notice of noncompliance may:

1122 (i) cure each deficiency in the report within 90 days after the day on which the notice of  
1123 noncompliance is sent; or

1124 (ii) request an appeal of the division's determination of noncompliance within 10 days  
1125 after the day on which the notice of noncompliance is sent.

1126 ~~[(b)]~~ (c) The notice described in Subsection [~~(6)(a)]~~ (7)(a) shall:

1127 (i) describe each deficiency in the report and the actions needed to cure each  
1128 deficiency;

1129 (ii) state that the specified county has an opportunity to [~~cure the deficiencies~~];

1130 (A) submit to the division a corrected report that cures each deficiency in the report  
1131 within 90 days after the day on which the notice of noncompliance is sent; ~~and~~ or

1132 (B) submit to the division a request for an appeal of the division's determination of  
1133 noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

1134 (iii) state that failure to [~~cure the deficiencies within 90 days after the day on which the~~  
1135 ~~notice is sent~~] take action under Subsection (7)(c)(ii) will result in the specified county's  
1136 ineligibility for funds under Subsection [~~(7)]~~ (9).

1137 (d) For purposes of curing the deficiencies in a report under this Subsection (7), if the  
1138 action needed to cure the deficiency as described by the division requires the specified county  
1139 to make a legislative change, the specified county may cure the deficiency by making that  
1140 legislative change within the 90-day cure period.

1141 (e) (i) If a specified county submits to the division a corrected report in accordance

1142 with Subsection (7)(b)(i), and the division determines that the corrected report does not comply  
 1143 with this section, the division shall send a second notice of noncompliance to the legislative  
 1144 body of the specified county.

1145 (ii) A specified county that receives a second notice of noncompliance may request an  
 1146 appeal of the division's determination of noncompliance within 10 days after the day on which  
 1147 the second notice of noncompliance is sent.

1148 (iii) The notice described in Subsection (7)(e)(i) shall:

1149 (A) state that the specified county has an opportunity to submit to the division a request  
 1150 for an appeal of the division's determination of noncompliance within 10 days after the day on  
 1151 which the second notice of noncompliance is sent; and

1152 (B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the  
 1153 specified county's ineligibility for funds under Subsection (9).

1154 (8) (a) A specified county that receives a notice of noncompliance under Subsection  
 1155 (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance  
 1156 within 10 days after the day on which the notice of noncompliance is sent.

1157 (b) Within 90 days after the day on which the division receives a request for an appeal,  
 1158 an appeal board consisting of the following three members shall review and issue a written  
 1159 decision on the appeal:

1160 (i) one individual appointed by the Utah Association of Counties;

1161 (ii) one individual appointed by the Utah Homebuilders Association; and

1162 (iii) one individual appointed by the presiding member of the association of  
 1163 governments, established pursuant to an interlocal agreement under Title 11, Chapter 13,  
 1164 Interlocal Cooperation Act, of which the specified county is a member.

1165 (c) The written decision of the appeal board shall either uphold or reverse the division's  
 1166 determination of noncompliance.

1167 (d) The appeal board's written decision on the appeal is final.

1168 ~~[(7)]~~ (9) (a) A specified county is ineligible for funds under this Subsection ~~[(7) if the~~  
 1169 ~~specified county]~~ (9) if:

1170 (i) the specified county fails to submit a [moderate income housing] report to the  
 1171 division; [or]

1172 (ii) [fails to cure the deficiencies in the specified county's moderate income housing

1173 ~~report]~~ after submitting a report to the division, the division determines that the report does not  
1174 comply with this section and the specified county fails to:

1175 (A) cure each deficiency in the report within 90 days after the day on which the  
1176 ~~[division sent to the specified county a]~~ notice of noncompliance ~~[under Subsection (6)]~~ is sent;  
1177 or

1178 (B) request an appeal of the division's determination of noncompliance within 10 days  
1179 after the day on which the notice of noncompliance is sent;

1180 (iii) after submitting to the division a corrected report to cure the deficiencies in a  
1181 previously-submitted report, the division determines that the corrected report does not comply  
1182 with this section and the specified county fails to request an appeal of the division's  
1183 determination of noncompliance within 10 days after the day on which the second notice of  
1184 noncompliance is sent; or

1185 (iv) after submitting a request for an appeal under Subsection (8), the appeal board  
1186 issues a written decision upholding the division's determination of noncompliance.

1187 (b) The following apply to a specified county described in Subsection ~~[(7)(a) during the~~  
1188 ~~fiscal year immediately following the fiscal year in which the report is required]~~ (9)(a) until the  
1189 division provides notice under Subsection (9)(e):

1190 (i) the executive director of the Department of Transportation may not program funds  
1191 from the Transportation Investment Fund of 2005, including the Transit Transportation  
1192 Investment Fund, to projects located within the unincorporated areas of the specified county in  
1193 accordance with Subsection [72-2-124\(6\)](#); and

1194 (ii) the Governor's Office of Planning and Budget may not award financial grants to the  
1195 specified county under the COVID-19 Local Assistance Matching Grant Program in  
1196 accordance with Subsection [63J-4-802\(7\)](#).

1197 (c) Upon determining that a specified county is ineligible for funds under this  
1198 Subsection ~~[(7)]~~ (9), the division shall send a notice of ineligibility to the legislative body of  
1199 the specified county, the Department of Transportation, and the Governor's Office of Planning  
1200 and Budget.

1201 (d) The notice described in Subsection ~~[(7)(c)]~~ (9)(c) shall:

1202 (i) name the specified county that is ineligible for funds;

1203 (ii) describe the funds for which the specified county is ineligible to receive; and

1204 [(iii) specify the fiscal year during which the specified county is ineligible for funds;  
1205 and]

1206 [(iv)] (iii) state the basis for the division's determination that the specified county is  
1207 ineligible for funds.

1208 (e) The division shall notify the legislative body of a specified county and the  
1209 Department of Transportation in writing if the division determines that the provisions of this  
1210 Subsection (9) no longer apply to the specified county.

1211 [(8)] (10) In a civil action seeking enforcement or claiming a violation of this section  
1212 or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded  
1213 only injunctive or other equitable relief.

1214 Section 7. Section 35A-8-2401 is enacted to read:

1215 **Part 24. Miscellaneous**

1216 **35A-8-2401. Accounting for expenditures authorized by the Utah Housing**  
1217 **Preservation Fund.**

1218 (1) This section applies to funds appropriated by the Legislature to the department for  
1219 pass-through to the Utah Housing Preservation Fund.

1220 (2) The department shall include in the annual written report described in Section  
1221 35A-1-109 a report accounting for the expenditures authorized by the Utah Housing  
1222 Preservation Fund.

1223 Section 8. Section 59-7-607 is amended to read:

1224 **59-7-607. Utah low-income housing tax credit.**

1225 (1) As used in this section:

1226 (a) "Allocation certificate" means a certificate in a form prescribed by the commission  
1227 and issued by the [~~Utah Housing Corporation~~] corporation to a housing sponsor that specifies  
1228 the aggregate amount of the tax credit awarded under this section to a qualified development  
1229 and includes:

1230 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one  
1231 or more qualified taxpayers [~~that have been issued a special low-income housing tax credit~~  
1232 ~~certificate~~]; and

1233 (ii) the credit period over which the tax credit may be claimed by one or more qualified  
1234 taxpayers [~~that have been issued a special low-income housing tax credit certificate~~].



1235 (b) "Building" means a qualified low-income building as defined in Section 42(c),  
1236 Internal Revenue Code.

