

**AFFORDABLE HOUSING AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca P. Edwards**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to housing and community development.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Economic Revitalization and Investment Fund;
- ▶ establishes requirements for the distribution of money from the fund;
- ▶ modifies state low-income housing tax credit provisions; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

This bill appropriates in fiscal year 2018:

- ▶ to the Department of Workforce Services -- Economic Revitalization and Investment Fund, as a one-time appropriation:
  - from the General Fund, \$2,061,000; and
- ▶ to the Department of Workforce Services -- Olene Walker Housing Loan Fund, as a one-time appropriation:
  - from the General Fund, \$500,000.

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**35A-8-501**, as renumbered and amended by Laws of Utah 2012, Chapter 212

30 35A-8-506, as renumbered and amended by Laws of Utah 2012, Chapter 212

31 59-7-607, as last amended by Laws of Utah 2016, Chapters 135 and 289

32 59-10-1010, as last amended by Laws of Utah 2016, Chapters 135 and 289

33 ENACTS:

34 35A-8-509, Utah Code Annotated 1953

35 35A-8-510, Utah Code Annotated 1953

36 35A-8-511, Utah Code Annotated 1953

37 35A-8-512, Utah Code Annotated 1953

38 35A-8-513, Utah Code Annotated 1953



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

41 Section 1. Section 35A-8-501 is amended to read:

42 **35A-8-501. Definitions.**

43 As used in this part:

44 (1) "Affordable housing" means housing occupied or reserved for occupancy by  
45 households whose incomes are at or below certain income requirements at rental rates  
46 affordable to such households.

47 [~~(1)~~] (2) "Board" means the Housing Board created by this part.

48 [~~(2)~~] (3) "Fund" means the Olene Walker Housing Loan Fund created by this part.

49 (4) (a) "Housing sponsor" means a person who constructs, develops, rehabilitates,  
50 purchases, or owns a housing development that is or will be subject to legally enforceable  
51 restrictive covenants that require the housing development to provide, at least in part,  
52 affordable housing.

53 (b) "Housing sponsor" may include:

54 (i) a local public body;

55 (ii) a nonprofit, limited profit, or for profit corporation;

56 (iii) a limited partnership;

57 (iv) a limited liability company;

- 58           (v) a joint venture;
- 59           (vi) a subsidiary of the Utah Housing Corporation;
- 60           (vii) a cooperative;
- 61           (viii) a mutual housing organization;
- 62           (ix) a local government;
- 63           (x) a local housing authority;
- 64           (xi) a regional or statewide nonprofit housing or assistance organization; or
- 65           (xii) any other entity that helps provide affordable housing.
- 66           ~~[(3)]~~ (5) "Rural" means a county in the state other than Utah, Salt Lake, Davis, or
- 67 Weber.

68           Section 2. Section **35A-8-506** is amended to read:

69           **35A-8-506. Authority of the executive director.**

70           ~~[(1)]~~ The executive director, with the approval of the board, may grant or lend fund

71 money to a housing ~~[sponsors]~~ sponsor.

72           ~~[(2) "Housing sponsor" includes a person who constructs, develops, rehabilitates,~~

73 ~~purchases, or owns a housing development that is or will be subject to legally enforceable~~

74 ~~restrictive covenants that require the housing development to provide, at least in part,~~

75 ~~residential housing to low and moderate income persons.]~~

76           ~~[(3) A housing sponsor includes:]~~

77           ~~[(a) a local public body;]~~

78           ~~[(b) a nonprofit, limited profit, or for profit corporation;]~~

79           ~~[(c) a limited partnership;]~~

80           ~~[(d) a limited liability company;]~~

81           ~~[(e) a joint venture;]~~

82           ~~[(f) a subsidiary of the Utah Housing Corporation or any subsidiary of the subsidiary of~~

83 ~~the Utah Housing Corporation;]~~

84           ~~[(g) a cooperative;]~~

85           ~~[(h) a mutual housing organization;]~~

86 ~~[(i) a local government;]~~  
87 ~~[(j) a local housing authority;]~~  
88 ~~[(k) a regional or statewide nonprofit housing or assistance organization; or]~~  
89 ~~[(l) any other type of entity or arrangement that helps provide affordable housing for~~  
90 ~~low and moderate income persons.]~~

91 Section 3. Section **35A-8-509** is enacted to read:

92 **35A-8-509. Economic Revitalization and Investment Fund.**

93 (1) There is created an enterprise fund known as the "Economic Revitalization and  
94 Investment Fund."

