

AFFORDABLE HOUSING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Economic Development and Workforce Services Interim Committee recommended this bill.

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 -- Housing and Community Development, as a one-time appropriation:

- from the General Fund -- Olene Walker Housing Loan Fund, \$2,000,000; and
- from the General Fund -- Economic Revitalization and Investment Fund, \$4,000,000.

Other Special Clauses:



28 This bill provides retrospective operation.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **35A-8-501**, as renumbered and amended by Laws of Utah 2012, Chapter 212

32 **35A-8-506**, as renumbered and amended by Laws of Utah 2012, Chapter 212

33 **59-7-607**, as last amended by Laws of Utah 2016, Chapters 135 and 289

34 **59-10-1010**, as last amended by Laws of Utah 2016, Chapters 135 and 289

35 **63J-1-602.2**, as last amended by Laws of Utah 2015, Chapters 86, 93, and 189

36 ENACTS:

37 **35A-8-509**, Utah Code Annotated 1953

38 **35A-8-510**, Utah Code Annotated 1953

39 **35A-8-511**, Utah Code Annotated 1953

40 **35A-8-512**, Utah Code Annotated 1953

41 **35A-8-513**, Utah Code Annotated 1953



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

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

45 **35A-8-501. Definitions.**

46 As used in this part:

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

50 ~~(1)~~ (2) "Board" means the Housing Board created by this part.

51 (3) "Economic Revitalization Fund" means the Economic Revitalization and
52 Investment Fund created in Section **35A-8-509**.

53 ~~(2)~~ (4) "Fund" means the Olene Walker Housing Loan Fund created by this part.

54 (5) (a) "Housing sponsor" means a person who constructs, develops, rehabilitates,
55 purchases, or owns a housing development that is or will be subject to legally enforceable
56 restrictive covenants that require the housing development to provide, at least in part,
57 affordable housing.

58 (b) "Housing sponsor" may include:

- 59 (i) a local public body;
- 60 (ii) a nonprofit, limited profit, or for profit corporation;
- 61 (iii) a limited partnership;
- 62 (iv) a limited liability company;
- 63 (v) a joint venture;
- 64 (vi) a subsidiary of the Utah Housing Corporation;
- 65 (vii) a cooperative;
- 66 (viii) a mutual housing organization;
- 67 (ix) a local government;
- 68 (x) a local housing authority;
- 69 (xi) a regional or statewide nonprofit housing or assistance organization; or
- 70 (xii) any other entity that helps provide affordable housing.
- 71 ~~[(3)]~~ (6) "Rural" means a county in the state other than Utah, Salt Lake, Davis, or

72 Weber.

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

74 **35A-8-506. Duties of the executive director.**

75 ~~[(1)]~~ The executive director, with the approval of the board, may grant or lend fund
76 money to a housing ~~[sponsors]~~ sponsor.

77 ~~[(2) "Housing sponsor" includes a person who constructs, develops, rehabilitates;~~
78 ~~purchases, or owns a housing development that is or will be subject to legally enforceable~~
79 ~~restrictive covenants that require the housing development to provide, at least in part,~~
80 ~~residential housing to low and moderate income persons.]~~

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

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

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

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

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

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

87 ~~[(f) a subsidiary of the Utah Housing Corporation or any subsidiary of the subsidiary of~~
88 ~~the Utah Housing Corporation;]~~

89 ~~[(g) a cooperative;]~~

- 90 ~~[(h) a mutual housing organization;]~~
- 91 ~~[(i) a local government;]~~
- 92 ~~[(j) a local housing authority;]~~
- 93 ~~[(k) a regional or statewide nonprofit housing or assistance organization; or]~~
- 94 ~~[(l) any other type of entity or arrangement that helps provide affordable housing for~~
- 95 ~~low and moderate income persons.]~~

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

97 **35A-8-509. Economic Revitalization and Investment Fund.**

98 (1) There is created an enterprise fund known as the "Economic Revitalization and

99 Investment Fund."

100 (2) The Economic Revitalization Fund consists of money from the following:

- 101 (a) money appropriated to the account by the Legislature;
- 102 (b) private contributions;
- 103 (c) donations or grants from public or private entities; and
- 104 (d) money returned to the department under Section [35A-8-512](#).

105 (3) The Economic Revitalization Fund shall earn interest, which shall be deposited into

106 the Economic Revitalization Fund.

