

Senator Curtis S. Bramble proposes the following substitute bill:

OPPORTUNITY ZONE ENHANCEMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: Curtis S. Bramble

6	Cosponsors:	Sandra Hollins	Douglas V. Sagers
7	Cheryl K. Acton	Eric K. Hutchings	Rex P. Shipp
8	Kyle R. Andersen	Karen Kwan	Lawanna Shurtliff
9	Patrice M. Arent	Carol Spackman Moss	Andrew Stoddard
10	Stewart E. Barlow	Merrill F. Nelson	Christine F. Watkins
11	Brady Brammer	Derrin R. Owens	Elizabeth Weight
12	Jennifer Dailey-Provost	Stephanie Pitcher	Mark A. Wheatley
13	Susan Duckworth	Marie H. Poulson	



LONG TITLE

General Description:

This bill modifies provisions related to economic development.

Highlighted Provisions:

This bill:

- ▶ defines terms, including "opportunity zone";
- ▶ modifies provisions related to the administration of certain programs within the Division of Air Quality;
- ▶ modifies provisions related to the Olene Walker Housing Loan Fund;
- ▶ modifies provisions related to the Utah low-income housing tax credit; and



25 ▶ makes technical changes.

26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **19-2-102**, as last amended by Laws of Utah 2015, Chapter 154

33 **19-2-107**, as last amended by Laws of Utah 2018, Chapter 281

34 **35A-8-501**, as last amended by Laws of Utah 2017, Chapter 279

35 **35A-8-507**, as last amended by Laws of Utah 2016, Chapter 131

36 **35A-8-510**, as enacted by Laws of Utah 2017, Chapter 279

37 **59-7-607**, as last amended by Laws of Utah 2017, Chapter 279

38 **59-10-1010**, as last amended by Laws of Utah 2017, Chapter 279



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

41 Section 1. Section **19-2-102** is amended to read:

42 **19-2-102. Definitions.**

43 As used in this chapter:

44 (1) "Air pollutant" means a substance that qualifies as an air pollutant as defined in 42
45 U.S.C. Sec. 7602.

46 (2) "Air pollutant source" means private and public sources of emissions of air
47 pollutants.

48 (3) "Air pollution" means the presence of an air pollutant in the ambient air in the
49 quantities, for a duration, and under the conditions and circumstances that are injurious to
50 human health or welfare, animal or plant life, or property, or would unreasonably interfere with
51 the enjoyment of life or use of property, as determined by the rules adopted by the board.

52 (4) "Ambient air" means that portion of the atmosphere, external to buildings, to which
53 the general public has access.

54 (5) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite
55 (crocidolite), cummingtonite-grunerite, anthophyllite, actinolite-tremolite, and libby

56 amphibole.

57 (6) "Asbestos-containing material" means a material containing more than 1%
58 asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National
59 Emission Standard for Asbestos.

60 (7) "Asbestos inspection" means an activity undertaken to determine the presence or
61 location, or to assess the condition of, asbestos-containing material or suspected
62 asbestos-containing material, whether by visual or physical examination, or by taking samples
63 of the material.

64 (8) "Board" means the Air Quality Board.

65 (9) "Clean school bus" means the same as that term is defined in 42 U.S.C. Sec. 16091.

66 (10) "Director" means the director of the Division of Air Quality.

67 (11) "Division" means the Division of Air Quality created in Section 19-1-105.

68 (12) "Friable asbestos-containing material" means a material containing more than 1%
69 asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National
70 Emission Standard for Asbestos, that hand pressure can crumble, pulverize, or reduce to
71 powder when dry.

72 (13) "Indirect source" means a facility, building, structure, or installation which attracts
73 or may attract mobile source activity that results in emissions of a pollutant for which there is a
74 national standard.

75 (14) "Opportunity zone" means an area that has been designated as a qualified
76 opportunity zone in the state under Section 1400Z-1, Internal Revenue Code.