95 (2) The Economic Revitalization and Investment Fund consists of money from the  
96 following:

97 (a) money appropriated to the account by the Legislature;

98 (b) private contributions;

99 (c) donations or grants from public or private entities; and

100 (d) money returned to the department under Section [35A-8-512](#).

101 (3) The Economic Revitalization and Investment Fund shall earn interest, which shall  
102 be deposited into the Economic Revitalization and Investment Fund.

103 (4) The executive director may distribute money from the Economic Revitalization and  
104 Investment Fund to one or more projects that:

105 (a) include affordable housing units for households:

106 (i) whose income is no more than 30% of the area median income for households of  
107 the same size in the county or municipality where the project is located; and

108 (ii) at rental rates no greater than the rates described in Subsection [35A-8-511](#)(2)(b);  
109 and

110 (b) have been approved by the board in accordance with Section [35A-8-510](#).

111 (5) (a) A housing sponsor may apply to the department to receive a distribution in  
112 accordance with Subsection (4).

113 (b) The application shall include:

- 114 (i) the location of the project;
- 115 (ii) the number, size, and tenant income requirements of affordable housing units
- 116 described in Subsection (4)(a) that will be included in the project; and
- 117 (iii) a written commitment to enter into a deed restriction that reserves for a period of
- 118 30 years the affordable housing units described in Subsection (5)(b)(ii) or their equivalent for
- 119 occupancy by households that meet the income requirements described in Subsection (5)(b)(ii).
- 120 (c) The commitment in Subsection (5)(b)(iii) shall be considered met if a housing unit
- 121 is:
  - 122 (i) (A) occupied or reserved for occupancy by a household whose income is no more
  - 123 than 30% of the area median income for households of the same size in the county or
  - 124 municipality where the project is located; or
  - 125 (B) occupied by a household whose income is no more than 60% of the area median
  - 126 income for households of the same size in the county or municipality where the project is
  - 127 located if that household met the income requirement described in Subsection (4)(a) when the
  - 128 household originally entered into the lease agreement for the housing unit; and
  - 129 (ii) rented at a rate no greater than the rate described in Subsection [35A-8-511\(2\)\(b\)](#).
  - 130 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
  - 131 department may make additional rules providing procedures for a person to apply to the
  - 132 department to receive a distribution described in Subsection (4).

Section 4. Section **35A-8-510** is enacted to read:

**35A-8-510. Housing loan fund board approval.**

- 135 (1) The board shall review the project applications described in Subsection
- 136 [35A-8-509\(5\)](#).
- 137 (2) The board may approve a project that meets the requirements of Subsections
- 138 [35A-8-509\(4\)](#) and [\(5\)](#) to receive funds from the Economic Revitalization and Investment Fund.
- 139 (3) The board shall give preference to projects:
  - 140 (a) that include significant additional or matching funds from an individual, private
  - 141 organization, or local government entity;

142 (b) that include significant contributions by the applicant to total project costs,  
143 including contributions secured by the applicant from other sources such as professional, craft,  
144 and trade services and lender interest rate subsidies;

145 (c) with significant local government contributions in the form of infrastructure,  
146 improvements, or other assistance;

147 (d) where the applicant has demonstrated the ability, stability, and resources to  
148 complete the project;

149 (e) that will serve the greatest need;

150 (f) that promote economic development benefits;

151 (g) that allow integration into a local government housing plan;

152 (h) that would mitigate or correct existing health, safety, or welfare concerns; or

153 (i) that remedy a gap in the supply of and demand for affordable housing.

154 Section 5. Section **35A-8-511** is enacted to read:

155 **35A-8-511. Activities authorized to receive account money.**

156 (1) The executive director may distribute funds from the Economic Revitalization and  
157 Investment Fund for any of the following activities undertaken as part of an approved project:

158 (a) the acquisition, rehabilitation, or new construction of a building that includes  
159 affordable housing units;

160 (b) the purchase of land for the construction of a building that will include affordable  
161 housing units; or

162 (c) pre-development work, including planning, studies, design, and site work for a  
163 building that will include affordable housing units.