1237 (c) "Corporation" means the Utah Housing Corporation created in Section [63H-8-201](#).

1238 ~~[(c)]~~ (d) ~~["Credit period" means the "credit period" as]~~ Except as provided in  
1239 Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1),  
1240 Internal Revenue Code.

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

1245 ~~[(ii) Before the Utah Housing Corporation may issue an allocation certificate to a~~  
1246 ~~housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's~~  
1247 ~~designated reporter to the Utah Housing Corporation.]~~

1248 ~~[(iii) Before the Utah Housing Corporation may issue a special low-income housing tax~~  
1249 ~~credit certificate to a qualified taxpayer, a designated reporter shall provide the information~~  
1250 ~~described in Subsection (6) to the Utah Housing Corporation.]~~

1251 ~~[(e)]~~ (f) "Federal low-income housing tax credit" means the federal tax credit described  
1252 in Section 42, Internal Revenue Code.

1253 ~~[(f)]~~ (g) "Housing sponsor" means an entity that owns a qualified development.

1254 (h) "Pass-through entity" means the same as that term is defined in Section  
1255 [59-10-1402](#).

1256 (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as  
1257 that term is defined in Section [59-10-1402](#).

1258 (ii) The determination of whether a pass-through entity taxpayer is considered a  
1259 partner, member, or shareholder of a pass-through entity shall be made in accordance with  
1260 applicable state law governing the pass-through entity.

1261 ~~[(g)]~~ (j) "Qualified allocation plan" means a qualified allocation plan adopted by the  
1262 ~~[Utah Housing Corporation]~~ corporation in accordance with Section 42(m), Internal Revenue  
1263 Code.

1264 ~~[(h)]~~ (k) "Qualified development" means a "qualified low-income housing project":

1265 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1266 (ii) that is located in the state.

1267 ~~[(+)]~~ (l) (i) "Qualified taxpayer" means a person that:

1268 (A) owns a direct interest or an indirect interest, through one or more pass-through  
1269 entities, in a qualified development; and

1270 (B) meets the requirements to claim a tax credit under this section.

1271 (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit  
1272 under this section is passed through by a pass-through entity.

1273 ~~[(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a~~  
1274 ~~"qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor~~  
1275 ~~as determined by the governing documents of the housing sponsor.]~~

1276 ~~[(j) (i) "Special low-income housing tax credit certificate" means a certificate:]~~

1277 ~~[(A) in a form prescribed by the commission;]~~

1278 ~~[(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year~~  
1279 ~~in accordance with this section; and]~~

1280 ~~[(C) that specifies the amount of the tax credit a qualified taxpayer may claim under~~  
1281 ~~this section.]~~

1282 ~~[(ii) The Utah Housing Corporation may only issue one or more special low-income~~  
1283 ~~housing tax credit certificates if the aggregate specified amount on all special low-income~~  
1284 ~~housing tax credit certificates issued in relation to a qualified development does not exceed the~~  
1285 ~~aggregate amount of tax credit awarded to the qualified development and issued to a housing~~  
1286 ~~sponsor in an allocation certificate.]~~

1287 (2) (a) ~~[For taxable years beginning on or after January 1, 1995, a qualified taxpayer~~  
1288 ~~who has been issued a special low-income housing tax credit certificate by the Utah Housing~~  
1289 ~~Corporation may claim] A qualified taxpayer may claim a nonrefundable tax credit under this  
1290 section against taxes otherwise due under this chapter, Chapter 8, Gross Receipts Tax on  
1291 Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter  
1292 9, Taxation of Admitted Insurers.~~

1293 (b) The tax credit shall be in an amount equal to the tax credit amount specified on the  
1294 ~~[special low-income housing tax credit]~~ allocation certificate that the ~~[Utah Housing~~  
1295 ~~Corporation]~~ corporation issues to a ~~[qualified taxpayer]~~ housing sponsor under this section.

1296 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate

1297 annual tax credit that the [~~Utah Housing Corporation~~] corporation may allocate for each year of  
1298 the credit period [~~described in Section 42(f), Internal Revenue Code,~~] pursuant to this section  
1299 and Section 59-10-1010 is an amount equal to the product of:

1300 (A) 12.5 cents; and

1301 (B) the population of Utah.

1302 (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or  
1303 before December 31, 2022, the aggregate annual tax credit that the [~~Utah Housing Corporation~~]  
1304 corporation may allocate for each year of the credit period [~~described in Section 42(f), Internal~~  
1305 Revenue Code,] pursuant to this section and Section 59-10-1010 is an amount equal to the  
1306 product of:

1307 (A) 34.5 cents; and

1308 (B) the population of Utah.

1309 (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or  
1310 before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for  
1311 each year of the credit period pursuant to this section and Section 59-10-1010 is \$10,000,000.

1312 (iv) For a calendar year beginning on or after January 1, 2029, the aggregate annual tax  
1313 credit that the corporation may allocate for each year of the credit period pursuant to this  
1314 section and Section 59-10-1010 is the amount described in Subsection (2)(c)(ii).

1315 [(iii)] (v) For purposes of this [~~section~~] Subsection (2)(c), the population of Utah shall  
1316 be determined in accordance with Section 146(j), Internal Revenue Code.

1317 (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity  
1318 may allocate a tax credit under this section to one or more of the pass-through entity's  
1319 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1320 (A) the pass-through entity taxpayer is eligible to claim any portion of a federal  
1321 low-income housing tax credit for the qualified development;

1322 (B) the allocation of the tax credit has substantial economic effect within the meaning  
1323 of Section 704(b), Internal Revenue Code; or

1324 (C) the pass-through entity taxpayer is considered a partner for federal income tax  
1325 purposes.

1326 (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity  
1327 taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity

1328 under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the  
1329 pass-through entity is:

1330 (A) acquired on or before December 31 of the tax year to which the tax credit relates;  
1331 and

1332 (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax  
1333 credit relates.

1334 (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another  
1335 taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity,  
1336 including the pass-through entity taxpayer's interest in the tax credit associated with the  
1337 ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax  
1338 credit so long as the assignee's ownership interest in the pass-through entity is:

1339 (i) acquired on or before December 31 of the tax year to which the tax credit relates;  
1340 and

1341 (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax  
1342 credit relates.

1343 (3) (a) The [~~Utah Housing Corporation~~] corporation shall determine criteria and  
1344 procedures for allocating the tax credit under this section and Section 59-10-1010 and  
1345 incorporate the criteria and procedures into the [~~Utah Housing Corporation's~~] corporation's  
1346 qualified allocation plan.

1347 (b) The [~~Utah Housing Corporation~~] corporation shall create the criteria under  
1348 Subsection (3)(a) based on:

1349 (i) the number of affordable housing units to be created in Utah for low and moderate  
1350 income persons in a qualified development;

1351 (ii) the level of area median income being served by a qualified development;

1352 (iii) the need for the tax credit for the economic feasibility of a qualified development;

1353 and

1354 (iv) the extended period for which a qualified development commits to remain as  
1355 affordable housing.

1356 (4) Any housing sponsor may apply to the [~~Utah Housing Corporation~~] corporation for  
1357 a tax credit allocation under this section.

1358 (5) (a) (i) The [~~Utah Housing Corporation~~] corporation shall determine the amount of

1359 the tax credit to allocate to a qualified development in accordance with the qualified allocation  
1360 plan ~~[of the Utah Housing Corporation].~~

1361 (ii) (A) Before the allocation certificate is issued to the housing sponsor, the  
1362 corporation shall send to the housing sponsor written notice of the corporation's preliminary  
1363 determination of the tax credit amount to be allocated to the qualified development.