77 Section 2. Section 19-2-107 is amended to read:

78 **19-2-107. Director -- Appointment -- Powers.**

79 (1) The executive director shall appoint the director. The director shall serve under the
80 administrative direction of the executive director.

81 (2) (a) The director shall:

82 (i) prepare and develop comprehensive plans for the prevention, abatement, and control
83 of air pollution in Utah;

84 (ii) advise, consult, and cooperate with other agencies of the state, the federal
85 government, other states and interstate agencies, and affected groups, political subdivisions,
86 and industries in furtherance of the purposes of this chapter;

- 87 (iii) review plans, specifications, or other data relative to air pollution control
- 88 equipment or any part of the air pollution control equipment;
- 89 (iv) under the direction of the executive director, represent the state in all matters
- 90 relating to interstate air pollution, including interstate compacts and similar agreements;
- 91 (v) secure necessary scientific, technical, administrative, and operational services,
- 92 including laboratory facilities, by contract or otherwise;
- 93 (vi) encourage voluntary cooperation by persons and affected groups to achieve the
- 94 purposes of this chapter;
- 95 (vii) encourage local units of government to handle air pollution within their respective
- 96 jurisdictions on a cooperative basis and provide technical and consulting assistance to them;
- 97 (viii) determine by means of field studies and sampling the degree of air contamination
- 98 and air pollution in all parts of the state;
- 99 (ix) monitor the effects of the emission of air pollutants from motor vehicles on the
- 100 quality of the outdoor atmosphere in all parts of Utah and take appropriate responsive action;
- 101 (x) collect and disseminate information relating to air contamination and air pollution
- 102 and conduct educational and training programs relating to air contamination and air pollution;
- 103 (xi) assess and collect noncompliance penalties as required in Section 120 of the
- 104 federal Clean Air Act, 42 U.S.C. Section 7420;
- 105 (xii) comply with the requirements of federal air pollution laws;
- 106 (xiii) subject to the provisions of this chapter, enforce rules through the issuance of
- 107 orders, including:
 - 108 (A) prohibiting or abating discharges of wastes affecting ambient air;
 - 109 (B) requiring the construction of new control facilities or any parts of new control
 - 110 facilities or the modification, extension, or alteration of existing control facilities or any parts
 - 111 of new control facilities; or
 - 112 (C) adopting other remedial measures to prevent, control, or abate air pollution; and
- 113 (xiv) as authorized by the board and subject to the provisions of this chapter, act as
- 114 executive secretary of the board under the direction of the chairman of the board.
- 115 (b) The director may:
 - 116 (i) employ full-time, temporary, part-time, and contract employees necessary to carry
 - 117 out this chapter;

118 (ii) subject to the provisions of this chapter, authorize an employee or representative of
119 the department to enter at reasonable times and upon reasonable notice in or upon public or
120 private property for the purposes of inspecting and investigating conditions and plant records
121 concerning possible air pollution;

122 (iii) encourage, participate in, or conduct studies, investigations, research, and
123 demonstrations relating to air pollution and its causes, effects, prevention, abatement, and
124 control, as advisable and necessary for the discharge of duties assigned under this chapter,
125 including the establishment of inventories of pollution sources;

126 (iv) collect and disseminate information relating to air pollution and the prevention,
127 control, and abatement of it;

128 (v) cooperate with studies and research relating to air pollution and its control,
129 abatement, and prevention;

130 (vi) subject to Subsection (3), upon request, consult concerning the following with a
131 person proposing to construct, install, or otherwise acquire an air pollutant source in Utah:

132 (A) the efficacy of proposed air pollution control equipment for the source; or

133 (B) the air pollution problem that may be related to the source;

134 (vii) accept, receive, and administer grants or other funds or gifts from public and
135 private agencies, including the federal government, for the purpose of carrying out any of the
136 functions of this chapter;

137 (viii) subject to Subsection 19-2-104(3)(b)(i), settle or compromise a civil action
138 initiated by the division to compel compliance with this chapter or the rules made under this
139 chapter; [~~or~~]

140 (ix) subject to the provisions of this chapter, exercise all incidental powers necessary to
141 carry out the purposes of this chapter, including certification to state or federal authorities for
142 tax purposes that air pollution control equipment has been certified in conformity with Title 19,
143 Chapter 12, Pollution Control Act[~~;~~]; or

144 (x) in the administration of a program providing an incentive to a private entity for the
145 installation of electric vehicle supply equipment, prioritize the applications of private entities
146 that are installing electric vehicle supply equipment in an opportunity zone.

