

**HOUSING AFFORDABILITY AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen L. Whyte**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

▶ modifies provisions related to the moderate income housing reporting requirements for certain cities and counties;

▶ allows a city or county to appeal the Housing and Community Development Division's determination of noncompliance in relation to city and county moderate income housing reports;

▶ establishes an appeal board to hear and decide appeals in relation to city and county moderate income housing reports;

▶ requires the Department of Workforce Services to report annually on expenditures authorized by the Utah Housing Preservation Fund;

▶ establishes the Housing Support Grant Program within the Office of Homeless Services for supporting residential projects that include affordable housing units;

▶ increases the aggregate annual amount of Utah low-income housing tax credits that may be allocated beginning in 2023;

▶ requires the Legislature to conduct reviews of the aggregate annual amount of Utah low-income housing tax credits that may be allocated beginning in 2023;



28           ▶ establishes a future repeal date of the aggregate annual amount of Utah low-income  
29 housing tax credits that may be allocated beginning in 2023; and

30           ▶ makes technical and conforming changes.

31 **Money Appropriated in this Bill:**

32           None

33 **Other Special Clauses:**

34           This bill provides a special effective date.

35           This bill provides retrospective operation.

36 **Utah Code Sections Affected:**

37 AMENDS:

38           **10-9a-401**, as last amended by Laws of Utah 2022, Chapters 282, 406

39           **10-9a-403**, as last amended by Laws of Utah 2022, Chapters 282, 406 and last amended  
40 by Coordination Clause, Laws of Utah 2022, Chapter 406

41           **10-9a-408**, as last amended by Laws of Utah 2022, Chapter 406

42           **17-27a-401**, as last amended by Laws of Utah 2022, Chapters 282, 406

43           **17-27a-403**, as last amended by Laws of Utah 2022, Chapters 282, 406

44           **17-27a-408**, as last amended by Laws of Utah 2022, Chapter 406

45           **59-7-607**, as last amended by Laws of Utah 2020, Chapter 241

46           **59-10-1010**, as last amended by Laws of Utah 2020, Chapter 241

47           **63I-2-259**, as last amended by Laws of Utah 2022, Chapter 264

48 ENACTS:

49           **35A-8-2401**, Utah Code Annotated 1953

50           **35A-16-701**, Utah Code Annotated 1953

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

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

54           **10-9a-401. General plan required -- Content.**

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

57           (a) present and future needs of the municipality; and

58           (b) growth and development of all or any part of the land within the municipality.

59 (2) The general plan may provide for:

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

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

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

65 (i) food and water; and

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

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

68 (e) the protection of urban development;

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

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

72 (h) historic preservation;

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

75 (j) an official map.

76 (3) (a) The general plan of a specified municipality, as defined in Section 10-9a-408,  
77 shall include a moderate income housing element that meets the requirements of Subsection  
78 10-9a-403(2)(a)(iii).

79 ~~[(b) On or before October 1, 2022, a specified municipality, as defined in Section~~  
80 ~~10-9a-408, with a general plan that does not comply with Subsection (3)(a) shall amend the~~  
81 ~~general plan to comply with Subsection (3)(a)]~~

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

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

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

90 or

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

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

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

96 **10-9a-403. General plan preparation.**

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

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

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

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

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

114 (i) a land use element that:

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

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

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

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

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

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

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

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

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

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

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

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

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

150 (D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed  
151 guideway public transit station, shall include a recommendation to implement five or more of

152 the moderate income housing strategies described in Subsection (2)(b)(iii), of which one shall  
153 be the moderate income housing strategy described in Subsection (2)(b)(iii)(V), and one shall  
154 be a moderate income housing strategy described in Subsection (2)(b)(iii)(G), (H), or (Q); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

204 (K) preserve existing and new moderate income housing and subsidized units by  
205 utilizing a landlord incentive program, providing for deed restricted units through a grant  
206 program, or, notwithstanding Section [10-9a-535](#), establishing a housing loss mitigation fund;

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

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

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

213 (O) apply for or partner with an entity that applies for state or federal funds or tax

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

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

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

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

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

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

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

235 (V) develop and adopt a station area plan in accordance with Section 10-9a-403.1;

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

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

244 ~~[(iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a~~



245 municipality that has a fixed guideway public transit station, shall include a recommendation to  
246 implement:]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

276 (f) In drafting the water use and preservation element, the planning commission:  
277 (i) shall consider:  
278 (A) applicable regional water conservation goals recommended by the Division of  
279 Water Resources; and  
280 (B) if Section 73-10-32 requires the municipality to adopt a water conservation plan  
281 pursuant to Section 73-10-32, the municipality's water conservation plan;  
282 (ii) shall include a recommendation for:  
283 (A) water conservation policies to be determined by the municipality; and  
284 (B) landscaping options within a public street for current and future development that  
285 do not require the use of lawn or turf in a parkstrip;  
286 (iii) shall review the municipality's land use ordinances and include a recommendation  
287 for changes to an ordinance that promotes the inefficient use of water;  
288 (iv) shall consider principles of sustainable landscaping, including the:  
289 (A) reduction or limitation of the use of lawn or turf;  
290 (B) promotion of site-specific landscape design that decreases stormwater runoff or  
291 runoff of water used for irrigation;  
292 (C) preservation and use of healthy trees that have a reasonable water requirement or  
293 are resistant to dry soil conditions;  
294 (D) elimination or regulation of ponds, pools, and other features that promote  
295 unnecessary water evaporation;  
296 (E) reduction of yard waste; and  
297 (F) use of an irrigation system, including drip irrigation, best adapted to provide the  
298 optimal amount of water to the plants being irrigated;  
299 (v) shall consult with the public water system or systems serving the municipality with  
300 drinking water regarding how implementation of the land use element and water use and  
301 preservation element may affect:  
302 (A) water supply planning, including drinking water source and storage capacity  
303 consistent with Section 19-4-114; and  
304 (B) water distribution planning, including master plans, infrastructure asset  
305 management programs and plans, infrastructure replacement plans, and impact fee facilities  
306 plans;

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

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

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

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

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

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

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

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

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

323 (C) multifamily housing project.

324 (3) The proposed general plan may include:

325 (a) an environmental element that addresses:

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

328 (A) air;

329 (B) forests;

330 (C) soils;

331 (D) rivers;

332 (E) groundwater and other waters;

333 (F) harbors;

334 (G) fisheries;

335 (H) wildlife;

336 (I) minerals; and

337 (J) other natural resources; and

338 (ii) (A) the reclamation of land, flood control, prevention and control of the pollution  
339 of streams and other waters;

340 (B) the regulation of the use of land on hillsides, stream channels and other  
341 environmentally sensitive areas;

342 (C) the prevention, control, and correction of the erosion of soils;

343 (D) the preservation and enhancement of watersheds and wetlands; and

344 (E) the mapping of known geologic hazards;

345 (b) a public services and facilities element showing general plans for sewage, water,  
346 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,  
347 police and fire protection, and other public services;

348 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and  
349 programs for:

350 (i) historic preservation;

351 (ii) the diminution or elimination of a development impediment as defined in Section  
352 17C-1-102; and

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

355 (d) an economic element composed of appropriate studies and forecasts, as well as an  
356 economic development plan, which may include review of existing and projected municipal  
357 revenue and expenditures, revenue sources, identification of basic and secondary industry,  
358 primary and secondary market areas, employment, and retail sales activity;

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

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

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

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

366 **10-9a-408. Moderate income housing report -- Contents -- Prioritization for**  
367 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

368 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

390 (b) If a municipality changes from one class to another or grows in population to  
391 become a specified municipality, the municipality shall submit the initial report to the division  
392 on or before August 1 of the year in which the municipality first becomes a specified  
393 municipality.

