

Representative Stephen L. Whyte proposes the following substitute bill:

HOUSING AFFORDABILITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen L. Whyte

Senate Sponsor: Lincoln Fillmore

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;
- ▶ establishes the Housing Support Grant Program within the Office of Homeless Services for supporting residential projects that include affordable housing units;
- ▶ allows for state low-income housing tax credits to be allocated, by pass-through, to certain business entities;



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

34 **Money Appropriated in this Bill:**

35 This bill appropriates in fiscal year 2024:

- 36 ▶ to Department of Health and Human Services -- Integrated Health Care Services, as
- 37 an ongoing appropriation:
- 38 • from Medicaid Expansion Fund, \$3,900,000.

39 **Other Special Clauses:**

40 This bill provides a special effective date.
41 This bill provides retrospective operation.

42 **Utah Code Sections Affected:**

43 AMENDS:

- 44 **10-9a-401**, as last amended by Laws of Utah 2022, Chapters 282, 406
- 45 **10-9a-403**, as last amended by Laws of Utah 2022, Chapters 282, 406 and last amended
- 46 by Coordination Clause, Laws of Utah 2022, Chapter 406
- 47 **10-9a-408**, as last amended by Laws of Utah 2022, Chapter 406
- 48 **17-27a-401**, as last amended by Laws of Utah 2022, Chapters 282, 406
- 49 **17-27a-403**, as last amended by Laws of Utah 2022, Chapters 282, 406
- 50 **17-27a-408**, as last amended by Laws of Utah 2022, Chapter 406
- 51 **59-7-607**, as last amended by Laws of Utah 2020, Chapter 241
- 52 **59-9-108**, as enacted by Laws of Utah 2020, Chapter 241
- 53 **59-10-1010**, as last amended by Laws of Utah 2020, Chapter 241
- 54 **63J-4-802**, as last amended by Laws of Utah 2022, Chapter 406

55 ENACTS:

- 56 **35A-8-2401**, Utah Code Annotated 1953

57 [35A-16-701](#), Utah Code Annotated 1953



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

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

61 **10-9a-401. General plan required -- Content.**

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

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

66 (2) The general plan may provide for:

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

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

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

- 72 (i) food and water; and
- 73 (ii) drainage, sanitary, and other facilities and resources;

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

75 (e) the protection of urban development;

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

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

79 (h) historic preservation;

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

82 (j) an official map.

83 (3) (a) The general plan of a specified municipality, as defined in Section [10-9a-408](#),
84 shall include a moderate income housing element that meets the requirements of Subsection
85 [10-9a-403\(2\)\(a\)\(iii\)](#).

86 ~~[(b) On or before October 1, 2022, a specified municipality, as defined in Section~~
87 ~~[10-9a-408](#), with a general plan that does not comply with Subsection (3)(a) shall amend the~~

88 ~~general plan to comply with Subsection (3)(a)]~~

89 (b) If a municipality changes from one class to another or grows in population to
90 become a specified municipality, as defined in Section 10-9a-408, the municipality shall amend
91 the municipality's general plan to comply with Subsection (3)(a) on or before August 1 of the
92 year in which the municipality first becomes a specified municipality.

93 (c) A municipality described in Subsection (3)(b) shall send a copy of the
94 municipality's amended general plan to:

95 (i) the association of governments, established pursuant to an interlocal agreement
96 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member;
97 or

98 (ii) if the municipality is located within the boundaries of a metropolitan planning
99 organization, the appropriate metropolitan planning organization.

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

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

103 **10-9a-403. General plan preparation.**

104 (1) (a) The planning commission shall provide notice, as provided in Section
105 10-9a-203, of the planning commission's intent to make a recommendation to the municipal
106 legislative body for a general plan or a comprehensive general plan amendment when the
107 planning commission initiates the process of preparing the planning commission's
108 recommendation.

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

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

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

118 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,

119 and descriptive and explanatory matter, shall include the planning commission's
120 recommendations for the following plan elements:

121 (i) a land use element that:

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

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

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

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

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

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

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

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

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

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

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

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

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

157 (D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed
158 guideway public transit station, shall include a recommendation to implement five or more of
159 the moderate income housing strategies described in Subsection (2)(b)(iii), of which one shall
160 be the moderate income housing strategy described in Subsection (2)(b)(iii)(V), and one shall
161 be a moderate income housing strategy described in Subsection (2)(b)(iii)(G), (H), or (Q); and

162 ~~[(C)]~~ (E) ~~[includes]~~ for a specified municipality, as defined in Section 10-9a-408, shall
163 include an implementation plan as provided in Subsection (2)(c); and

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

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

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

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

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

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

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

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

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

181 (ii) for a town, may include, and for a specified municipality as defined in Section
182 10-9a-408, shall include, an analysis of how the municipality will provide a realistic
183 opportunity for the development of moderate income housing within the next five years;

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

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

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

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

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

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

199 (F) zone or rezone for higher density or moderate income residential development in
200 commercial or mixed-use zones near major transit investment corridors, commercial centers, or
201 employment centers;

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

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

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

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

211 (K) preserve existing and new moderate income housing and subsidized units by

212 utilizing a landlord incentive program, providing for deed restricted units through a grant
213 program, or, notwithstanding Section [10-9a-535](#), establishing a housing loss mitigation fund;

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

215 (M) demonstrate creation of, or participation in, a community land trust program for
216 moderate income housing;

217 (N) implement a mortgage assistance program for employees of the municipality, an
218 employer that provides contracted services to the municipality, or any other public employer
219 that operates within the municipality;

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

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

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

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

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

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

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

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

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

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

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

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

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

256 (iv) shall identify each moderate income housing strategy recommended for
257 implementation by restating the exact language used to describe the strategy in Subsection
258 (2)(b)(iii).

259 (c) (i) In drafting the implementation plan portion of the moderate income housing
260 element as described in Subsection (2)(a)(iii)(C), the planning commission shall ~~[establish]~~
261 recommend the establishment of a five-year timeline for implementing each of the moderate
262 income housing strategies selected by the municipality for implementation.

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

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

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

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

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

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

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

273 (e) In drafting the transportation and traffic circulation element, the planning

274 commission shall:

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

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

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

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

284 (i) shall consider:

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

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

289 (ii) shall include a recommendation for:

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

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

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

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

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

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

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

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

303 (E) reduction of yard waste; and

304 (F) use of an irrigation system, including drip irrigation, best adapted to provide the

305 optimal amount of water to the plants being irrigated;

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

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

311 (B) water distribution planning, including master plans, infrastructure asset
312 management programs and plans, infrastructure replacement plans, and impact fee facilities
313 plans;

314 (vi) may include recommendations for additional water demand reduction strategies,
315 including:

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

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

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

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

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

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

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

329 (B) common interest community, as defined in Section 57-25-102; or

330 (C) multifamily housing project.

331 (3) The proposed general plan may include:

332 (a) an environmental element that addresses:

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

335 (A) air;

- 336 (B) forests;
- 337 (C) soils;
- 338 (D) rivers;
- 339 (E) groundwater and other waters;
- 340 (F) harbors;
- 341 (G) fisheries;
- 342 (H) wildlife;
- 343 (I) minerals; and
- 344 (J) other natural resources; and
- 345 (ii) (A) the reclamation of land, flood control, prevention and control of the pollution
- 346 of streams and other waters;
- 347 (B) the regulation of the use of land on hillsides, stream channels and other
- 348 environmentally sensitive areas;
- 349 (C) the prevention, control, and correction of the erosion of soils;
- 350 (D) the preservation and enhancement of watersheds and wetlands; and
- 351 (E) the mapping of known geologic hazards;
- 352 (b) a public services and facilities element showing general plans for sewage, water,
- 353 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
- 354 police and fire protection, and other public services;
- 355 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
- 356 programs for:
- 357 (i) historic preservation;
- 358 (ii) the diminution or elimination of a development impediment as defined in Section
- 359 [17C-1-102](#); and
- 360 (iii) redevelopment of land, including housing sites, business and industrial sites, and
- 361 public building sites;
- 362 (d) an economic element composed of appropriate studies and forecasts, as well as an
- 363 economic development plan, which may include review of existing and projected municipal
- 364 revenue and expenditures, revenue sources, identification of basic and secondary industry,
- 365 primary and secondary market areas, employment, and retail sales activity;
- 366 (e) recommendations for implementing all or any portion of the general plan, including

367 the adoption of land and water use ordinances, capital improvement plans, community
 368 development and promotion, and any other appropriate action;

369 (f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3);
 370 and

371 (g) any other element the municipality considers appropriate.

372 Section 3. Section 10-9a-408 is amended to read:

373 **10-9a-408. Moderate income housing report -- Contents -- Prioritization for**
 374 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

375 (1) As used in this section:

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

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

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

383 (d) "Moderate income housing strategy" means a strategy described in Subsection
 384 10-9a-403(2)(b)(iii).

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

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

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

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

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

391 (g) "Subsequent report" or "subsequent moderate income housing report" means the
 392 annual report described in Subsection (3).

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

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

397 (b) If a municipality changes from one class to another or grows in population to

398 become a specified municipality, the municipality shall submit the initial report to the division
399 on or before August 1 of the year in which the municipality first becomes a specified
400 municipality.

401 (c) The initial report shall:

402 (i) [~~a description of~~] identify each moderate income housing strategy selected by the
403 specified municipality for continued, ongoing, or one-time implementation, restating the exact
404 language used to describe the moderate income housing strategy in Subsection
405 10-9a-403(2)(b)(iii); and

406 (ii) include an implementation plan.

407 [~~(c)~~] (3) (a) [~~The~~] After the division approves a specified municipality's initial report in
408 accordance with this section, the specified municipality shall annually submit to the division a
409 subsequent moderate income housing report [submitted in each calendar year after 2022] on or
410 before August 1 of each year after the year in which the specified municipality is required to
411 submit an initial report to the division.