1364 (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's  
1365 preliminary determination of the tax credit amount to be allocated to the qualified development  
1366 for each year of the credit period and state that allocation of the tax credit is contingent upon  
1367 the issuance of an allocation certificate.

1368 ~~[(b)]~~ (iii) ~~[(i) The Utah Housing Corporation]~~ Upon approving a final cost certification  
1369 in accordance with the qualified allocation plan, the corporation shall issue an allocation  
1370 certificate to [a] the housing sponsor as evidence of the allocation.

1371 ~~[(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the~~  
1372 ~~tax credit allocated to a qualified development as determined by the Utah Housing~~  
1373 ~~Corporation.]~~

1374 ~~[(c)]~~ (iv) The amount of the tax credit specified in an allocation certificate may not  
1375 exceed 100% of the federal low-income housing tax credit awarded to a qualified development.

1376 (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the  
1377 corporation for a tax credit under this section and an allocation certificate is not yet issued, a  
1378 qualified taxpayer may claim a tax credit based upon the corporation's preliminary  
1379 determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

1380 (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified  
1381 taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to  
1382 adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is  
1383 different than the amount specified in the allocation certificate.

1384 (c) The amount of tax credit that may be claimed in the first year of the credit period  
1385 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1386 (d) On or before January 31 of each year, the corporation shall provide to the  
1387 commission in a form prescribed by the commission a report that describes each allocation  
1388 certificate that the corporation issued during the previous calendar year.

1389 (6) (a) A housing sponsor shall provide to the commission identification of the housing

1390 sponsor's designated reporter.

1391 ~~(b) [Before the Utah Housing Corporation may issue a special low-income housing tax~~  
1392 ~~credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form~~  
1393 ~~prescribed by the Utah Housing Corporation]~~ For each tax year in which a tax credit is claimed  
1394 under this section, the designated reporter shall provide to the commission in a form prescribed  
1395 by the commission:

1396 ~~[(a)]~~ (i) a list of each qualified taxpayer that has been [assigned] allocated a portion of  
1397 the tax credit awarded in [an] the allocation certificate for that tax year;

1398 ~~[(b)]~~ (ii) [for each qualified taxpayer described in Subsection (6)(a);] the amount of tax  
1399 credit that has been [assigned] allocated to each qualified taxpayer described in Subsection  
1400 (6)(b)(i) for that tax year; and

1401 ~~[(c)]~~ (iii) [an aggregate list of the tax credit amount assigned related to a qualified  
1402 development demonstrating that the aggregate annual amount of the tax credits assigned does  
1403 not exceed the aggregate annual tax credit awarded in the allocation certificate] any other  
1404 information, as prescribed by the commission, to demonstrate that the aggregate annual amount  
1405 of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate  
1406 annual tax credit amount specified in the allocation certificate.

1407 ~~[(7) The Utah Housing Corporation shall provide a special low-income housing tax~~  
1408 ~~credit certificate to a qualified taxpayer if:]~~

1409 ~~[(a) a designated reporter has provided the information regarding the qualified taxpayer~~  
1410 ~~as described in Subsection (6); and]~~

1411 ~~[(b) the Utah Housing Corporation has verified that the aggregate tax credit amount~~  
1412 ~~assigned with respect to a qualified development does not exceed the total tax credit awarded~~  
1413 ~~in the allocation certificate.]~~

1414 ~~[(8)]~~ (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal  
1415 Revenue Code, shall apply to this section.

1416 (b) (i) If a qualified development is required to recapture a portion of any federal  
1417 low-income housing tax credit, then each qualified taxpayer that has been allocated a portion of  
1418 a tax credit under this section shall also be required to recapture a portion of [any state tax  
1419 credits authorized by this section] the tax credit under this section.

1420 (ii) The state recapture amount shall be equal to the percentage of the state tax credit

1421 that equals the proportion the federal recapture amount bears to the original federal low-income  
1422 housing tax credit amount subject to recapture.

1423 (iii) The designated reporter shall identify each qualified taxpayer that is required to  
1424 recapture a portion of any state tax credit as described in this Subsection ~~[(8)(b):]~~ (7)(b).

1425 ~~[(9)]~~ (8) (a) Any tax credits returned to the ~~[Utah Housing Corporation]~~ corporation in  
1426 any year may be reallocated within the same time period as provided in Section 42, Internal  
1427 Revenue Code.

1428 (b) Tax credits that are unallocated by the ~~[Utah Housing Corporation]~~ corporation in  
1429 any year may be carried over for allocation in subsequent years.

1430 ~~[(10)]~~ (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it  
1431 is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax  
1432 credit may be carried back three years or may be carried forward five years as a credit against  
1433 the tax.

1434 (b) Carryover tax credits under Subsection ~~[(10)(a)]~~ (9)(a) shall be applied against the  
1435 tax:

1436 (i) before the application of the tax credits earned in the current year; and

1437 (ii) on a first-earned first-used basis.

1438 ~~[(11)(a) A qualified taxpayer may assign a special low-income housing tax credit  
1439 certificate received under Subsection (7) to another person if the qualified taxpayer provides  
1440 written notice to the Utah Housing Corporation, in a form established by the Utah Housing  
1441 Corporation, that includes:]~~

1442 ~~[(i) the qualified taxpayer's written certification or other proof that the qualified  
1443 taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income  
1444 housing tax credit certificate; and]~~

1445 ~~[(ii) contact information for the person to whom the special low-income housing tax  
1446 credit certificate is to be assigned.]~~

1447 ~~[(b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah  
1448 Housing Corporation shall issue an assigned special low-income housing tax credit certificate  
1449 to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's  
1450 special low-income housing tax credit minus any state recapture amount under Subsection  
1451 (8)(b):]~~

1452 ~~[(c) A person who is assigned a special low-income housing tax credit certificate in~~  
1453 ~~accordance with this Subsection (11) may claim the tax credit as if:]~~

1454 ~~[(i) the person had met the requirements of this section to claim the tax credit, if the~~  
1455 ~~person files a return under this chapter, Chapter 8, Gross Receipts Tax on Certain Corporations~~  
1456 ~~Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of~~  
1457 ~~Admitted Insurers; or]~~

1458 ~~[(ii) the person had met the requirements of Section 59-10-1010 to claim the tax credit~~  
1459 ~~under Section 59-10-1010, if the person files a return under Chapter 10, Individual Income Tax~~  
1460 ~~Act.]~~

1461 ~~[(12)] (10)~~ Any tax credit taken in this section may be subject to an annual audit by the  
1462 commission.

1463 ~~[(13)] (11)~~ The ~~[Utah Housing Corporation]~~ corporation shall annually provide an  
1464 electronic report to the Revenue and Taxation Interim Committee ~~[which shall include at least]~~  
1465 that includes:

1466 (a) the purpose and effectiveness of the tax credits; ~~[and]~~

1467 (b) any recommendations for legislative changes to the aggregate tax credit amount that  
1468 the corporation is authorized to allocate each year under Subsection (2)(c); and

1469 ~~[(b)] (c)~~ the benefits of the tax credits to the state.

1470 ~~[(14)] (12)~~ The commission may, in consultation with the ~~[Utah Housing Corporation]~~  
1471 corporation, make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
1472 Rulemaking Act, to implement this section.

1473 (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation  
1474 Interim Committee shall conduct a review of the aggregate tax credit amount that the  
1475 corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

1476 (b) In a review under this Subsection (13), the Revenue and Taxation Interim  
1477 Committee shall:

1478 (i) study any recommendations provided by the corporation under Subsection (11)(b);  
1479 and

1480 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative  
1481 action to the Legislature, prepare legislation for consideration by the Legislature in the next  
1482 general session.