394 (c) The initial report shall:

395 (i) [~~a description of~~] identify each moderate income housing strategy selected by the  
396 specified municipality for continued, ongoing, or one-time implementation, restating the exact  
397 language used to describe the moderate income housing strategy in Subsection  
398 [10-9a-403\(2\)\(b\)\(iii\)](#); and

399 (ii) include an implementation plan.

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

405           (b) The subsequent report shall include:

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

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

411           (iii) a description of each land use regulation or land use decision made by the  
412 specified municipality during the previous fiscal year to implement the moderate income  
413 housing strategies, including an explanation of how the land use regulation or land use decision  
414 supports the specified municipality's efforts to implement the moderate income housing  
415 strategies;

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

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

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

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

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

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

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

429           (i) approved by the division; and

430           (ii) made available by the division on or before ~~[July]~~ May 1 of the year in which the

431 report is required.

432 ~~[(3)]~~ (4) Within 90 days after the day on which the division receives a specified  
 433 municipality's ~~[moderate income housing]~~ report, the division shall:

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

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

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

441 ~~[(4)]~~ (5) (a) ~~[The report described in Subsection (2)(b) complies with Subsection (2)]~~  
 442 An initial report complies with this section if the report:

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

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

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

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

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

451 (b) ~~[The report described in Subsection (2)(c) complies with Subsection (2)]~~ A  
 452 subsequent report complies with this section if the report:

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

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

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

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

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

- 462 (iv) provides sufficient information for the division to:
- 463 (A) assess the specified municipality's progress in implementing the moderate income
- 464 housing strategies;
- 465 (B) monitor compliance with the specified municipality's implementation plan;
- 466 (C) identify a clear correlation between the specified municipality's land use
- 467 regulations and land use decisions and the specified municipality's efforts to implement the
- 468 moderate income housing strategies; ~~and~~
- 469 (D) identify how the market has responded to the specified municipality's selected
- 470 moderate income housing strategies~~[-]; and~~
- 471 (E) identify any barriers encountered by the specified municipality in implementing the
- 472 selected moderate income housing strategies.
- 473 ~~[(5)]~~ (6) (a) A specified municipality qualifies for priority consideration under this
- 474 Subsection ~~[(5)]~~ (6) if the specified municipality's ~~[moderate income housing]~~ report:
- 475 (i) complies with ~~[Subsection (2)]~~ this section; and
- 476 (ii) demonstrates to the division that the specified municipality made plans to
- 477 implement:
- 478 (A) five or more moderate income housing strategies if the specified municipality does
- 479 not have a fixed guideway public transit station; or
- 480 (B) six or more moderate income housing strategies if the specified municipality has a
- 481 fixed guideway public transit station.
- 482 (b) The following apply to a specified municipality described in Subsection ~~[(5)(a)]~~
- 483 (6)(a) during the fiscal year immediately following the fiscal year in which the report is
- 484 required:
- 485 (i) the Transportation Commission may give priority consideration to transportation
- 486 projects located within the boundaries of the specified municipality in accordance with
- 487 Subsection [72-1-304\(3\)\(c\)](#); and
- 488 (ii) the Governor's Office of Planning and Budget may give priority consideration for
- 489 awarding financial grants to the specified municipality under the COVID-19 Local Assistance
- 490 Matching Grant Program in accordance with Subsection [63J-4-802\(6\)](#).
- 491 (c) Upon determining that a specified municipality qualifies for priority consideration
- 492 under this Subsection ~~[(5)]~~ (6), the division shall send a notice of prioritization to the



493 legislative body of the specified municipality, the Department of Transportation, and the  
 494 Governor's Office of Planning and Budget.

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

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

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

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

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

503 [~~(6)~~] (7) (a) If the division, after reviewing a specified municipality's [~~moderate income~~  
 504 ~~housing~~] report, determines that the report does not comply with [~~Subsection (2)~~] this section,  
 505 the division shall send a notice of noncompliance to the legislative body of the specified  
 506 municipality.

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

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

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

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

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

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

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

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

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

523 (d) (i) If a specified municipality submits to the division a corrected report in

524 accordance with Subsection (7)(b)(i), and the division determines that the corrected report does  
525 not comply with this section, the division shall send a second notice of noncompliance to the  
526 legislative body of the specified municipality.

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

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

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

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

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

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

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

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

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

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

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

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

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

553 ~~[(7)]~~ (9) (a) A specified municipality is ineligible for funds under this Subsection ~~[(7)~~  
554 ~~if the specified municipality]~~ (9) if:

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

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

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

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

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

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

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

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

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

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

- 586 (d) The notice described in Subsection [~~(7)(c)~~] (9)(c) shall:
- 587 (i) name the specified municipality that is ineligible for funds;
- 588 (ii) describe the funds for which the specified municipality is ineligible to receive;
- 589 (iii) specify the fiscal year during which the specified municipality is ineligible for
- 590 funds; and
- 591 (iv) state the basis for the division's determination that the specified municipality is
- 592 ineligible for funds.

593 [~~(8)~~] (10) In a civil action seeking enforcement or claiming a violation of this section  
 594 or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded  
 595 only injunctive or other equitable relief.

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

597 **17-27a-401. General plan required -- Content -- Resource management plan --**  
 598 **Provisions related to radioactive waste facility.**

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

- 601 (a) for present and future needs of the county;
- 602 (b) (i) for growth and development of all or any part of the land within the
- 603 unincorporated portions of the county; or
- 604 (ii) if a county has designated a mountainous planning district, for growth and
- 605 development of all or any part of the land within the mountainous planning district; and
- 606 (c) as a basis for communicating and coordinating with the federal government on land
- 607 and resource management issues.

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

- 609 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
- 610 activities, aesthetics, and recreational, educational, and cultural opportunities;
- 611 (b) the reduction of the waste of physical, financial, or human resources that result
- 612 from either excessive congestion or excessive scattering of population;
- 613 (c) the efficient and economical use, conservation, and production of the supply of:
- 614 (i) food and water; and
- 615 (ii) drainage, sanitary, and other facilities and resources;
- 616 (d) the use of energy conservation and solar and renewable energy resources;

- 617 (e) the protection of urban development;
- 618 (f) the protection and promotion of air quality;
- 619 (g) historic preservation;
- 620 (h) identifying future uses of land that are likely to require an expansion or significant
- 621 modification of services or facilities provided by an affected entity; and
- 622 (i) an official map.

623 (3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408,  
 624 shall include a moderate income housing element that meets the requirements of Subsection  
 625 17-27a-403(2)(a)(iii).

626 ~~[(ii) On or before October 1, 2022, a specified county, as defined in Section~~  
 627 ~~17-27a-408, with a general plan that does not comply with Subsection (3)(a)(i) shall amend the~~  
 628 ~~general plan to comply with Subsection (3)(a)(i)]~~

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

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

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

637 (B) if the county is located within the boundaries of a metropolitan planning  
 638 organization, the appropriate metropolitan planning organization.

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

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

- 642 (i) mining;
- 643 (ii) land use;
- 644 (iii) livestock and grazing;
- 645 (iv) irrigation;
- 646 (v) agriculture;
- 647 (vi) fire management;

- 648 (vii) noxious weeds;
- 649 (viii) forest management;
- 650 (ix) water rights;
- 651 (x) ditches and canals;
- 652 (xi) water quality and hydrology;
- 653 (xii) flood plains and river terraces;
- 654 (xiii) wetlands;
- 655 (xiv) riparian areas;
- 656 (xv) predator control;
- 657 (xvi) wildlife;
- 658 (xvii) fisheries;
- 659 (xviii) recreation and tourism;
- 660 (xix) energy resources;
- 661 (xx) mineral resources;
- 662 (xxi) cultural, historical, geological, and paleontological resources;
- 663 (xxii) wilderness;
- 664 (xxiii) wild and scenic rivers;
- 665 (xxiv) threatened, endangered, and sensitive species;
- 666 (xxv) land access;
- 667 (xxvi) law enforcement;
- 668 (xxvii) economic considerations; and
- 669 (xxviii) air.