164 (2) The maximum amount of money that may be distributed from the Economic  
165 Revitalization and Investment Fund for each affordable housing unit that has been committed  
166 in accordance with Subsection [35A-8-509\(5\)\(b\)\(iii\)](#) is the present value, based on the current  
167 market interest rate as determined by the board for a multi-family mortgage loan in the county  
168 or metropolitan area where the project is located, of 360 monthly payments equal to the  
169 difference between:

170 (a) the most recent United States Department of Housing and Urban Development fair  
171 market rent for a unit of the same size in the county or metropolitan area where the project is  
172 located; and

173 (b) an affordable rent equal to 30% of the income requirement described in Subsection  
174 35A-8-509(5)(b)(ii) for a household of:

- 175 (i) one person if the unit is an efficiency unit;
- 176 (ii) two people if the unit is a one-bedroom unit;
- 177 (iii) four people if the unit is a two-bedroom unit;
- 178 (iv) five people if the unit is a three-bedroom unit;
- 179 (v) six people if the unit is a four-bedroom unit; or
- 180 (vi) eight people if the unit is a five-bedroom or larger unit.

181 Section 6. Section **35A-8-512** is enacted to read:

182 **35A-8-512. Repayment of funds.**

183 (1) Upon the earlier of 30 years from the date an approved project is placed in service  
184 or the sale or transfer of the affordable housing units acquired, constructed, or rehabilitated as  
185 part of an approved project funded under Section 35A-8-511, the housing sponsor shall remit  
186 to the department:

187 (a) the total amount of money distributed by the department to the housing sponsor for  
188 the project; and

189 (b) an additional amount of money determined by contract with the department prior to  
190 the initial disbursement of money from the Economic Revitalization and Investment Fund.

191 (2) Any claim arising under Subsection (1) is a lien against the real property funded  
192 under this chapter.

193 (3) Any money returned to the department under Subsection (1) shall be deposited in  
194 the Economic Revitalization and Investment Fund.

195 Section 7. Section **35A-8-513** is enacted to read:

196 **35A-8-513. Annual accounting.**

197 (1) The executive director shall monitor the activities of recipients of funds from the

198 Economic Revitalization and Investment Fund on a yearly basis to ensure compliance with the  
199 terms and conditions imposed on the recipient by the executive director with the approval of  
200 the board.

201 (2) A housing sponsor that receives funds from the Economic Revitalization and  
202 Investment Fund shall provide the executive director with an annual accounting of how the  
203 money the entity received from the Economic Revitalization and Investment Fund has been  
204 spent and evidence that the commitment described in Subsection 35A-8-509(5) has been met.

205 (3) The executive director shall make an annual report to the board accounting for the  
206 expenditures authorized by the board.

207 (4) The board shall submit a report to the department for inclusion in the annual  
208 written report described in Section 35A-1-109 that includes:

209 (a) an accounting for expenditures authorized by the board; and

210 (b) an evaluation of the effectiveness of the program.

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

212 **59-7-607. Utah low-income housing tax credit.**

213 (1) As used in this section:

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

217 ~~[(i) the certificate prescribed by the commission and issued by the Utah Housing~~  
218 ~~Corporation to each taxpayer that specifies the percentage of the annual federal low-income~~  
219 ~~housing tax credit that each taxpayer may take as an annual credit against state income tax; or]~~

220 ~~[(ii) a copy of the allocation certificate that the housing sponsor provides to the~~  
221 ~~taxpayer.]~~

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

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



226 taxpayers that have been issued a special low-income housing tax credit certificate.

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

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

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

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

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

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

243 ~~[(d)]~~ (f) "Housing sponsor" means ~~[a corporation in the case of a C corporation, a~~  
244 ~~partnership in the case of a partnership, a corporation in the case of an S corporation, or a~~  
245 ~~limited liability company in the case of a limited liability company]~~ an entity that owns a  
246 qualified development.

