

AFFORDABLE HOUSING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Val K. Potter

LONG TITLE

General Description:

This bill modifies provisions related to affordable housing.

Highlighted Provisions:

This bill:

- ▶ modifies the allowable uses for a community reinvestment agency's housing allocation;
- ▶ modifies the requirements for distributing money from the Olene Walker Housing Loan Fund;
- ▶ allows low-income housing tax credits to be assigned to another taxpayer; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2021:

- ▶ to the Department of Workforce Services -- Olene Walker Housing Loan Fund as a one-time appropriation:
 - from the General Fund, \$10,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17C-1-102, as last amended by Laws of Utah 2019, Chapters 376 and 480

17C-1-412, as last amended by Laws of Utah 2019, Chapters 296 and 376

29 [35A-8-504](#), as last amended by Laws of Utah 2016, Chapters 131 and 350

30 [35A-8-505](#), as last amended by Laws of Utah 2019, Chapter 327

31 [59-7-607](#), as last amended by Laws of Utah 2017, Chapter 279

32 [59-10-1010](#), as last amended by Laws of Utah 2017, Chapter 279

33 ENACTS:

34 [59-9-108](#), Utah Code Annotated 1953

35

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

37 Section 1. Section [17C-1-102](#) is amended to read:

38 **[17C-1-102. Definitions.](#)**

39 As used in this title:

40 (1) "Active project area" means a project area that has not been dissolved in accordance
41 with Section [17C-1-702](#).

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

44 (a) for a pre-July 1, 1993, project area plan, under Section [17C-1-403](#), excluding tax
45 increment under Subsection [17C-1-403\(3\)](#);

46 (b) for a post-June 30, 1993, project area plan, under Section [17C-1-404](#), excluding tax
47 increment under Section [17C-1-406](#);

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

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

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

53 (4) "Agency" or "community reinvestment agency" means a separate body corporate
54 and politic, created under Section [17C-1-201.5](#) or as a redevelopment agency or community
55 development and renewal agency under previous law:

- 56 (a) that is a political subdivision of the state;
- 57 (b) that is created to undertake or promote project area development as provided in this
- 58 title; and
- 59 (c) whose geographic boundaries are coterminous with:
 - 60 (i) for an agency created by a county, the unincorporated area of the county; and
 - 61 (ii) for an agency created by a municipality, the boundaries of the municipality.
- 62 (5) "Agency funds" means money that an agency collects or receives for agency
- 63 operations, implementing a project area plan, or other agency purposes, including:
 - 64 (a) project area funds;
 - 65 (b) income, proceeds, revenue, or property derived from or held in connection with the
 - 66 agency's undertaking and implementation of project area development; or
 - 67 (c) a contribution, loan, grant, or other financial assistance from any public or private
 - 68 source.
- 69 (6) "Annual income" means the same as that term is defined in regulations of the
- 70 United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as
- 71 amended or as superseded by replacement regulations.
- 72 (7) "Assessment roll" means the same as that term is defined in Section [59-2-102](#).
- 73 (8) "Base taxable value" means, unless otherwise adjusted in accordance with
- 74 provisions of this title, a property's taxable value as shown upon the assessment roll last
- 75 equalized during the base year.
- 76 (9) "Base year" means, except as provided in Subsection [17C-1-402\(4\)\(c\)](#), the year
- 77 during which the assessment roll is last equalized:
 - 78 (a) for a pre-July 1, 1993, urban renewal or economic development project area plan,
 - 79 before the project area plan's effective date;
 - 80 (b) for a post-June 30, 1993, urban renewal or economic development project area
 - 81 plan, or a community reinvestment project area plan that is subject to a taxing entity
 - 82 committee:

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

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

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

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

89 or

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

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

95 (10) "Basic levy" means the portion of a school district's tax levy constituting the
96 minimum basic levy under Section [59-2-902](#).

97 (11) "Board" means the governing body of an agency, as described in Section
98 [17C-1-203](#).

99 (12) "Budget hearing" means the public hearing on a proposed project area budget
100 required under Subsection [17C-2-201\(2\)\(d\)](#) for an urban renewal project area budget,
101 Subsection [17C-3-201\(2\)\(d\)](#) for an economic development project area budget, or Subsection
102 [17C-5-302\(2\)\(e\)](#) for a community reinvestment project area budget.