412 (b) The subsequent report shall include:

413 (i) the information required [~~under Subsection (2)(b)]~~ in the initial report;

414 (ii) a description of each action, whether one-time or ongoing, taken by the specified
415 municipality during the previous fiscal year to implement the moderate income housing
416 strategies [~~selected by the specified municipality]~~ identified in the initial report for
417 implementation;

418 (iii) a description of each land use regulation or land use decision made by the
419 specified municipality during the previous fiscal year to implement the moderate income
420 housing strategies, including an explanation of how the land use regulation or land use decision
421 supports the specified municipality's efforts to implement the moderate income housing
422 strategies;

423 (iv) a description of any barriers encountered by the specified municipality in the
424 previous fiscal year in implementing the moderate income housing strategies;

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

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

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

429 (vi) a description of how the market has responded to the selected moderate income
 430 housing strategies, including the number of entitled moderate income housing units or other
 431 relevant data; and

432 (vii) any recommendations on how the state can support the specified municipality in
 433 implementing the moderate income housing strategies.

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

436 (i) approved by the division; and

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

439 ~~[(3)]~~ (4) Within 90 days after the day on which the division receives a specified
 440 municipality's ~~[moderate income housing]~~ report, the division shall:

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

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

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

448 ~~[(4)]~~ (5) (a) ~~[The report described in Subsection (2)(b) complies with Subsection (2) if~~
 449] An initial report does not comply with this section unless the report:

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

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

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

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

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

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

460 (i) includes the information required under Subsection ~~[(2)(c)]~~ (3)(b);

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

462 implement:

463 (A) three or more moderate income housing strategies if the specified municipality

464 does not have a fixed guideway public transit station; or

465 (B) ~~[four]~~ subject to the requirements of Subsection 10-9a-403(2)(a)(iii)(D), five or

466 more moderate income housing strategies if the specified municipality has a fixed guideway

467 public transit station;

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

469 (iv) provides sufficient information for the division to:

470 (A) assess the specified municipality's progress in implementing the moderate income

471 housing strategies;

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

473 (C) identify a clear correlation between the specified municipality's land use

474 regulations and land use decisions and the specified municipality's efforts to implement the

475 moderate income housing strategies; ~~[and]~~

476 (D) identify how the market has responded to the specified municipality's selected

477 moderate income housing strategies~~[-];~~ and

478 (E) identify any barriers encountered by the specified municipality in implementing the

479 selected moderate income housing strategies.

480 ~~[(5)]~~ (6) (a) A specified municipality qualifies for priority consideration under this

481 Subsection ~~[(5)]~~ (6) if the specified municipality's ~~[moderate income housing]~~ report:

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

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

484 implement:

485 (A) five or more moderate income housing strategies if the specified municipality does

486 not have a fixed guideway public transit station; or

487 (B) six or more moderate income housing strategies if the specified municipality has a

488 fixed guideway public transit station.

489 (b) The ~~[following apply to]~~ Transportation Commission may, in accordance with

490 Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within

491 the boundaries of a specified municipality described in Subsection [(5)(a)] (6)(a) during the
492 fiscal year immediately following the fiscal year in which the report is [required:] submitted.

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

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

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

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

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

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

507 (iii) specify the fiscal year during which the specified municipality qualifies for priority
508 consideration; and

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

511 [(6)] (7) (a) If the division, after reviewing a specified municipality's [~~moderate income~~
512 ~~housing~~] report, determines that the report does not comply with [~~Subsection (2)] this section,~~
513 the division shall send a notice of noncompliance to the legislative body of the specified
514 municipality.

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

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

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

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

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

522 deficiency;

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

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

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

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

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

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

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

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

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

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

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

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

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

552 (iii) one individual appointed by the presiding member of:

553 (A) the association of governments, established pursuant to an interlocal agreement
 554 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified municipality is a
 555 member; or

556 (B) if the specified municipality is located within the boundaries of a metropolitan
 557 planning organization, the applicable metropolitan planning organization.

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

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

561 ~~[(7)]~~ (9) (a) A specified municipality is ineligible for funds under this Subsection ~~[(7)~~
 562 ~~if the specified municipality]~~ (9) if:

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

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

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

570 (B) request an appeal of the division's determination of noncompliance within [90] 10
 571 days after the day on which the [division sent to the specified municipality a] notice of
 572 noncompliance [under Subsection (6):] is sent;

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

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

580 (b) The following apply to a specified municipality described in Subsection [(7)(a)]
 581 (9)(a) during the fiscal year immediately following the fiscal year in which the report is
 582 required:

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

584 from the Transportation Investment Fund of 2005, including the Transit Transportation
585 Investment Fund, to projects located within the boundaries of the specified municipality in
586 accordance with Subsection 72-2-124(5); and

587 (ii) the Governor's Office of Planning and Budget may not award financial grants to the
588 specified municipality under the COVID-19 Local Assistance Matching Grant Program in
589 accordance with Subsection 63J-4-802(7).

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

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

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

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

597 (iii) specify the fiscal year during which the specified municipality is ineligible for
598 funds; and

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

601 [~~(8)~~] (10) In a civil action seeking enforcement or claiming a violation of this section
602 or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded
603 only injunctive or other equitable relief.

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

605 **17-27a-401. General plan required -- Content -- Resource management plan --**
606 **Provisions related to radioactive waste facility.**

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

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

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

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

614 (c) as a basis for communicating and coordinating with the federal government on land

615 and resource management issues.

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

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

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

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

622 (i) food and water; and

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

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

625 (e) the protection of urban development;

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

627 (g) historic preservation;

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

630 (i) an official map.

631 (3) (a) (i) The general plan of a specified county, as defined in Section [17-27a-408](#),
632 shall include a moderate income housing element that meets the requirements of Subsection
633 [17-27a-403\(2\)\(a\)\(iii\)](#).

634 ~~[(ii) On or before October 1, 2022, a specified county, as defined in Section~~
635 ~~[17-27a-408](#), with a general plan that does not comply with Subsection (3)(a)(i) shall amend the~~
636 ~~general plan to comply with Subsection (3)(a)(i)]~~

637 (ii) If a county changes from one class to another or grows in population to become a
638 specified county, as defined in Section [17-27a-408](#), the county shall amend the county's general
639 plan to comply with Subsection (3)(a)(i) on or before August 1 of the year in which the county
640 first becomes a specified county.

641 (iii) A county described in Subsection (3)(a)(ii) shall send a copy of the county's
642 amended general plan to:

643 (A) the association of governments, established pursuant to an interlocal agreement
644 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; or

645 (B) if the county is located within the boundaries of a metropolitan planning

646 organization, the appropriate metropolitan planning organization.

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

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

650 (i) mining;

651 (ii) land use;

652 (iii) livestock and grazing;

653 (iv) irrigation;

654 (v) agriculture;

655 (vi) fire management;

656 (vii) noxious weeds;

657 (viii) forest management;

658 (ix) water rights;

659 (x) ditches and canals;

660 (xi) water quality and hydrology;

661 (xii) flood plains and river terraces;

662 (xiii) wetlands;

663 (xiv) riparian areas;

664 (xv) predator control;

665 (xvi) wildlife;

666 (xvii) fisheries;

667 (xviii) recreation and tourism;

668 (xix) energy resources;

669 (xx) mineral resources;

670 (xxi) cultural, historical, geological, and paleontological resources;

671 (xxii) wilderness;

672 (xxiii) wild and scenic rivers;

673 (xxiv) threatened, endangered, and sensitive species;

674 (xxv) land access;

675 (xxvi) law enforcement;

676 (xxvii) economic considerations; and

677 (xxviii) air.

678 (d) For each item listed under Subsection (3)(c), a county's resource management plan
679 shall:

680 (i) establish findings pertaining to the item;

681 (ii) establish defined objectives; and

682 (iii) outline general policies and guidelines on how the objectives described in
683 Subsection (3)(d)(ii) are to be accomplished.

684 (4) (a) (i) The general plan shall include specific provisions related to an area within, or
685 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a
686 county, which are proposed for the siting of a storage facility or transfer facility for the
687 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as
688 these wastes are defined in Section 19-3-303.

689 (ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the
690 proposed site upon the health and general welfare of citizens of the state, and shall provide:

691 (A) the information identified in Section 19-3-305;

692 (B) information supported by credible studies that demonstrates that Subsection
693 19-3-307(2) has been satisfied; and

694 (C) specific measures to mitigate the effects of high-level nuclear waste and greater
695 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

696 (b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance
697 indicating that all proposals for the siting of a storage facility or transfer facility for the
698 placement of high-level nuclear waste or greater than class C radioactive waste wholly or
699 partially within the county are rejected.

700 (c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

701 (d) The county shall send a certified copy of the ordinance described in Subsection
702 (4)(b) to the executive director of the Department of Environmental Quality by certified mail
703 within 30 days of enactment.

704 (e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

705 (i) comply with Subsection (4)(a) as soon as reasonably possible; and

706 (ii) send a certified copy of the repeal to the executive director of the Department of
707 Environmental Quality by certified mail within 30 days after the repeal.

708 (5) The general plan may define the county's local customs, local culture, and the
709 components necessary for the county's economic stability.

710 (6) Subject to Subsection 17-27a-403(2), the county may determine the
711 comprehensiveness, extent, and format of the general plan.

712 (7) If a county has designated a mountainous planning district, the general plan for the
713 mountainous planning district is the controlling plan.

714 (8) Nothing in this part may be construed to limit the authority of the state to manage
715 and protect wildlife under Title 23, Wildlife Resources Code of Utah.

716 (9) On or before December 31, 2025, a county that has a general plan that does not
717 include a water use and preservation element that complies with Section 17-27a-403 shall
718 amend the county's general plan to comply with Section 17-27a-403.

719 Section 5. Section 17-27a-403 is amended to read:

720 **17-27a-403. Plan preparation.**

721 (1) (a) The planning commission shall provide notice, as provided in Section
722 17-27a-203, of the planning commission's intent to make a recommendation to the county
723 legislative body for a general plan or a comprehensive general plan amendment when the
724 planning commission initiates the process of preparing the planning commission's
725 recommendation.