247 ~~[(e)]~~ (g) "Qualified allocation plan" means ~~[the]~~ a qualified allocation plan adopted by  
248 the Utah Housing Corporation ~~[pursuant to]~~ in accordance with Section 42(m), Internal  
249 Revenue Code.

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

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

252 (ii) that is located in the state.

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

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

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

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

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

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

261 ~~[(ii)]~~ (B) that ~~[a housing sponsor]~~ the Utah Housing Corporation issues to a qualified  
262 taxpayer for a taxable year in accordance with this section; and

263 ~~[(iii)]~~ (C) that specifies the amount of the tax credit a qualified taxpayer may claim  
264 under this section [if the taxpayer meets the requirements of this section].

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

270 ~~[(g)]~~ "Taxpayer" means a person that is allowed a tax credit in accordance with this  
271 ~~section which is the corporation in the case of a C corporation, the partners in the case of a~~  
272 ~~partnership, the shareholders in the case of an S corporation, and the members in the case of a~~  
273 ~~limited liability company.]~~

274 (2) (a) For taxable years beginning on or after January 1, 1995, ~~[there is allowed]~~ a  
275 qualified taxpayer who has been issued a special low-income housing tax credit certificate by  
276 the Utah Housing Corporation may claim a nonrefundable tax credit against taxes otherwise  
277 due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required  
278 to Pay Corporate Franchise or Income Tax~~[- for taxpayers issued an allocation certificate]~~ Act.

279 (b) The tax credit shall be in an amount equal to ~~[the greater of the amount of:]~~ the tax  
280 credit amount specified on the special low-income housing tax credit certificate that the Utah  
281 Housing Corporation issues to a qualified taxpayer under this section.

282 ~~[(i) federal low-income housing tax credit to which the taxpayer is allowed during that~~  
283 ~~year multiplied by the percentage specified in an allocation certificate issued by the Utah~~  
284 ~~Housing Corporation; or]~~

285 ~~[(ii) tax credit specified in the special low-income housing tax credit certificate that the~~  
286 ~~housing sponsor issues to the taxpayer as provided in Subsection (2)(c).]~~

287 ~~[(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:]~~

288 ~~[(i) the total amount of low-income housing tax credit under this section that:]~~

289 ~~[(A) a housing sponsor is allowed for a building; and]~~

290 ~~[(B) all of the taxpayers may claim with respect to the building if the taxpayers meet~~  
291 ~~the requirements of this section; and]~~

292 ~~[(ii) the percentage of tax credit a taxpayer may claim:]~~

293 ~~[(A) under this section if the taxpayer meets the requirements of this section; and]~~

294 ~~[(B) as provided in the agreement between the taxpayer and the housing sponsor.]~~

295 ~~[(d)]~~ (c) (i) For ~~[the]~~ a calendar year beginning ~~[on January 1, 1995, through the~~  
296 ~~calendar year beginning on January 1, 2025]~~ on or before December 31, 2016, the aggregate  
297 annual tax credit that the Utah Housing Corporation may allocate for the credit period  
298 described in Section 42(f), Internal Revenue Code, pursuant to this section and Section  
299 59-10-1010 is an amount equal to the product of:

300 (A) 12.5 cents; and

301 (B) the population of Utah.

302 (ii) For a calendar year beginning on or after January 1, 2017, the aggregate annual tax  
303 credit that the Utah Housing Corporation may allocate for the credit period described in  
304 Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-1010 is an  
305 amount equal to the product of:

306 (A) 34.5 cents; and

307 (B) the population of Utah.

308 ~~[(i)]~~ (iii) For purposes of this section, the population of Utah shall be determined in  
309 accordance with Section 146(j), Internal Revenue Code.

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

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

315 (i) the number of affordable housing units to be created in Utah for low and moderate  
316 income persons in [~~the residential housing development of which the building is a part~~] a  
317 qualified development;

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

319 (iii) the need for the tax credit for the economic feasibility of [~~the~~] a qualified  
320 development; and

321 (iv) the extended period for which [~~the~~] a qualified development commits to remain as  
322 affordable housing.