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

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

- 110 (15) "Community" means a county or municipality.
- 111 (16) "Community development project area plan" means a project area plan adopted
112 under Chapter 4, Part 1, Community Development Project Area Plan.
- 113 (17) "Community legislative body" means the legislative body of the community that
114 created the agency.
- 115 (18) "Community reinvestment project area plan" means a project area plan adopted
116 under Chapter 5, Part 1, Community Reinvestment Project Area Plan.
- 117 (19) "Contest" means to file a written complaint in the district court of the county in
118 which the agency is located.
- 119 (20) "Development impediment" means a condition of an area that meets the
120 requirements described in Section 17C-2-303 for an urban renewal project area or Section
121 17C-5-405 for a community reinvestment project area.
- 122 (21) "Development impediment hearing" means a public hearing regarding whether a
123 development impediment exists within a proposed:
 - 124 (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section
125 17C-2-302; or
 - 126 (b) community reinvestment project area under Section 17C-5-404.
- 127 (22) "Development impediment study" means a study to determine whether a
128 development impediment exists within a survey area as described in Section 17C-2-301 for an
129 urban renewal project area or Section 17C-5-403 for a community reinvestment project area.
- 130 (23) "Economic development project area plan" means a project area plan adopted
131 under Chapter 3, Part 1, Economic Development Project Area Plan.
- 132 (24) "Fair share ratio" means the ratio derived by:
 - 133 (a) for a municipality, comparing the percentage of all housing units within the
134 municipality that are publicly subsidized income targeted housing units to the percentage of all
135 housing units within the county in which the municipality is located that are publicly
136 subsidized income targeted housing units; or

137 (b) for the unincorporated part of a county, comparing the percentage of all housing
138 units within the unincorporated county that are publicly subsidized income targeted housing
139 units to the percentage of all housing units within the whole county that are publicly subsidized
140 income targeted housing units.

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

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

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

149 (28) "Housing allocation" means project area funds allocated for housing under Section
150 [17C-2-203](#), [17C-3-202](#), or [17C-5-307](#) for the purposes described in Section [17C-1-412](#).

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

153 (a) project area funds allocated for the purposes described in Section [17C-1-411](#); or

154 (b) an agency's housing allocation.

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

156 (i) consists of at least 100 acres;

157 (ii) is occupied by an airport:

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

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

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

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

162 (iii) requires remediation because:

163 (A) of the presence of hazardous waste or solid waste; or

164 (B) the site lacks sufficient public infrastructure and facilities, including public roads,
165 electric service, water system, and sewer system, needed to support development of the site.

166 (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land
167 described in Subsection (30)(a).

168 (31) (a) "Inactive industrial site" means land that:

169 (i) consists of at least 1,000 acres;

170 (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial
171 facility; and

172 (iii) requires remediation because of the presence of hazardous waste or solid waste.

173 (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land
174 described in Subsection (31)(a).

175 (32) "Income targeted housing" means housing that is owned or occupied by a family
176 whose annual income is at or below 80% of the median annual income for a family within the
177 county in which the housing is located.

178 (33) "Incremental value" means a figure derived by multiplying the marginal value of
179 the property located within a project area on which tax increment is collected by a number that
180 represents the adjusted tax increment from that project area that is paid to the agency.

181 (34) "Loan fund board" means the Olene Walker Housing Loan Fund Board,
182 established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

183 (35) (a) " Local government building" means a building owned and operated by a
184 community for the primary purpose of providing one or more primary community functions,
185 including:

186 (i) a fire station;

187 (ii) a police station;

188 (iii) a city hall; or

189 (iv) a court or other judicial building.

190 (b) " Local government building" does not include a building the primary purpose of

191 which is cultural or recreational in nature.

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

194 ~~(36)~~ (37) "Marginal value" means the difference between actual taxable value and
195 base taxable value.

196 ~~(37)~~ (38) "Military installation project area" means a project area or a portion of a
197 project area located within a federal military installation ordered closed by the federal Defense
198 Base Realignment and Closure Commission.

199 ~~(38)~~ (39) "Municipality" means a city, town, or metro township as defined in Section
200 10-2a-403.

201 ~~(39)~~ (40) "Participant" means one or more persons that enter into a participation
202 agreement with an agency.