1483 Section 9. Section **59-9-108** is amended to read:

1484 **59-9-108. Utah low-income housing tax credit.**

1485 (1) As used in this section[;], "qualified taxpayer" means:

1486 (a) for a person claiming a tax credit under Section 59-7-607, the same as that term is  
1487 defined in Section 59-7-607; or

1488 (b) for a person claiming a tax credit under Section 59-10-1010, the same as that term  
1489 is defined in Section 59-10-1010.

1490 [~~(a) "Qualified taxpayer" means the same as that term is defined in Section 59-7-607.]~~

1491 [~~(b) "Special low-income housing tax credit certificate" means the same as that term is~~  
1492 ~~defined in Section 59-7-607.]~~

1493 (2) A person may claim a nonrefundable tax credit against a tax liability under this  
1494 section if:

1495 (a) the person is a qualified taxpayer who has been issued [~~a special low-income~~  
1496 ~~housing tax credit~~] an allocation certificate by the Utah Housing Corporation under Section  
1497 59-7-607 or 59-10-1010, and the qualified taxpayer does not claim the tax credit under [~~Title~~  
1498 ~~59, Chapter 7, Corporate Franchise and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax~~  
1499 ~~on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or under~~  
1500 ~~Title 59, Chapter 10, Individual Income Tax Act~~] Chapter 7, Corporate Franchise and Income  
1501 Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate  
1502 Franchise or Income Tax Act, or Chapter 10, Individual Income Tax Act; or

1503 (b) the person has been [~~assigned a special~~] allocated a low-income housing tax credit  
1504 in accordance with [~~Subsection 59-7-607(11) or Subsection 59-10-1010(11)~~] Section 59-7-607  
1505 or 59-10-1010, and the person does not claim the tax credit under [~~Title 59, Chapter 7,~~  
1506 ~~Corporate Franchise and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax on Certain~~  
1507 ~~Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or under Title 59,~~  
1508 ~~Chapter 10, Individual Income Tax Act~~] Chapter 7, Corporate Franchise and Income Taxes,  
1509 Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate  
1510 Franchise or Income Tax Act, or Chapter 10, Individual Income Tax Act.

1511 (3) (a) If a tax credit is not claimed by a qualified taxpayer or by a person who has been  
1512 [~~assigned a special~~] allocated a low-income housing tax credit in the year in which the credit is  
1513 earned because the tax credit is more than the tax liability owed, the tax credit may be carried

1514 back three years or may be carried forward five years as a credit against the tax liability.

1515 (b) Carryover tax credits under Subsection (3)(a) shall be applied against tax liability:

1516 (i) before the application of tax credits earned in the current year; and

1517 (ii) on a first-earned, first-used basis.

1518 (4) The commission may, in consultation with the Utah Housing Corporation, make  
1519 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to  
1520 implement this section.

1521 Section 10. Section **59-10-1010** is amended to read:

1522 **59-10-1010. Utah low-income housing tax credit.**

1523 (1) As used in this section:

1524 (a) "Allocation certificate" means a certificate in a form prescribed by the commission  
1525 and issued by the [~~Utah Housing Corporation~~] corporation to a housing sponsor that specifies  
1526 the aggregate amount of the tax credit awarded under this section to a qualified development  
1527 and includes:

1528 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one  
1529 or more qualified taxpayers [~~that have been issued a special low-income housing tax credit~~  
1530 ~~certificate~~]; and

1531 (ii) the credit period over which the tax credit may be claimed by one or more qualified  
1532 taxpayers [~~that have been issued a special low-income housing tax credit certificate~~].

1533 (b) "Building" means a qualified low-income building as defined in Section 42(c),  
1534 Internal Revenue Code.

1535 (c) "Corporation" means the Utah Housing Corporation created in Section [63H-8-201](#).

1536 [~~(e)~~] (d) [~~"Credit period" means the "credit period" as~~] Except as provided in  
1537 Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1),  
1538 Internal Revenue Code.

1539 [~~(d)~~] (e) [(†)] "Designated reporter" means, as selected by a housing sponsor, the  
1540 housing sponsor [~~itself~~] or one of the housing sponsor's direct or indirect partners, members, or  
1541 shareholders that will provide information to the [~~Utah Housing Corporation~~] commission  
1542 regarding the [~~assignment~~] allocation of tax credits under this section.

1543 [(ii) ~~Before the Utah Housing Corporation may issue an allocation certificate to a~~  
1544 ~~housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's~~

1545 designated reporter to the Utah Housing Corporation.]

1546 ~~[(iii) Before the Utah Housing Corporation may issue a special low-income housing tax~~  
 1547 ~~credit certificate to a qualified taxpayer, a designated reporter shall provide the information~~  
 1548 ~~described in Subsection (6) to the Utah Housing Corporation.]~~

1549 ~~[(e)]~~ (f) "Federal low-income housing credit" means the federal low-income housing  
 1550 credit described in Section 42, Internal Revenue Code.

1551 ~~[(f)]~~ (g) "Housing sponsor" means an entity that owns a qualified development.

1552 (h) "Pass-through entity" means the same as that term is defined in Section

1553 [59-10-1402](#).

1554 (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as  
 1555 that term is defined in Section 59-10-1402.

1556 (ii) The determination of whether a pass-through entity taxpayer is considered a  
 1557 partner, member, or shareholder of a pass-through entity shall be made in accordance with  
 1558 applicable state law governing the pass-through entity.

1559 ~~[(g)]~~ (j) "Qualified allocation plan" means a qualified allocation plan adopted by the  
 1560 ~~[Utah Housing Corporation]~~ corporation in accordance with Section 42(m), Internal Revenue  
 1561 Code.

1562 ~~[(h)]~~ (k) "Qualified development" means a "qualified low-income housing project":

1563 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1564 (ii) that is located in the state.

1565 ~~[(i)]~~ (l) (i) "Qualified taxpayer" means a claimant, estate, or trust that:

1566 (A) owns a direct or indirect interest, through one or more pass-through entities, in a  
 1567 qualified development; and

1568 (B) meets the requirements to claim a tax credit under this section.

1569 (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit  
 1570 under this section is passed through by a pass-through entity.

1571 ~~[(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a~~  
 1572 ~~"qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor~~  
 1573 ~~as determined by the governing documents of the housing sponsor.]~~

1574 ~~[(j)]~~ (i) "Special low-income housing tax credit certificate" means a certificate:]

1575 ~~[(A) in a form prescribed by the commission;]~~

1576 ~~[(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year~~  
1577 ~~in accordance with this section; and]~~

1578 ~~[(C) that specifies the amount of the tax credit a qualified taxpayer may claim under~~  
1579 ~~this section.]~~

1580 ~~[(ii) The Utah Housing Corporation may only issue one or more special low-income~~  
1581 ~~housing tax credit certificates if the aggregate specified amount on all special low-income~~  
1582 ~~housing tax credit certificates issued in relation to a qualified development does not exceed the~~  
1583 ~~aggregate amount of tax credit awarded to a qualified development and issued to a housing~~  
1584 ~~sponsor in an allocation certificate.]~~

1585 (2) (a) ~~[For taxable years beginning on or after January 1, 1995, a qualified taxpayer~~  
1586 ~~who has been issued a special low-income housing tax credit certificate by the Utah Housing~~  
1587 ~~Corporation]~~ A qualified taxpayer may claim a nonrefundable tax credit under this section  
1588 against taxes otherwise due under this chapter.