107 (4) Upon appropriation by the Legislature, the executive director may distribute money

108 from the Economic Revitalization Fund to one or more projects that:

- 109 (a) include affordable housing units for households:
- 110 (i) whose income is no more than 30% of the area median income for households of
- 111 the same size in the county or municipality where the project is located; and
- 112 (ii) at rental rates no greater than the rates described in Subsection [35A-8-511](#)(2)(b);

113 and

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

115 (5) (a) A housing sponsor may apply to the department to receive a distribution in

116 accordance with Subsection (4).

117 (b) The application shall include:

- 118 (i) the location of the project;
- 119 (ii) the number, size, and tenant income requirements of affordable housing units
- 120 described in Subsection (4)(a) that will be included in the project; and

121 (iii) a written commitment to enter into a deed restriction that reserves for a period of
122 30 years the affordable housing units described in Subsection (5)(b)(ii) or their equivalent for
123 occupancy by households that meet the income requirements described in Subsection (5)(b)(ii).

124 (c) The commitment in Subsection (5)(b)(iii) shall be considered met if a housing unit
125 is:

126 (i) (A) occupied or reserved for occupancy by a household whose income is no more
127 than 30% of the area median income for households of the same size in the county or
128 municipality where the project is located; or

129 (B) occupied by a household whose income is no more than 60% of the area median
130 income for households of the same size in the county or municipality where the project is
131 located if that household met the income requirement described in Subsection (4)(a) when the
132 household originally entered into the lease agreement for the housing unit; and

133 (ii) rented at a rate no greater than the rate described in Subsection 35A-8-511(2)(b).

134 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
135 department may make additional rules providing procedures for a person to apply to the
136 department to receive a distribution described in Subsection (4).

137 (6) In accordance with Section 63J-1-602.2, appropriations to the Economic
138 Revitalization Fund are nonlapsing.

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

140 **35A-8-510. Housing loan fund board approval.**

141 (1) The board shall review the project applications described in Subsection
142 35A-8-509(5).

143 (2) The board may approve a project that meets the requirements of Subsections
144 35A-8-509(4) and (5) to receive funds from the Economic Revitalization Fund.

145 (3) The board shall give preference to projects:

146 (a) that include significant additional or matching funds from an individual, private
147 organization, or local government entity;

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

151 (c) with significant local government contributions in the form of infrastructure,

152 improvements, or other assistance;

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

155 (e) that will serve the greatest need;

156 (f) that promote economic development benefits;

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

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

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

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

161 **35A-8-511. Activities authorized to receive account money.**

162 (1) Subject to appropriation, the executive director may distribute funds from the
163 Economic Revitalization Fund for any of the following activities undertaken as part of an
164 approved project:

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

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

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

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

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

179 (b) an affordable rent equal to 30% of the income requirement described in Subsection
180 [35A-8-509\(5\)\(b\)\(ii\)](#) for a household of:

181 (i) one person if the unit is an efficiency unit;

182 (ii) two people if the unit is a one-bedroom unit;

- 183 (iii) four people if the unit is a two-bedroom unit;
184 (iv) five people if the unit is a three-bedroom unit;
185 (v) six people if the unit is a four-bedroom unit; or
186 (vi) eight people if the unit is a five-bedroom or larger unit.

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

188 **35A-8-512. Repayment of funds.**

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

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

195 (b) an additional amount of money determined by contract with the department prior to
196 the initial disbursement of money from the Economic Revitalization Fund.

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

199 (3) Any money returned to the department under Subsection (1) shall be deposited in
200 the Economic Revitalization Fund.

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

202 **35A-8-513. Annual accounting.**

203 (1) The executive director shall monitor the activities of recipients of funds from the
204 Economic Revitalization Fund on a yearly basis to ensure compliance with the terms and
205 conditions imposed on the recipient by the executive director with the approval of the board.

206 (2) A housing sponsor that receives funds from the Economic Revitalization Fund shall
207 provide the executive director with an annual accounting of how the money the entity received
208 from the Economic Revitalization Fund has been spent and evidence that the commitment
209 described in Subsection [35A-8-509\(5\)](#) has been met.

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

212 (4) The board shall submit a report to the department for inclusion in the annual
213 written report described in Section [35A-1-109](#) that includes:

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

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

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

217 **59-7-607. Utah low-income housing tax credit.**

218 (1) As used in this section:

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

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

225 [(ii) a copy of the allocation certificate that the housing sponsor provides to the
226 taxpayer.];

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

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

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

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

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

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

243 (iii) Before the Utah Housing Corporation may issue a special low-income housing tax
244 credit certificate to a qualified taxpayer, a designated reporter shall provide the information

245 described in Subsection (7) to the Utah Housing Corporation.