147 (3) A consultation described in Subsection (2)(b)(vi) does not relieve a person from the
148 requirements of this chapter, the rules adopted under this chapter, or any other provision of

149 law.

150 Section 3. Section **35A-8-501** is amended to read:

151 **35A-8-501. Definitions.**

152 As used in this part:

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

156 (2) "Board" means the Housing Board created by this part.

157 (3) "Fund" means the Olene Walker Housing Loan Fund created by this part.

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

162 (b) "Housing sponsor" may include:

163 (i) a local public body;

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

165 (iii) a limited partnership;

166 (iv) a limited liability company;

167 (v) a joint venture;

168 (vi) a subsidiary of the Utah Housing Corporation;

169 (vii) a cooperative;

170 (viii) a mutual housing organization;

171 (ix) a local government;

172 (x) a local housing authority;

173 (xi) a regional or statewide nonprofit housing or assistance organization; or

174 (xii) any other entity that helps provide affordable housing.

175 (5) "Opportunity zone" means an area that has been designated as a qualified
176 opportunity zone in the state under Section 1400Z-1, Internal Revenue Code.

177 [~~5~~] (6) "Rural" means a county in the state other than Utah, Salt Lake, Davis, or
178 Weber.

179 Section 4. Section **35A-8-507** is amended to read:

180 **35A-8-507. Application process and priorities.**

181 (1) (a) In each calendar year that money is available from the fund for distribution by
182 the executive director under the direction of the board, the executive director shall, at least
183 once in that year, announce a grant and loan application period by sending notice to interested
184 persons.

185 (b) The executive director shall accept applications that are received in a timely
186 manner.

187 (2) The executive director shall give priority to applications for projects and activities
188 in the following order:

189 (a) first, to applications for projects and activities intended to minimize homelessness;

190 (b) second, to applications for projects and activities that use existing privately owned
191 housing stock, including privately owned housing stock purchased by a nonprofit public
192 development authority; and

193 (c) third, to all other applications.

194 (3) Within each level of priority described in Subsection (2), the executive director
195 shall give preference to applications that demonstrate the following:

196 (a) a high degree of leverage with other sources of financing;

197 (b) high recipient contributions to total project costs, including allied contributions
198 from other sources such as professional, craft, and trade services and lender interest rate
199 subsidies;

200 (c) high local government project contributions in the form of infrastructure
201 improvements, or other assistance;

202 (d) projects that encourage ownership, management, and other project-related
203 responsibility opportunities;

204 (e) projects that demonstrate a strong probability of serving the original target group or
205 income level for a period of at least 15 years;

206 (f) projects where the applicant has demonstrated the ability, stability, and resources to
207 complete the project;

208 (g) projects that appear to serve the greatest need;

209 (h) projects that provide housing for persons and families with the lowest income;

210 (i) projects that promote economic development benefits;

211 (j) projects that align with a local government plan to address housing and homeless
212 services; [~~and~~]

213 (k) projects that would mitigate or correct existing health, safety, or welfare
214 problems[~~-~~]; and

215 (l) projects undertaken within the boundaries of an opportunity zone.

216 (4) The executive director may give consideration to projects that increase the supply
217 of accessible housing.

218 Section 5. Section **35A-8-510** is amended to read:

219 **35A-8-510. Housing loan fund board approval.**

220 (1) The board shall review the project applications described in Subsection
221 **35A-8-509**(5).