1589 (b) The tax credit shall be in an amount equal to the tax credit amount specified on the  
1590 ~~[special low-income housing tax credit]~~ allocation certificate that the ~~[Utah Housing~~  
1591 ~~Corporation]~~ corporation issues to a ~~[qualified taxpayer]~~ housing sponsor under this section.

1592 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate  
1593 annual tax credit that the ~~[Utah Housing Corporation]~~ corporation may allocate for each year of  
1594 the credit period ~~[described in Section 42(f), Internal Revenue Code;]~~ pursuant to this section  
1595 and Section 59-7-607 is an amount equal to the product of:

1596 (A) 12.5 cents; and

1597 (B) the population of Utah.

1598 (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or  
1599 before December 31, 2022, the aggregate annual tax credit that the ~~[Utah Housing Corporation]~~  
1600 corporation may allocate for each year of the credit period ~~[described in Section 42(f), Internal~~  
1601 ~~Revenue Code;]~~ pursuant to this section and Section 59-7-607 is an amount equal to the  
1602 product of:

1603 (A) 34.5 cents; and

1604 (B) the population of Utah.

1605 (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or  
1606 before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for

1607 each year of the credit period pursuant to this section and Section 59-7-607 is \$10,000,000.

1608 (iv) For a calendar year beginning on or after January 1, 2029, the aggregate annual tax  
1609 credit that the corporation may allocate for each year of the credit period pursuant to this  
1610 section and Section 59-7-607 is the amount described in Subsection (2)(c)(ii).

1611 [(iii)] (v) For purposes of this [section] Subsection (2)(c), the population of Utah shall  
1612 be determined in accordance with Section 146(j), Internal Revenue Code.

1613 (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity  
1614 may allocate a tax credit under this section to one or more of the pass-through entity's  
1615 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1616 (A) the pass-through entity taxpayer is eligible to claim any portion of a federal  
1617 low-income housing tax credit for the qualified development;

1618 (B) the allocation of the tax credit has substantial economic effect within the meaning  
1619 of Section 704(b), Internal Revenue Code; or

1620 (C) the pass-through entity taxpayer is considered a partner for federal income tax  
1621 purposes.

1622 (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity  
1623 taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity  
1624 under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the  
1625 pass-through entity is:

1626 (A) acquired on or before December 31 of the tax year to which the tax credit relates;  
1627 and

1628 (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax  
1629 credit relates.

1630 (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another  
1631 taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity,  
1632 including the pass-through entity taxpayer's interest in the tax credit associated with the  
1633 ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax  
1634 credit so long as the assignee's ownership interest in the pass-through entity is:

1635 (i) acquired on or before December 31 of the tax year to which the tax credit relates;  
1636 and

1637 (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax

1638 credit relates.

1639 (3) (a) The [~~Utah Housing Corporation~~] corporation shall determine criteria and  
1640 procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate  
1641 the criteria and procedures into the [~~Utah Housing Corporation's~~] corporation's qualified  
1642 allocation plan.

1643 (b) The [~~Utah Housing Corporation~~] corporation shall create the criteria under  
1644 Subsection (3)(a) based on:

1645 (i) the number of affordable housing units to be created in Utah for low and moderate  
1646 income persons in a qualified development;

1647 (ii) the level of area median income being served by a qualified development;

1648 (iii) the need for the tax credit for the economic feasibility of a qualified development;

1649 and

1650 (iv) the extended period for which a qualified development commits to remain as  
1651 affordable housing.

1652 (4) Any housing sponsor may apply to the [~~Utah Housing Corporation~~] corporation for  
1653 a tax credit allocation under this section.

1654 (5) (a) (i) The [~~Utah Housing Corporation~~] corporation shall determine the amount of  
1655 the tax credit to allocate to a qualified development in accordance with the qualified allocation  
1656 plan [~~of the Utah Housing Corporation~~].

1657 (ii) (A) Before the allocation certificate is issued to the housing sponsor, the  
1658 corporation shall send to the housing sponsor written notice of the corporation's preliminary  
1659 determination of the tax credit amount to be allocated to the qualified development.

1660 (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's  
1661 preliminary determination of the tax credit amount to be allocated to the qualified development  
1662 for each year of the credit period and state that allocation of the tax credit is contingent upon  
1663 the issuance of an allocation certificate.

1664 [(b)] (iii) [(i) ~~The Utah Housing Corporation~~] Upon approving a final cost certification  
1665 in accordance with the qualified allocation plan, the corporation shall issue an allocation  
1666 certificate to [a] the housing sponsor as evidence of the allocation.

1667 [(ii) ~~The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the~~  
1668 ~~tax credit allocated to a qualified development as determined by the Utah Housing~~

1669 Corporation.]

1670 ~~[(c)]~~ (iv) The amount of the tax credit specified in an allocation certificate may not  
1671 exceed 100% of the federal low-income housing credit awarded to a qualified development.

1672 (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the  
1673 corporation for a tax credit under this section and an allocation certificate is not yet issued, a  
1674 qualified taxpayer may claim a tax credit based upon the corporation's preliminary  
1675 determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

1676 (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified  
1677 taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to  
1678 adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is  
1679 different than the amount specified in the allocation certificate.

1680 (c) The amount of tax credit that may be claimed in the first year of the credit period  
1681 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1682 (d) On or before January 31 of each year, the corporation shall provide to the  
1683 commission in a form prescribed by the commission a report that describes each allocation  
1684 certificate that the corporation issued during the previous calendar year.

1685 (6) (a) A housing sponsor shall provide to the commission identification of the housing  
1686 sponsor's designated reporter.

1687 (b) [Before the Utah Housing Corporation may issue a special low-income housing tax  
1688 credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form  
1689 prescribed by the Utah Housing Corporation] For each tax year in which a tax credit is claimed  
1690 under this section, the designated reporter shall provide to the commission in a form prescribed  
1691 by the commission:

1692 ~~[(a)]~~ (i) a list of each qualified taxpayer that has been ~~[assigned]~~ allocated a portion of  
1693 the tax credit awarded in ~~[an]~~ the allocation certificate for that tax year;

1694 ~~[(b)]~~ (ii) ~~[for each qualified taxpayer described in Subsection (6)(a);]~~ the amount of tax  
1695 credit that has been ~~[assigned]~~ allocated to each qualified taxpayer described in Subsection  
1696 (6)(b)(i) for that tax year; and

1697 ~~[(c)]~~ (iii) ~~[an aggregate list of the tax credit amount assigned related to a qualified~~  
1698 ~~development demonstrating that the aggregate annual amount of the tax credits assigned does~~  
1699 ~~not exceed the aggregate annual tax credit awarded in the allocation certificate] any other~~

1700 information, as prescribed by the commission, to demonstrate that the aggregate annual amount  
1701 of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate  
1702 annual tax credit amount specified in the allocation certificate.

1703 ~~[(7) The Utah Housing Corporation shall provide a special low-income housing tax~~  
1704 ~~credit certificate to a qualified taxpayer if:]~~

1705 ~~[(a) a designated reporter has provided the information regarding the qualified taxpayer~~  
1706 ~~as described in Subsection (6); and]~~

1707 ~~[(b) the Utah Housing Corporation has verified that the aggregate tax credit amount~~  
1708 ~~assigned with respect to a qualified development does not exceed the total tax credit awarded~~  
1709 ~~in the allocation certificate.]~~

1710 ~~[(8)]~~ (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal  
1711 Revenue Code, shall apply to this section.