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

- 672 (i) establish findings pertaining to the item;
- 673 (ii) establish defined objectives; and
- 674 (iii) outline general policies and guidelines on how the objectives described in  
675 Subsection (3)(d)(ii) are to be accomplished.

676 (4) (a) (i) The general plan shall include specific provisions related to an area within, or  
677 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a  
678 county, which are proposed for the siting of a storage facility or transfer facility for the

679 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as  
680 these wastes are defined in Section 19-3-303.

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

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

684 (B) information supported by credible studies that demonstrates that Subsection  
685 19-3-307(2) has been satisfied; and

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

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

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

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

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

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

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

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

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

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

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

708 (9) On or before December 31, 2025, a county that has a general plan that does not  
709 include a water use and preservation element that complies with Section 17-27a-403 shall

710 amend the county's general plan to comply with Section 17-27a-403.

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

712 **17-27a-403. Plan preparation.**

713 (1) (a) The planning commission shall provide notice, as provided in Section  
714 17-27a-203, of the planning commission's intent to make a recommendation to the county  
715 legislative body for a general plan or a comprehensive general plan amendment when the  
716 planning commission initiates the process of preparing the planning commission's  
717 recommendation.

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

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

721 (ii) if the planning commission is a planning commission for a mountainous planning  
722 district, the mountainous planning district.

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

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

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

732 (i) a land use element that:

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

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

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



741 (D) accounts for the effect of land use categories and land uses on water demand;  
742 (ii) a transportation and traffic circulation element that:  
743 (A) provides the general location and extent of existing and proposed freeways, arterial  
744 and collector streets, public transit, active transportation facilities, and other modes of  
745 transportation that the planning commission considers appropriate;  
746 (B) addresses the county's plan for residential and commercial development around  
747 major transit investment corridors to maintain and improve the connections between housing,  
748 employment, education, recreation, and commerce; and  
749 (C) correlates with the population projections, the employment projections, and the  
750 proposed land use element of the general plan;  
751 (iii) for a specified county as defined in Section 17-27a-408, a moderate income  
752 housing element that:  
753 (A) provides a realistic opportunity to meet the need for additional moderate income  
754 housing within the next five years;  
755 (B) selects three or more moderate income housing strategies described in Subsection  
756 (2)(b)(ii) for implementation;  
757 (C) includes an implementation plan as provided in Subsection (2)(e);  
758 (iv) a resource management plan detailing the findings, objectives, and policies  
759 required by Subsection 17-27a-401(3); and  
760 (v) a water use and preservation element that addresses:  
761 (A) the effect of permitted development or patterns of development on water demand  
762 and water infrastructure;  
763 (B) methods of reducing water demand and per capita consumption for future  
764 development;  
765 (C) methods of reducing water demand and per capita consumption for existing  
766 development; and  
767 (D) opportunities for the county to modify the county's operations to eliminate  
768 practices or conditions that waste water.  
769 (b) In drafting the moderate income housing element, the planning commission:  
770 (i) shall consider the Legislature's determination that counties should facilitate a  
771 reasonable opportunity for a variety of housing, including moderate income housing:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 803 utilizing a landlord incentive program, providing for deed restricted units through a grant  
804 program, or establishing a housing loss mitigation fund;
- 805 (L) reduce, waive, or eliminate impact fees related to moderate income housing;
- 806 (M) demonstrate creation of, or participation in, a community land trust program for  
807 moderate income housing;
- 808 (N) implement a mortgage assistance program for employees of the county, an  
809 employer that provides contracted services for the county, or any other public employer that  
810 operates within the county;
- 811 (O) apply for or partner with an entity that applies for state or federal funds or tax  
812 incentives to promote the construction of moderate income housing, an entity that applies for  
813 programs offered by the Utah Housing Corporation within that agency's funding capacity, an  
814 entity that applies for affordable housing programs administered by the Department of  
815 Workforce Services, an entity that applies for services provided by a public housing authority  
816 to preserve and create moderate income housing, or any other entity that applies for programs  
817 or services that promote the construction or preservation of moderate income housing;
- 818 (P) demonstrate utilization of a moderate income housing set aside from a community  
819 reinvestment agency, redevelopment agency, or community development and renewal agency  
820 to create or subsidize moderate income housing;
- 821 (Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3,  
822 Part 6, Housing and Transit Reinvestment Zone Act;
- 823 (R) eliminate impact fees for any accessory dwelling unit that is not an internal  
824 accessory dwelling unit as defined in Section [10-9a-530](#);
- 825 (S) create a program to transfer development rights for moderate income housing;
- 826 (T) ratify a joint acquisition agreement with another local political subdivision for the  
827 purpose of combining resources to acquire property for moderate income housing;
- 828 (U) develop a moderate income housing project for residents who are disabled or 55  
829 years old or older;
- 830 (V) create or allow for, and reduce regulations related to, multifamily residential  
831 dwellings compatible in scale and form with detached single-family residential dwellings and  
832 located in walkable communities within residential or mixed-use zones; and
- 833 (W) demonstrate implementation of any other program or strategy to address the

834 housing needs of residents of the county who earn less than 80% of the area median income,  
835 including the dedication of a local funding source to moderate income housing or the adoption  
836 of a land use ordinance that requires 10% or more of new residential development in a  
837 residential zone be dedicated to moderate income housing.

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

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

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

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

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

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

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

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

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

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

862 (e) (i) In drafting the implementation plan portion of the moderate income housing  
863 element as described in Subsection (2)(a)(iii)(C), the planning commission shall ~~establish a~~  
864 recommend the establishment of a five-year timeline for implementing each of the moderate

865 income housing strategies selected by the county for implementation.

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

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

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

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

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

873 (ii) shall include a recommendation for:

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

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

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

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

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

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

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

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

887 (E) reduction of yard waste; and

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

890 (v) may include recommendations for additional water demand reduction strategies,  
891 including:

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

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

895 (C) providing one or more water reduction incentives for existing landscapes and

896 irrigation systems and installation of water fixtures or systems that minimize water demand;  
897 (D) discouraging incentives for economic development activities that do not adequately  
898 account for water use or do not include strategies for reducing water demand; and  
899 (E) adopting water concurrency standards requiring that adequate water supplies and  
900 facilities are or will be in place for new development; and  
901 (vi) shall include a recommendation for low water use landscaping standards for a new:  
902 (A) commercial, industrial, or institutional development;  
903 (B) common interest community, as defined in Section 57-25-102; or  
904 (C) multifamily housing project.  
905 (3) The proposed general plan may include:  
906 (a) an environmental element that addresses:  
907 (i) to the extent not covered by the county's resource management plan, the protection,  
908 conservation, development, and use of natural resources, including the quality of:  
909 (A) air;  
910 (B) forests;  
911 (C) soils;  
912 (D) rivers;  
913 (E) groundwater and other waters;  
914 (F) harbors;  
915 (G) fisheries;  
916 (H) wildlife;  
917 (I) minerals; and  
918 (J) other natural resources; and  
919 (ii) (A) the reclamation of land, flood control, prevention and control of the pollution  
920 of streams and other waters;  
921 (B) the regulation of the use of land on hillsides, stream channels and other  
922 environmentally sensitive areas;  
923 (C) the prevention, control, and correction of the erosion of soils;  
924 (D) the preservation and enhancement of watersheds and wetlands; and  
925 (E) the mapping of known geologic hazards;  
926 (b) a public services and facilities element showing general plans for sewage, water,

927 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,  
 928 police and fire protection, and other public services;

929 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and  
 930 programs for:

931 (i) historic preservation;

932 (ii) the diminution or elimination of a development impediment as defined in Section  
 933 [17C-1-102](#); and

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

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

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

943 (f) provisions addressing any of the matters listed in Subsection [17-27a-401\(2\)](#) or  
 944 [\(3\)\(a\)\(i\)](#); and

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

946 Section 6. Section [17-27a-408](#) is amended to read:

947 **[17-27a-408. Moderate income housing report -- Contents -- Prioritization for](#)**  
 948 **[funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.](#)**

949 (1) As used in this section:

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

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

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

957 (d) "Moderate income housing strategy" means a strategy described in Subsection

958 [17-27a-403\(2\)\(b\)\(ii\)](#).