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

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

729 (ii) if the planning commission is a planning commission for a mountainous planning
730 district, the mountainous planning district.

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

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

737 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,
738 and descriptive and explanatory matter, shall include the planning commission's

739 recommendations for the following plan elements:

740 (i) a land use element that:

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

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

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

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

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

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

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

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

759 (iii) for a specified county as defined in Section [17-27a-408](#), a moderate income
760 housing element that:

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

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

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

766 (iv) a resource management plan detailing the findings, objectives, and policies
767 required by Subsection [17-27a-401\(3\)](#); and

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

769 (A) the effect of permitted development or patterns of development on water demand

770 and water infrastructure;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

814 (M) demonstrate creation of, or participation in, a community land trust program for
815 moderate income housing;

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

819 (O) apply for or partner with an entity that applies for state or federal funds or tax
820 incentives to promote the construction of moderate income housing, an entity that applies for
821 programs offered by the Utah Housing Corporation within that agency's funding capacity, an
822 entity that applies for affordable housing programs administered by the Department of
823 Workforce Services, an entity that applies for services provided by a public housing authority
824 to preserve and create moderate income housing, or any other entity that applies for programs
825 or services that promote the construction or preservation of moderate income housing;

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

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

831 (R) eliminate impact fees for any accessory dwelling unit that is not an internal

832 accessory dwelling unit as defined in Section 10-9a-530;

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

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

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

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

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

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

850 (iv) The planning commission shall identify each moderate income housing strategy
851 recommended for implementation by restating the exact language used to describe the strategy
852 in Subsection (2)(b)(ii).

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

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

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

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

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

862 (i) (A) consider and coordinate with the regional transportation plan developed by the

863 county's region's metropolitan planning organization, if the relevant areas of the county are
864 within the boundaries of a metropolitan planning organization; or

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

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

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

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

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

877 (B) provide flexibility for the county to make adjustments as needed.

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

879 (i) shall consider applicable regional water conservation goals recommended by the
880 Division of Water Resources;

881 (ii) shall include a recommendation for:

882 (A) water conservation policies to be determined by the county; and

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

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

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

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

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

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

893 (D) elimination or regulation of ponds, pools, and other features that promote

- 894 unnecessary water evaporation;
- 895 (E) reduction of yard waste; and
- 896 (F) use of an irrigation system, including drip irrigation, best adapted to provide the
- 897 optimal amount of water to the plants being irrigated;
- 898 (v) may include recommendations for additional water demand reduction strategies,
- 899 including:
- 900 (A) creating a water budget associated with a particular type of development;
- 901 (B) adopting new or modified lot size, configuration, and landscaping standards that
- 902 will reduce water demand for new single family development;
- 903 (C) providing one or more water reduction incentives for existing landscapes and
- 904 irrigation systems and installation of water fixtures or systems that minimize water demand;
- 905 (D) discouraging incentives for economic development activities that do not adequately
- 906 account for water use or do not include strategies for reducing water demand; and
- 907 (E) adopting water concurrency standards requiring that adequate water supplies and
- 908 facilities are or will be in place for new development; and
- 909 (vi) shall include a recommendation for low water use landscaping standards for a new:
- 910 (A) commercial, industrial, or institutional development;
- 911 (B) common interest community, as defined in Section [57-25-102](#); or
- 912 (C) multifamily housing project.
- 913 (3) The proposed general plan may include:
- 914 (a) an environmental element that addresses:
- 915 (i) to the extent not covered by the county's resource management plan, the protection,
- 916 conservation, development, and use of natural resources, including the quality of:
- 917 (A) air;
- 918 (B) forests;
- 919 (C) soils;
- 920 (D) rivers;
- 921 (E) groundwater and other waters;
- 922 (F) harbors;
- 923 (G) fisheries;
- 924 (H) wildlife;

925 (I) minerals; and
926 (J) other natural resources; and
927 (ii) (A) the reclamation of land, flood control, prevention and control of the pollution
928 of streams and other waters;
929 (B) the regulation of the use of land on hillsides, stream channels and other
930 environmentally sensitive areas;
931 (C) the prevention, control, and correction of the erosion of soils;
932 (D) the preservation and enhancement of watersheds and wetlands; and
933 (E) the mapping of known geologic hazards;
934 (b) a public services and facilities element showing general plans for sewage, water,
935 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
936 police and fire protection, and other public services;
937 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
938 programs for:
939 (i) historic preservation;
940 (ii) the diminution or elimination of a development impediment as defined in Section
941 [17C-1-102](#); and
942 (iii) redevelopment of land, including housing sites, business and industrial sites, and
943 public building sites;
944 (d) an economic element composed of appropriate studies and forecasts, as well as an
945 economic development plan, which may include review of existing and projected county
946 revenue and expenditures, revenue sources, identification of basic and secondary industry,
947 primary and secondary market areas, employment, and retail sales activity;
948 (e) recommendations for implementing all or any portion of the general plan, including
949 the adoption of land and water use ordinances, capital improvement plans, community
950 development and promotion, and any other appropriate action;
951 (f) provisions addressing any of the matters listed in Subsection [17-27a-401\(2\)](#) or
952 (3)(a)(i); and
953 (g) any other element the county considers appropriate.
954 Section 6. Section [17-27a-408](#) is amended to read:
955 **17-27a-408. Moderate income housing report -- Contents -- Prioritization for**

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

957 (1) As used in this section:

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

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

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

965 (d) "Moderate income housing strategy" means a strategy described in Subsection
966 17-27a-403(2)(b)(ii).

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

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

970 (g) "Subsequent report" or "subsequent moderate income housing report" means the
971 annual report described in Subsection (3).

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

975 (b) If a county changes from one class to another or grows in population to become a
976 specified county, the county shall submit the initial report to the division on or before August 1
977 of the year in which the county first becomes a specified county.

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

979 (c) The initial report shall:

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

983 (ii) include an implementation plan.

984 [~~(e)~~] (3) (a) [~~The~~] After the division approves a specified county's initial report in
985 accordance with this section, the specified county shall annually submit to the division a
986 subsequent moderate income housing report [~~submitted in each calendar year after 2022~~] on or

987 before August 1 of each year after the year in which the specified county is required to submit
 988 an initial report to the division.

989 (b) The subsequent report shall include:

990 (i) the information required [~~under Subsection (2)(b)~~] in the initial report;

991 (ii) a description of each action, whether one-time or ongoing, taken by the specified
 992 county during the previous fiscal year to implement the moderate income housing strategies
 993 [~~selected by the specified county~~] identified in the initial report for implementation;

994 (iii) a description of each land use regulation or land use decision made by the
 995 specified county during the previous fiscal year to implement the moderate income housing
 996 strategies, including an explanation of how the land use regulation or land use decision
 997 supports the specified county's efforts to implement the moderate income housing strategies;

998 (iv) a description of any barriers encountered by the specified county in the previous
 999 fiscal year in implementing the moderate income housing strategies; and

1000 (v) information regarding the number of internal and external or detached accessory
 1001 dwelling units located within the specified county for which the specified county:

1002 (A) issued a building permit to construct; or

1003 (B) issued a business license or comparable license or permit to rent;

1004 (vi) a description of how the market has responded to the selected moderate income
 1005 housing strategies, including the number of entitled moderate income housing units or other
 1006 relevant data; and

1007 (vii) any recommendations on how the state can support the specified county in
 1008 implementing the moderate income housing strategies.

1009 [~~(d)~~] (c) [~~The moderate income housing~~] A specified county's report shall be in a form:

1010 (i) approved by the division; and

1011 (ii) made available by the division on or before [~~July~~] May 1 of the year in which the
 1012 report is required.

1013 [~~(3)~~] (4) Within 90 days after the day on which the division receives a specified
 1014 county's [~~moderate income housing~~] report, the division shall:

1015 (a) post the report on the division's website;

1016 (b) send a copy of the report to the Department of Transportation, the Governor's

1017 Office of Planning and Budget, the association of governments in which the specified county is

1018 located, and, if the unincorporated area of the specified county is located within the boundaries
1019 of a metropolitan planning organization, the appropriate metropolitan planning organization;
1020 and

1021 (c) subject to Subsection ~~[(4)]~~ (5), review the report to determine compliance with
1022 ~~[Subsection (2)]~~ this section.

1023 ~~[(4)]~~ (5) (a) ~~[The report described in Subsection (2)(b) complies with Subsection (2) if~~
1024] An initial report does not comply with this section unless the report:

1025 (i) includes the information required under Subsection ~~[(2)(b)]~~ (2)(c);

1026 (ii) subject to Subsection (5)(c), demonstrates to the division that the specified county
1027 made plans to implement three or more moderate income housing strategies; and

1028 (iii) is in a form approved by the division.

1029 (b) ~~[The report described in Subsection (2)(c) complies with Subsection (2) if]~~ A
1030 subsequent report does not comply with this section unless the report:

1031 (i) includes the information required under Subsection ~~[(2)(c)]~~ (3)(b);

1032 (ii) subject to Subsection (5)(c), demonstrates to the division that the specified county
1033 made plans to implement three or more moderate income housing strategies;

1034 (iii) is in a form approved by the division; and

1035 (iv) provides sufficient information for the division to:

1036 (A) assess the specified county's progress in implementing the moderate income
1037 housing strategies;

1038 (B) monitor compliance with the specified county's implementation plan;

1039 (C) identify a clear correlation between the specified county's land use decisions and
1040 efforts to implement the moderate income housing strategies; ~~[and]~~

1041 (D) identify how the market has responded to the specified county's selected moderate
1042 income housing strategies~~[-];~~ and

1043 (E) identify any barriers encountered by the specified county in implementing the
1044 selected moderate income housing strategies.

1045 (c) (i) This Subsection (5)(c)(i) applies to a specified county that has created a small
1046 public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

1047 (ii) In addition to the requirements of Subsections (5)(a) and (b), a report for a
1048 specified county described in Subsection (5)(c)(i) does not comply with this section unless the

1049 report demonstrates to the division that the specified county:

1050 (A) made plans to implement the moderate income housing strategy described in

1051 Subsection 17-27a-403(2)(b)(ii)(Q); and

1052 (B) is in compliance with Subsection 63N-3-603(8).

