

Representative Candice B. Pierucci proposes the following substitute bill:

HOUSING AFFORDABILITY REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen L. Whyte

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill addresses funding issues related to housing affordability.

Highlighted Provisions:

This bill:

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



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

27 ▶ modifies reporting requirements; and

28 ▶ makes technical changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **10-9a-408**, as last amended by Laws of Utah 2023, Chapters 88, 501 and 529 and last
36 amended by Coordination Clause, Laws of Utah 2023, Chapter 88

37 **11-58-203**, as last amended by Laws of Utah 2022, Chapter 82

38 **11-59-203**, as last amended by Laws of Utah 2022, Chapter 406

39 **17-27a-408**, as last amended by Laws of Utah 2023, Chapters 88, 501 and 529 and last
40 amended by Coordination Clause, Laws of Utah 2023, Chapter 88

41 **17C-1-102**, as last amended by Laws of Utah 2023, Chapter 15

42 **17C-1-412**, as last amended by Laws of Utah 2023, Chapters 471, 492

43 **35A-8-504**, as last amended by Laws of Utah 2022, Chapter 406

44 **35A-8-2401**, as enacted by Laws of Utah 2023, Chapter 88

45 **53C-1-204**, as last amended by Laws of Utah 2011, Chapter 247

46 **59-7-607**, as last amended by Laws of Utah 2023, Chapter 88

47 **59-10-1010**, as last amended by Laws of Utah 2023, Chapter 88

48 **59-12-352**, as last amended by Laws of Utah 2023, Chapter 263

49

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

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

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

54 (1) As used in this section:

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

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

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

62 (d) "Moderate income housing strategy" means a strategy described in Subsection
63 10-9a-403(2)(b)(iii).

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

65 (f) "Specified municipality" means:

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

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

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

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

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

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

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

80 (c) The initial report shall:

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

84 (ii) include an implementation plan.

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

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

89 (b) The subsequent progress report shall include:

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

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

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

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

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

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

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

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

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

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

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

119 municipality's implementation plan.

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

121 (i) approved by the division; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181 receive priority consideration; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

271 (B) fails to cure the deficiencies in the report, beginning the day after the day by which
272 the cure was required to occur as described in the notice of noncompliance under Subsection
273 [~~(6)~~] (7).

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

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

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

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

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

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

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

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

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

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

298 **11-58-203. Policies and objectives of the authority -- Additional duties of the**
299 **authority.**

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

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

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

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

- 305 (d) improve air quality and minimize resource use;
- 306 (e) respect existing land use and other agreements and arrangements between property
307 owners within the authority jurisdictional land and within other authority project areas and
308 applicable governmental authorities;
- 309 (f) promote and encourage development and uses that are compatible with or
310 complement uses in areas in proximity to the authority jurisdictional land or land in other
311 authority project areas;
- 312 (g) take advantage of the authority jurisdictional land's strategic location and other
313 features, including the proximity to transportation and other infrastructure and facilities, that
314 make the authority jurisdictional land attractive to:
 - 315 (i) businesses that engage in regional, national, or international trade; and
 - 316 (ii) businesses that complement businesses engaged in regional, national, or
317 international trade;
- 318 (h) facilitate the transportation of goods;
- 319 (i) coordinate trade-related opportunities to export Utah products nationally and
320 internationally;
- 321 (j) support and promote land uses on the authority jurisdictional land and land in other
322 authority project areas that generate economic development, including rural economic
323 development;
- 324 (k) establish a project of regional significance;
- 325 (l) facilitate an intermodal facility;
- 326 (m) support uses of the authority jurisdictional land for inland port uses, including
327 warehousing, light manufacturing, and distribution facilities;
- 328 (n) facilitate an increase in trade in the region and in global commerce;
- 329 (o) promote the development of facilities that help connect local businesses to potential
330 foreign markets for exporting or that increase foreign direct investment;
- 331 (p) encourage all class 5 through 8 designated truck traffic entering the authority
332 jurisdictional land to meet the heavy-duty highway compression-ignition diesel engine and
333 urban bus exhaust emission standards for year 2007 and later;
- 334 (q) encourage the development and use of cost-efficient renewable energy in project
335 areas;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

366 **11-59-203. Authority duties and responsibilities.**

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

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

372 (b) ensure strategic residential and commercial growth;

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

375 (i) jobs close to where people live;

376 (ii) vibrant urban centers;

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

378 (iv) parks, connected trails, and open space, including the preservation of natural lands

379 to the extent practicable and consistent with the overall development plan; and

380 (v) preserving and enhancing recreational opportunities;

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

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

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

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

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

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

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

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

396 (i) relevant metropolitan planning organizations;

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

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

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

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

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

405 **17-27a-408. Moderate income housing report -- Contents -- Prioritization for**
406 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

407 (1) As used in this section:

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

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

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

415 (d) "Moderate income housing strategy" means a strategy described in Subsection
416 17-27a-403(2)(b)(ii).

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

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

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

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

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

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

429 January 1 in which the county qualifies as a specified county.

430 (c) The initial report shall:

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

434 (ii) include an implementation plan.

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

439 (b) The subsequent progress report shall include:

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

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

447 (iii) a description of any barriers encountered by the specified county in the previous
448 12-month period in implementing the moderate income housing strategies;

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

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

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

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

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

458 (c) For purposes of describing actions taken by a specified county under Subsection
459 (3)(b)(i), the specified county may include an ongoing action taken by the specified county

460 prior to the 12-month reporting period applicable to the subsequent progress report if the
461 specified county:

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

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

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

469 (i) approved by the division; and

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

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

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

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

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

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

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

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

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

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

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

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

- 491 (iii) provides sufficient information for the division to:
- 492 (A) assess the specified county's progress in implementing the moderate income
- 493 housing strategies;
- 494 (B) monitor compliance with the specified county's implementation plan;
- 495 (C) identify a clear correlation between the specified county's land use decisions and
- 496 efforts to implement the moderate income housing strategies;
- 497 (D) identify how the market has responded to the specified county's selected moderate
- 498 income housing strategies; and
- 499 (E) identify any barriers encountered by the specified county in implementing the
- 500 selected moderate income housing strategies.
- 501 (c) (i) This Subsection (5)(c) applies to a specified county that has created a small
- 502 public transit district, as defined in Section [17B-2a-802](#), on or before January 1, 2022.
- 503 (ii) In addition to the requirements of Subsections (5)(a) and (b), a report for a
- 504 specified county described in Subsection (5)(c)(i) does not comply with this section unless the
- 505 report demonstrates to the division that the specified county:
- 506 (A) made plans to implement the moderate income housing strategy described in
- 507 Subsection [17-27a-403\(2\)\(b\)\(ii\)\(Q\)](#); and
- 508 (B) is in compliance with Subsection [63N-3-603\(8\)](#).
- 509 (6) (a) A specified county qualifies for priority consideration under this Subsection (6)
- 510 if the specified county's report:
- 511 (i) complies with this section; and
- 512 (ii) demonstrates to the division that the specified county made plans to implement five
- 513 or more moderate income housing strategies.
- 514 (b) The Transportation Commission may, in accordance with Subsection
- 515 [72-1-304\(3\)\(c\)](#), give priority consideration to transportation projects located within the
- 516 unincorporated areas of a specified county described in Subsection (6)(a) until the Department
- 517 of Transportation receives notice from the division under Subsection (6)(e).
- 518 (c) Upon determining that a specified county qualifies for priority consideration under
- 519 this Subsection (6), the division shall send a notice of prioritization to the legislative body of
- 520 the specified county and the Department of Transportation.
- 521 (d) The notice described in Subsection (6)(c) shall:

- 522 (i) name the specified county that qualifies for priority consideration;
- 523 (ii) describe the funds or projects for which the specified county qualifies to receive
- 524 priority consideration; and
- 525 (iii) state the basis for the division's determination that the specified county qualifies
- 526 for priority consideration.
- 527 (e) The division shall notify the legislative body of a specified county and the
- 528 Department of Transportation in writing if the division determines that the specified county no
- 529 longer qualifies for priority consideration under this Subsection (6).
- 530 (7) (a) If the division, after reviewing a specified county's report, determines that the
- 531 report does not comply with this section, the division shall send a notice of noncompliance to
- 532 the legislative body of the specified county.
- 533 (b) A specified county that receives a notice of noncompliance may:
- 534 (i) cure each deficiency in the report within 90 days after the day on which the notice of
- 535 noncompliance is sent; or
- 536 (ii) request an appeal of the division's determination of noncompliance within 10 days
- 537 after the day on which the notice of noncompliance is sent.
- 538 (c) The notice described in Subsection (7)(a) shall:
- 539 (i) describe each deficiency in the report and the actions needed to cure each
- 540 deficiency;
- 541 (ii) state that the specified county has an opportunity to:
- 542 (A) submit to the division a corrected report that cures each deficiency in the report
- 543 within 90 days after the day on which the notice of noncompliance is sent; or
- 544 (B) submit to the division a request for an appeal of the division's determination of
- 545 noncompliance within 10 days after the day on which the notice of noncompliance is sent; and
- 546 (iii) state that failure to take action under Subsection (7)(c)(ii) will result in the
- 547 specified county's ineligibility for funds and fees owed under Subsection (9).
- 548 (d) For purposes of curing the deficiencies in a report under this Subsection (7), if the
- 549 action needed to cure the deficiency as described by the division requires the specified county
- 550 to make a legislative change, the specified county may cure the deficiency by making that
- 551 legislative change within the 90-day cure period.
- 552 (e) (i) If a specified county submits to the division a corrected report in accordance

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

615 (7).

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

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

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

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

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

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

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

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

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

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

640 **17C-1-102. Definitions.**

641 As used in this title:

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

644 (2) "Adjusted tax increment" means the percentage of tax increment, if less than
645 100%, that an agency is authorized to receive:

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

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

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

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

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

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

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

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

661 (c) whose geographic boundaries are coterminous with:

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

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

664 (5) "Agency funds" means money that an agency collects or receives for agency
665 operations, implementing a project area plan or an implementation plan as defined in Section
666 17C-1-1001, or other agency purposes, including:

667 (a) project area funds;

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

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

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

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

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

677 amended or as superseded by replacement regulations.

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

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

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

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

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

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

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

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

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

695 or

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

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

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

703 (11) "Board" means the governing body of an agency, as described in Section
704 17C-1-203.

705 (12) "Budget hearing" means the public hearing on a proposed project area budget
706 required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,
707 Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection

708 17C-5-302(2)(e) for a community reinvestment project area budget.

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

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

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

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

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

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

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

725 (20) "Development impediment" means a condition of an area that meets the
726 requirements described in Section 17C-2-303 for an urban renewal project area or Section
727 17C-5-405 for a community reinvestment project area.

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

730 (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section
731 17C-2-302; or

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

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

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

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

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

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

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

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

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

755 (28) "Housing allocation" means project area funds allocated for housing under Section
756 [17C-2-203](#), [17C-3-202](#), or [17C-5-307](#) for the purposes described in Section [17C-1-412](#).

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

759 (a) project area funds, project area incremental revenue as defined in Section
760 [17C-1-1001](#), or property tax revenue as defined in Section [17C-1-1001](#) allocated for the
761 purposes described in Section [17C-1-411](#); or

762 (b) an agency's housing allocation.

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

764 (i) consists of at least 100 acres;

765 (ii) is occupied by an airport:

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

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

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

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

- 770 (iii) requires remediation because:
- 771 (A) of the presence of hazardous waste or solid waste; or
- 772 (B) the site lacks sufficient public infrastructure and facilities, including public roads,
- 773 electric service, water system, and sewer system, needed to support development of the site.
- 774 (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land
- 775 described in Subsection (30)(a).
- 776 (31) (a) "Inactive industrial site" means land that:
- 777 (i) consists of at least 1,000 acres;
- 778 (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial
- 779 facility; and
- 780 (iii) requires remediation because of the presence of hazardous waste or solid waste.
- 781 (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land
- 782 described in Subsection (31)(a).
- 783 (32) "Income targeted housing" means housing that is:
- 784 (a) owned and occupied by a family whose annual income is at or below 120% of the
- 785 median annual income for a family within the county in which the housing is located; or
- 786 (b) occupied by a family whose annual income is at or below 80% of the median
- 787 annual income for a family within the county in which the housing is located.
- 788 (33) "Incremental value" means a figure derived by multiplying the marginal value of
- 789 the property located within a project area on which tax increment is collected by a number that
- 790 represents the adjusted tax increment from that project area that is paid to the agency.
- 791 (34) "Loan fund board" means the Olene Walker Housing Loan Fund Board,
- 792 established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.
- 793 (35) (a) " Local government building" means a building owned and operated by a
- 794 community for the primary purpose of providing one or more primary community functions,
- 795 including:
- 796 (i) a fire station;
- 797 (ii) a police station;
- 798 (iii) a city hall; or
- 799 (iv) a court or other judicial building.
- 800 (b) " Local government building" does not include a building the primary purpose of

801 which is cultural or recreational in nature.