203 ~~(40)~~ (41) "Participation agreement" means a written agreement between a person and
204 an agency that:

205 (a) includes a description of:

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

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

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

209 and

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

211 ~~(41)~~ (42) "Plan hearing" means the public hearing on a proposed project area plan
212 required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan,
213 Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection
214 17C-4-102(1)(d) for a community development project area plan, or Subsection
215 17C-5-104(3)(e) for a community reinvestment project area plan.

216 ~~(42)~~ (43) "Post-June 30, 1993, project area plan" means a project area plan adopted
217 on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the

218 project area plan's adoption.

219 ~~[(43)]~~ (44) "Pre-July 1, 1993, project area plan" means a project area plan adopted
220 before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

221 ~~[(44)]~~ (45) "Private," with respect to real property, means property not owned by a
222 public entity or any other governmental entity.

223 ~~[(45)]~~ (46) "Project area" means the geographic area described in a project area plan
224 within which the project area development described in the project area plan takes place or is
225 proposed to take place.

226 ~~[(46)]~~ (47) "Project area budget" means a multiyear projection of annual or cumulative
227 revenues and expenses and other fiscal matters pertaining to a project area prepared in
228 accordance with:

- 229 (a) for an urban renewal project area, Section 17C-2-201;
- 230 (b) for an economic development project area, Section 17C-3-201;
- 231 (c) for a community development project area, Section 17C-4-204; or
- 232 (d) for a community reinvestment project area, Section 17C-5-302.

233 ~~[(47)]~~ (48) "Project area development" means activity within a project area that, as
234 determined by the board, encourages, promotes, or provides development or redevelopment for
235 the purpose of implementing a project area plan, including:

- 236 (a) promoting, creating, or retaining public or private jobs within the state or a
237 community;
- 238 (b) providing office, manufacturing, warehousing, distribution, parking, or other
239 facilities or improvements;
- 240 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or
241 remediating environmental issues;
- 242 (d) providing residential, commercial, industrial, public, or other structures or spaces,
243 including recreational and other facilities incidental or appurtenant to the structures or spaces;
- 244 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating

245 existing structures;

246 (f) providing open space, including streets or other public grounds or space around
247 buildings;

248 (g) providing public or private buildings, infrastructure, structures, or improvements;

249 (h) relocating a business;

250 (i) improving public or private recreation areas or other public grounds;

251 (j) eliminating a development impediment or the causes of a development impediment;

252 (k) redevelopment as defined under the law in effect before May 1, 2006; or

253 (l) any activity described in this Subsection [~~(47)~~] (48) outside of a project area that the
254 board determines to be a benefit to the project area.

255 [~~(48)~~] (49) "Project area funds" means tax increment or sales and use tax revenue that
256 an agency receives under a project area budget adopted by a taxing entity committee or an
257 interlocal agreement.

258 [~~(49)~~] (50) "Project area funds collection period" means the period of time that:

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

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

265 [~~(50)~~] (51) "Project area plan" means an urban renewal project area plan, an economic
266 development project area plan, a community development project area plan, or a community
267 reinvestment project area plan that, after the project area plan's effective date, guides and
268 controls the project area development.

269 [~~(51)~~] (52) (a) "Property tax" means each levy on an ad valorem basis on tangible or
270 intangible personal or real property.

271 (b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege

272 Tax.

273 [~~(52)~~] (53) "Public entity" means:

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

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

276 (c) a political subdivision of the state, including a county, municipality, school district,
277 local district, special service district, community reinvestment agency, or interlocal cooperation
278 entity.

279 [~~(53)~~] (54) "Publicly owned infrastructure and improvements" means water, sewer,
280 storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines,
281 streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation
282 facilities, or other facilities, infrastructure, and improvements benefitting the public and to be
283 publicly owned or publicly maintained or operated.

284 [~~(54)~~] (55) "Record property owner" or "record owner of property" means the owner of
285 real property, as shown on the records of the county in which the property is located, to whom
286 the property's tax notice is sent.

287 [~~(55)~~] (56) "Sales and use tax revenue" means revenue that is:

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

290 (b) distributed to a taxing entity in accordance with Sections [59-12-204](#) and [59-12-205](#).

291 [~~(56)~~] (57) "Superfund site":

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

294 (b) includes an area formerly included in the National Priorities List, as described in
295 Subsection [~~(56)~~] (57)(a), but removed from the list following remediation that leaves on site
296 the waste that caused the area to be included in the National Priorities List.