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

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

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

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

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

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

971 (c) The initial report shall:

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

975 (ii) include an implementation plan.

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

981 (b) The subsequent report shall include:

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

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

986 (iii) a description of each land use regulation or land use decision made by the  
987 specified county during the previous fiscal year to implement the moderate income housing  
988 strategies, including an explanation of how the land use regulation or land use decision



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

990 (iv) a description of any barriers encountered by the specified county in the previous

991 fiscal year in implementing the moderate income housing strategies; and

992 (v) information regarding the number of internal and external or detached accessory

993 dwelling units located within the specified county for which the specified county:

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

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

996 (vi) a description of how the market has responded to the selected moderate income

997 housing strategies, including the number of entitled moderate income housing units or other

998 relevant data; and

999 (vii) any recommendations on how the state can support the specified county in

1000 implementing the moderate income housing strategies.

1001 [~~(d)~~] (c) [~~The moderate income housing~~] A specified county's report shall be in a form:

1002 (i) approved by the division; and

1003 (ii) made available by the division on or before [~~July~~] May 1 of the year in which the

1004 report is required.

1005 [~~(3)~~] (4) Within 90 days after the day on which the division receives a specified

1006 county's [~~moderate income housing~~] report, the division shall:

1007 (a) post the report on the division's website;

1008 (b) send a copy of the report to the Department of Transportation, the Governor's

1009 Office of Planning and Budget, the association of governments in which the specified county is

1010 located, and, if the unincorporated area of the specified county is located within the boundaries

1011 of a metropolitan planning organization, the appropriate metropolitan planning organization;

1012 and

1013 (c) subject to Subsection [~~(4)~~] (5), review the report to determine compliance with

1014 [~~Subsection (2)~~] this section.

1015 [~~(4)~~] (5) (a) [~~The report described in Subsection (2)(b) complies with Subsection (2)~~]

1016 An initial report complies with this section if the report:

1017 (i) includes the information required under Subsection [~~(2)(b)~~] (2)(c);

1018 (ii) demonstrates to the division that the specified county made plans to implement

1019 three or more moderate income housing strategies; and

- 1020 (iii) is in a form approved by the division.
- 1021 (b) [~~The report described in Subsection (2)(c) complies with Subsection (2)~~] A
- 1022 subsequent report complies with this section if the report:
- 1023 (i) includes the information required under Subsection [~~(2)(c)~~] (3)(b);
- 1024 (ii) demonstrates to the division that the specified county made plans to implement
- 1025 three or more moderate income housing strategies;
- 1026 (iii) is in a form approved by the division; and
- 1027 (iv) provides sufficient information for the division to:
- 1028 (A) assess the specified county's progress in implementing the moderate income
- 1029 housing strategies;
- 1030 (B) monitor compliance with the specified county's implementation plan;
- 1031 (C) identify a clear correlation between the specified county's land use decisions and
- 1032 efforts to implement the moderate income housing strategies; [~~and~~]
- 1033 (D) identify how the market has responded to the specified county's selected moderate
- 1034 income housing strategies[-]; and
- 1035 (E) identify any barriers encountered by the specified county in implementing the
- 1036 selected moderate income housing strategies.
- 1037 [~~(5)~~] (6) (a) A specified county qualifies for priority consideration under this
- 1038 Subsection [~~(5)~~] (6) if the specified county's [~~moderate income housing~~] report:
- 1039 (i) complies with [~~Subsection (2)~~] this section; and
- 1040 (ii) demonstrates to the division that the specified county made plans to implement five
- 1041 or more moderate income housing strategies.
- 1042 (b) The following apply to a specified county described in Subsection [~~(5)(a)~~] (6)(a)
- 1043 during the fiscal year immediately following the fiscal year in which the report is required:
- 1044 (i) the Transportation Commission may give priority consideration to transportation
- 1045 projects located within the unincorporated areas of the specified county in accordance with
- 1046 Subsection 72-1-304(3)(c); and
- 1047 (ii) the Governor's Office of Planning and Budget may give priority consideration for
- 1048 awarding financial grants to the specified county under the COVID-19 Local Assistance
- 1049 Matching Grant Program in accordance with Subsection 63J-4-802(6).
- 1050 (c) Upon determining that a specified county qualifies for priority consideration under

1051 this Subsection ~~[(5)]~~ (6), the division shall send a notice of prioritization to the legislative body  
 1052 of the specified county, the Department of Transportation, and the Governor's Office of  
 1053 Planning and Budget.

1054 (d) The notice described in Subsection ~~[(5)(c)]~~ (6)(c) shall:

1055 (i) name the specified county that qualifies for priority consideration;

1056 (ii) describe the funds or projects for which the specified county qualifies to receive  
 1057 priority consideration;

1058 (iii) specify the fiscal year during which the specified county qualifies for priority  
 1059 consideration; and

1060 (iv) state the basis for the division's determination that the specified county qualifies  
 1061 for priority consideration.

1062 ~~[(6)]~~ (7) (a) If the division, after reviewing a specified county's ~~[moderate income~~  
 1063 ~~housing]~~ report, determines that the report does not comply with ~~[Subsection (2)]~~ this section,  
 1064 the division shall send a notice of noncompliance to the legislative body of the specified  
 1065 county.

1066 (b) A specified county that receives a notice of noncompliance may:

1067 (i) cure each deficiency in the report within 90 days after the day on which the notice of  
 1068 noncompliance is sent; or

1069 (ii) request an appeal of the division's determination of noncompliance within 10 days  
 1070 after the day on which the notice of noncompliance is sent.

1071 ~~[(b)]~~ (c) The notice described in Subsection ~~[(6)(a)]~~ (7)(a) shall:

1072 (i) describe each deficiency in the report and the actions needed to cure each  
 1073 deficiency;

1074 (ii) state that the specified county has an opportunity to ~~[cure the deficiencies]~~;

1075 (A) submit to the division a corrected report that cures each deficiency in the report  
 1076 within 90 days after the day on which the notice of noncompliance is sent; ~~and~~ or

1077 (B) submit to the division a request for an appeal of the division's determination of  
 1078 noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

1079 (iii) state that failure to ~~[cure the deficiencies within 90 days after the day on which the~~  
 1080 ~~notice is sent]~~ take action under Subsection (7)(c)(ii) will result in the specified county's  
 1081 ineligibility for funds under Subsection ~~[(7)]~~ (9).

1082 (d) (i) If a specified county submits to the division a corrected report in accordance  
1083 with Subsection (7)(b)(i), and the division determines that the corrected report does not comply  
1084 with this section, the division shall send a second notice of noncompliance to the legislative  
1085 body of the specified county.