1053 ~~[(5)]~~ (6) (a) A specified county qualifies for priority consideration under this

1054 Subsection ~~[(5)]~~ (6) if the specified county's ~~[moderate income housing]~~ report:

1055 (i) complies with ~~[Subsection (2)]~~ this section; and

1056 (ii) demonstrates to the division that the specified county made plans to implement five

1057 or more moderate income housing strategies.

1058 (b) The ~~[following apply to]~~ Transportation Commission may, in accordance with

1059 Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within

1060 the unincorporated areas of a specified county described in Subsection ~~[(5)(a)]~~ (6)(a) during the

1061 fiscal year immediately following the fiscal year in which the report is ~~[required:]~~ submitted.

1062 ~~[(i) the Transportation Commission may give priority consideration to transportation~~

1063 ~~projects located within the unincorporated areas of the specified county in accordance with~~

1064 ~~Subsection 72-1-304(3)(c); and]~~

1065 ~~[(ii) the Governor's Office of Planning and Budget may give priority consideration for~~

1066 ~~awarding financial grants to the specified county under the COVID-19 Local Assistance~~

1067 ~~Matching Grant Program in accordance with Subsection 63J-4-802(6).]~~

1068 (c) Upon determining that a specified county qualifies for priority consideration under

1069 this Subsection ~~[(5)]~~ (6), the division shall send a notice of prioritization to the legislative body

1070 of the specified county, the Department of Transportation, and the Governor's Office of

1071 Planning and Budget.

1072 (d) The notice described in Subsection ~~[(5)(c)]~~ (6)(c) shall:

1073 (i) name the specified county that qualifies for priority consideration;

1074 (ii) describe the funds or projects for which the specified county qualifies to receive

1075 priority consideration;

1076 (iii) specify the fiscal year during which the specified county qualifies for priority

1077 consideration; and

1078 (iv) state the basis for the division's determination that the specified county qualifies

1079 for priority consideration.

1080 ~~[(6)]~~ (7) (a) If the division, after reviewing a specified county's [~~moderate income~~
1081 ~~housing~~] report, determines that the report does not comply with [~~Subsection (2)]~~ this section,
1082 the division shall send a notice of noncompliance to the legislative body of the specified
1083 county.

1084 (b) A specified county that receives a notice of noncompliance may:

1085 (i) cure each deficiency in the report within 90 days after the day on which the notice of
1086 noncompliance is sent; or

1087 (ii) request an appeal of the division's determination of noncompliance within 10 days
1088 after the day on which the notice of noncompliance is sent.

1089 ~~[(b)]~~ (c) The notice described in Subsection [~~(6)(a)]~~ (7)(a) shall:

1090 (i) describe each deficiency in the report and the actions needed to cure each
1091 deficiency;

1092 (ii) state that the specified county has an opportunity to [~~cure the deficiencies~~]:

1093 (A) submit to the division a corrected report that cures each deficiency in the report
1094 within 90 days after the day on which the notice of noncompliance is sent; [and] or

1095 (B) submit to the division a request for an appeal of the division's determination of
1096 noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

1097 (iii) state that failure to [~~cure the deficiencies within 90 days after the day on which the~~
1098 ~~notice is sent~~] take action under Subsection (7)(c)(ii) will result in the specified county's
1099 ineligibility for funds under Subsection [~~(7)]~~ (9).

1100 (d) (i) If a specified county submits to the division a corrected report in accordance
1101 with Subsection (7)(b)(i), and the division determines that the corrected report does not comply
1102 with this section, the division shall send a second notice of noncompliance to the legislative
1103 body of the specified county.

1104 (ii) A specified county that receives a second notice of noncompliance may request an
1105 appeal of the division's determination of noncompliance within 10 days after the day on which
1106 the second notice of noncompliance is sent.

1107 (iii) The notice described in Subsection (7)(d)(i) shall:

1108 (A) state that the specified county has an opportunity to submit to the division a request
1109 for an appeal of the division's determination of noncompliance within 10 days after the day on
1110 which the second notice of noncompliance is sent; and

1111 (B) state that failure to take action under Subsection (7)(d)(iii)(A) will result in the
 1112 specified county's ineligibility for funds under Subsection (9).

1113 (8) (a) A specified county that receives a notice of noncompliance under Subsection
 1114 (7)(a) or (7)(d)(i) may request an appeal of the division's determination of noncompliance
 1115 within 10 days after the day on which the notice of noncompliance is sent.

1116 (b) Within 90 days after the day on which the division receives a request for an appeal,
 1117 an appeal board consisting of the following three members shall review and issue a written
 1118 decision on the appeal:

1119 (i) one individual appointed by the Utah Association of Counties;

1120 (ii) one individual appointed by the Utah Homebuilders Association; and

1121 (iii) one individual appointed by the presiding member of:

1122 (A) the association of governments, established pursuant to an interlocal agreement
 1123 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified county is a
 1124 member; or

1125 (B) if the specified county is located within the boundaries of a metropolitan planning
 1126 organization, the applicable metropolitan planning organization.

1127 (c) The written decision of the appeal board shall either uphold or reverse the division's
 1128 determination of noncompliance.

1129 (d) The appeal board's written decision on the appeal is final.

1130 ~~[(7)]~~ (9) (a) A specified county is ineligible for funds under this Subsection ~~[(7) if the~~
 1131 ~~specified county]~~ (9) if:

1132 (i) the specified county fails to submit a [moderate income housing] report to the
 1133 division; [or]

1134 (ii) [fails to cure the deficiencies in the specified county's moderate income housing
 1135 report] after submitting a report to the division, the division determines that the report does not
 1136 comply with this section and the specified county fails to:

1137 (A) cure each deficiency in the report within 90 days after the day on which the
 1138 [division sent to the specified county a] notice of noncompliance [under Subsection (6)] is sent;
 1139 or

1140 (B) request an appeal of the division's determination of noncompliance within 10 days
 1141 after the day on which the notice of noncompliance is sent;

1142 (iii) after submitting to the division a corrected report to cure the deficiencies in a
1143 previously-submitted report, the division determines that the corrected report does not comply
1144 with this section and the specified county fails to request an appeal of the division's
1145 determination of noncompliance within 10 days after the day on which the second notice of
1146 noncompliance is sent; or

1147 (iv) after submitting a request for an appeal under Subsection (8), the appeal board
1148 issues a written decision upholding the division's determination of noncompliance.

1149 (b) The following apply to a specified county described in Subsection [~~(7)(a)~~] (9)(a)
1150 during the fiscal year immediately following the fiscal year in which the report is required:

1151 (i) the executive director of the Department of Transportation may not program funds
1152 from the Transportation Investment Fund of 2005, including the Transit Transportation
1153 Investment Fund, to projects located within the unincorporated areas of the specified county in
1154 accordance with Subsection 72-2-124(6); and

1155 (ii) the Governor's Office of Planning and Budget may not award financial grants to the
1156 specified county under the COVID-19 Local Assistance Matching Grant Program in
1157 accordance with Subsection 63J-4-802(7).

1158 (c) Upon determining that a specified county is ineligible for funds under this
1159 Subsection [~~(7)~~] (9), the division shall send a notice of ineligibility to the legislative body of
1160 the specified county, the Department of Transportation, and the Governor's Office of Planning
1161 and Budget.

1162 (d) The notice described in Subsection [~~(7)(c)~~] (9)(c) shall:

1163 (i) name the specified county that is ineligible for funds;

1164 (ii) describe the funds for which the specified county is ineligible to receive;

1165 (iii) specify the fiscal year during which the specified county is ineligible for funds;

1166 and

1167 (iv) state the basis for the division's determination that the specified county is ineligible
1168 for funds.

1169 [~~(8)~~] (10) In a civil action seeking enforcement or claiming a violation of this section
1170 or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded
1171 only injunctive or other equitable relief.

1172 Section 7. Section 35A-8-2401 is enacted to read:

Part 24. Miscellaneous

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

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

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

Section 8. Section 35A-16-701 is enacted to read:

Part 7. Housing Support Grant Program

35A-16-701. Housing Support Grant Program created.

(1) There is created the Housing Support Grant Program administered by the office.

(2) Subject to appropriations from the Legislature, the office shall distribute money to fund one or more projects that:

(a) include affordable housing units for households whose income is no more than 30% of the area median income for households of the same size in the county or municipality in which the project is located; and

(b) have been approved by the homelessness council.

(3) The office shall:

(a) administer the grant program, including:

(i) reviewing grant applications and making recommendations to the homelessness council; and

(ii) distributing grant money to approved grant recipients; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer the program, including:

(i) grant application requirements;

(ii) procedures to approve a grant; and

(iii) procedures for distributing money to grant recipients.

(4) When reviewing an application for approval, the homelessness council shall consider:

(a) an applicant's rental income plan;

- 1204 (b) proposed case management and service plans for households;
- 1205 (c) any matching funds proposed by an applicant;
- 1206 (d) proposed restrictions, including deed restrictions, and the duration of restrictions on
- 1207 housing units to facilitate long-term assistance to households; and
- 1208 (e) any other considerations as adopted by the council.
- 1209 (5) On or before October 1, the coordinator, in cooperation with the homelessness
- 1210 council, shall submit an annual report electronically to the Social Services Appropriations
- 1211 Subcommittee that gives a complete account of the office's disbursement of funds under this
- 1212 section.

1213 Section 9. Section **59-7-607** is amended to read:

1214 **59-7-607. Utah low-income housing tax credit.**

1215 (1) As used in this section:

1216 (a) "Allocation certificate" means a certificate in a form prescribed by the commission
1217 and issued by the [~~Utah Housing Corporation~~] corporation to a housing sponsor that specifies
1218 the aggregate amount of the tax credit awarded under this section to a qualified development
1219 and includes:

1220 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one
1221 or more qualified taxpayers [~~that have been issued a special low-income housing tax credit~~
1222 ~~certificate~~]; and

1223 (ii) the credit period over which the tax credit may be claimed by one or more qualified
1224 taxpayers [~~that have been issued a special low-income housing tax credit certificate~~].