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

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

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

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

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

257 (ii) that is located in the state.

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

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

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

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

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

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

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

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

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

275 (g) "Taxpayer" means a person that is allowed a tax credit in accordance with this

276 ~~section which is the corporation in the case of a C corporation, the partners in the case of a~~
 277 ~~partnership, the shareholders in the case of an S corporation, and the members in the case of a~~
 278 ~~limited liability company.]~~

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

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

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

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

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

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

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

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

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

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

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

300 ~~[(d)]~~ (c) (i) For ~~[the]~~ a calendar year beginning ~~[on January 1, 1995, through the~~
 301 ~~calendar year beginning on January 1, 2025]~~ on or before December 31, 2016, the aggregate
 302 annual tax credit that the Utah Housing Corporation may allocate for the credit period
 303 described in Section 42(f), Internal Revenue Code, pursuant to this section and Section

304 59-10-1010 is an amount equal to the product of:

305 (A) 12.5 cents; and

306 (B) the population of Utah.

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

311 (A) 34.5 cents; and

312 (B) the population of Utah.

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

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

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

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

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

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

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

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

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

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

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

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

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

341 (b) (i) The Utah Housing Corporation ~~[shall allocate the tax credit to housing sponsors~~
342 ~~in the same manner that it allocates federal low-income housing credits and]~~ shall issue an
343 allocation certificate to ~~[qualifying housing sponsors]~~ a housing sponsor as evidence of the
344 allocation.

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

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

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

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

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

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

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

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

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

361 ~~[(iii) with the housing sponsor's tax return for each taxable year for which the housing~~
362 ~~sponsor issues a special low-income housing tax credit certificate described in this Subsection~~
363 ~~(7).]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

398 (10) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is
399 earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit

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

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

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

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

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

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

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

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

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

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

414 **59-10-1010. Utah low-income housing tax credit.**

415 (1) As used in this section:

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

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

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

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

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

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

431 Internal Revenue Code.

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

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

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

441 (iii) Before the Utah Housing Corporation may issue a special low-income housing tax
442 credit certificate to a qualified taxpayer, a designated reporter shall provide the information
443 described in Subsection (7) to the Utah Housing Corporation.

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

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

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

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

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

455 (ii) that is located in the state.

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

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

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

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

462 ~~[(f)]~~ (i) (i) "Special low-income housing tax credit certificate" means a certificate:
 463 ~~[(†)]~~ (A) in a form prescribed by the commission;
 464 ~~[(ii)]~~ (B) that ~~[a housing sponsor]~~ the Utah Housing Corporation issues to a ~~[claimant,~~
 465 ~~estate, or trust]~~ qualified taxpayer for a taxable year in accordance with this section; and
 466 ~~[(iii)]~~ (C) that specifies the amount of ~~[a]~~ the tax credit a ~~[claimant, estate, or trust]~~
 467 qualified taxpayer may claim under this section ~~[if the claimant, estate, or trust meets the~~
 468 ~~requirements of this section].~~

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

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

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

481 ~~[(i) federal low-income housing credit to which the claimant, estate, or trust is allowed~~
 482 ~~during that year multiplied by the percentage specified in an allocation certificate issued by the~~
 483 ~~Utah Housing Corporation; or]~~

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

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

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

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

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

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

492 ~~[(A) under this section if the claimant, estate, or trust meets the requirements of this~~

493 section; and]

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

496 ~~[(d)]~~ (c) (i) For ~~[the]~~ a calendar year beginning on ~~[January 1, 1995, through the~~
497 ~~calendar year beginning on January 1, 2025]~~ or before December 31, 2016, the aggregate
498 annual tax credit that the Utah Housing Corporation may allocate for the credit period
499 described in Section 42(f), Internal Revenue Code, pursuant to this section and Section
500 [59-7-607](#) is an amount equal to the product of:

501 (A) 12.5 cents; and

502 (B) the population of Utah.

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

507 (A) 34.5 cents; and

508 (B) the population of Utah.

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

511 (3) (a) The Utah Housing Corporation shall determine criteria and procedures for
512 allocating the tax credit under this section and Section [59-7-607](#) and incorporate the criteria
513 and procedures into the Utah Housing Corporation's qualified allocation plan.

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

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

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

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

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

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

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

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

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

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

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

538 (b) (i) The Utah Housing Corporation ~~[shall allocate the tax credit to housing sponsors~~
539 ~~in the same manner that it allocates federal low-income housing credits and]~~ shall issue an
540 allocation certificate to ~~[qualifying housing sponsors]~~ a housing sponsor as evidence of the
541 allocation.