1086 (ii) A specified county that receives a second notice of noncompliance may request an  
1087 appeal of the division's determination of noncompliance within 10 days after the day on which  
1088 the second notice of noncompliance is sent.

1089 (iii) The notice described in Subsection (7)(d)(i) shall:

1090 (A) state that the specified county has an opportunity to submit to the division a request  
1091 for an appeal of the division's determination of noncompliance within 10 days after the day on  
1092 which the second notice of noncompliance is sent; and

1093 (B) state that failure to take action under Subsection (7)(d)(iii)(A) will result in the  
1094 specified county's ineligibility for funds under Subsection (9).

1095 (8) (a) A specified county that receives a notice of noncompliance under Subsection  
1096 (7)(a) or (7)(d)(i) may request an appeal of the division's determination of noncompliance  
1097 within 10 days after the day on which the notice of noncompliance is sent.

1098 (b) Within 90 days after the day on which the division receives a request for an appeal,  
1099 an appeal board consisting of the following three members shall review and issue a written  
1100 decision on the appeal:

1101 (i) one individual appointed by the Utah Association of Counties;

1102 (ii) one individual appointed by the Utah Homebuilders Association; and

1103 (iii) one individual appointed by the presiding member of:

1104 (A) the association of governments, established pursuant to an interlocal agreement  
1105 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified county is a  
1106 member; or

1107 (B) if the specified county is located within the boundaries of a metropolitan planning  
1108 organization, the applicable metropolitan planning organization.

1109 (c) The written decision of the appeal board shall either uphold or reverse the division's  
1110 determination of noncompliance.

1111 (d) The appeal board's written decision on the appeal is final.

1112 [~~(7)~~] (9) (a) A specified county is ineligible for funds under this Subsection [~~(7)~~ if the

1113 ~~specified county~~] (9) if:

1114 (i) the specified county fails to submit a [moderate income housing] report to the  
1115 division; [or]

1116 (ii) [fails to cure the deficiencies in the specified county's moderate income housing  
1117 report] after submitting a report to the division, the division determines that the report does not  
1118 comply with this section and the specified county fails to:

1119 (A) cure each deficiency in the report within 90 days after the day on which the  
1120 [division sent to the specified county a] notice of noncompliance [under Subsection (6)] is sent;

1121 or

1122 (B) request an appeal of the division's determination of noncompliance within 10 days  
1123 after the day on which the notice of noncompliance is sent;

1124 (iii) after submitting to the division a corrected report to cure the deficiencies in a  
1125 previously-submitted report, the division determines that the corrected report does not comply  
1126 with this section and the specified county fails to request an appeal of the division's  
1127 determination of noncompliance within 10 days after the day on which the second notice of  
1128 noncompliance is sent; or

1129 (iv) after submitting a request for an appeal under Subsection (8), the appeal board  
1130 issues a written decision upholding the division's determination of noncompliance.

1131 (b) The following apply to a specified county described in Subsection ~~[(7)(a)]~~ (9)(a)  
1132 during the fiscal year immediately following the fiscal year in which the report is required:

1133 (i) the executive director of the Department of Transportation may not program funds  
1134 from the Transportation Investment Fund of 2005, including the Transit Transportation  
1135 Investment Fund, to projects located within the unincorporated areas of the specified county in  
1136 accordance with Subsection [72-2-124\(6\)](#); and

1137 (ii) the Governor's Office of Planning and Budget may not award financial grants to the  
1138 specified county under the COVID-19 Local Assistance Matching Grant Program in  
1139 accordance with Subsection [63J-4-802\(7\)](#).

1140 (c) Upon determining that a specified county is ineligible for funds under this  
1141 Subsection ~~[(7)]~~ (9), the division shall send a notice of ineligibility to the legislative body of  
1142 the specified county, the Department of Transportation, and the Governor's Office of Planning  
1143 and Budget.

- 1144 (d) The notice described in Subsection [~~(7)(c)~~] (9)(c) shall:
- 1145 (i) name the specified county that is ineligible for funds;
- 1146 (ii) describe the funds for which the specified county is ineligible to receive;
- 1147 (iii) specify the fiscal year during which the specified county is ineligible for funds;
- 1148 and
- 1149 (iv) state the basis for the division's determination that the specified county is ineligible
- 1150 for funds.

1151 ~~[(8)]~~ (10) In a civil action seeking enforcement or claiming a violation of this section  
 1152 or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded  
 1153 only injunctive or other equitable relief.

1154 Section 7. Section **35A-8-2401** is enacted to read:

**Part 24. Miscellaneous**

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

1158 (1) This section applies to funds appropriated by the Legislature to the department for  
 1159 pass-through to the Utah Housing Preservation Fund.

1160 (2) The department shall include in the annual written report described in Section  
 1161 35A-1-109 a report accounting for the expenditures authorized by the Utah Housing  
 1162 Preservation Fund.

1163 Section 8. Section **35A-16-701** is enacted to read:

**Part 7. Housing Support Grant Program**

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

1166 (1) There is created the Housing Support Grant Program administered by the office.

1167 (2) Subject to appropriations from the Legislature, the office shall distribute money to  
 1168 fund one or more projects that:

1169 (a) include affordable housing units for households whose income is no more than 30%  
 1170 of the area median income for households of the same size in the county or municipality in  
 1171 which the project is located; and

1172 (b) have been approved by the homelessness council.

1173 (3) The office shall:

1174 (a) administer the grant program, including:

- 1175 (i) reviewing grant applications and making recommendations to the homelessness  
1176 council; and
- 1177 (ii) distributing grant money to approved grant recipients; and
- 1178 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1179 make rules to administer the program, including:
- 1180 (i) grant application requirements;  
1181 (ii) procedures to approve a grant; and  
1182 (iii) procedures for distributing money to grant recipients.
- 1183 (4) When reviewing an application for approval, the homelessness council shall  
1184 consider:
- 1185 (a) an applicant's rental income plan;  
1186 (b) proposed case management and service plans for households;  
1187 (c) any matching funds proposed by an applicant;  
1188 (d) proposed restrictions, including deed restrictions, and the duration of restrictions on  
1189 housing units to facilitate long-term assistance to households; and
- 1190 (e) any other considerations as adopted by the council.
- 1191 (5) On or before October 1, the coordinator, in cooperation with the homelessness  
1192 council, shall submit an annual report electronically to the Social Services Appropriations  
1193 Subcommittee that gives a complete account of the office's disbursement of funds under this  
1194 section.
- 1195 Section 9. Section **59-7-607** is amended to read:
- 1196 **59-7-607. Utah low-income housing tax credit.**
- 1197 (1) As used in this section:
- 1198 (a) "Allocation certificate" means a certificate in a form prescribed by the commission  
1199 and issued by the Utah Housing Corporation to a housing sponsor that specifies the aggregate  
1200 amount of the tax credit awarded under this section to a qualified development and includes:
- 1201 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one  
1202 or more qualified taxpayers that have been issued a special low-income housing tax credit  
1203 certificate; and
- 1204 (ii) the credit period over which the tax credit may be claimed by one or more qualified  
1205 taxpayers that have been issued a special low-income housing tax credit certificate.

1206 (b) "Building" means a qualified low-income building as defined in Section 42(c),  
1207 Internal Revenue Code.

1208 (c) "Credit period" means the "credit period" as defined in Section 42(f)(1), Internal  
1209 Revenue Code.

1210 (d) (i) "Designated reporter" means, as selected by a housing sponsor, the housing  
1211 sponsor itself or one of the housing sponsor's direct or indirect partners, members, or  
1212 shareholders that will provide information to the Utah Housing Corporation regarding the  
1213 assignment of tax credits under this section.

1214 (ii) Before the Utah Housing Corporation may issue an allocation certificate to a  
1215 housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's  
1216 designated reporter to the Utah Housing Corporation.