1225 (b) "Building" means a qualified low-income building as defined in Section 42(c),
1226 Internal Revenue Code.

1227 (c) "Corporation" means the Utah Housing Corporation created in Section [63H-8-201](#).

1228 [~~(e)~~] (d) [~~"Credit period" means the "credit period" as~~] Except as provided in
1229 Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1),
1230 Internal Revenue Code.

1231 [~~(d)~~] (e) [~~(i)~~] "Designated reporter" means, as selected by a housing sponsor, the
1232 housing sponsor [~~itself~~] or one of the housing sponsor's direct or indirect partners, members, or
1233 shareholders that will provide information to the [~~Utah Housing Corporation~~] commission
1234 regarding the [~~assignment~~] allocation of tax credits under this section.

1235 ~~[(ii) Before the Utah Housing Corporation may issue an allocation certificate to a~~
1236 ~~housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's~~
1237 ~~designated reporter to the Utah Housing Corporation.]~~

1238 ~~[(iii) Before the Utah Housing Corporation may issue a special low-income housing tax~~
1239 ~~credit certificate to a qualified taxpayer, a designated reporter shall provide the information~~
1240 ~~described in Subsection (6) to the Utah Housing Corporation.]~~

1241 ~~[(e)]~~ (f) "Federal low-income housing tax credit" means the federal tax credit described
1242 in Section 42, Internal Revenue Code.

1243 ~~[(f)]~~ (g) "Housing sponsor" means an entity that owns a qualified development.

1244 (h) "Pass-through entity" means the same as that term is defined in Section
1245 59-10-1402.

1246 (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as
1247 that term is defined in Section 59-10-1402.

1248 (ii) For purposes of determining the status of a pass-through entity taxpayer that is
1249 classified as a partner, member, or shareholder of a business entity, the status of a partner,
1250 member, or shareholder of a business entity shall be determined in accordance with state law.

1251 ~~[(g)]~~ (j) "Qualified allocation plan" means a qualified allocation plan adopted by the
1252 ~~[Utah Housing Corporation]~~ corporation in accordance with Section 42(m), Internal Revenue
1253 Code.

1254 ~~[(h)]~~ (k) "Qualified development" means a "qualified low-income housing project":

1255 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1256 (ii) that is located in the state.

1257 ~~[(i)]~~ (l) (i) "Qualified taxpayer" means a person that:

1258 (A) owns a direct or indirect interest, through one or more pass-through entities, in a
1259 qualified development; and

1260 (B) meets the requirements to claim a tax credit under this section.

1261 (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit
1262 under this section is passed through by a pass-through entity.

1263 ~~[(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a~~
1264 ~~"qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor~~
1265 ~~as determined by the governing documents of the housing sponsor.]~~

1266 ~~[(j) (i) "Special low-income housing tax credit certificate" means a certificate:]~~
1267 ~~[(A) in a form prescribed by the commission;]~~
1268 ~~[(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year~~
1269 ~~in accordance with this section; and]~~
1270 ~~[(C) that specifies the amount of the tax credit a qualified taxpayer may claim under~~
1271 ~~this section.]~~
1272 ~~[(ii) The Utah Housing Corporation may only issue one or more special low-income~~
1273 ~~housing tax credit certificates if the aggregate specified amount on all special low-income~~
1274 ~~housing tax credit certificates issued in relation to a qualified development does not exceed the~~
1275 ~~aggregate amount of tax credit awarded to the qualified development and issued to a housing~~
1276 ~~sponsor in an allocation certificate.]~~
1277 (2) (a) ~~[For taxable years beginning on or after January 1, 1995, a qualified taxpayer~~
1278 ~~who has been issued a special low-income housing tax credit certificate by the Utah Housing~~
1279 ~~Corporation may claim] A qualified taxpayer may claim a nonrefundable tax credit under this~~
1280 ~~section against taxes otherwise due under this chapter, Chapter 8, Gross Receipts Tax on~~
1281 ~~Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter~~
1282 ~~9, Taxation of Admitted Insurers.~~
1283 (b) ~~[The tax credit shall be in an amount equal to the tax credit amount specified on~~
1284 ~~the special low-income housing tax credit certificate that the Utah Housing Corporation issues~~
1285 ~~to a qualified taxpayer under this section] The aggregate tax credit claimed each year by all~~
1286 ~~qualified taxpayers for a qualified development may not exceed the annual tax credit amount~~
1287 ~~specified on the allocation certificate issued to the housing sponsor.~~
1288 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate
1289 annual tax credit that the ~~[Utah Housing Corporation]~~ corporation may allocate for the credit
1290 period ~~[described in Section 42(f), Internal Revenue Code,]~~ pursuant to this section and Section
1291 59-10-1010 is an amount equal to the product of:
1292 (A) 12.5 cents; and
1293 (B) the population of Utah.
1294 (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or
1295 before December 31, 2022, the aggregate annual tax credit that the ~~[Utah Housing Corporation]~~
1296 corporation may allocate for the credit period ~~[described in Section 42(f), Internal Revenue~~

1297 Code,] pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

1298 (A) 34.5 cents; and

1299 (B) the population of Utah.

1300 (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or
1301 before December 31, 2032, the aggregate annual tax credit that the corporation may allocate for
1302 the credit period pursuant to this section and Section 59-10-1010 is \$10,000,000.

1303 (iv) For a calendar year beginning on or after January 1, 2033, the aggregate annual tax
1304 credit that the corporation may allocate for the credit period pursuant to this section and
1305 Section 59-10-1010 is the amount described in Subsection (2)(c)(ii).

1306 ~~[(iii)]~~ (v) For purposes of this ~~[section]~~ Subsection (2)(c), the population of Utah shall
1307 be determined in accordance with Section 146(j), Internal Revenue Code.

1308 (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity
1309 may allocate a tax credit under this section to one or more of the pass-through entity's
1310 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1311 (A) the pass-through entity taxpayer is eligible to claim any portion of a federal
1312 low-income housing tax credit for the qualified development;

1313 (B) the allocation of the tax credit has substantial economic effect within the meaning
1314 of Section 704(b), Internal Revenue Code; or

1315 (C) the pass-through entity taxpayer is considered a partner for federal income tax
1316 purposes.

1317 (ii) A qualified taxpayer that is a pass-through entity taxpayer may claim a tax credit
1318 passed through by a pass-through entity under Subsection (2)(d)(i) so long as the qualified
1319 taxpayer's interest in the tax credit is acquired before the date on which the tax credit is claimed
1320 on a tax return.

1321 (e) (i) A qualified taxpayer that is a pass-through entity or pass-through entity taxpayer
1322 may assign all or part of the qualified taxpayer's interest in a tax credit under this section to one
1323 or more pass-through entities or pass-through entity taxpayers.

1324 (ii) A qualified taxpayer that is assigned an interest in a tax credit under Subsection
1325 (2)(e)(i) may claim the tax credit so long as the qualified taxpayer's interest in the tax credit is
1326 acquired before the date on which the tax credit is claimed on a tax return.

1327 (3) (a) The ~~[Utah Housing Corporation]~~ corporation shall determine criteria and

1328 procedures for allocating the tax credit under this section and Section 59-10-1010 and
1329 incorporate the criteria and procedures into the [~~Utah Housing Corporation's~~] corporation's
1330 qualified allocation plan.

1331 (b) The [~~Utah Housing Corporation~~] corporation shall create the criteria under
1332 Subsection (3)(a) based on:

1333 (i) the number of affordable housing units to be created in Utah for low and moderate
1334 income persons in a qualified development;

1335 (ii) the level of area median income being served by a qualified development;

1336 (iii) the need for the tax credit for the economic feasibility of a qualified development;
1337 and

1338 (iv) the extended period for which a qualified development commits to remain as
1339 affordable housing.

1340 (4) Any housing sponsor may apply to the [~~Utah Housing Corporation~~] corporation for
1341 a tax credit allocation under this section.

1342 (5) (a) (i) The [~~Utah Housing Corporation~~] corporation shall determine the amount of
1343 the tax credit to allocate to a qualified development in accordance with the qualified allocation
1344 plan [~~of the Utah Housing Corporation~~].

1345 (ii) (A) Before the allocation certificate is issued to the housing sponsor, the
1346 corporation shall send to the housing sponsor written notice of the corporation's preliminary
1347 determination of the tax credit amount to be allocated to the qualified development.

1348 (B) The notice under this Subsection (5)(a)(ii) shall specify the corporation's
1349 preliminary determination of the tax credit amount awarded for the qualified development in
1350 each year of the credit period and state that allocation of the tax credit is contingent upon the
1351 issuance of an allocation certificate.

1352 [~~(b)~~] (iii) [(i) ~~The Utah Housing Corporation~~] Upon approving a final cost certification
1353 in accordance with the qualified allocation plan, the corporation shall issue an allocation
1354 certificate to [a] the housing sponsor as evidence of the allocation.

1355 [~~(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the~~
1356 ~~tax credit allocated to a qualified development as determined by the Utah Housing~~
1357 ~~Corporation.]~~

1358 [~~(e)~~] (iv) The amount of the tax credit specified in an allocation certificate may not

1359 exceed 100% of the federal low-income housing tax credit awarded to a qualified development.

1360 (v) A qualified taxpayer shall include a copy of the allocation certificate in a tax return
1361 in which a tax credit under this section is claimed.

1362 (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the
1363 corporation for a tax credit under this section and an allocation certificate is not yet issued, a
1364 qualified taxpayer may claim a tax credit based upon the corporation's preliminary
1365 determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

1366 (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified
1367 taxpayer that claims a tax credit under this Subsection (5)(b) shall:

1368 (A) file an amended tax return to include the allocation certificate; and

1369 (B) adjust the tax credit amount on the amended return if the previous amount claimed
1370 is different than the amount specified in the allocation certificate.