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

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

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

809 (39) "Municipality" means a city, town, or metro township as defined in Section
810 10-2a-403.

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

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

815 (a) includes a description of:

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

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

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

819 and

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

821 (42) "Plan hearing" means the public hearing on a proposed project area plan required
822 under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection
823 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d)
824 for a community development project area plan, or Subsection 17C-5-104(3)(e) for a
825 community reinvestment project area plan.

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

829 (44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July
830 1, 1993, whether or not amended subsequent to the project area plan's adoption.

831 (45) "Private," with respect to real property, means property not owned by a public

832 entity or any other governmental entity.

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

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

- 839 (a) for an urban renewal project area, Section 17C-2-201;
- 840 (b) for an economic development project area, Section 17C-3-201;
- 841 (c) for a community development project area, Section 17C-4-204; or
- 842 (d) for a community reinvestment project area, Section 17C-5-302.

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

- 846 (a) promoting, creating, or retaining public or private jobs within the state or a
847 community;
- 848 (b) providing office, manufacturing, warehousing, distribution, parking, or other
849 facilities or improvements;
- 850 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or
851 remediating environmental issues;
- 852 (d) providing residential, commercial, industrial, public, or other structures or spaces,
853 including recreational and other facilities incidental or appurtenant to the structures or spaces;
- 854 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating
855 existing structures;
- 856 (f) providing open space, including streets or other public grounds or space around
857 buildings;
- 858 (g) providing public or private buildings, infrastructure, structures, or improvements;
- 859 (h) relocating a business;
- 860 (i) improving public or private recreation areas or other public grounds;
- 861 (j) eliminating a development impediment or the causes of a development impediment;
- 862 (k) redevelopment as defined under the law in effect before May 1, 2006; or

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

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

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

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

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

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

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

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

883 (53) "Public entity" means:

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

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

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

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

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

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

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

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

901 (57) "Superfund site":

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

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

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

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

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

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

913 (60) "Taxable value" means:

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

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

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

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

922 (i) the amount of property tax revenue generated each tax year by a taxing entity from
923 the area within a project area designated in the project area plan as the area from which tax
924 increment is to be collected, using the current assessed value of the property and each taxing

925 entity's current certified tax rate as defined in Section 59-2-924; and

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

929 (b) "Tax increment" does not include taxes levied and collected under Section
930 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

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

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

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

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

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

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

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

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

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

944 **17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance**
945 **of bonds for housing -- Action to compel agency to provide housing allocation.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

987 providing:

988 (A) income targeted housing within the county;

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

991 (C) homeless assistance within the county;

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

995 (v) pay for or make a contribution toward the acquisition, construction, or
996 rehabilitation of income targeted housing that is outside of the community if the housing is
997 located along or near a major transit investment corridor that services the community and the
998 related project has been approved by the community in which the housing is or will be located;

999 [~~or~~]

1000 (vi) pay for or make a contribution toward the acquisition, construction, or
1001 rehabilitation of income targeted housing that is outside of the community if there is an
1002 interlocal agreement between the agency and the receiving community for the funds to be
1003 encumbered and spent within six years from the day on which the agency makes the first
1004 payment or contribution; or

1005 [~~(vi)~~] (vii) pay for or make a contribution toward the expansion of child care facilities
1006 within the boundary of the agency, provided that any recipient of funds from the agency's
1007 housing allocation reports annually to the agency on how the funds were used.

1008 (2) (a) An agency may combine all or any portion of the agency's housing allocation
1009 with all or any portion of one or more additional agency's housing allocations if the agencies
1010 execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation
1011 Act.

1012 (b) An agency that has entered into an interlocal agreement as described in Subsection
1013 (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation
1014 meets the requirements for at least one agency that is a party to the interlocal agreement.

1015 (3) The agency shall create a housing fund and separately account for the agency's
1016 housing allocation, together with all interest earned by the housing allocation and all payments
1017 or repayments for loans, advances, or grants from the housing allocation.

- 1018 (4) An agency may:
- 1019 (a) issue bonds to finance a housing-related project under this section, including the
- 1020 payment of principal and interest upon advances for surveys and plans or preliminary loans;
- 1021 and
- 1022 (b) issue refunding bonds for the payment or retirement of bonds under Subsection
- 1023 (4)(a) previously issued by the agency.
- 1024 (5) (a) Except as provided in Subsection (5)(b), an agency shall allocate money to the
- 1025 housing fund each year in which the agency receives sufficient tax increment to make a
- 1026 housing allocation required by the project area budget.
- 1027 (b) Subsection (5)(a) does not apply in a year in which tax increment is insufficient.
- 1028 (6) (a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing
- 1029 allocation in accordance with the project area budget and the housing plan adopted under
- 1030 Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to
- 1031 provide the housing allocation.
- 1032 (b) In an action under Subsection (6)(a), the court:
- 1033 (i) shall award the loan fund board reasonable attorney fees, unless the court finds that
- 1034 the action was frivolous; and
- 1035 (ii) may not award the agency the agency's attorney fees, unless the court finds that the
- 1036 action was frivolous.
- 1037 (7) For the purpose of offsetting the community's annual local contribution to the
- 1038 Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in
- 1039 a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and
- 1040 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in
- 1041 Subsection 59-12-205(4).
- 1042 Section 7. Section 35A-8-504 is amended to read:
- 1043 **35A-8-504. Distribution of fund money.**
- 1044 (1) As used in this section:
- 1045 (a) "Community" means the same as that term is defined in Section 17C-1-102.
- 1046 (b) "Income targeted housing" means the same as that term is defined in Section
- 1047 17C-1-102.
- 1048 (2) The executive director shall:

- 1049 (a) make grants and loans from the fund for any of the activities authorized by Section
1050 35A-8-505, as directed by the board;
- 1051 (b) establish the criteria with the approval of the board by which loans and grants will
1052 be made; and
- 1053 (c) determine with the approval of the board the order in which projects will be funded.
- 1054 (3) The executive director shall distribute, as directed by the board, any federal money
1055 contained in the fund according to the procedures, conditions, and restrictions placed upon the
1056 use of the money by the federal government.
- 1057 (4) The executive director shall distribute, as directed by the board, any funds received
1058 under Section 17C-1-412 to pay the costs of providing income targeted housing within the
1059 community that created the community reinvestment agency under Title 17C, Limited Purpose
1060 Local Government Entities - Community Reinvestment Agency Act.
- 1061 (5) Except for federal money, money received under Section 17C-1-412, and money
1062 appropriated for use in accordance with Section 35A-8-2105, the executive director shall
1063 distribute, as directed by the board, money in the fund according to the following requirements:
- 1064 (a) the executive director shall distribute at least 70% of the money in the fund to
1065 benefit persons whose annual income is at or below 50% of the median family income for the
1066 state;
- 1067 (b) the executive director may use up to [3] 6% of the revenues of the fund, including
1068 any appropriation to the fund, to offset department or board administrative expenses;
- 1069 (c) the executive director shall distribute any remaining money in the fund to benefit
1070 persons whose annual income is at or below 80% of the median family income for the state;
1071 and
- 1072 (d) if the executive director or the executive director's designee makes a loan in
1073 accordance with this section, the interest rate of the loan shall be based on the borrower's
1074 ability to pay.
- 1075 (6) The executive director may, with the approval of the board:
- 1076 (a) enact rules to establish procedures for the grant and loan process by following the
1077 procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
1078 and
- 1079 (b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the

1080 servicing of loans made by the fund.

1081 Section 8. Section **35A-8-2401** is amended to read:

1082 **35A-8-2401. Pass-through funding agreements -- Accounting for expenditures of**
1083 **a housing organization.**

1084 (1) As used in this section:

1085 (a) "Housing organization" means an entity that:

1086 (i) manages a portfolio of investments;

1087 (ii) is dedicated to the preservation, enhancement, improvement, and rehabilitation of
1088 affordable housing through property investment; and

1089 (iii) is controlled by a registered nonprofit.

1090 (b) "Pass-through funding" means state money appropriated by the Legislature to the
1091 department with the intent that the department grant or otherwise disburse the state money to a
1092 third party.

1093 (c) "Rural" means the same as that term is defined in Section [35A-8-501](#).

1094 (2) (a) This section applies to funds appropriated by the Legislature to the department
1095 for pass-through to [~~the Utah Housing Preservation Fund~~] a housing organization.

1096 (b) The department shall ensure that pass-through funding granted or distributed before
1097 May 1, 2024 to a housing organization is subject to an agreement as described in this section,
1098 either through amending existing agreements or canceling existing agreements and issuing new
1099 agreements.

1100 (3) (a) The department shall create agreements governing the use of pass-through
1101 funding as described in this section.

1102 (b) Before a housing organization may accept pass-through funding pursuant to this
1103 section, the entity shall enter into an agreement with the department governing the use of
1104 pass-through funding.

1105 (4) An agreement for pass-through funding shall require, at a minimum:

1106 (a) the housing organization match pass-through funding with private funding at no
1107 less than a 70% private, 30% state split;

1108 (b) all pass-through funding be used by the housing organization to invest in housing
1109 units that are rented at rates affordable to households with an annual income at or below 80%
1110 of the area median income for a family within the county in which the housing is located;

1111 (c) that 50% of pass-through funding be used by the housing organization to invest in
1112 housing units that are rented at rates affordable to households with an annual income at or
1113 below 50% of the area median income for a family within the county in which the housing is
1114 located;

1115 (d) that at least 30% of pass-through funding be used by the housing organization to
1116 invest in housing units that are located in a rural county;

1117 (e) that any property purchased with pass-through funding be subject to a deed
1118 restriction for a minimum of 40 years to ensure the property remains a rental property
1119 affordable to households as described in Subsection (4)(b);

1120 (f) that returns on investment generated by pass-through funding shall be reinvested by
1121 the housing organization the same as if the returns on investment are pass-through funding; and

1122 (g) that the housing organization shall provide the division with the following
1123 information at the end of each fiscal year:

1124 (i) the housing organization's annual audit, including:

1125 (A) a third-party independent auditor's findings on the housing organization's
1126 compliance with this section and the terms of the housing organization's agreement for
1127 pass-through funding; and

1128 (B) the audited financial statements for a legal entity used by the housing organization
1129 to carry out activities authorized by this section;

1130 (ii) allocation of pass-through funds by county and housing type;

1131 (iii) progress and status of funded projects; and

1132 (iv) impact of pass-through funds on the availability of affordable housing across the
1133 state and by region.

1134 [~~2~~] (5) The department shall include in the annual written report described in Section
1135 35A-1-109 a report accounting for the expenditures authorized by [the Utah Housing
1136 Preservation Fund] a housing organization pursuant to an agreement with the department.

1137 Section 9. Section **53C-1-204** is amended to read:

1138 **53C-1-204. Policies established by board -- Director.**

1139 (1) (a) The board shall establish policies for the management of the School and
1140 Institutional Trust Lands Administration.

1141 (b) The policies shall:

- 1142 (i) be consistent with the Utah Enabling Act, the Utah Constitution, and state law;
- 1143 (ii) reflect undivided loyalty to the beneficiaries consistent with fiduciary duties;
- 1144 (iii) require the return of not less than fair market value for the use, sale, or exchange
- 1145 of school and institutional trust assets;
- 1146 (iv) seek to optimize trust land revenues and increase the value of trust land holdings
- 1147 consistent with the balancing of short and long-term interests, so that long-term benefits are not
- 1148 lost in an effort to maximize short-term gains;
- 1149 (v) maintain the integrity of the trust and prevent the misapplication of its lands and its
- 1150 revenues; and
- 1151 (vi) have regard for and seek General Fund appropriation compensation for the general
- 1152 public's use of natural and cultural resources consistent with the duties of the administration as
- 1153 trustee for the beneficiaries.

1154 (2) The board shall ensure that the administration is managed according to law.

1155 (3) The board shall establish due process procedures governing adjudicative

1156 proceedings conducted by the board and the administration.

1157 (4) The board and the director shall recommend to the governor and the Legislature any

1158 necessary or desirable changes in statutes relating to the trust or their trust responsibilities.

1159 (5) The board shall develop policies for the long-term benefit of the trust utilizing the

1160 broad discretion and power granted to it in this title.

1161 (6) In harmony with its other duties, the board shall exercise its land use authority to

1162 increase the supply of housing in the state.

1163 [~~(6)~~] (7) (a) (i) On at least three occasions during each calendar year and in cooperation

1164 with the director, the board shall consult with an advisory committee consisting of five county

1165 commissioners appointed by the Utah Association of Counties concerning the impact of trust

1166 land management practices on rural economies.