297 [~~(57)~~] (58) "Survey area" means a geographic area designated for study by a survey
298 area resolution to determine whether:

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

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

301 ~~[(58)]~~ (59) "Survey area resolution" means a resolution adopted by a board that
302 designates a survey area.

303 ~~[(59)]~~ (60) "Taxable value" means:

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

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

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

311 ~~[(60)]~~ (61) (a) "Tax increment" means the difference between:

312 (i) the amount of property tax revenue generated each tax year by a taxing entity from
313 the area within a project area designated in the project area plan as the area from which tax
314 increment is to be collected, using the current assessed value of the property and each taxing
315 entity's current certified tax rate as defined in Section 59-2-924; and

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

319 (b) "Tax increment" does not include taxes levied and collected under Section
320 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

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

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

325 ~~[(61)]~~ (62) "Taxing entity" means a public entity that:

326 (a) levies a tax on property located within a project area; or
327 (b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.
328 ~~[(62)]~~ (63) "Taxing entity committee" means a committee representing the interests of
329 taxing entities, created in accordance with Section 17C-1-402.
330 ~~[(63)]~~ (64) "Unincorporated" means not within a municipality.
331 ~~[(64)]~~ (65) "Urban renewal project area plan" means a project area plan adopted under
332 Chapter 2, Part 1, Urban Renewal Project Area Plan.
333 Section 2. Section 17C-1-412 is amended to read:
334 **17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance**
335 **of bonds for housing -- Action to compel agency to provide housing allocation.**
336 (1) (a) An agency shall use the agency's housing allocation to:
337 (i) pay part or all of the cost of land or construction of income targeted housing within
338 the boundary of the agency, if practicable in a mixed income development or area;
339 (ii) pay part or all of the cost of rehabilitation of income targeted housing within the
340 boundary of the agency;
341 (iii) lend, grant, or contribute money to a person, public entity, housing authority,
342 private entity or business, or nonprofit corporation for income targeted housing within the
343 boundary of the agency;
344 (iv) plan or otherwise promote income targeted housing within the boundary of the
345 agency;
346 (v) pay part or all of the cost of land or installation, construction, or rehabilitation of
347 any building, facility, structure, or other housing improvement, including infrastructure
348 improvements, related to housing located in a project area where a board has determined that a
349 development impediment exists;
350 (vi) replace housing units lost as a result of the project area development;
351 (vii) make payments on or establish a reserve fund for bonds:
352 (A) issued by the agency, the community, or the housing authority that provides

353 income targeted housing within the community; and
354 (B) all or part of the proceeds of which are used within the community for the purposes
355 stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);
356 (viii) if the community's fair share ratio at the time of the first adoption of the project
357 area budget is at least 1.1 to 1.0, make payments on bonds:
358 (A) that were previously issued by the agency, the community, or the housing authority
359 that provides income targeted housing within the community; and
360 (B) all or part of the proceeds of which were used within the community for the
361 purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);
362 (ix) relocate mobile home park residents displaced by project area development;
363 (x) subject to Subsection [~~(6)~~] (7), transfer funds to a community that created the
364 agency; or
365 (xi) pay for or make a contribution toward the acquisition, construction, or
366 rehabilitation of housing that:
367 (A) is located in the same county as the agency;
368 (B) is owned in whole or in [~~part~~] part by, or is dedicated to supporting, a public
369 nonprofit college or university; and
370 (C) only students of the relevant college or university, including the students'
371 immediate families, occupy.
372 (b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or
373 any portion of the agency's housing allocation to:
374 (i) the community for use as described in Subsection (1)(a);
375 (ii) a housing authority that provides income targeted housing within the community
376 for use in providing income targeted housing within the community;
377 (iii) a housing authority established by the county in which the agency is located for
378 providing:
379 (A) income targeted housing within the county;

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

382 (C) homeless assistance within the county; ~~[or]~~

383 (iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8,
384 Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within
385 the community~~[-];~~ or

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

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

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

397 ~~[(2)]~~ (3) The agency shall create a housing fund and separately account for the agency's
398 housing allocation, together with all interest earned by the housing allocation and all payments
399 or repayments for loans, advances, or grants from the housing allocation.