1712 (b) (i) If a qualified taxpayer is required to recapture a portion of any federal  
1713 low-income housing credit, the qualified taxpayer that has been allocated a portion of a tax  
1714 credit under this section shall also be required to recapture a portion of ~~[any state tax credits~~  
1715 ~~authorized by this section]~~ the tax credit under this section.

1716 (ii) The state recapture amount shall be equal to the percentage of the state tax credit  
1717 that equals the proportion the federal recapture amount bears to the original federal low-income  
1718 housing credit amount subject to recapture.

1719 (iii) The designated reporter shall identify each qualified taxpayer that is required to  
1720 recapture a portion of any state tax credits as described in this Subsection ~~[(8)(b)]~~ (7)(b).

1721 ~~[(9)]~~ (8) (a) Any tax credits returned to the ~~[Utah Housing Corporation]~~ corporation in  
1722 any year may be reallocated within the same time period as provided in Section 42, Internal  
1723 Revenue Code.

1724 (b) Tax credits that are unallocated by the ~~[Utah Housing Corporation]~~ corporation in  
1725 any year may be carried over for allocation in subsequent years.

1726 ~~[(10)]~~ (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it  
1727 is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax  
1728 credit may be carried back three years or may be carried forward five years as a credit against  
1729 the tax.

1730 (b) Carryover tax credits under Subsection ~~[(10)(a)]~~ (9)(a) shall be applied against the



1731 tax:

1732 (i) before the application of the tax credits earned in the current year; and

1733 (ii) on a first-earned first-used basis.

1734 ~~[(11) (a) A qualified taxpayer may assign a special low-income housing tax credit~~  
1735 ~~certificate received under Subsection (7) to another person if the qualified taxpayer provides~~  
1736 ~~written notice to the Utah Housing Corporation, in a form established by the Utah Housing~~  
1737 ~~Corporation, that includes:]~~

1738 ~~[(i) the qualified taxpayer's written certification or other proof that the qualified~~  
1739 ~~taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income~~  
1740 ~~housing tax credit certificate; and]~~

1741 ~~[(ii) contact information for the person to whom the special low-income housing tax~~  
1742 ~~credit certificate is to be assigned.]~~

1743 ~~[(b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah~~  
1744 ~~Housing Corporation shall issue an assigned special low-income housing tax credit certificate~~  
1745 ~~to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's~~  
1746 ~~special low-income housing tax credit minus any state recapture amount under Subsection~~  
1747 ~~(8)(b).]~~

1748 ~~[(c) A person who is assigned a special low-income housing tax credit certificate in~~  
1749 ~~accordance with this Subsection (11) may claim the tax credit as if:]~~

1750 ~~[(i) the person had met the requirements of this section to claim the tax credit, if the~~  
1751 ~~person files a return under this chapter; or]~~

1752 ~~[(ii) the person had met the requirements of Section 59-7-607 to claim the tax credit~~  
1753 ~~under Section 59-7-607, if the person files a return under Chapter 7, Corporate Franchise and~~  
1754 ~~Income Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay~~  
1755 ~~Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.]~~

1756 ~~[(12)] (10) Any tax credit taken in this section may be subject to an annual audit by the~~  
1757 ~~commission.~~

1758 ~~[(13)] (11) The [Utah Housing Corporation] corporation shall annually provide an~~  
1759 ~~electronic report to the Revenue and Taxation Interim Committee [which shall include at least]~~  
1760 ~~that includes:~~

1761 (a) the purpose and effectiveness of the tax credits; [and]

1762 (b) any recommendations for legislative changes to the aggregate tax credit amount that  
1763 the corporation is authorized to allocate each year under Subsection (2)(c); and

1764 ~~[(b)]~~ (c) the benefits of the tax credits to the state.

1765 ~~[(14)]~~ (12) The commission may, in consultation with the ~~[Utah Housing Corporation]~~  
1766 corporation, promulgate rules to implement this section.

1767 (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation  
1768 Interim Committee shall conduct a review of the aggregate tax credit amount that the  
1769 corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

1770 (b) In a review under this Subsection (13), the Revenue and Taxation Interim  
1771 Committee shall:

1772 (i) study any recommendations provided by the corporation under Subsection (11)(b);  
1773 and

1774 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative  
1775 action to the Legislature, prepare legislation for consideration by the Legislature in the next  
1776 general session.

1777 Section 11. Section **63J-4-802** is amended to read:

1778 **63J-4-802. Creation of COVID-19 Local Assistance Matching Grant Program --**  
1779 **Eligibility -- Duties of the office.**

1780 (1) There is established a grant program known as COVID-19 Local Assistance  
1781 Matching Grant Program that is administered by the office.

1782 (2) The office shall award financial grants to local governments that meet the  
1783 qualifications described in Subsection (3) to provide support for:

1784 (a) projects or services that address the economic impacts of the COVID-19 emergency  
1785 on housing insecurity, lack of affordable housing, or homelessness;

1786 (b) costs incurred in addressing public health challenges resulting from the COVID-19  
1787 emergency;

1788 (c) necessary investments in water and sewer infrastructure; or

1789 (d) any other purpose authorized under the American Rescue Plan Act.

1790 (3) To be eligible for a grant under this part, a local government shall:

1791 (a) provide matching funds in an amount determined by the office; and

1792 (b) certify that the local government will spend grant funds:

- 1793 (i) on a purpose described in Subsection (2);
- 1794 (ii) within the time period determined by the office; and
- 1795 (iii) in accordance with the American Rescue Plan Act.

1796 (4) As soon as is practicable, but on or before September 15, 2021, the office shall,  
1797 with recommendations from the review committee, establish:

1798 (a) procedures for applying for and awarding grants under this part, using an online  
1799 grants management system that:

- 1800 (i) manages each grant throughout the duration of the grant;
- 1801 (ii) allows for:
  - 1802 (A) online submission of grant applications; and
  - 1803 (B) auditing and reporting for a local government that receives grant funds; and
- 1804 (iii) generates reports containing information about each grant;
- 1805 (b) criteria for awarding grants; and
- 1806 (c) reporting requirements for grant recipients.

1807 (5) Subject to appropriation, the office shall award grant funds on a competitive basis  
1808 until December 31, 2024.

1809 ~~[(6) If the office receives a notice of prioritization for a municipality as described in~~  
1810 ~~Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection~~  
1811 ~~17-27a-408(5), the office may prioritize the awarding of a financial grant under this section to~~  
1812 ~~the municipality or county during the fiscal year specified in the notice.]~~

1813 ~~[(7) If the office receives a notice of ineligibility for a municipality as described in~~  
1814 ~~Subsection 10-9a-408(7), or a notice of ineligibility for a county as described in Subsection~~  
1815 ~~17-27a-408(7), the office may not award a financial grant under this section to the municipality~~  
1816 ~~or county during the fiscal year specified in the notice.]~~

1817 [(8)] (6) Before November 30 of each year, ending November 30, 2025, the office shall  
1818 submit a report to the Executive Appropriations Committee that includes:

- 1819 (a) a summary of the procedures, criteria, and requirements established under  
1820 Subsection (4);
- 1821 (b) a summary of the recommendations of the review committee under Section  
1822 63J-4-803;
- 1823 (c) the number of applications submitted under the grant program during the previous

1824 year;

1825 (d) the number of grants awarded under the grant program during the previous year;

1826 (e) the aggregate amount of grant funds awarded under the grant program during the  
1827 previous year; and

1828 (f) any other information the office considers relevant to evaluating the success of the  
1829 grant program.