1217 (iii) Before the Utah Housing Corporation may issue a special low-income housing tax  
1218 credit certificate to a qualified taxpayer, a designated reporter shall provide the information  
1219 described in Subsection (6) to the Utah Housing Corporation.

1220 (e) "Federal low-income housing tax credit" means the federal tax credit described in  
1221 Section 42, Internal Revenue Code.

1222 (f) "Housing sponsor" means an entity that owns a qualified development.

1223 (g) "Qualified allocation plan" means a qualified allocation plan adopted by the Utah  
1224 Housing Corporation in accordance with Section 42(m), Internal Revenue Code.

1225 (h) "Qualified development" means a "qualified low-income housing project":

1226 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1227 (ii) that is located in the state.

1228 (i) (i) "Qualified taxpayer" means a person that:

1229 (A) owns a direct or indirect interest in a qualified development; and

1230 (B) meets the requirements to claim a tax credit under this section.

1231 (ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a  
1232 "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor  
1233 as determined by the governing documents of the housing sponsor.

1234 (j) (i) "Special low-income housing tax credit certificate" means a certificate:

1235 (A) in a form prescribed by the commission;

1236 (B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year



1237 in accordance with this section; and

1238 (C) that specifies the amount of the tax credit a qualified taxpayer may claim under this  
1239 section.

1240 (ii) The Utah Housing Corporation may only issue one or more special low-income  
1241 housing tax credit certificates if the aggregate specified amount on all special low-income  
1242 housing tax credit certificates issued in relation to a qualified development does not exceed the  
1243 aggregate amount of tax credit awarded to the qualified development and issued to a housing  
1244 sponsor in an allocation certificate.

1245 (2) (a) For taxable years beginning on or after January 1, 1995, a qualified taxpayer  
1246 who has been issued a special low-income housing tax credit certificate by the Utah Housing  
1247 Corporation may claim a nonrefundable tax credit against taxes otherwise due under this  
1248 chapter, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay  
1249 Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.

1250 (b) The tax credit shall be in an amount equal to the tax credit amount specified on the  
1251 special low-income housing tax credit certificate that the Utah Housing Corporation issues to a  
1252 qualified taxpayer under this section.

1253 (c) (i) For a calendar year beginning on or before December 31, ~~[2016]~~ 2022, the  
1254 aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit  
1255 period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section  
1256 59-10-1010 is an amount equal to the product of:

1257 (A) ~~[12.5]~~ 34.5 cents; and

1258 (B) the population of Utah.

1259 (ii) For a calendar year beginning on or after January 1, ~~[2017]~~ 2023, the aggregate  
1260 annual tax credit that the Utah Housing Corporation may allocate for the credit period  
1261 described in Section 42(f), Internal Revenue Code, pursuant to this section and Section  
1262 59-10-1010 is ~~[an amount equal to the product of:]~~ \$10,000,000.

1263 ~~[(A) 34.5 cents; and]~~

1264 ~~[(B) the population of Utah.]~~

1265 (iii) For purposes of this section, the population of Utah shall be determined in  
1266 accordance with Section 146(j), Internal Revenue Code.

1267 (3) (a) The Utah Housing Corporation shall determine criteria and procedures for

1268 allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria  
1269 and procedures into the Utah Housing Corporation's qualified allocation plan.

1270 (b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)  
1271 based on:

1272 (i) the number of affordable housing units to be created in Utah for low and moderate  
1273 income persons in a qualified development;

1274 (ii) the level of area median income being served by a qualified development;

1275 (iii) the need for the tax credit for the economic feasibility of a qualified development;

1276 and

1277 (iv) the extended period for which a qualified development commits to remain as  
1278 affordable housing.

1279 (4) Any housing sponsor may apply to the Utah Housing Corporation for a tax credit  
1280 allocation under this section.

1281 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to  
1282 allocate to a qualified development in accordance with the qualified allocation plan of the Utah  
1283 Housing Corporation.

1284 (b) (i) The Utah Housing Corporation shall issue an allocation certificate to a housing  
1285 sponsor as evidence of the allocation.

1286 (ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the  
1287 tax credit allocated to a qualified development as determined by the Utah Housing Corporation.

1288 (c) The amount of the tax credit specified in an allocation certificate may not exceed  
1289 100% of the federal low-income housing tax credit awarded to a qualified development.

1290 (6) Before the Utah Housing Corporation may issue a special low-income housing tax  
1291 credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form  
1292 prescribed by the Utah Housing Corporation:

1293 (a) a list of each qualified taxpayer that has been assigned a portion of the tax credit  
1294 awarded in an allocation certificate;

1295 (b) for each qualified taxpayer described in Subsection (6)(a), the amount of tax credit  
1296 that has been assigned; and

1297 (c) an aggregate list of the tax credit amount assigned related to a qualified  
1298 development demonstrating that the aggregate annual amount of the tax credits assigned does

1299 not exceed the aggregate annual tax credit awarded in the allocation certificate.

1300 (7) The Utah Housing Corporation shall provide a special low-income housing tax  
1301 credit certificate to a qualified taxpayer if:

1302 (a) a designated reporter has provided the information regarding the qualified taxpayer  
1303 as described in Subsection (6); and

1304 (b) the Utah Housing Corporation has verified that the aggregate tax credit amount  
1305 assigned with respect to a qualified development does not exceed the total tax credit awarded  
1306 in the allocation certificate.

1307 (8) (a) All elections made by a housing sponsor pursuant to Section 42, Internal  
1308 Revenue Code, shall apply to this section.

1309 (b) (i) If a qualified development is required to recapture a portion of any federal  
1310 low-income housing tax credit, then each qualified taxpayer shall also be required to recapture  
1311 a portion of any state tax credits authorized by this section.

1312 (ii) The state recapture amount shall be equal to the percentage of the state tax credit  
1313 that equals the proportion the federal recapture amount bears to the original federal low-income  
1314 housing tax credit amount subject to recapture.

1315 (iii) The designated reporter shall identify each qualified taxpayer that is required to  
1316 recapture a portion of any state tax credit as described in this Subsection (8)(b).

1317 (9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be  
1318 reallocated within the same time period as provided in Section 42, Internal Revenue Code.

1319 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may  
1320 be carried over for allocation in subsequent years.

1321 (10) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is  
1322 earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit  
1323 may be carried back three years or may be carried forward five years as a credit against the tax.

1324 (b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

1325 (i) before the application of the tax credits earned in the current year; and

1326 (ii) on a first-earned first-used basis.

1327 (11) (a) A qualified taxpayer may assign a special low-income housing tax credit  
1328 certificate received under Subsection (7) to another person if the qualified taxpayer provides  
1329 written notice to the Utah Housing Corporation, in a form established by the Utah Housing

1330 Corporation, that includes:

1331 (i) the qualified taxpayer's written certification or other proof that the qualified  
1332 taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income  
1333 housing tax credit certificate; and

1334 (ii) contact information for the person to whom the special low-income housing tax  
1335 credit certificate is to be assigned.

1336 (b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah  
1337 Housing Corporation shall issue an assigned special low-income housing tax credit certificate  
1338 to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's  
1339 special low-income housing tax credit minus any state recapture amount under Subsection  
1340 (8)(b).

1341 (c) A person who is assigned a special low-income housing tax credit certificate in  
1342 accordance with this Subsection (11) may claim the tax credit as if:

1343 (i) the person had met the requirements of this section to claim the tax credit, if the  
1344 person files a return under this chapter, Chapter 8, Gross Receipts Tax on Certain Corporations  
1345 Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of  
1346 Admitted Insurers; or

1347 (ii) the person had met the requirements of Section 59-10-1010 to claim the tax credit  
1348 under Section 59-10-1010, if the person files a return under Chapter 10, Individual Income Tax  
1349 Act.