1167 (ii) The director shall notify the chair of the committee prior to any proposed board

1168 actions. At the request of the committee and prior to taking the proposed action, the board

1169 shall meet with the committee at the next scheduled board meeting.

1170 (b) The association shall appoint the commissioners from five different counties based

1171 on such factors as a county's total acreage of trust lands, the revenues generated from trust

1172 lands in the county, and the potential for economic development of trust lands within the

1173 county.

1174 (c) The advisory committee may request additional consultations it considers necessary
1175 or appropriate, to be scheduled within a reasonable time after receipt of the request by the
1176 administration.

1177 [~~7~~] (8) The board shall utilize the services of the attorney general as provided in
1178 Section [53C-1-305](#).

1179 [~~8~~] (9) The board may:

1180 (a) (i) establish advisory committees to advise the board, director, or administration on
1181 policies affecting the management of the trust, and pay the compensation and travel expenses
1182 in accordance with rules adopted by the Division of Finance; and

1183 (ii) after conferring with the director, hire consultants to advise the board, director, or
1184 administration on issues affecting the management of the trust, and pay compensation to the
1185 consultants from money appropriated for that purpose;

1186 (b) with the consent of the state risk manager, authorize the director to manage lands or
1187 interests in lands held by any other public or private party, if:

1188 (i) all management costs are compensated by the parties;

1189 (ii) there is a commensurate return to the beneficiaries; and

1190 (iii) the additional responsibilities do not detract from the administration's
1191 responsibilities and its duty of undivided loyalty to the beneficiaries;

1192 (c) issue subpoenas or authorize a hearing officer to issue subpoenas, to compel the
1193 attendance of witnesses and the production of documents in adjudicative proceedings
1194 authorized by law and administer oaths in the performance of official duties; and

1195 (d) submit in writing to the director a request for responses, to be made within a
1196 reasonable time, to questions concerning policies and practices affecting the management of
1197 the trust.

1198 [~~9~~] (10) Board members shall be given access to all administration records and
1199 personnel consistent with law and as necessary to permit the board to accomplish its
1200 responsibilities to ensure that the administration is in full compliance with applicable policies
1201 and law.

1202 Section 10. Section **59-7-607** is amended to read:

1203 **59-7-607. Utah low-income housing tax credit.**

1204 (1) As used in this section:

1205 (a) "Allocation certificate" means a certificate in a form prescribed by the commission
1206 and issued by the corporation to a housing sponsor that specifies the aggregate amount of the
1207 tax credit awarded under this section to a qualified development and includes:

1208 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one
1209 or more qualified taxpayers; and

1210 (ii) the credit period over which the tax credit may be claimed by one or more qualified
1211 taxpayers.

1212 (b) "Building" means a qualified low-income building as defined in Section 42(c),
1213 Internal Revenue Code.

1214 (c) "Corporation" means the Utah Housing Corporation created in Section 63H-8-201.

1215 (d) Except as provided in Subsection (5)(c), "credit period" means the same as that
1216 term is defined in Section 42(f)(1), Internal Revenue Code.

1217 (e) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor
1218 or one of the housing sponsor's direct or indirect partners, members, or shareholders that will
1219 provide information to the commission regarding the allocation of tax credits under this
1220 section.

1221 (f) "Federal low-income housing tax credit" means the federal tax credit described in
1222 Section 42, Internal Revenue Code.

1223 (g) "Housing sponsor" means an entity that owns a qualified development.

1224 (h) "Pass-through entity" means the same as that term is defined in Section
1225 59-10-1402.

1226 (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as
1227 that term is defined in Section 59-10-1402.

1228 (ii) The determination of whether a pass-through entity taxpayer is considered a
1229 partner, member, or shareholder of a pass-through entity shall be made in accordance with
1230 applicable state law governing the pass-through entity.

1231 (j) "Qualified allocation plan" means a qualified allocation plan adopted by the
1232 corporation in accordance with Section 42(m), Internal Revenue Code.

1233 (k) "Qualified development" means a "qualified low-income housing project":

1234 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1235 (ii) that is located in the state.

1236 (l) (i) "Qualified taxpayer" means a person that:

1237 (A) owns a direct interest or an indirect interest, through one or more pass-through

1238 entities, in a qualified development; and

1239 (B) meets the requirements to claim a tax credit under this section.

1240 (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit

1241 under this section is passed through by a pass-through entity.

1242 (2) (a) A qualified taxpayer may claim a nonrefundable tax credit under this section

1243 against taxes otherwise due under this chapter, Chapter 8, Gross Receipts Tax on Certain

1244 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9,

1245 Taxation of Admitted Insurers.

1246 (b) The tax credit shall be in an amount equal to the tax credit amount specified on the

1247 allocation certificate that the corporation issues to a housing sponsor under this section.

1248 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate

1249 annual tax credit that the corporation may allocate for each year of the credit period pursuant to

1250 this section and Section 59-10-1010 is an amount equal to the product of:

1251 (A) 12.5 cents; and

1252 (B) the population of Utah.

1253 (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or

1254 before December 31, 2022, the aggregate annual tax credit that the corporation may allocate for

1255 each year of the credit period pursuant to this section and Section 59-10-1010 is an amount

1256 equal to the product of:

1257 (A) 34.5 cents; and

1258 (B) the population of Utah.

1259 (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or

1260 before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for

1261 each year of the credit period pursuant to this section and Section 59-10-1010 is \$10,000,000.

1262 (iv) For a calendar year beginning on or after January 1, 2024, in addition to the

1263 amount of annual tax credits available for allocation as described in Subsections (2)(c)(i)

1264 through (2)(c)(iii), the corporation shall have the following tax credit amounts available for

1265 allocation:

1266 (A) any tax credits allocated in a calendar year that are subsequently returned to the
1267 corporation or recaptured by the corporation may be allocated in the following year; and

1268 (B) if the actual amount of tax credits allocated in a calendar year to qualified
1269 developments is less than the total amount of credits available to be allocated to qualified
1270 developments, the balance of the credits but no more than 15% of the total amount of credits
1271 available for allocation to qualified developments may be allocated by the corporation to
1272 qualified developments in the following calendar year.

1273 [~~(iv)~~] (v) For a calendar year beginning on or after January 1, 2029, the aggregate
1274 annual tax credit that the corporation may allocate for each year of the credit period pursuant to
1275 this section and Section 59-10-1010 is the amount described in Subsection (2)(c)(ii).