1830 [~~9~~] (7) The office may use funds appropriated by the Legislature for the grant  
1831 program to pay for administrative costs.

1832 Section 12. Section **72-1-304** is amended to read:

1833 **72-1-304. Written project prioritization process for new transportation capacity**  
1834 **projects -- Rulemaking.**

1835 (1) (a) The Transportation Commission, in consultation with the department and the  
1836 metropolitan planning organizations as defined in Section [72-1-208.5](#), shall develop a written  
1837 prioritization process for the prioritization of:

1838 (i) new transportation capacity projects that are or will be part of the state highway  
1839 system under Chapter 4, Part 1, State Highways;

1840 (ii) paved pedestrian or paved nonmotorized transportation projects that:

1841 (A) mitigate traffic congestion on the state highway system; and

1842 (B) are part of an active transportation plan approved by the department;

1843 (iii) public transit projects that directly add capacity to the public transit systems within  
1844 the state, not including facilities ancillary to the public transit system; and

1845 (iv) pedestrian or nonmotorized transportation projects that provide connection to a  
1846 public transit system.

1847 (b) (i) A local government or district may nominate a project for prioritization in  
1848 accordance with the process established by the commission in rule.

1849 (ii) If a local government or district nominates a project for prioritization by the  
1850 commission, the local government or district shall provide data and evidence to show that:

1851 (A) the project will advance the purposes and goals described in Section [72-1-211](#);

1852 (B) for a public transit project, the local government or district has an ongoing funding  
1853 source for operations and maintenance of the proposed development; and

1854 (C) the local government or district will provide 40% of the costs for the project as

1855 required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

1856 (2) The following shall be included in the written prioritization process under  
1857 Subsection (1):

1858 (a) a description of how the strategic initiatives of the department adopted under  
1859 Section 72-1-211 are advanced by the written prioritization process;

1860 (b) a definition of the type of projects to which the written prioritization process  
1861 applies;

1862 (c) specification of a weighted criteria system that is used to rank proposed projects  
1863 and how it will be used to determine which projects will be prioritized;

1864 (d) specification of the data that is necessary to apply the weighted ranking criteria; and

1865 (e) any other provisions the commission considers appropriate, which may include  
1866 consideration of:

1867 (i) regional and statewide economic development impacts, including improved local  
1868 access to:

1869 (A) employment;

1870 (B) educational facilities;

1871 (C) recreation;

1872 (D) commerce; and

1873 (E) residential areas, including moderate income housing as demonstrated in the local  
1874 government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

1875 (ii) the extent to which local land use plans relevant to a project support and  
1876 accomplish the strategic initiatives adopted under Section 72-1-211; and

1877 (iii) any matching funds provided by a political subdivision or public transit district in  
1878 addition to the 40% required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

1879 (3) (a) When prioritizing a public transit project that increases capacity, the  
1880 commission:

1881 (i) may give priority consideration to projects that are part of a transit-oriented  
1882 development or transit-supportive development as defined in Section 17B-2a-802; and

1883 (ii) shall give priority consideration to projects that are within the boundaries of a  
1884 housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6,  
1885 Housing and Transit Reinvestment Zone Act.

1886 (b) When prioritizing a transportation project that increases capacity, the commission  
1887 may give priority consideration to projects that are:

1888 (i) part of a transportation reinvestment zone created under Section 11-13-227 if:

1889 (A) the state is a participant in the transportation reinvestment zone; or

1890 (B) the commission finds that the transportation reinvestment zone provides a benefit  
1891 to the state transportation system; or

1892 (ii) within the boundaries of a housing and transit reinvestment zone created pursuant  
1893 to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

1894 (c) If the department receives a notice of prioritization for a municipality as described  
1895 in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection  
1896 17-27a-408(5), the commission may~~[, during the fiscal year specified in the notice,]~~ give  
1897 priority consideration to transportation projects that are within the boundaries of the  
1898 municipality or the unincorporated areas of the county until the department receives  
1899 notification from the Housing and Community Development Division within the Department  
1900 of Workforce Services that the municipality or county no longer qualifies for prioritization  
1901 under this Subsection (3)(c).

1902 (4) In developing the written prioritization process, the commission:

1903 (a) shall seek and consider public comment by holding public meetings at locations  
1904 throughout the state; and

1905 (b) may not consider local matching dollars as provided under Section 72-2-123 unless  
1906 the state provides an equal opportunity to raise local matching dollars for state highway  
1907 improvements within each county.

1908 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1909 Transportation Commission, in consultation with the department, shall make rules establishing  
1910 the written prioritization process under Subsection (1).

1911 (6) The commission shall submit the proposed rules under this section to a committee  
1912 or task force designated by the Legislative Management Committee for review prior to taking  
1913 final action on the proposed rules or any proposed amendment to the rules described in  
1914 Subsection (5).

1915 Section 13. Section 72-2-124 is amended to read:

1916 **72-2-124. Transportation Investment Fund of 2005.**

- 1917 (1) There is created a capital projects fund entitled the Transportation Investment Fund  
1918 of 2005.
- 1919 (2) The fund consists of money generated from the following sources:
- 1920 (a) any voluntary contributions received for the maintenance, construction,  
1921 reconstruction, or renovation of state and federal highways;
- 1922 (b) appropriations made to the fund by the Legislature;
- 1923 (c) registration fees designated under Section 41-1a-1201;
- 1924 (d) the sales and use tax revenues deposited into the fund in accordance with Section  
1925 59-12-103; and
- 1926 (e) revenues transferred to the fund in accordance with Section 72-2-106.
- 1927 (3) (a) The fund shall earn interest.
- 1928 (b) All interest earned on fund money shall be deposited into the fund.
- 1929 (4) (a) Except as provided in Subsection (4)(b), the executive director may only use  
1930 fund money to pay:
- 1931 (i) the costs of maintenance, construction, reconstruction, or renovation to state and  
1932 federal highways prioritized by the Transportation Commission through the prioritization  
1933 process for new transportation capacity projects adopted under Section 72-1-304;
- 1934 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway  
1935 projects described in Subsections 63B-18-401(2), (3), and (4);
- 1936 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401  
1937 minus the costs paid from the County of the First Class Highway Projects Fund in accordance  
1938 with Subsection 72-2-121(4)(e);
- 1939 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt  
1940 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified  
1941 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the  
1942 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;
- 1943 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101  
1944 for projects prioritized in accordance with Section 72-2-125;
- 1945 (vi) all highway general obligation bonds that are intended to be paid from revenues in  
1946 the Centennial Highway Fund created by Section 72-2-118;
- 1947 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First

1948 Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described  
1949 in Section 72-2-121;

1950 (viii) if a political subdivision provides a contribution equal to or greater than 40% of  
1951 the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved  
1952 nonmotorized transportation for projects that:

1953 (A) mitigate traffic congestion on the state highway system;

1954 (B) are part of an active transportation plan approved by the department; and

1955 (C) are prioritized by the commission through the prioritization process for new

1956 transportation capacity projects adopted under Section 72-1-304;

1957 (ix) \$705,000,000 for the costs of right-of-way acquisition, construction,

1958 reconstruction, or renovation of or improvement to the following projects:

1959 (A) the connector road between Main Street and 1600 North in the city of Vineyard;

1960 (B) Geneva Road from University Parkway to 1800 South;

1961 (C) the SR-97 interchange at 5600 South on I-15;

1962 (D) two lanes on U-111 from Herriman Parkway to 11800 South;

1963 (E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

1964 (F) improvements to 1600 North in Orem from 1200 West to State Street;

1965 (G) widening I-15 between mileposts 6 and 8;

1966 (H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

1967 (I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in

1968 Spanish Fork Canyon;

1969 (J) I-15 northbound between mileposts 43 and 56;

1970 (K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43  
1971 and 45.1;

1972 (L) east Zion SR-9 improvements;

1973 (M) Toquerville Parkway;

1974 (N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

1975 (O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for  
1976 construction of an interchange on Bangerter Highway at 13400 South; and

1977 (P) an environmental impact study for Kimball Junction in Summit County; and

1978 (x) \$28,000,000 as pass-through funds, to be distributed as necessary to pay project



1979 costs based upon a statement of cash flow that the local jurisdiction where the project is located  
1980 provides to the department demonstrating the need for money for the project, for the following  
1981 projects in the following amounts:

1982 (A) \$5,000,000 for Payson Main Street repair and replacement;

1983 (B) \$8,000,000 for a Bluffdale 14600 South railroad bypass;

1984 (C) \$5,000,000 for improvements to 4700 South in Taylorsville; and

1985 (D) \$10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40  
1986 between mile markers 7 and 10.