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

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

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

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

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

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

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

555 ~~[(i) to the commission;]~~
556 ~~[(ii) on a form provided by the commission; and]~~
557 ~~[(iii) with the housing sponsor's tax return for each taxable year for which the housing~~
558 ~~sponsor issues a special low-income housing tax credit certificate described in this Subsection~~
559 ~~(7).]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

609 Section 10. Section **63J-1-602.2** is amended to read:

610 **63J-1-602.2. List of nonlapsing funds and accounts -- Title 31 through Title 45.**

611 (1) Appropriations from the Technology Development Restricted Account created in
612 Section [31A-3-104](#).

613 (2) Appropriations from the Criminal Background Check Restricted Account created in
614 Section [31A-3-105](#).

615 (3) Appropriations from the Captive Insurance Restricted Account created in Section
616 [31A-3-304](#), except to the extent that Section [31A-3-304](#) makes the money received under that

617 section free revenue.

618 (4) Appropriations from the Title Licensee Enforcement Restricted Account created in
619 Section [31A-23a-415](#).

620 (5) Appropriations from the Health Insurance Actuarial Review Restricted Account
621 created in Section [31A-30-115](#).

622 (6) Appropriations from the Insurance Fraud Investigation Restricted Account created
623 in Section [31A-31-108](#).

624 (7) Appropriations from the Underage Drinking Prevention Media and Education
625 Campaign Restricted Account created in Section [32B-2-306](#).

626 (8) Funding for the General Assistance program administered by the Department of
627 Workforce Services, as provided in Section [35A-3-401](#).

628 (9) The Economic Revitalization and Investment Fund created in Section [35A-8-509](#).

629 [~~(9)~~] (10) The Youth Development Organization Restricted Account created in Section
630 [35A-8-1903](#).

631 [~~(10)~~] (11) The Youth Character Organization Restricted Account created in Section
632 [35A-8-2003](#).

633 [~~(11)~~] (12) Funding for a new program or agency that is designated as nonlapsing under
634 Section [36-24-101](#).

635 [~~(12)~~] (13) Appropriations to the Utah National Guard, created in Title 39, Militia and
636 Armories.

637 [~~(13)~~] (14) Appropriations from the Oil and Gas Conservation Account created in
638 Section [40-6-14.5](#).

639 [~~(14)~~] (15) Appropriations from the Electronic Payment Fee Restricted Account
640 created by Section [41-1a-121](#) to the Motor Vehicle Division.

641 [~~(15)~~] (16) Funds available to the Tax Commission under Section [41-1a-1201](#) for the:

642 (a) purchase and distribution of license plates and decals; and

643 (b) administration and enforcement of motor vehicle registration requirements.

644 [~~(16)~~] (17) Appropriations from the Motor Vehicle Enforcement Division Temporary
645 Permit Restricted Account created by Section [41-3-110](#) to the Tax Commission.

646 Section 11. **Appropriation.**

647 The following sums of money are appropriated for the fiscal year beginning July1,

648 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for
 649 fiscal year 2018. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
 650 Act, the Legislature appropriates the following sums of money from the funds or accounts
 651 indicated for the use and support of the government of the state of Utah.

652 To Department of Workforce Services -- Housing and Community Development

653 From General Fund, One-time \$6,000,000

654 From General Fund -- Olene Walker Housing Loan Fund,

655 One-time \$2,000,000

656 From General Fund -- Economic Revitalization and Investment Fund,

657 One-time \$4,000,000

658 Schedule of Programs:

659 Olene Walker Housing \$2,000,000

660 Economic Revitalization \$4,000,000

661 The Legislature intends that:

662 (1) under Section 63J-1-603 appropriations provided under this section not lapse at the
 663 close of fiscal year 2017;

664 (2) up to \$1,000,000 of the one-time appropriation to the Olene Walker Housing Fund
 665 be used by the Housing and Community Development Division to provide funding for
 666 transit-oriented development; and

667 (3) up to \$1,000,000 of the one-time appropriation to the Olene Walker Housing Fund
 668 be used by the Housing and Community Development Division to develop a pilot program for
 669 reimbursing persons under certain limited circumstances who provide housing to tenants using
 670 Federal Housing Choice Vouchers.

671 **Section 12. Retrospective operation.**

672 The amendments to Sections 59-7-607 and 59-10-1010 have retrospective operation for
 673 a taxable year beginning on or after January 1, 2017.