1276 [~~(v)~~] (vi) For purposes of this Subsection (2)(c), the population of Utah shall be
1277 determined in accordance with Section 146(j), Internal Revenue Code.

1278 (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity
1279 may allocate a tax credit under this section to one or more of the pass-through entity's
1280 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1281 (A) the pass-through entity taxpayer is eligible to claim any portion of a federal
1282 low-income housing tax credit for the qualified development;

1283 (B) the allocation of the tax credit has substantial economic effect within the meaning
1284 of Section 704(b), Internal Revenue Code; or

1285 (C) the pass-through entity taxpayer is considered a partner for federal income tax
1286 purposes.

1287 (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity
1288 taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity
1289 under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the
1290 pass-through entity is:

1291 (A) acquired on or before December 31 of the tax year to which the tax credit relates;
1292 and

1293 (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax
1294 credit relates.

1295 (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another
1296 taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity,

1297 including the pass-through entity taxpayer's interest in the tax credit associated with the
1298 ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax
1299 credit so long as the assignee's ownership interest in the pass-through entity is:

1300 (i) acquired on or before December 31 of the tax year to which the tax credit relates;

1301 and

1302 (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax
1303 credit relates.

1304 (3) (a) The corporation shall determine criteria and procedures for allocating the tax
1305 credit under this section and Section 59-10-1010 and incorporate the criteria and procedures
1306 into the corporation's qualified allocation plan.

1307 (b) The corporation shall create the criteria under Subsection (3)(a) based on:

1308 (i) the number of affordable housing units to be created in Utah for low and moderate
1309 income persons in a qualified development;

1310 (ii) the level of area median income being served by a qualified development;

1311 (iii) the need for the tax credit for the economic feasibility of a qualified development;

1312 and

1313 (iv) the extended period for which a qualified development commits to remain as
1314 affordable housing.

1315 (4) Any housing sponsor may apply to the corporation for a tax credit allocation under
1316 this section.

1317 (5) (a) (i) The corporation shall determine the amount of the tax credit to allocate to a
1318 qualified development in accordance with the qualified allocation plan.

1319 (ii) (A) Before the allocation certificate is issued to the housing sponsor, the
1320 corporation shall send to the housing sponsor written notice of the corporation's preliminary
1321 determination of the tax credit amount to be allocated to the qualified development.

1322 (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's
1323 preliminary determination of the tax credit amount to be allocated to the qualified development
1324 for each year of the credit period and state that allocation of the tax credit is contingent upon
1325 the issuance of an allocation certificate.

1326 (iii) Upon approving a final cost certification in accordance with the qualified
1327 allocation plan, the corporation shall issue an allocation certificate to the housing sponsor as

1328 evidence of the allocation.

1329 (iv) The amount of the tax credit specified in an allocation certificate may not exceed
1330 100% of the federal low-income housing tax credit awarded to a qualified development.

1331 (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the
1332 corporation for a tax credit under this section and an allocation certificate is not yet issued, a
1333 qualified taxpayer may claim a tax credit based upon the corporation's preliminary
1334 determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

1335 (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified
1336 taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to
1337 adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is
1338 different than the amount specified in the allocation certificate.

1339 (c) The amount of tax credit that may be claimed in the first year of the credit period
1340 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1341 (d) On or before January 31 of each year, the corporation shall provide to the
1342 commission in a form prescribed by the commission a report that describes each allocation
1343 certificate that the corporation issued during the previous calendar year.

1344 (6) (a) A housing sponsor shall provide to the commission identification of the housing
1345 sponsor's designated reporter.

1346 (b) For each tax year in which a tax credit is claimed under this section, the designated
1347 reporter shall provide to the commission in a form prescribed by the commission:

1348 (i) a list of each qualified taxpayer that has been allocated a portion of the tax credit
1349 awarded in the allocation certificate for that tax year;

1350 (ii) the amount of tax credit that has been allocated to each qualified taxpayer described
1351 in Subsection (6)(b)(i) for that tax year; and

1352 (iii) any other information, as prescribed by the commission, to demonstrate that the
1353 aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does
1354 not exceed the aggregate annual tax credit amount specified in the allocation certificate.

1355 (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal
1356 Revenue Code, shall apply to this section.

1357 (b) (i) If a qualified development is required to recapture a portion of any federal
1358 low-income housing tax credit, then each qualified taxpayer that has been allocated a portion of

1359 a tax credit under this section shall also be required to recapture a portion of the tax credit
1360 under this section.

1361 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
1362 that equals the proportion the federal recapture amount bears to the original federal low-income
1363 housing tax credit amount subject to recapture.

1364 (iii) The designated reporter shall identify each qualified taxpayer that is required to
1365 recapture a portion of any state tax credit as described in this Subsection (7)(b).

1366 (8) (a) Any tax credits returned to the corporation in any year may be reallocated within
1367 the same time period as provided in Section 42, Internal Revenue Code.

1368 (b) Tax credits that are unallocated by the corporation in any year may be carried over
1369 for allocation in subsequent years.

1370 (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is
1371 earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit
1372 may be carried back three years or may be carried forward five years as a credit against the tax.

1373 (b) Carryover tax credits under Subsection (9)(a) shall be applied against the tax:

1374 (i) before the application of the tax credits earned in the current year; and

1375 (ii) on a first-earned first-used basis.

1376 (10) Any tax credit taken in this section may be subject to an annual audit by the
1377 commission.

1378 (11) The corporation shall annually provide an electronic report to the Revenue and
1379 Taxation Interim Committee that includes:

1380 (a) the purpose and effectiveness of the tax credits;

1381 (b) any recommendations for legislative changes to the aggregate tax credit amount that
1382 the corporation is authorized to allocate each year under Subsection (2)(c); and

1383 (c) the benefits of the tax credits to the state.

1384 (12) The commission may, in consultation with the corporation, make rules in
1385 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this
1386 section.

1387 (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation
1388 Interim Committee shall conduct a review of the aggregate tax credit amount that the
1389 corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

1390 (b) In a review under this Subsection (13), the Revenue and Taxation Interim
1391 Committee shall:

1392 (i) study any recommendations provided by the corporation under Subsection (11)(b);
1393 and

1394 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative
1395 action to the Legislature, prepare legislation for consideration by the Legislature in the next
1396 general session.