400 ~~[(3)]~~ (4) An agency may:

401 (a) issue bonds to finance a housing-related project under this section, including the
402 payment of principal and interest upon advances for surveys and plans or preliminary loans;
403 and

404 (b) issue refunding bonds for the payment or retirement of bonds under Subsection
405 ~~[(3)]~~ (4)(a) previously issued by the agency.

406 ~~[(4)]~~ (5) (a) Except as provided in Subsection ~~[(4)]~~ (5)(b), an agency shall allocate

407 money to the housing fund each year in which the agency receives sufficient tax increment to
408 make a housing allocation required by the project area budget.

409 (b) Subsection [~~(4)~~] (5)(a) does not apply in a year in which tax increment is
410 insufficient.

411 [~~(5)~~] (6) (a) Except as provided in Subsection [~~(4)~~] (5)(b), if an agency fails to provide
412 a housing allocation in accordance with the project area budget and the housing plan adopted
413 under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the
414 agency to provide the housing allocation.

415 (b) In an action under Subsection [~~(5)~~] (6)(a), the court:

416 (i) shall award the loan fund board reasonable attorney fees, unless the court finds that
417 the action was frivolous; and

418 (ii) may not award the agency the agency's attorney fees, unless the court finds that the
419 action was frivolous.

420 [~~(6)~~] (7) For the purpose of offsetting the community's annual local contribution to the
421 Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in
422 a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and
423 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in
424 Section 35A-8-606.

425 Section 3. Section 35A-8-504 is amended to read:

426 **35A-8-504. Distribution of fund money.**

427 (1) The executive director shall:

428 (a) make grants and loans from the fund for any of the activities authorized by Section
429 35A-8-505, as directed by the board;

430 (b) establish the criteria with the approval of the board by which loans and grants will
431 be made; and

432 (c) determine with the approval of the board the order in which projects will be funded.

433 (2) The executive director shall distribute, as directed by the board, any federal money

434 contained in the fund according to the procedures, conditions, and restrictions placed upon the
435 use of the money by the federal government.

436 (3) (a) The executive director shall distribute, as directed by the board, any funds
437 received under Section 17C-1-412 to pay the costs of providing income targeted housing within
438 the community that created the community reinvestment agency under Title 17C, Limited
439 Purpose Local Government Entities - Community Reinvestment Agency Act.

440 (b) As used in Subsection (3)(a):

441 (i) "Community" means the same as that term is defined in Section 17C-1-102.

442 (ii) "Income targeted housing" means the same as that term is defined in Section
443 17C-1-102.

444 (4) Except for federal money [~~and~~], money received under Section 17C-1-412, and
445 money appropriated for use in accordance with Section 35A-8-2105, the executive director
446 shall distribute, as directed by the board, money in the fund according to the following
447 requirements:

448 (a) the executive director shall distribute at least 30% of the money in the fund to rural
449 areas of the state;

450 (b) the executive director shall distribute at least 70% of the money in the fund to
451 benefit persons whose annual income is at or below 50% of the median family income for the
452 state;

453 (c) the executive director may not use more than 3% of the revenues of the fund to
454 offset department or board administrative expenses;

455 (d) the executive director shall distribute any remaining money in the fund to benefit
456 persons whose annual income is at or below 80% of the median family income for the state;
457 and

458 (e) if the executive director or the executive director's designee makes a loan in
459 accordance with this section, the interest rate of the loan shall be based on the borrower's
460 ability to pay.

461 (5) The executive director may, with the approval of the board:

462 (a) enact rules to establish procedures for the grant and loan process by following the
463 procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

464 and

465 (b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the
466 servicing of loans made by the fund.

467 Section 4. Section **35A-8-505** is amended to read:

468 **35A-8-505. Activities authorized to receive fund money -- Powers of the executive**
469 **director.**

470 At the direction of the board, the executive director may:

471 (1) provide fund money to any of the following activities:

472 (a) the acquisition, rehabilitation, or new construction of low-income housing units;

473 (b) matching funds for social services projects directly related to providing housing for
474 special-need renters in assisted projects;

475 (c) the development and construction of accessible housing designed for low-income
476 persons;

477 (d) the construction or improvement of a shelter or transitional housing facility that
478 provides services intended to prevent or minimize homelessness among members of a specific
479 homeless subpopulation;

480 (e) the purchase of an existing facility to provide temporary or transitional housing for
481 the homeless in an area that does not require rezoning before providing such temporary or
482 transitional housing;