222 (2) The board may approve a project that meets the requirements of Subsections
223 **35A-8-509**(4) and (5) to receive funds from the Economic Revitalization and Investment Fund.

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

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

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

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

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

234 (e) that will serve the greatest need;

235 (f) that promote economic development benefits;

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

237 (h) that would mitigate or correct existing health, safety, or welfare concerns; [~~or~~]

238 (i) that remedy a gap in the supply of and demand for affordable housing[~~-~~]; or

239 (j) that are undertaken within the boundaries of an opportunity zone.

240 Section 6. Section **59-7-607** is amended to read:

241 **59-7-607. Utah low-income housing tax credit.**

242 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

268 (g) "Opportunity zone" means an area that has been designated as a qualified
269 opportunity zone in the state under Section 1400Z-1, Internal Revenue Code.

270 [~~g~~] (h) "Qualified allocation plan" means a qualified allocation plan adopted by the
271 Utah Housing Corporation in accordance with Section 42(m), Internal Revenue Code.

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

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

274 (ii) that is located in the state.

275 ~~[(j)]~~ (j) (i) "Qualified taxpayer" means a person that:

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

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

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

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

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

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

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

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

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

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

300 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate
301 annual tax credit that the Utah Housing Corporation may allocate for the credit period
302 described in Section 42(f), Internal Revenue Code, pursuant to this section and Section
303 [59-10-1010](#) is an amount equal to the product of:

304 (A) 12.5 cents; and

305 (B) the population of Utah.

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

310 (A) 34.5 cents; and

311 (B) the population of Utah.

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

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

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

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

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

322 (iii) the need for the tax credit for the economic feasibility of a qualified development;
323 [and]

324 (iv) the extended period for which a qualified development commits to remain as
325 affordable housing[-]; and

326 (v) if the qualified development is being undertaken within the boundaries of an
327 opportunity zone.

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

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

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

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

337 (c) The amount of the tax credit specified in an allocation certificate may not exceed
338 100% of the federal low-income housing tax credit awarded to a qualified development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

382 (13) The commission may, in consultation with the Utah Housing Corporation, make
383 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
384 implement this section.

385 Section 7. Section **59-10-1010** is amended to read:

386 **59-10-1010. Utah low-income housing tax credit.**

387 (1) As used in this section:

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

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

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

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

397 Internal Revenue Code.

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

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

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

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

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

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

413 (g) "Opportunity zone" means an area that has been designated as a qualified
414 opportunity zone in the state under Section 1400Z-1, Internal Revenue Code.

415 [~~g~~] (h) "Qualified allocation plan" means a qualified allocation plan adopted by the
416 Utah Housing Corporation in accordance with Section 42(m), Internal Revenue Code.

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

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

419 (ii) that is located in the state.

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

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

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

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

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

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

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

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

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

437 (2) (a) For taxable years beginning on or after January 1, 1995, a qualified taxpayer
438 who has been issued a special low-income housing tax credit certificate by the Utah Housing
439 Corporation may claim a nonrefundable tax credit against taxes otherwise due under this
440 chapter.

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

444 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate
445 annual tax credit that the Utah Housing Corporation may allocate for the credit period
446 described in Section 42(f), Internal Revenue Code, pursuant to this section and Section
447 [59-7-607](#) is an amount equal to the product of:

448 (A) 12.5 cents; and

449 (B) the population of Utah.

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

454 (A) 34.5 cents; and

455 (B) the population of Utah.

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

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

459 allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria
460 and procedures into the Utah Housing Corporation's qualified allocation plan.

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

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

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

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

467 [~~and~~]

468 (iv) the extended period for which a qualified development commits to remain as
469 affordable housing[-]; and

470 (v) if the qualified development is being undertaken within the boundaries of an
471 opportunity zone.

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

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

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

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

481 (c) The amount of the tax credit specified in an allocation certificate may not exceed
482 100% of the federal low-income housing credit awarded to a qualified development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

520 (11) Any tax credit taken in this section may be subject to an annual audit by the

521 commission.

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

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

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

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