1987 (b) The executive director may use fund money to exchange for an equal or greater  
1988 amount of federal transportation funds to be used as provided in Subsection (4)(a).

1989 (5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of  
1990 ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director  
1991 may not program fund money to a project prioritized by the commission under Section  
1992 72-1-304, including fund money from the Transit Transportation Investment Fund, within the  
1993 boundaries of the municipality [~~during the fiscal year specified in the notice~~] until the  
1994 department receives notification from the Housing and Community Development Division  
1995 within the Department of Workforce Services that ineligibility under this Subsection (5) no  
1996 longer applies to the municipality.

1997 (b) Within the boundaries of a municipality described in Subsection (5)(a), the  
1998 executive director:

1999 (i) may program fund money in accordance with Subsection (4)(a) for a limited-access  
2000 facility or interchange connecting limited-access facilities;

2001 (ii) may not program fund money for the construction, reconstruction, or renovation of  
2002 an interchange on a limited-access facility;

2003 (iii) may program Transit Transportation Investment Fund money for a  
2004 multi-community fixed guideway public transportation project; and

2005 (iv) may not program Transit Transportation Investment Fund money for the  
2006 construction, reconstruction, or renovation of a station that is part of a fixed guideway public  
2007 transportation project.

2008 (c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive  
2009 director before July 1, 2022, for projects prioritized by the commission under Section

2010 72-1-304.

2011 (6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of  
2012 ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may  
2013 not program fund money to a project prioritized by the commission under Section 72-1-304,  
2014 including fund money from the Transit Transportation Investment Fund, within the boundaries  
2015 of the unincorporated area of the county [~~during the fiscal year specified in the notice~~] until the  
2016 department receives notification from the Housing and Community Development Division  
2017 within the Department of Workforce Services that ineligibility under this Subsection (6) no  
2018 longer applies to the county.

2019 (b) Within the boundaries of the unincorporated area of a county described in  
2020 Subsection (6)(a), the executive director:

2021 (i) may program fund money in accordance with Subsection (4)(a) for a limited-access  
2022 facility to a project prioritized by the commission under Section 72-1-304;

2023 (ii) may not program fund money for the construction, reconstruction, or renovation of  
2024 an interchange on a limited-access facility;

2025 (iii) may program Transit Transportation Investment Fund money for a  
2026 multi-community fixed guideway public transportation project; and

2027 (iv) may not program Transit Transportation Investment Fund money for the  
2028 construction, reconstruction, or renovation of a station that is part of a fixed guideway public  
2029 transportation project.

2030 (c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive  
2031 director before July 1, 2022, for projects prioritized by the commission under Section  
2032 72-1-304.

2033 (7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued  
2034 in any fiscal year, the department and the commission shall appear before the Executive  
2035 Appropriations Committee of the Legislature and present the amount of bond proceeds that the  
2036 department needs to provide funding for the projects identified in Subsections 63B-18-401(2),  
2037 (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

2038 (b) The Executive Appropriations Committee of the Legislature shall review and  
2039 comment on the amount of bond proceeds needed to fund the projects.

2040 (8) The Division of Finance shall, from money deposited into the fund, transfer the

2041 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by  
2042 Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or  
2043 sinking fund.

2044 (9) (a) There is created in the Transportation Investment Fund of 2005 the Transit  
2045 Transportation Investment Fund.

2046 (b) The fund shall be funded by:

2047 (i) contributions deposited into the fund in accordance with Section 59-12-103;

2048 (ii) appropriations into the account by the Legislature;

2049 (iii) deposits of sales and use tax increment related to a housing and transit  
2050 reinvestment zone as described in Section 63N-3-610;

2051 (iv) private contributions; and

2052 (v) donations or grants from public or private entities.

2053 (c) (i) The fund shall earn interest.

2054 (ii) All interest earned on fund money shall be deposited into the fund.

2055 (d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund:

2056 (i) for public transit capital development of new capacity projects and fixed guideway  
2057 capital development projects to be used as prioritized by the commission through the  
2058 prioritization process adopted under Section 72-1-304;

2059 (ii) for development of the oversight plan described in Section 72-1-202(5); or

2060 (iii) to the department for oversight of a fixed guideway capital development project  
2061 for which the department has responsibility.

2062 (e) (i) The Legislature may only appropriate money from the fund for a public transit  
2063 capital development project or pedestrian or nonmotorized transportation project that provides  
2064 connection to the public transit system if the public transit district or political subdivision  
2065 provides funds of equal to or greater than 40% of the costs needed for the project.

2066 (ii) A public transit district or political subdivision may use money derived from a loan  
2067 granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or  
2068 part of the 40% requirement described in Subsection (9)(e)(i) if:

2069 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2,  
2070 State Infrastructure Bank Fund; and

2071 (B) the proposed capital project has been prioritized by the commission pursuant to

2072 Section [72-1-303](#).

2073 (f) Before July 1, 2022, the department and a large public transit district shall enter into  
2074 an agreement for a large public transit district to pay the department \$5,000,000 per year for 15  
2075 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and  
2076 trainsets for regional public transit rail systems.

2077 (10) (a) There is created in the Transportation Investment Fund of 2005 the  
2078 Cottonwood Canyons Transportation Investment Fund.

2079 (b) The fund shall be funded by:

2080 (i) money deposited into the fund in accordance with Section [59-12-103](#);

2081 (ii) appropriations into the account by the Legislature;

2082 (iii) private contributions; and

2083 (iv) donations or grants from public or private entities.

2084 (c) (i) The fund shall earn interest.

2085 (ii) All interest earned on fund money shall be deposited into the fund.

2086 (d) The Legislature may appropriate money from the fund for public transit or  
2087 transportation projects in the Cottonwood Canyons of Salt Lake County.

2088 Section 14. **Effective date.**

2089 (1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

2090 (2) If approved by two-thirds of all the members elected to each house, the actions  
2091 affecting the following sections take effect upon approval by the governor, or the day following  
2092 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's  
2093 signature, or in the case of a veto, the date of veto override:

2094 (a) Section [10-9a-401](#);

2095 (b) Section [10-9a-403](#);

2096 (c) Section [10-9a-408](#);

2097 (d) Section [17-27a-401](#);

2098 (e) Section [17-27a-403](#); and

2099 (f) Section [17-27a-408](#).

2100 Section 15. **Retrospective operation.**

2101 The changes to Sections [59-7-607](#), [59-9-108](#), and [59-10-1010](#) in this bill have  
2102 retrospective operation for a taxable year beginning on or after January 1, 2023.