1350 (12) Any tax credit taken in this section may be subject to an annual audit by the  
1351 commission.

1352 (13) The Utah Housing Corporation shall annually provide an electronic report to the  
1353 Revenue and Taxation Interim Committee which shall include at least:

1354 (a) the purpose and effectiveness of the tax credits; ~~and~~

1355 (b) the Utah Housing Corporation's recommendations as to whether the Legislature  
1356 should continue, modify, or repeal the aggregate annual tax credit amount that the Utah  
1357 Housing Corporation is authorized to allocate under Subsection (2)(c)(ii); and

1358 ~~(b)~~ (c) the benefits of the tax credits to the state.

1359 (14) The commission may, in consultation with the Utah Housing Corporation, make  
1360 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to

1361 implement this section.

1362 (15) (a) In calendar years 2026 and 2029, the Revenue and Taxation Interim  
1363 Committee shall conduct a review of the aggregate annual tax credit amount that the Utah  
1364 Housing Corporation is authorized to allocate under Subsection (2)(c)(ii).

1365 (b) In a review under this Subsection (15), the Revenue and Taxation Interim  
1366 Committee shall:

1367 (i) study the Utah Housing Corporation's recommendations under Subsection (13)(b);  
1368 and

1369 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative  
1370 action to the Legislature, prepare legislation for consideration by the Legislature in the next  
1371 general session.

1372 Section 10. Section **59-10-1010** is amended to read:

1373 **59-10-1010. Utah low-income housing tax credit.**

1374 (1) As used in this section:

1375 (a) "Allocation certificate" means a certificate in a form prescribed by the commission  
1376 and issued by the Utah Housing Corporation to a housing sponsor that specifies the aggregate  
1377 amount of the tax credit awarded under this section to a qualified development and includes:

1378 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one  
1379 or more qualified taxpayers that have been issued a special low-income housing tax credit  
1380 certificate; and

1381 (ii) the credit period over which the tax credit may be claimed by one or more qualified  
1382 taxpayers that have been issued a special low-income housing tax credit certificate.

1383 (b) "Building" means a qualified low-income building as defined in Section 42(c),  
1384 Internal Revenue Code.

1385 (c) "Credit period" means the "credit period" as defined in Section 42(f)(1), Internal  
1386 Revenue Code.

1387 (d) (i) "Designated reporter" means, as selected by a housing sponsor, the housing  
1388 sponsor itself or one of the housing sponsor's direct or indirect partners, members, or  
1389 shareholders that will provide information to the Utah Housing Corporation regarding the  
1390 assignment of tax credits under this section.

1391 (ii) Before the Utah Housing Corporation may issue an allocation certificate to a

1392 housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's  
1393 designated reporter to the Utah Housing Corporation.

1394 (iii) Before the Utah Housing Corporation may issue a special low-income housing tax  
1395 credit certificate to a qualified taxpayer, a designated reporter shall provide the information  
1396 described in Subsection (6) to the Utah Housing Corporation.

1397 (e) "Federal low-income housing credit" means the federal low-income housing credit  
1398 described in Section 42, Internal Revenue Code.

1399 (f) "Housing sponsor" means an entity that owns a qualified development.

1400 (g) "Qualified allocation plan" means a qualified allocation plan adopted by the Utah  
1401 Housing Corporation in accordance with Section 42(m), Internal Revenue Code.

1402 (h) "Qualified development" means a "qualified low-income housing project":

1403 (i) as defined in Section 42(g)(1), Internal Revenue Code; and

1404 (ii) that is located in the state.

1405 (i) (i) "Qualified taxpayer" means a claimant, estate, or trust that:

1406 (A) owns a direct or indirect interest in a qualified development; and

1407 (B) meets the requirements to claim a tax credit under this section.

1408 (ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a  
1409 "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor  
1410 as determined by the governing documents of the housing sponsor.

1411 (j) (i) "Special low-income housing tax credit certificate" means a certificate:

1412 (A) in a form prescribed by the commission;

1413 (B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year  
1414 in accordance with this section; and

1415 (C) that specifies the amount of the tax credit a qualified taxpayer may claim under this  
1416 section.

1417 (ii) The Utah Housing Corporation may only issue one or more special low-income  
1418 housing tax credit certificates if the aggregate specified amount on all special low-income  
1419 housing tax credit certificates issued in relation to a qualified development does not exceed the  
1420 aggregate amount of tax credit awarded to a qualified development and issued to a housing  
1421 sponsor in an allocation certificate.

1422 (2) (a) For taxable years beginning on or after January 1, 1995, a qualified taxpayer

1423 who has been issued a special low-income housing tax credit certificate by the Utah Housing  
 1424 Corporation may claim a nonrefundable tax credit against taxes otherwise due under this  
 1425 chapter.

1426 (b) The tax credit shall be in an amount equal to the tax credit amount specified on the  
 1427 special low-income housing tax credit certificate that the Utah Housing Corporation issues to a  
 1428 qualified taxpayer under this section.

1429 (c) (i) For a calendar year beginning on or before December 31, ~~[2016]~~ 2022, the  
 1430 aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit  
 1431 period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section  
 1432 59-7-607 is an amount equal to the product of:

1433 (A) ~~[12.5]~~ 34.5 cents; and

1434 (B) the population of Utah.

1435 (ii) For a calendar year beginning on or after January 1, ~~[2017]~~ 2023, the aggregate  
 1436 annual tax credit that the Utah Housing Corporation may allocate for the credit period  
 1437 described in Section 42(f), Internal Revenue Code, pursuant to this section and Section  
 1438 59-7-607 is ~~[an amount equal to the product of:]~~ \$10,000,000.

1439 ~~[(A) 34.5 cents; and]~~

1440 ~~[(B) the population of Utah.]~~

1441 (iii) For purposes of this section, the population of Utah shall be determined in  
 1442 accordance with Section 146(j), Internal Revenue Code.

1443 (3) (a) The Utah Housing Corporation shall determine criteria and procedures for  
 1444 allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria  
 1445 and procedures into the Utah Housing Corporation's qualified allocation plan.

1446 (b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)  
 1447 based on:

1448 (i) the number of affordable housing units to be created in Utah for low and moderate  
 1449 income persons in a qualified development;

1450 (ii) the level of area median income being served by a qualified development;

1451 (iii) the need for the tax credit for the economic feasibility of a qualified development;

1452 and

1453 (iv) the extended period for which a qualified development commits to remain as

1454 affordable housing.

1455 (4) Any housing sponsor may apply to the Utah Housing Corporation for a tax credit  
1456 allocation under this section.

1457 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to  
1458 allocate to a qualified development in accordance with the qualified allocation plan of the Utah  
1459 Housing Corporation.

1460 (b) (i) The Utah Housing Corporation shall issue an allocation certificate to a housing  
1461 sponsor as evidence of the allocation.

1462 (ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the  
1463 tax credit allocated to a qualified development as determined by the Utah Housing Corporation.

1464 (c) The amount of the tax credit specified in an allocation certificate may not exceed  
1465 100% of the federal low-income housing credit awarded to a qualified development.

1466 (6) Before the Utah Housing Corporation may issue a special low-income housing tax  
1467 credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form  
1468 prescribed by the Utah Housing Corporation:

1469 (a) a list of each qualified taxpayer that has been assigned a portion of the tax credit  
1470 awarded in an allocation certificate;

1471 (b) for each qualified taxpayer described in Subsection (6)(a), the amount of tax credit  
1472 that has been assigned; and

1473 (c) an aggregate list of the tax credit amount assigned related to a qualified  
1474 development demonstrating that the aggregate annual amount of the tax credits assigned does  
1475 not exceed the aggregate annual tax credit awarded in the allocation certificate.