1371 (c) The amount of tax credit that may be claimed in the first year of the credit period
1372 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1373 (6) (a) A housing sponsor shall provide to the commission identification of the housing
1374 sponsor's designated reporter.

1375 (b) [Before the Utah Housing Corporation may issue a special low-income housing tax
1376 credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form
1377 prescribed by the Utah Housing Corporation] For each tax year in which a tax credit is claimed
1378 under this section, the designated reporter shall provide to the commission in a form prescribed
1379 by the commission:

1380 [(a)] (i) a list of each qualified taxpayer that has been [assigned] allocated a portion of
1381 the tax credit awarded in [an] the allocation certificate for that tax year;

1382 [(b)] (ii) [for each qualified taxpayer described in Subsection (6)(a),] the amount of tax
1383 credit that has been [assigned] allocated to each qualified taxpayer described in Subsection
1384 (6)(b)(i) for that tax year; and

1385 [(c)] (iii) [an aggregate list of the tax credit amount assigned related to a qualified
1386 development demonstrating that the aggregate annual amount of the tax credits assigned does
1387 not exceed the aggregate annual tax credit awarded in the allocation certificate] any other
1388 information, as prescribed by the commission, to demonstrate that the aggregate annual amount
1389 of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate

1390 annual tax credit amount specified in the allocation certificate.

1391 ~~[(7) The Utah Housing Corporation shall provide a special low-income housing tax~~
1392 ~~credit certificate to a qualified taxpayer if:]~~

1393 ~~[(a) a designated reporter has provided the information regarding the qualified taxpayer~~
1394 ~~as described in Subsection (6); and]~~

1395 ~~[(b) the Utah Housing Corporation has verified that the aggregate tax credit amount~~
1396 ~~assigned with respect to a qualified development does not exceed the total tax credit awarded~~
1397 ~~in the allocation certificate.]~~

1398 ~~[(8)]~~ (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal
1399 Revenue Code, shall apply to this section.

1400 (b) (i) If a qualified development is required to recapture a portion of any federal
1401 low-income housing tax credit, then each qualified taxpayer that has been allocated a portion of
1402 a tax credit under this section shall also be required to recapture a portion of ~~[any state tax~~
1403 ~~credits authorized by this section]~~ the tax credit under this section.

1404 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
1405 that equals the proportion the federal recapture amount bears to the original federal low-income
1406 housing tax credit amount subject to recapture.

1407 (iii) The designated reporter shall identify each qualified taxpayer that is required to
1408 recapture a portion of any state tax credit as described in this Subsection ~~[(8)(b):]~~ (7)(b).

1409 ~~[(9)]~~ (8) (a) Any tax credits returned to the ~~[Utah Housing Corporation]~~ corporation in
1410 any year may be reallocated within the same time period as provided in Section 42, Internal
1411 Revenue Code.

1412 (b) Tax credits that are unallocated by the ~~[Utah Housing Corporation]~~ corporation in
1413 any year may be carried over for allocation in subsequent years.

1414 ~~[(10)]~~ (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it
1415 is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax
1416 credit may be carried back three years or may be carried forward five years as a credit against
1417 the tax.

1418 (b) Carryover tax credits under Subsection ~~[(10)(a)]~~ (9)(a) shall be applied against the
1419 tax:

1420 (i) before the application of the tax credits earned in the current year; and

1421 (ii) on a first-earned first-used basis.

1422 ~~[(11)(a) A qualified taxpayer may assign a special low-income housing tax credit~~
 1423 ~~certificate received under Subsection (7) to another person if the qualified taxpayer provides~~
 1424 ~~written notice to the Utah Housing Corporation, in a form established by the Utah Housing~~
 1425 ~~Corporation, that includes:]~~

1426 ~~[(i) the qualified taxpayer's written certification or other proof that the qualified~~
 1427 ~~taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income~~
 1428 ~~housing tax credit certificate; and]~~

1429 ~~[(ii) contact information for the person to whom the special low-income housing tax~~
 1430 ~~credit certificate is to be assigned.]~~

1431 ~~[(b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah~~
 1432 ~~Housing Corporation shall issue an assigned special low-income housing tax credit certificate~~
 1433 ~~to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's~~
 1434 ~~special low-income housing tax credit minus any state recapture amount under Subsection~~
 1435 ~~(8)(b).]~~

1436 ~~[(c) A person who is assigned a special low-income housing tax credit certificate in~~
 1437 ~~accordance with this Subsection (11) may claim the tax credit as if:]~~

1438 ~~[(i) the person had met the requirements of this section to claim the tax credit, if the~~
 1439 ~~person files a return under this chapter, Chapter 8, Gross Receipts Tax on Certain Corporations~~
 1440 ~~Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of~~
 1441 ~~Admitted Insurers; or]~~

1442 ~~[(ii) the person had met the requirements of Section 59-10-1010 to claim the tax credit~~
 1443 ~~under Section 59-10-1010, if the person files a return under Chapter 10, Individual Income Tax~~
 1444 ~~Act.]~~

1445 ~~[(12)]~~ (10) Any tax credit taken in this section may be subject to an annual audit by the
 1446 commission.

1447 ~~[(13)]~~ (11) The ~~[Utah Housing Corporation]~~ corporation shall annually provide an
 1448 electronic report to the Revenue and Taxation Interim Committee ~~[which shall include at least]~~
 1449 that includes:

1450 (a) the purpose and effectiveness of the tax credits; ~~[and]~~

1451 (b) any recommendations for legislative changes to the aggregate tax credit amount that

1452 the corporation is authorized to allocate each year under Subsection (2)(c); and
1453 [(b)] (c) the benefits of the tax credits to the state.
1454 [(14)] (12) The commission may, in consultation with the [Utah Housing Corporation]
1455 corporation, make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1456 Rulemaking Act, to implement this section.
1457 (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation
1458 Interim Committee shall conduct a review of the aggregate tax credit amount that the
1459 corporation is authorized to allocate each year under Subsection (2)(c).
1460 (b) In a review under this Subsection (13), the Revenue and Taxation Interim
1461 Committee shall:
1462 (i) study any recommendations provided by the corporation under Subsection (11)(b);
1463 and
1464 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative
1465 action to the Legislature, prepare legislation for consideration by the Legislature in the next
1466 general session.
1467 Section 10. Section **59-9-108** is amended to read:
1468 **59-9-108. Utah low-income housing tax credit.**
1469 (1) As used in this section[;], "qualified taxpayer" means:
1470 (a) for a person claiming a tax credit under Section 59-7-607, the same as that term is
1471 defined in Section 59-7-607; or
1472 (b) for a person claiming a tax credit under Section 59-10-1010, the same as that term
1473 is defined in Section 59-10-1010.
1474 ~~[(a) "Qualified taxpayer" means the same as that term is defined in Section 59-7-607.]~~
1475 ~~[(b) "Special low-income housing tax credit certificate" means the same as that term is~~
1476 ~~defined in Section 59-7-607.]~~
1477 (2) A person may claim a nonrefundable tax credit against a tax liability under this
1478 section if:
1479 (a) the person is a qualified taxpayer who has been issued ~~[a special low-income~~
1480 ~~housing tax credit]~~ an allocation certificate by the Utah Housing Corporation under Section
1481 59-7-607, and the qualified taxpayer does not claim the tax credit under ~~[Title 59;]~~ Chapter 7,
1482 Corporate Franchise and Income Taxes, ~~[Title 59;]~~ Chapter 8, Gross Receipts Tax on Certain

1483 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or under [Title 59;]
 1484 Chapter 10, Individual Income Tax Act; or

1485 (b) the person has been [~~assigned a special~~] allocated a low-income housing tax credit
 1486 in accordance with [~~Subsection 59-7-607(11) or Subsection 59-10-1010(11)~~] Section 59-7-607
 1487 or 59-10-1010, and the person does not claim the tax credit under [Title 59;] Chapter 7,
 1488 Corporate Franchise and Income Taxes, [Title 59;] Chapter 8, Gross Receipts Tax on Certain
 1489 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or under [Title 59;]
 1490 Chapter 10, Individual Income Tax Act.

1491 (3) (a) If a tax credit is not claimed by a qualified taxpayer or by a person who has been
 1492 [~~assigned a special~~] allocated a low-income housing tax credit in the year in which the credit is
 1493 earned because the tax credit is more than the tax liability owed, the tax credit may be carried
 1494 back three years or may be carried forward five years as a credit against the tax liability.

1495 (b) Carryover tax credits under Subsection (3)(a) shall be applied against tax liability:

1496 (i) before the application of tax credits earned in the current year; and

1497 (ii) on a first-earned, first-used basis.

1498 (4) The commission may, in consultation with the Utah Housing Corporation, make
 1499 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
 1500 implement this section.

1501 Section 11. Section **59-10-1010** is amended to read:

1502 **59-10-1010. Utah low-income housing tax credit.**

1503 (1) As used in this section:

1504 (a) "Allocation certificate" means a certificate in a form prescribed by the commission
 1505 and issued by the [~~Utah Housing Corporation~~] corporation to a housing sponsor that specifies
 1506 the aggregate amount of the tax credit awarded under this section to a qualified development
 1507 and includes:

1508 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one
 1509 or more qualified taxpayers [~~that have been issued a special low-income housing tax credit~~
 1510 ~~certificate~~]; and

1511 (ii) the credit period over which the tax credit may be claimed by one or more qualified
 1512 taxpayers [~~that have been issued a special low-income housing tax credit certificate~~].

1513 (b) "Building" means a qualified low-income building as defined in Section 42(c),

1514 Internal Revenue Code.

1515 (c) "Corporation" means the Utah Housing Corporation created in Section [63H-8-201](#).

1516 ~~[(e)]~~ (d) ~~["Credit period" means the "credit period" as]~~ Except as provided in
1517 Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1),
1518 Internal Revenue Code.

1519 ~~[(d)-(i)]~~ (e) "Designated reporter" means, as selected by a housing sponsor, the housing
1520 sponsor ~~[itself]~~ or one of the housing sponsor's direct or indirect partners, members, or
1521 shareholders that will provide information to the ~~[Utah Housing Corporation]~~ commission
1522 regarding the ~~[assignment]~~ allocation of tax credits under this section.