483 (f) the purchase of land that will be used as the site of low-income housing units; [~~and~~]

484 (g) the preservation of existing affordable housing units for low-income persons; and

485 [~~(g)~~] (h) other activities that will assist in minimizing homelessness or improving the
486 availability or quality of housing in the state for low-income persons; and

487 (2) do any act necessary or convenient to the exercise of the powers granted by this part

488 or reasonably implied from those granted powers, including:

489 (a) making or executing contracts and other instruments necessary or convenient for
490 the performance of the executive director and board's duties and the exercise of the executive
491 director and board's powers and functions under this part, including contracts or agreements for
492 the servicing and originating of mortgage loans;

493 (b) procuring insurance against a loss in connection with property or other assets held
494 by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

495 (c) entering into agreements with a department, agency, or instrumentality of the
496 United States or this state and with mortgagors and mortgage lenders for the purpose of
497 planning and regulating and providing for the financing and refinancing, purchase,
498 construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale,
499 or other disposition of residential housing undertaken with the assistance of the department
500 under this part;

501 (d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate,
502 repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or
503 personal property obtained by the fund due to the default on a mortgage loan held by the fund
504 in preparation for disposition of the property, taking assignments of leases and rentals,
505 proceeding with foreclosure actions, and taking other actions necessary or incidental to the
506 performance of its duties; and

507 (e) selling, at a public or private sale, with public bidding, a mortgage or other
508 obligation held by the fund.

509 Section 5. Section **59-7-607** is amended to read:

510 **59-7-607. Utah low-income housing tax credit.**

511 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

541 (ii) that is located in the state.

542 (i) (i) "Qualified taxpayer" means a person that:
543 (A) owns a direct or indirect interest in a qualified development; and
544 (B) meets the requirements to claim a tax credit under this section.

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

548 (j) (i) "Special low-income housing tax credit certificate" means a certificate:
549 (A) in a form prescribed by the commission;
550 (B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year
551 in accordance with this section; and

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

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

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

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

567 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate
568 annual tax credit that the Utah Housing Corporation may allocate for the credit period

569 described in Section 42(f), Internal Revenue Code, pursuant to this section and Section
570 59-10-1010 is an amount equal to the product of:

571 (A) 12.5 cents; and

572 (B) the population of Utah.

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

577 (A) 34.5 cents; and

578 (B) the population of Utah.

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

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

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

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

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

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

590 and

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

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

595 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to

596 allocate to a qualified development in accordance with the qualified allocation plan of the Utah
597 Housing Corporation.

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

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

602 (c) The amount of the tax credit specified in an allocation certificate may not exceed
603 100% of the federal low-income housing tax credit awarded to a qualified development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

664 ~~[(11)]~~ (12) Any tax credit taken in this section may be subject to an annual audit by the
665 commission.

666 ~~[(12)]~~ (13) The Utah Housing Corporation shall annually provide an electronic report
667 to the Revenue and Taxation Interim Committee which shall include at least:

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

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

670 ~~[(13)]~~ (14) The commission may, in consultation with the Utah Housing Corporation,
671 make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
672 implement this section.

673 Section 6. Section **59-9-108** is enacted to read:

674 **59-9-108. Utah low-income housing tax credit.**

675 (1) As used in this section:

676 (a) "Qualified taxpayer" means the same as that term is defined in Section 59-7-607.

677 (b) "Special low-income housing tax credit certificate" means the same as that term is
678 defined in Section 59-7-607.

679 (2) A person may claim a nonrefundable tax credit against a tax liability under this
680 section if:

681 (a) the person is a qualified taxpayer who has been issued a special low-income
682 housing tax credit certificate by the Utah Housing Corporation under Section 59-7-607, and the
683 qualified taxpayer does not claim the tax credit under Title 59, Chapter 7, Corporate Franchise
684 and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not
685 Required to Pay Corporate Franchise or Income Tax Act, or under Title 59, Chapter 10,
686 Individual Income Tax Act; or

687 (b) the person has been assigned a special low-income housing tax credit in accordance
688 with Subsection 59-7-607(11) or Subsection 59-10-1010(11), and the person does not claim the
689 tax credit under Title 59, Chapter 7, Corporate Franchise and Income Taxes, Title 59, Chapter
690 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or
691 Income Tax Act, or under Title 59, Chapter 10, Individual Income Tax Act.