323 [~~(4) (a) The following may apply to the Utah Housing Corporation for a tax credit~~  
324 ~~under this section:~~]

325 [~~(i) any housing sponsor that has received an allocation of the federal low-income~~  
326 ~~housing tax credit; or]~~

327 [~~(ii) any applicant for an allocation of the federal low-income housing tax credit.]~~

328 [~~(b) The Utah Housing Corporation may not require fees for applications of the tax~~  
329 ~~credit under this section in addition to those fees required for applications for the federal~~  
330 ~~low-income housing tax credit.]~~

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

333 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to  
334 allocate to a [~~qualifying housing sponsor~~] qualified development in accordance with the  
335 qualified allocation plan of the Utah Housing Corporation.

336 (b) (i) The Utah Housing Corporation [~~shall allocate the tax credit to housing sponsors~~  
337 ~~in the same manner that it allocates federal low-income housing credits and]~~ shall issue an

338 allocation certificate to ~~[qualifying housing sponsors]~~ a housing sponsor as evidence of the  
 339 allocation.

340 (ii) The allocation certificate under Subsection (5)(b)(i) shall specify ~~[the allowed~~  
 341 ~~percentage of the federal low-income housing tax credit as determined by the Utah Housing~~  
 342 ~~Corporation]~~ the amount of the tax credit allocated to a qualified development as determined  
 343 by the Utah Housing Corporation.

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

347 ~~[(6) A housing sponsor shall provide a copy of the allocation certificate to each~~  
 348 ~~taxpayer that is issued a special low-income housing tax credit certificate.]~~

349 ~~[(7) (a) A housing sponsor shall provide to the commission a list of:]~~

350 ~~[(i) the taxpayers issued a special low-income housing tax credit certificate; and]~~

351 ~~[(ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed~~  
 352 ~~on the special low-income housing tax credit certificate.]~~

353 ~~[(b) A housing sponsor shall provide the list required by Subsection (7)(a):]~~

354 ~~[(i) to the commission;]~~

355 ~~[(ii) on a form provided by the commission; and]~~

356 ~~[(iii) with the housing sponsor's tax return for each taxable year for which the housing~~  
 357 ~~sponsor issues a special low-income housing tax credit certificate described in this Subsection~~  
 358 ~~(7).]~~

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

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

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

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

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

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

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

376 (8) (a) All elections made by ~~[the taxpayer]~~ a housing sponsor pursuant to Section 42,  
377 Internal Revenue Code, shall apply to this section.

378 (b) (i) If a ~~[taxpayer]~~ qualified development is required to recapture a portion of any  
379 federal low-income housing tax credit, ~~[the]~~ then each qualified taxpayer shall also be required  
380 to recapture a portion of any state tax credits authorized by this section.

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

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

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

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

390 ~~[(10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the~~  
391 ~~tax credit exceeds the tax, may be carried back three years or may be carried forward five years~~  
392 ~~as a credit against the tax.]~~

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

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

- 396 (b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:
  - 397 (i) before the application of the tax credits earned in the current year; and
  - 398 (ii) on a first-earned first-used basis.

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

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

- 403 (a) the purpose and effectiveness of the tax credits; and
- 404 (b) the benefits of the tax credits to the state.

405 (13) The commission may, in consultation with the Utah Housing Corporation,  
 406 ~~[promulgate rules]~~ make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
 407 Rulemaking Act, to implement this section.

408 Section 9. Section **59-10-1010** is amended to read:

409 **59-10-1010. Utah low-income housing tax credit.**

410 (1) As used in this section:

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

414 ~~[(i) the certificate prescribed by the commission and issued by the Utah Housing~~  
 415 ~~Corporation to each claimant, estate, or trust that specifies the percentage of the annual federal~~  
 416 ~~low-income housing credit that each claimant, estate, or trust may take as an annual tax credit~~  
 417 ~~against a tax imposed by this chapter; or]~~

418 ~~[(ii) a copy of the allocation certificate that the housing sponsor provides to the~~  
 419 ~~claimant, estate, or trust.]~~

420 (i) the aggregate annual amount of the tax credit awarded that may be claimed by one  
 421 or more qualified taxpayers that have been issued a special low-income housing tax credit

422 certificate; and

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

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

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

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

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

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

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

441 ~~[(d)]~~ (f) "Housing sponsor" means ~~[a corporation in the case of a C corporation, a~~  
442 ~~partnership in the case of a partnership, a corporation in the case of an S corporation, or a~~  
443 ~~limited liability company in the case of a limited liability company]~~ an entity that owns a  
444 qualified development.