1523 ~~[(ii) Before the Utah Housing Corporation may issue an allocation certificate to a~~
1524 ~~housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's~~
1525 ~~designated reporter to the Utah Housing Corporation.]~~

1526 ~~[(iii) Before the Utah Housing Corporation may issue a special low-income housing tax~~
1527 ~~credit certificate to a qualified taxpayer, a designated reporter shall provide the information~~
1528 ~~described in Subsection (6) to the Utah Housing Corporation.]~~

1529 ~~[(e)]~~ (f) "Federal low-income housing credit" means the federal low-income housing
1530 credit described in Section 42, Internal Revenue Code.

1531 ~~[(f)]~~ (g) "Housing sponsor" means an entity that owns a qualified development.

1532 (h) "Pass-through entity" means the same as that term is defined in Section
1533 [59-10-1402](#).

1534 (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as
1535 that term is defined in Section [59-10-1402](#).

1536 (ii) For purposes of determining the status of a pass-through entity taxpayer that is
1537 classified as a partner, member, or shareholder of a business entity, the status of a partner,
1538 member, or shareholder of a business entity shall be determined in accordance with state law.

1539 ~~[(g)]~~ (j) "Qualified allocation plan" means a qualified allocation plan adopted by the
1540 ~~[Utah Housing Corporation]~~ corporation in accordance with Section 42(m), Internal Revenue
1541 Code.

1542 ~~[(h)]~~ (k) "Qualified development" means a "qualified low-income housing project":
1543 (i) as defined in Section 42(g)(1), Internal Revenue Code; and
1544 (ii) that is located in the state.

1545 ~~[(i)]~~ (1) (i) "Qualified taxpayer" means a claimant, estate, or trust that:

1546 (A) owns a direct or indirect interest, through one or more pass-through entities, in a

1547 qualified development; and

1548 (B) meets the requirements to claim a tax credit under this section.

1549 ~~(ii)~~ "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit

1550 under this section is passed through by a pass-through entity.

1551 ~~[(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a~~

1552 ~~"qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor~~

1553 ~~as determined by the governing documents of the housing sponsor.]~~

1554 ~~[(j) (i) "Special low-income housing tax credit certificate" means a certificate:]~~

1555 ~~[(A) in a form prescribed by the commission;]~~

1556 ~~[(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year~~

1557 ~~in accordance with this section; and]~~

1558 ~~[(C) that specifies the amount of the tax credit a qualified taxpayer may claim under~~

1559 ~~this section.]~~

1560 ~~[(ii) The Utah Housing Corporation may only issue one or more special low-income~~

1561 ~~housing tax credit certificates if the aggregate specified amount on all special low-income~~

1562 ~~housing tax credit certificates issued in relation to a qualified development does not exceed the~~

1563 ~~aggregate amount of tax credit awarded to a qualified development and issued to a housing~~

1564 ~~sponsor in an allocation certificate.]~~

1565 (2) (a) ~~[For taxable years beginning on or after January 1, 1995, a qualified taxpayer~~

1566 ~~who has been issued a special low-income housing tax credit certificate by the Utah Housing~~

1567 ~~Corporation] A qualified taxpayer may claim a nonrefundable tax credit under this section~~

1568 ~~against taxes otherwise due under this chapter.~~

1569 ~~(b) [The tax credit shall be in an amount equal to the tax credit amount specified on the~~

1570 ~~special low-income housing tax credit certificate that the Utah Housing Corporation issues to a~~

1571 ~~qualified taxpayer under this section] The aggregate tax credit claimed each year by all~~

1572 ~~qualified taxpayers for a qualified development may not exceed the annual tax credit amount~~

1573 ~~specified on the allocation certificate issued to the housing sponsor.~~

1574 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate

1575 annual tax credit that the ~~[Utah Housing Corporation]~~ corporation may allocate for the credit

1576 period [~~described in Section 42(f), Internal Revenue Code,~~] pursuant to this section and Section
1577 [59-7-607](#) is an amount equal to the product of:

1578 (A) 12.5 cents; and

1579 (B) the population of Utah.

1580 (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or
1581 before December 31, 2022, the aggregate annual tax credit that the Utah Housing Corporation
1582 may allocate for the credit period [~~described in Section 42(f), Internal Revenue Code,~~] pursuant
1583 to this section and Section [59-7-607](#) is an amount equal to the product of:

1584 (A) 34.5 cents; and

1585 (B) the population of Utah.

1586 (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or
1587 before December 31, 2032, the aggregate annual tax credit that the corporation may allocate for
1588 the credit period pursuant to this section and Section [59-7-607](#) is \$10,000,000.

1589 (iv) For a calendar year beginning on or after January 1, 2033, the aggregate annual tax
1590 credit that the corporation may allocate for the credit period pursuant to this section and
1591 Section [59-7-607](#) is the amount described in Subsection (2)(c)(ii).

1592 [(iii)] (v) For purposes of this [section] Subsection (2)(c), the population of Utah shall
1593 be determined in accordance with Section 146(j), Internal Revenue Code.

1594 (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity
1595 may allocate a tax credit under this section to one or more of the pass-through entity's
1596 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1597 (A) the pass-through entity taxpayer is eligible to claim any portion of a federal
1598 low-income housing tax credit for the qualified development;

1599 (B) the allocation of the tax credit has substantial economic effect within the meaning
1600 of Section 704(b), Internal Revenue Code; or

1601 (C) the pass-through entity taxpayer is considered a partner for federal income tax
1602 purposes.

1603 (ii) A qualified taxpayer that is a pass-through entity taxpayer may claim a tax credit
1604 passed through by a pass-through entity under Subsection (2)(d)(i) so long as the qualified
1605 taxpayer's interest in the tax credit is acquired before the date on which the tax credit is claimed
1606 on a tax return.

1607 (e) (i) A qualified taxpayer that is a pass-through entity or pass-through entity taxpayer
1608 may assign all or part of the qualified taxpayer's interest in a tax credit under this section to one
1609 or more pass-through entities or pass-through entity taxpayers.

1610 (ii) A qualified taxpayer that is assigned an interest in a tax credit under Subsection
1611 (2)(e)(i) may claim the tax credit so long as the qualified taxpayer's interest in the tax credit is
1612 acquired before the date on which the tax credit is claimed on a tax return.

1613 (3) (a) The [~~Utah Housing Corporation~~] corporation shall determine criteria and
1614 procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate
1615 the criteria and procedures into the [~~Utah Housing Corporation's~~] corporation's qualified
1616 allocation plan.

1617 (b) The [~~Utah Housing Corporation~~] corporation shall create the criteria under
1618 Subsection (3)(a) based on:

1619 (i) the number of affordable housing units to be created in Utah for low and moderate
1620 income persons in a qualified development;

1621 (ii) the level of area median income being served by a qualified development;

1622 (iii) the need for the tax credit for the economic feasibility of a qualified development;
1623 and

1624 (iv) the extended period for which a qualified development commits to remain as
1625 affordable housing.

1626 (4) Any housing sponsor may apply to the [~~Utah Housing Corporation~~] corporation for
1627 a tax credit allocation under this section.

1628 (5) (a) (i) The [~~Utah Housing Corporation~~] corporation shall determine the amount of
1629 the tax credit to allocate to a qualified development in accordance with the qualified allocation[
1630 ~~plan of the Utah Housing Corporation~~].

1631 (ii) (A) Before the allocation certificate is issued to the housing sponsor, the
1632 corporation shall send to the housing sponsor written notice of the corporation's preliminary
1633 determination of the tax credit amount to be allocated to the qualified development.

1634 (B) The notice under this Subsection (5)(a)(ii) shall specify the corporation's
1635 preliminary determination of the tax credit amount awarded for the qualified development in
1636 each year of the credit period and state that allocation of the tax credit is contingent upon the
1637 issuance of an allocation certificate.

1638 ~~[(b)]~~ (iii) [(i) The Utah Housing Corporation] Upon approving a final cost certification
1639 in accordance with the qualified allocation plan, the corporation shall issue an allocation
1640 certificate to a housing sponsor as evidence of the allocation.

1641 ~~[(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the~~
1642 ~~tax credit allocated to a qualified development as determined by the Utah Housing~~
1643 ~~Corporation.]~~

1644 ~~[(c)]~~ (iv) The amount of the tax credit specified in an allocation certificate may not
1645 exceed 100% of the federal low-income housing credit awarded to a qualified development.

1646 (v) A qualified taxpayer shall include a copy of the allocation certificate in a tax return
1647 in which a tax credit under this section is claimed.

1648 (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the
1649 corporation for a tax credit under this section and an allocation certificate is not yet issued, a
1650 qualified taxpayer may claim a tax credit based upon the corporation's preliminary
1651 determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

1652 (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified
1653 taxpayer that claims a tax credit under this Subsection (5)(b) shall:

1654 (A) file an amended tax return to include the allocation certificate; and

1655 (B) adjust the tax credit amount on the amended return if the previous amount claimed
1656 is different than the amount specified in the allocation certificate.

1657 (c) The amount of tax credit that may be claimed in the first year of the credit period
1658 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1659 (6) (a) A housing sponsor shall provide to the commission identification of the housing
1660 sponsor's designated reporter.

1661 ~~(b) [Before the Utah Housing Corporation may issue a special low-income housing tax~~
1662 ~~credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form~~
1663 ~~prescribed by the Utah Housing Corporation]~~ For each tax year in which a tax credit is claimed
1664 under this section, the designated reporter shall provide to the commission in a form prescribed
1665 by the commission:

1666 ~~[(a)]~~ (i) a list of each qualified taxpayer that has been ~~[assigned]~~ allocated a portion of
1667 the tax credit awarded in ~~[an]~~ the allocation certificate for that tax year;

1668 ~~[(b)]~~ (ii) ~~[for each qualified taxpayer described in Subsection (6)(a),]~~ the amount of tax

1669 credit that has been ~~[assigned]~~ allocated to each qualified taxpayer described in Subsection
1670 (6)(b)(i) for that tax year; and

1671 ~~[(c)] (iii) [an aggregate list of the tax credit amount assigned related to a qualified~~
1672 ~~development demonstrating that the aggregate annual amount of the tax credits assigned does~~
1673 ~~not exceed the aggregate annual tax credit awarded in the allocation certificate]~~ any other
1674 information, as prescribed by the commission, to demonstrate that the aggregate annual amount
1675 of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate
1676 annual tax credit amount specified in the allocation certificate.