1397 Section 11. Section **59-10-1010** is amended to read:

1398 **59-10-1010. Utah low-income housing tax credit.**

1399 (1) As used in this section:

1400 (a) "Allocation certificate" means a certificate in a form prescribed by the commission
1401 and issued by the corporation to a housing sponsor that specifies the aggregate amount of the
1402 tax credit awarded under this section to a qualified development and includes:

1403 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one
1404 or more qualified taxpayers; and

1405 (ii) the credit period over which the tax credit may be claimed by one or more qualified
1406 taxpayers.

1407 (b) "Building" means a qualified low-income building as defined in Section 42(c),
1408 Internal Revenue Code.

1409 (c) "Corporation" means the Utah Housing Corporation created in Section [63H-8-201](#).

1410 (d) Except as provided in Subsection (5)(c), "credit period" means the same as that
1411 term is defined in Section 42(f)(1), Internal Revenue Code.

1412 (e) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor
1413 or one of the housing sponsor's direct or indirect partners, members, or shareholders that will
1414 provide information to the commission regarding the allocation of tax credits under this
1415 section.

1416 (f) "Federal low-income housing credit" means the federal low-income housing credit
1417 described in Section 42, Internal Revenue Code.

1418 (g) "Housing sponsor" means an entity that owns a qualified development.

1419 (h) "Pass-through entity" means the same as that term is defined in Section
1420 [59-10-1402](#).

1421 (i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as
1422 that term is defined in Section 59-10-1402.

1423 (ii) The determination of whether a pass-through entity taxpayer is considered a
1424 partner, member, or shareholder of a pass-through entity shall be made in accordance with
1425 applicable state law governing the pass-through entity.

1426 (j) "Qualified allocation plan" means a qualified allocation plan adopted by the
1427 corporation in accordance with Section 42(m), Internal Revenue Code.

1428 (k) "Qualified development" means a "qualified low-income housing project":

1429 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1430 (ii) that is located in the state.

1431 (l) (i) "Qualified taxpayer" means a claimant, estate, or trust that:

1432 (A) owns a direct or indirect interest, through one or more pass-through entities, in a
1433 qualified development; and

1434 (B) meets the requirements to claim a tax credit under this section.

1435 (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit
1436 under this section is passed through by a pass-through entity.

1437 (2) (a) A qualified taxpayer may claim a nonrefundable tax credit under this section
1438 against taxes otherwise due under this chapter.

1439 (b) The tax credit shall be in an amount equal to the tax credit amount specified on the
1440 allocation certificate that the corporation issues to a housing sponsor under this section.

1441 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate
1442 annual tax credit that the corporation may allocate for each year of the credit period pursuant to
1443 this section and Section 59-7-607 is an amount equal to the product of:

1444 (A) 12.5 cents; and

1445 (B) the population of Utah.

1446 (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or
1447 before December 31, 2022, the aggregate annual tax credit that the corporation may allocate for
1448 each year of the credit period pursuant to this section and Section 59-7-607 is an amount equal
1449 to the product of:

1450 (A) 34.5 cents; and

1451 (B) the population of Utah.

1452 (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or
1453 before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for
1454 each year of the credit period pursuant to this section and Section 59-7-607 is \$10,000,000.

1455 (iv) For a calendar year beginning on or after January 1, 2024, in addition to the
1456 amount of annual tax credits available for allocation as described in Subsections (2)(c)(i)
1457 through (2)(c)(iii), the corporation shall have the following tax credit amounts available for
1458 allocation:

1459 (A) any tax credits allocated in a calendar year that are subsequently returned to the
1460 corporation or recaptured by the corporation may be allocated in the following calendar year;
1461 and

1462 (B) if the actual amount of tax credits allocated in a calendar year to qualified
1463 developments is less than the total amount of credits available to be allocated to qualified
1464 developments, the balance of the credits but no more than 15% of the total amount of credits
1465 available for allocation to qualified developments may be allocated by the corporation to
1466 qualified developments in the following calendar year.

1467 [~~(iv)~~] (v) For a calendar year beginning on or after January 1, 2029, the aggregate
1468 annual tax credit that the corporation may allocate for each year of the credit period pursuant to
1469 this section and Section 59-7-607 is the amount described in Subsection (2)(c)(ii).

1470 [~~(v)~~] (vi) For purposes of this Subsection (2)(c), the population of Utah shall be
1471 determined in accordance with Section 146(j), Internal Revenue Code.

1472 (d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity
1473 may allocate a tax credit under this section to one or more of the pass-through entity's
1474 pass-through entity taxpayers in any manner agreed upon, regardless of whether:

1475 (A) the pass-through entity taxpayer is eligible to claim any portion of a federal
1476 low-income housing tax credit for the qualified development;

1477 (B) the allocation of the tax credit has substantial economic effect within the meaning
1478 of Section 704(b), Internal Revenue Code; or

1479 (C) the pass-through entity taxpayer is considered a partner for federal income tax
1480 purposes.

1481 (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity
1482 taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity

1483 under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the
1484 pass-through entity is:

1485 (A) acquired on or before December 31 of the tax year to which the tax credit relates;
1486 and

1487 (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax
1488 credit relates.

1489 (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another
1490 taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity,
1491 including the pass-through entity taxpayer's interest in the tax credit associated with the
1492 ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax
1493 credit so long as the assignee's ownership interest in the pass-through entity is:

1494 (i) acquired on or before December 31 of the tax year to which the tax credit relates;
1495 and

1496 (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax
1497 credit relates.

1498 (3) (a) The corporation shall determine criteria and procedures for allocating the tax
1499 credit under this section and Section 59-7-607 and incorporate the criteria and procedures into
1500 the corporation's qualified allocation plan.

1501 (b) The corporation shall create the criteria under Subsection (3)(a) based on:

1502 (i) the number of affordable housing units to be created in Utah for low and moderate
1503 income persons in a qualified development;

1504 (ii) the level of area median income being served by a qualified development;

1505 (iii) the need for the tax credit for the economic feasibility of a qualified development;
1506 and

1507 (iv) the extended period for which a qualified development commits to remain as
1508 affordable housing.

1509 (4) Any housing sponsor may apply to the corporation for a tax credit allocation under
1510 this section.

1511 (5) (a) (i) The corporation shall determine the amount of the tax credit to allocate to a
1512 qualified development in accordance with the qualified allocation plan.

1513 (ii) (A) Before the allocation certificate is issued to the housing sponsor, the

1514 corporation shall send to the housing sponsor written notice of the corporation's preliminary
1515 determination of the tax credit amount to be allocated to the qualified development.

1516 (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's
1517 preliminary determination of the tax credit amount to be allocated to the qualified development
1518 for each year of the credit period and state that allocation of the tax credit is contingent upon
1519 the issuance of an allocation certificate.