445 ~~[(e)]~~ (g) "Qualified allocation plan" means ~~[the]~~ a qualified allocation plan adopted by  
446 the Utah Housing Corporation ~~[pursuant to]~~ in accordance with Section 42(m), Internal  
447 Revenue Code.

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

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



450 (ii) that is located in the state.

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

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

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

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

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

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

459 ~~[(+)]~~ (B) that ~~[a housing sponsor]~~ the Utah Housing Corporation issues to a ~~[claimant,~~  
460 ~~estate, or trust]~~ qualified taxpayer for a taxable year in accordance with this section; and

461 ~~[(+)]~~ (C) that specifies the amount of ~~[a]~~ the tax credit a ~~[claimant, estate, or trust]~~  
462 qualified taxpayer may claim under this section ~~[if the claimant, estate, or trust meets the~~  
463 ~~requirements of this section].~~

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

469 (2) (a) For taxable years beginning on or after January 1, 1995, ~~[there is allowed]~~ a  
470 qualified taxpayer who has been issued a special low-income housing tax credit certificate by  
471 the Utah Housing Corporation may claim a nonrefundable tax credit against taxes otherwise  
472 due under this chapter ~~[for a claimant, estate, or trust issued an allocation certificate].~~

473 (b) The tax credit shall be in an amount equal to ~~[the greater of the amount of:]~~ the tax

474 credit amount specified on the special low-income housing tax credit certificate that the Utah  
475 Housing Corporation issues to a qualified taxpayer under this section.

476 ~~[(i) federal low-income housing credit to which the claimant, estate, or trust is allowed~~  
477 ~~during that year multiplied by the percentage specified in an allocation certificate issued by the~~

478 Utah Housing Corporation; or]

479 ~~[(ii) tax credit specified in the special low-income housing tax credit certificate that the~~  
 480 ~~housing sponsor issues to the claimant, estate, or trust as provided in Subsection (2)(c).]~~

481 ~~[(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:]~~

482 ~~[(i) the total amount of low-income housing tax credit under this section that:]~~

483 ~~[(A) a housing sponsor is allowed for a building; and]~~

484 ~~[(B) all of the claimants, estates, and trusts may claim with respect to the building if~~  
 485 ~~the claimants, estates, and trusts meet the requirements of this section; and]~~

486 ~~[(ii) the percentage of tax credit a claimant, estate, or trust may claim:]~~

487 ~~[(A) under this section if the claimant, estate, or trust meets the requirements of this~~  
 488 ~~section; and]~~

489 ~~[(B) as provided in the agreement between the claimant, estate, or trust and the housing~~  
 490 ~~sponsor.]~~

491 ~~[(d)]~~ (c) (i) For ~~[the]~~ a calendar year beginning on ~~[January 1, 1995, through the~~  
 492 ~~calendar year beginning on January 1, 2025]~~ or before December 31, 2016, the aggregate  
 493 annual tax credit that the Utah Housing Corporation may allocate for the credit period  
 494 described in Section 42(f), Internal Revenue Code, pursuant to this section and Section  
 495 59-7-607 is an amount equal to the product of:

496 (A) 12.5 cents; and

497 (B) the population of Utah.

498 (ii) For a calendar year beginning on or after January 1, 2017, the aggregate annual tax  
 499 credit that the Utah Housing Corporation may allocate for the credit period described in  
 500 Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-7-607 is an  
 501 amount equal to the product of:

502 (A) 34.5 cents; and

503 (B) the population of Utah.

504 ~~[(i)]~~ (iii) For purposes of this section, the population of Utah shall be determined in  
 505 accordance with Section 146(j), Internal Revenue Code.