1677 ~~[(7) The Utah Housing Corporation shall provide a special low-income housing tax~~
1678 ~~credit certificate to a qualified taxpayer if:]~~

1679 ~~[(a) a designated reporter has provided the information regarding the qualified taxpayer~~
1680 ~~as described in Subsection (6); and]~~

1681 ~~[(b) the Utah Housing Corporation has verified that the aggregate tax credit amount~~
1682 ~~assigned with respect to a qualified development does not exceed the total tax credit awarded~~
1683 ~~in the allocation certificate.]~~

1684 ~~[(8)] (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal~~
1685 ~~Revenue Code, shall apply to this section.~~

1686 (b) (i) If a qualified taxpayer is required to recapture a portion of any federal
1687 low-income housing credit, the qualified taxpayer that has been allocated a portion of a tax
1688 credit under this section shall also be required to recapture a portion of ~~[any state tax credits~~
1689 ~~authorized by this section]~~ the tax credit under this section.

1690 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
1691 that equals the proportion the federal recapture amount bears to the original federal low-income
1692 housing credit amount subject to recapture.

1693 (iii) The designated reporter shall identify each qualified taxpayer that is required to
1694 recapture a portion of any state tax credits as described in this Subsection ~~[(8)(b)] (7)(b).~~

1695 ~~[(9)] (8) (a) Any tax credits returned to the [Utah Housing Corporation] corporation in~~
1696 ~~any year may be reallocated within the same time period as provided in Section 42, Internal~~
1697 ~~Revenue Code.~~

1698 (b) Tax credits that are unallocated by the ~~[Utah Housing Corporation] corporation in~~
1699 ~~any year may be carried over for allocation in subsequent years.~~

1700 ~~[(10)]~~ (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it
1701 is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax
1702 credit may be carried back three years or may be carried forward five years as a credit against
1703 the tax.

1704 (b) Carryover tax credits under Subsection ~~[(10)(a)]~~ (9)(a) shall be applied against the
1705 tax:

1706 (i) before the application of the tax credits earned in the current year; and

1707 (ii) on a first-earned first-used basis.

1708 ~~[(11)(a) A qualified taxpayer may assign a special low-income housing tax credit
1709 certificate received under Subsection (7) to another person if the qualified taxpayer provides
1710 written notice to the Utah Housing Corporation, in a form established by the Utah Housing
1711 Corporation, that includes:]~~

1712 ~~[(i) the qualified taxpayer's written certification or other proof that the qualified
1713 taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income
1714 housing tax credit certificate; and]~~

1715 ~~[(ii) contact information for the person to whom the special low-income housing tax
1716 credit certificate is to be assigned.]~~

1717 ~~[(b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah
1718 Housing Corporation shall issue an assigned special low-income housing tax credit certificate
1719 to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's
1720 special low-income housing tax credit minus any state recapture amount under Subsection
1721 (8)(b).]~~

1722 ~~[(c) A person who is assigned a special low-income housing tax credit certificate in
1723 accordance with this Subsection (11) may claim the tax credit as if:]~~

1724 ~~[(i) the person had met the requirements of this section to claim the tax credit, if the
1725 person files a return under this chapter; or]~~

1726 ~~[(ii) the person had met the requirements of Section [59-7-607](#) to claim the tax credit
1727 under Section [59-7-607](#), if the person files a return under Chapter 7, Corporate Franchise and
1728 Income Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
1729 Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.]~~

1730 ~~[(12)]~~ (10) Any tax credit taken in this section may be subject to an annual audit by the

1731 commission.

1732 ~~[(13)]~~ (11) The ~~[Utah Housing Corporation]~~ corporation shall annually provide an
 1733 electronic report to the Revenue and Taxation Interim Committee ~~[which shall include at least]~~
 1734 that includes:

1735 (a) the purpose and effectiveness of the tax credits; ~~[and]~~

1736 (b) any recommendations for legislative changes to the aggregate tax credit amount that
 1737 the corporation is authorized to allocate each year under Subsection (2)(c); and

1738 ~~[(b)]~~ (c) the benefits of the tax credits to the state.

1739 ~~[(14)]~~ (12) The commission may, in consultation with the ~~[Utah Housing Corporation]~~
 1740 corporation, promulgate rules to implement this section.

1741 (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation
 1742 Interim Committee shall conduct a review of the aggregate tax credit amount that the
 1743 corporation is authorized to allocate each year under Subsection (2)(c).

1744 (b) In a review under this Subsection (13), the Revenue and Taxation Interim
 1745 Committee shall:

1746 (i) study any recommendations provided by the corporation under Subsection (11)(b);
 1747 and

1748 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative
 1749 action to the Legislature, prepare legislation for consideration by the Legislature in the next
 1750 general session.

1751 Section 12. Section **63J-4-802** is amended to read:

1752 **63J-4-802. Creation of COVID-19 Local Assistance Matching Grant Program --**
 1753 **Eligibility -- Duties of the office.**

1754 (1) There is established a grant program known as COVID-19 Local Assistance
 1755 Matching Grant Program that is administered by the office.

1756 (2) The office shall award financial grants to local governments that meet the
 1757 qualifications described in Subsection (3) to provide support for:

1758 (a) projects or services that address the economic impacts of the COVID-19 emergency
 1759 on housing insecurity, lack of affordable housing, or homelessness;

1760 (b) costs incurred in addressing public health challenges resulting from the COVID-19
 1761 emergency;

- 1762 (c) necessary investments in water and sewer infrastructure; or
1763 (d) any other purpose authorized under the American Rescue Plan Act.
1764 (3) To be eligible for a grant under this part, a local government shall:
1765 (a) provide matching funds in an amount determined by the office; and
1766 (b) certify that the local government will spend grant funds:
1767 (i) on a purpose described in Subsection (2);
1768 (ii) within the time period determined by the office; and
1769 (iii) in accordance with the American Rescue Plan Act.
1770 (4) As soon as is practicable, but on or before September 15, 2021, the office shall,
1771 with recommendations from the review committee, establish:
1772 (a) procedures for applying for and awarding grants under this part, using an online
1773 grants management system that:
1774 (i) manages each grant throughout the duration of the grant;
1775 (ii) allows for:
1776 (A) online submission of grant applications; and
1777 (B) auditing and reporting for a local government that receives grant funds; and
1778 (iii) generates reports containing information about each grant;
1779 (b) criteria for awarding grants; and
1780 (c) reporting requirements for grant recipients.
1781 (5) Subject to appropriation, the office shall award grant funds on a competitive basis
1782 until December 31, 2024.
1783 ~~[(6) If the office receives a notice of prioritization for a municipality as described in~~
1784 ~~Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection~~
1785 ~~17-27a-408(5), the office may prioritize the awarding of a financial grant under this section to~~
1786 ~~the municipality or county during the fiscal year specified in the notice.]~~
1787 ~~[(7) If the office receives a notice of ineligibility for a municipality as described in~~
1788 ~~Subsection 10-9a-408(7), or a notice of ineligibility for a county as described in Subsection~~
1789 ~~17-27a-408(7), the office may not award a financial grant under this section to the municipality~~
1790 ~~or county during the fiscal year specified in the notice.]~~
1791 [(8)] (6) Before November 30 of each year, ending November 30, 2025, the office shall
1792 submit a report to the Executive Appropriations Committee that includes:

- 1793 (a) a summary of the procedures, criteria, and requirements established under
- 1794 Subsection (4);
- 1795 (b) a summary of the recommendations of the review committee under Section
- 1796 [63J-4-803](#);
- 1797 (c) the number of applications submitted under the grant program during the previous
- 1798 year;
- 1799 (d) the number of grants awarded under the grant program during the previous year;
- 1800 (e) the aggregate amount of grant funds awarded under the grant program during the
- 1801 previous year; and
- 1802 (f) any other information the office considers relevant to evaluating the success of the
- 1803 grant program.

1804 ~~[(9)]~~ (7) The office may use funds appropriated by the Legislature for the grant
 1805 program to pay for administrative costs.

1806 Section 13. **Appropriation.**

1807 The following sums of money are appropriated for the fiscal year beginning July 1,
 1808 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for
 1809 fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
 1810 Act, the Legislature appropriates the following sums of money from the funds or accounts
 1811 indicated for the use and support of the government of the state of Utah.

1812 ITEM 1

1813 To Department of Health and Human Services -- Integrated Health Care Services

1814 <u>From Medicaid Expansion Fund</u>	3,900,000
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1815 Schedule of Programs:

1816 <u>Expansion Other Services</u>	3,900,000
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1817 The Legislature intends that the Department of Health and Human Services use the
 1818 appropriation under this item to provide housing support services to Medicaid adult expansion
 1819 members.

1820 Section 14. **Effective date.**

1821 (1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

1822 (2) If approved by two-thirds of all the members elected to each house, the actions
 1823 affecting the following sections take effect upon approval by the governor, or the day following

1824 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
1825 signature, or in the case of a veto, the date of veto override:

1826 (a) Section 10-9a-401;

1827 (b) Section 10-9a-403;

1828 (c) Section 10-9a-408;

1829 (d) Section 17-27a-401;

1830 (e) Section 17-27a-403; and

1831 (f) Section 17-27a-408.

1832 Section 15. **Retrospective operation.**

1833 The changes to Sections 59-7-607, 59-9-108, and 59-10-1010 in this bill have

1834 retrospective operation for a taxable year beginning on or after January 1, 2023.