1520 (iii) Upon approving a final cost certification in accordance with the qualified
1521 allocation plan, the corporation shall issue an allocation certificate to the housing sponsor as
1522 evidence of the allocation.

1523 (iv) The amount of the tax credit specified in an allocation certificate may not exceed
1524 100% of the federal low-income housing credit awarded to a qualified development.

1525 (b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the
1526 corporation for a tax credit under this section and an allocation certificate is not yet issued, a
1527 qualified taxpayer may claim a tax credit based upon the corporation's preliminary
1528 determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

1529 (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified
1530 taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to
1531 adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is
1532 different than the amount specified in the allocation certificate.

1533 (c) The amount of tax credit that may be claimed in the first year of the credit period
1534 may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

1535 (d) On or before January 31 of each year, the corporation shall provide to the
1536 commission in a form prescribed by the commission a report that describes each allocation
1537 certificate that the corporation issued during the previous calendar year.

1538 (6) (a) A housing sponsor shall provide to the commission identification of the housing
1539 sponsor's designated reporter.

1540 (b) For each tax year in which a tax credit is claimed under this section, the designated
1541 reporter shall provide to the commission in a form prescribed by the commission:

1542 (i) a list of each qualified taxpayer that has been allocated a portion of the tax credit
1543 awarded in the allocation certificate for that tax year;

1544 (ii) the amount of tax credit that has been allocated to each qualified taxpayer described

1545 in Subsection (6)(b)(i) for that tax year; and

1546 (iii) any other information, as prescribed by the commission, to demonstrate that the
1547 aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does
1548 not exceed the aggregate annual tax credit amount specified in the allocation certificate.

1549 (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal
1550 Revenue Code, shall apply to this section.

1551 (b) (i) If a qualified taxpayer is required to recapture a portion of any federal
1552 low-income housing credit, the qualified taxpayer that has been allocated a portion of a tax
1553 credit under this section shall also be required to recapture a portion of the tax credit under this
1554 section.

1555 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
1556 that equals the proportion the federal recapture amount bears to the original federal low-income
1557 housing credit amount subject to recapture.

1558 (iii) The designated reporter shall identify each qualified taxpayer that is required to
1559 recapture a portion of any state tax credits as described in this Subsection (7)(b).

1560 (8) (a) Any tax credits returned to the corporation in any year may be reallocated within
1561 the same time period as provided in Section 42, Internal Revenue Code.

1562 (b) Tax credits that are unallocated by the corporation in any year may be carried over
1563 for allocation in subsequent years.

1564 (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is
1565 earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit
1566 may be carried back three years or may be carried forward five years as a credit against the tax.

1567 (b) Carryover tax credits under Subsection (9)(a) shall be applied against the tax:

1568 (i) before the application of the tax credits earned in the current year; and

1569 (ii) on a first-earned first-used basis.

1570 (10) Any tax credit taken in this section may be subject to an annual audit by the
1571 commission.

1572 (11) The corporation shall annually provide an electronic report to the Revenue and
1573 Taxation Interim Committee that includes:

1574 (a) the purpose and effectiveness of the tax credits;

1575 (b) any recommendations for legislative changes to the aggregate tax credit amount that

1576 the corporation is authorized to allocate each year under Subsection (2)(c); and

1577 (c) the benefits of the tax credits to the state.

1578 (12) The commission may, in consultation with the corporation, promulgate rules to
1579 implement this section.

1580 (13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation
1581 Interim Committee shall conduct a review of the aggregate tax credit amount that the
1582 corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

1583 (b) In a review under this Subsection (13), the Revenue and Taxation Interim
1584 Committee shall:

1585 (i) study any recommendations provided by the corporation under Subsection (11)(b);
1586 and

1587 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative
1588 action to the Legislature, prepare legislation for consideration by the Legislature in the next
1589 general session.

1590 Section 12. Section **59-12-352** is amended to read:

1591 **59-12-352. Transient room tax authority for municipalities, military installation**
1592 **development authority, and Point of the Mountain State Land Authority -- Purposes for**
1593 **which revenues may be used.**

1594 (1) (a) Except as provided in Subsection (5), the governing body of a municipality may
1595 impose a tax of not to exceed 1% on charges for the accommodations and services described in
1596 Subsection [59-12-103\(1\)\(i\)](#).

1597 (b) Subject to Section [63H-1-203](#), the military installation development authority
1598 created in Section [63H-1-201](#) may impose a tax under this section for accommodations and
1599 services described in Subsection [59-12-103\(1\)\(i\)](#) within a project area described in a project
1600 area plan adopted by the authority under Title 63H, Chapter 1, Military Installation
1601 Development Authority Act, as though the authority were a municipality.

1602 (2) Subject to the limitations of Subsection (1), a governing body of a municipality
1603 may, by ordinance, increase or decrease the tax under this part.

1604 (3) A governing body of a municipality shall regulate the tax under this part by
1605 ordinance.

1606 (4) A municipality may use revenues generated by the tax under this part for general

1607 fund purposes.

1608 (5) (a) A municipality may not impose a tax under this section for accommodations and
1609 services described in Subsection 59-12-103(1)(i) within a project area described in a project
1610 area plan adopted by the authority under Title 63H, Chapter 1, Military Installation

1611 Development Authority Act.

1612 (b) Subsection (5)(a) does not apply to the military installation development authority's
1613 imposition of a tax under this section.

1614 (6) (a) As used in this Subsection (6):

1615 (i) "Authority" means the Point of the Mountain State Land Authority, created in
1616 Section 11-59-201.

1617 (ii) "Authority board" means the board referred to in Section 11-59-301.

1618 (b) The authority may, by a resolution adopted by the authority board, impose a tax of
1619 not to exceed 5% on charges for the accommodations and services described in Subsection
1620 59-12-103(1)(i) for transactions that occur on point of the mountain state land, as defined in
1621 Section 11-59-102.

1622 (c) The authority board, by resolution, shall regulate the tax under this Subsection (6).

1623 (d) The authority shall use all revenue from a tax imposed under this Subsection (6) to
1624 provide affordable housing, consistent with the manner that a community reinvestment agency
1625 uses funds for ~~[affordable housing]~~ income targeted housing under Section 17C-1-412.

1626 (e) A tax under this Subsection (6) is in addition to any other tax that may be imposed
1627 under this part.

1628 Section 13. **Effective date.**

1629 This bill takes effect on May 1, 2024.