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

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

511 (i) the number of affordable housing units to be created in Utah for low and moderate  
512 income persons in [~~the residential housing development of which the building is a part~~] a  
513 qualified development;

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

515 (iii) the need for the tax credit for the economic feasibility of [~~the~~] a qualified  
516 development; and

517 (iv) the extended period for which [~~the~~] a qualified development commits to remain as  
518 affordable housing.

519 [~~(4) (a) The following may apply to the Utah Housing Corporation for a tax credit  
520 under this section:~~]

521 [~~(i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has  
522 received an allocation of the federal low-income housing credit, or]~~

523 [~~(ii) any applicant for an allocation of the federal low-income housing credit if that  
524 applicant is a claimant, estate, or trust.]~~

525 [~~(b) The Utah Housing Corporation may not require fees for applications of the tax  
526 credit under this section in addition to those fees required for applications for the federal  
527 low-income housing credit.]~~

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

530 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to  
531 allocate to a [~~qualifying housing sponsor~~] qualified development in accordance with the  
532 qualified allocation plan of the Utah Housing Corporation.

533 (b) (i) The Utah Housing Corporation [~~shall allocate the tax credit to housing sponsors~~

534 ~~in the same manner that it allocates federal low-income housing credits and]~~ shall issue an  
535 allocation certificate to ~~[qualifying housing sponsors]~~ a housing sponsor as evidence of the  
536 allocation.

537 (ii) The allocation certificate under Subsection (5)(b)(i) shall specify ~~[the allowed~~  
538 ~~percentage of the federal low-income housing credit]~~ the amount of the tax credit allocated to a  
539 qualified development as determined by the Utah Housing Corporation.

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

542 ~~[(6) A housing sponsor shall provide a copy of the allocation certificate to each~~  
543 ~~claimant, estate, or trust that is issued a special low-income housing tax credit certificate.]~~

544 ~~[(7) (a) A housing sponsor shall provide to the commission a list of:]~~

545 ~~[(i) the claimants, estates, and trusts issued a special low-income housing tax credit~~  
546 ~~certificate; and]~~

547 ~~[(ii) for each claimant, estate, or trust described in Subsection (7)(a)(i), the amount of~~  
548 ~~tax credit listed on the special low-income housing tax credit certificate.]~~

549 ~~[(b) A housing sponsor shall provide the list required by Subsection (7)(a):]~~

550 ~~[(i) to the commission;]~~

551 ~~[(ii) on a form provided by the commission; and]~~

552 ~~[(iii) with the housing sponsor's tax return for each taxable year for which the housing~~  
553 ~~sponsor issues a special low-income housing tax credit certificate described in this Subsection~~  
554 ~~(7).]~~

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

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

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

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

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

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

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

572 (8) (a) All elections made by [~~the claimant, estate, or trust~~] a housing sponsor pursuant  
573 to Section 42, Internal Revenue Code, shall apply to this section.

574 (b) (i) If a [~~claimant, estate, or trust~~] qualified taxpayer is required to recapture a  
575 portion of any federal low-income housing credit, the [~~claimant, estate, or trust~~] qualified  
576 taxpayer shall also be required to recapture a portion of any state tax credits authorized by this  
577 section.

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

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

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

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

587 [~~(10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the~~  
588 ~~tax credit exceeds the tax, may be carried back three years or may be carried forward five years~~  
589 ~~as a tax credit.]~~

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

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

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

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

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

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

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

601 (b) the benefits of the tax credits to the state.

602 (13) The commission may, in consultation with the Utah Housing Corporation,  
603 promulgate rules to implement this section.

604 **Section 10. Appropriation for expendable funds and accounts.**

605 The Legislature has reviewed the following expendable funds for the fiscal year  
606 beginning July 1, 2017, and ending June 30, 2018. These amounts are additions to amounts  
607 otherwise reviewed for fiscal year 2018. The Legislature authorizes the State Division of  
608 Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures  
609 from the recipient funds may be made without further legislative action according to a fund's  
610 applicable authorizing statute.

611 To Department of Workforce Services -- Economic Revitalization  
612 and Investment Fund

613 From General Fund, One-time \$2,061,000

614 Schedule of Programs:

615 Economic Revitalization and

616 Investment Fund \$2,061,000

617 To Department of Workforce Services -- Olene Walker Housing Loan Fund