1476 (7) The Utah Housing Corporation shall provide a special low-income housing tax  
1477 credit certificate to a qualified taxpayer if:

1478 (a) a designated reporter has provided the information regarding the qualified taxpayer  
1479 as described in Subsection (6); and

1480 (b) the Utah Housing Corporation has verified that the aggregate tax credit amount  
1481 assigned with respect to a qualified development does not exceed the total tax credit awarded  
1482 in the allocation certificate.

1483 (8) (a) All elections made by a housing sponsor pursuant to Section 42, Internal  
1484 Revenue Code, shall apply to this section.



1485 (b) (i) If a qualified taxpayer is required to recapture a portion of any federal  
1486 low-income housing credit, the qualified taxpayer shall also be required to recapture a portion  
1487 of any state tax credits authorized by this section.

1488 (ii) The state recapture amount shall be equal to the percentage of the state tax credit  
1489 that equals the proportion the federal recapture amount bears to the original federal low-income  
1490 housing credit amount subject to recapture.

1491 (iii) The designated reporter shall identify each qualified taxpayer that is required to  
1492 recapture a portion of any state tax credits as described in this Subsection (8)(b).

1493 (9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be  
1494 reallocated within the same time period as provided in Section 42, Internal Revenue Code.

1495 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may  
1496 be carried over for allocation in subsequent years.

1497 (10) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is  
1498 earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit  
1499 may be carried back three years or may be carried forward five years as a credit against the tax.

1500 (b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

1501 (i) before the application of the tax credits earned in the current year; and

1502 (ii) on a first-earned first-used basis.

1503 (11) (a) A qualified taxpayer may assign a special low-income housing tax credit  
1504 certificate received under Subsection (7) to another person if the qualified taxpayer provides  
1505 written notice to the Utah Housing Corporation, in a form established by the Utah Housing  
1506 Corporation, that includes:

1507 (i) the qualified taxpayer's written certification or other proof that the qualified  
1508 taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income  
1509 housing tax credit certificate; and

1510 (ii) contact information for the person to whom the special low-income housing tax  
1511 credit certificate is to be assigned.

1512 (b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah  
1513 Housing Corporation shall issue an assigned special low-income housing tax credit certificate  
1514 to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's  
1515 special low-income housing tax credit minus any state recapture amount under Subsection

1516 (8)(b).

1517 (c) A person who is assigned a special low-income housing tax credit certificate in  
1518 accordance with this Subsection (11) may claim the tax credit as if:

1519 (i) the person had met the requirements of this section to claim the tax credit, if the  
1520 person files a return under this chapter; or

1521 (ii) the person had met the requirements of Section 59-7-607 to claim the tax credit  
1522 under Section 59-7-607, if the person files a return under Chapter 7, Corporate Franchise and  
1523 Income Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay  
1524 Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.

1525 (12) Any tax credit taken in this section may be subject to an annual audit by the  
1526 commission.

1527 (13) The Utah Housing Corporation shall annually provide an electronic report to the  
1528 Revenue and Taxation Interim Committee which shall include at least:

1529 (a) the purpose and effectiveness of the tax credits; ~~and~~

1530 (b) any recommendations as to whether the Legislature should continue, modify, or  
1531 repeal the aggregate annual tax credit amount that the Utah Housing Corporation is authorized  
1532 to allocate under Subsection (2)(c)(ii); and

1533 ~~(b)~~ (c) the benefits of the tax credits to the state.

1534 (14) The commission may, in consultation with the Utah Housing Corporation,  
1535 promulgate rules to implement this section.

1536 (15) (a) In calendar years 2026 and 2029, the Revenue and Taxation Interim  
1537 Committee shall conduct a review of the aggregate annual tax credit amount that the Utah  
1538 Housing Corporation is authorized to allocate under Subsection (2)(c)(ii).

1539 (b) In a review under this Subsection (15), the Revenue and Taxation Interim  
1540 Committee shall:

1541 (i) study the Utah Housing Corporation's recommendations under Subsection (13)(b);  
1542 and

1543 (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative  
1544 action to the Legislature, prepare legislation for consideration by the Legislature in the next  
1545 general session.

1546 Section 11. Section 631-2-259 is amended to read:

1547 **63I-2-259. Repeal dates: Title 59.**

1548 (1) In Section [59-2-926](#), the language that states "applicable" and "or [53F-2-301.5](#)" is  
1549 repealed July 1, 2023.

1550 (2) In relation to the Utah low-income housing tax credit that may be claimed under  
1551 Title 59, Chapter 7, Corporate Franchise and Income Taxes, on January 1, 2033:

1552 (a) Subsection [59-7-607\(2\)\(c\)\(i\)](#), the language that states "before December 31, 2022"  
1553 is repealed and replaced with "after January 1, 2033";

1554 (b) Subsection [59-7-607\(2\)\(c\)\(ii\)](#) is repealed;

1555 (c) Subsection [59-7-607\(13\)\(b\)](#) is repealed; and

1556 (d) Subsection [59-7-607\(15\)](#) is repealed.

1557 [~~2~~] (3) Subsection [59-7-610\(8\)](#), relating to claiming a tax credit in the same taxable  
1558 year as the targeted business income tax credit, is repealed December 31, 2024.

1559 [~~3~~] (4) Subsection [59-7-614.10\(5\)](#), relating to claiming a tax credit in the same  
1560 taxable year as the targeted business income tax credit, is repealed December 31, 2024.

1561 [~~4~~] (5) Section [59-7-624](#) is repealed December 31, 2024.

1562 [~~5~~] (6) Subsection [59-10-210\(2\)\(b\)\(vi\)](#) is repealed December 31, 2024.

1563 [~~6~~] (7) Subsection [59-10-1007\(8\)](#), relating to claiming a tax credit in the same taxable  
1564 year as the targeted business income tax credit, is repealed December 31, 2024.

1565 (8) In relation to the Utah low-income housing tax credit that may be claimed under  
1566 Title 59, Chapter 10, Individual Income Tax Act, on January 1, 2033:

1567 (a) Subsection [59-10-1010\(2\)\(c\)\(i\)](#), the language that states "before December 31,  
1568 2022" is repealed and replaced with "after January 1, 2033";

1569 (b) Subsection [59-10-1010\(2\)\(c\)\(ii\)](#) is repealed;

1570 (c) Subsection [59-10-1010\(13\)\(b\)](#) is repealed; and

1571 (d) Subsection [59-10-1010\(15\)](#) is repealed.

1572 [~~7~~] (9) Subsection [59-10-1037\(5\)](#), relating to claiming a tax credit in the same taxable  
1573 year as the targeted business income tax credit, is repealed December 31, 2024.

1574 [~~8~~] (10) Section [59-10-1112](#) is repealed December 31, 2024.

1575 **Section 12. Effective date.**

1576 (1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

1577 (2) If approved by two-thirds of all the members elected to each house, the actions

1578 affecting the following sections take effect upon approval by the governor, or the day following  
1579 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's  
1580 signature, or in the case of a veto, the date of veto override:

1581 (a) Section 10-9a-401;

1582 (b) Section 10-9a-403;

1583 (c) Section 10-9a-408;

1584 (d) Section 17-27a-401;

1585 (e) Section 17-27a-403; and

1586 (f) Section 17-27a-408.

1587 Section 13. **Retrospective operation.**

1588 The changes to Sections 59-7-607 and 59-10-1010 in this bill have retrospective  
1589 operation for a taxable year beginning on or after January 1, 2023.