692 (3) (a) If a tax credit is not claimed by a qualified taxpayer or by a person who has been
693 assigned a special low-income housing tax credit in the year in which the credit is earned
694 because the tax credit is more than the tax liability owed, the tax credit may be carried back
695 three years or may be carried forward five years as a credit against the tax liability.

696 (b) Carryover tax credits under Subsection (3)(a) shall be applied against tax liability:

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

698 (ii) on a first-earned, first-used basis.

699 (4) The commission may, in consultation with the Utah Housing Corporation, make
700 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
701 implement this section.

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

703 **59-10-1010. Utah low-income housing tax credit.**

704 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

730 (g) "Qualified allocation plan" means a qualified allocation plan adopted by the Utah

731 Housing Corporation in accordance with Section 42(m), Internal Revenue Code.

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

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

734 (ii) that is located in the state.

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

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

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

738 (ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a

739 "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor

740 as determined by the governing documents of the housing sponsor.

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

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

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

744 in accordance with this section; and

745 (C) that specifies the amount of the tax credit a qualified taxpayer may claim under this

746 section.

747 (ii) The Utah Housing Corporation may only issue one or more special low-income

748 housing tax credit certificates if the aggregate specified amount on all special low-income

749 housing tax credit certificates issued in relation to a qualified development does not exceed the

750 aggregate amount of tax credit awarded to a qualified development and issued to a housing

751 sponsor in an allocation certificate.

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

753 who has been issued a special low-income housing tax credit certificate by the Utah Housing

754 Corporation may claim a nonrefundable tax credit against taxes otherwise due under this

755 chapter.

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

757 special low-income housing tax credit certificate that the Utah Housing Corporation issues to a

758 qualified taxpayer under this section.

759 (c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate
760 annual tax credit that the Utah Housing Corporation may allocate for the credit period
761 described in Section 42(f), Internal Revenue Code, pursuant to this section and Section
762 59-7-607 is an amount equal to the product of:

- 763 (A) 12.5 cents; and
- 764 (B) the population of Utah.

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

- 769 (A) 34.5 cents; and
- 770 (B) the population of Utah.

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

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

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

- 778 (i) the number of affordable housing units to be created in Utah for low and moderate
779 income persons in a qualified development;
- 780 (ii) the level of area median income being served by a qualified development;
- 781 (iii) the need for the tax credit for the economic feasibility of a qualified development;

782 and

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

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

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

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

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

794 (c) The amount of the tax credit specified in an allocation certificate may not exceed
795 100% of the federal low-income housing credit awarded to a qualified development.

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

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

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

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

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

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

810 (b) the Utah Housing Corporation has verified that the aggregate tax credit amount
811 assigned with respect to a qualified development does not exceed the total tax credit awarded

812 in the allocation certificate.

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

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

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

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

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

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

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

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

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

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

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

837 (i) the qualified taxpayer's written certification or other proof that the qualified
838 taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income

839 housing tax credit certificate; and

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

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

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

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

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

855 ~~[(11)]~~ (12) Any tax credit taken in this section may be subject to an annual audit by the
856 commission.

857 ~~[(12)]~~ (13) The Utah Housing Corporation shall annually provide an electronic report
858 to the Revenue and Taxation Interim Committee which shall include at least:

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

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

861 ~~[(13)]~~ (14) The commission may, in consultation with the Utah Housing Corporation,
862 promulgate rules to implement this section.

863 **Section 8. Appropriation.**

864 The following sums of money are appropriated for the fiscal year beginning July 1,
865 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for

866 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
 867 Act, the Legislature appropriates the following sums of money from the funds or accounts
 868 indicated for the use and support of the government of the state of Utah.

869 ITEM 1

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

871	<u>From General Fund, One-time</u>	<u>\$10,000,000</u>
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872 Schedule of Programs:

873	<u>Olene Walker Housing Loan Fund</u>	<u>\$10,000,000</u>
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874 The Legislature intends that:

875 (1) up to \$5,000,000 of the appropriation be used for gap financing of private activity
 876 bond financed multi-family housing; and

877 (2) up to \$5,000,000 of the appropriation be used to match private dollars for the
 878 preservation or construction of affordable housing units for low-income individuals.

879 **Section 9. Effective date.**

880 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

881 (2) Section [59-9-108](#) takes effect on January 1, 2021.