

SB0039S04 compared with SB0039S03

~~deleted text~~ shows text that was in SB0039S03 but was deleted in SB0039S04.

inserted text shows text that was not in SB0039S03 but was inserted into SB0039S04.

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Representative Val K. Potter proposes the following substitute bill:

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 tax payer; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2021:

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- ▶ 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:

~~{ None }~~ 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
- 35A-8-504, as last amended by Laws of Utah 2016, Chapters 131 and 350
- 35A-8-505, as last amended by Laws of Utah 2019, Chapter 327
- 59-7-607, as last amended by Laws of Utah 2017, Chapter 279
- 59-10-1010, as last amended by Laws of Utah 2017, Chapter 279

ENACTS:

- 59-9-108, Utah Code Annotated 1953

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

Section 1. Section **17C-1-102** is amended to read:

17C-1-102. Definitions.

As used in this title:

- (1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.
- (2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:
 - (a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);
 - (b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;
 - (c) under a project area budget approved by a taxing entity committee; or
 - (d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

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

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

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development; or

(c) a contribution, loan, grant, or other financial assistance from any public or private source.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity

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committee:

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

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

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

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

or

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

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

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

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

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

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

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

(15) "Community" means a county or municipality.

(16) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

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(17) "Community legislative body" means the legislative body of the community that created the agency.

(18) "Community reinvestment project area plan" means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(19) "Contest" means to file a written complaint in the district court of the county in which the agency is located.

(20) "Development impediment" means a condition of an area that meets the requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(21) "Development impediment hearing" means a public hearing regarding whether a development impediment exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-404.

(22) "Development impediment study" means a study to determine whether a development impediment exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(23) "Economic development project area plan" means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) "Fair share ratio" means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

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

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

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

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

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

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

- (a) project area funds allocated for the purposes described in Section 17C-1-411; or
- (b) an agency's housing allocation.

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

- (i) consists of at least 100 acres;
- (ii) is occupied by an airport:

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

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

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

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

(iii) requires remediation because:

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

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

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

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

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

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

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

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

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

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

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

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

- (i) a fire station;
- (ii) a police station;
- (iii) a city hall; or
- (iv) a court or other judicial building.

(b) "Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.

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

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

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

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

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

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

- (a) includes a description of:

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- (i) the project area development that the person will undertake;
- (ii) the amount of project area funds the person may receive; and
- (iii) the terms and conditions under which the person may receive project area funds;

and

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

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

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

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

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

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

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

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

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

- (a) promoting, creating, or retaining public or private jobs within the state or a

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community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

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

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

(h) relocating a business;

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

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

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

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

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

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

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

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

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

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controls the project area development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

~~[(62)]~~ (63) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

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~~[(63)]~~ (64) "Unincorporated" means not within a municipality.

~~[(64)]~~ (65) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Section 2. Section **17C-1-412** is amended to read:

17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

(1) (a) An agency shall use the agency's housing allocation to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where a board has determined that a development impediment exists;

(vi) replace housing units lost as a result of the project area development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the

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purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(ix) relocate mobile home park residents displaced by project area development;

(x) subject to Subsection [~~(6)~~] (7), transfer funds to a community that created the agency; or

(xi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of housing that:

(A) is located in the same county as the agency;

(B) is owned in whole or in [~~party~~] part by, or is dedicated to supporting, a public nonprofit college or university; and

(C) only students of the relevant college or university, including the students' immediate families, occupy.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:

(i) the community for use as described in Subsection (1)(a);

(ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

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

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

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

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

(2) (a) An agency may combine all or any portion of the agency's housing allocation with all or any portion of one or more additional agency's housing allocations if the agencies

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execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

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

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

~~(3)~~ (4) An agency may:

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

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

~~(4)~~ (5) (a) Except as provided in Subsection ~~(4)~~ (5)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.

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

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

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

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

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

~~(6)~~ (7) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and

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17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Section 35A-8-606.

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

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

(1) The executive director shall:

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

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

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

(2) The executive director shall distribute, as directed by the board, any federal money contained in the fund according to the procedures, conditions, and restrictions placed upon the use of the money by the federal government.

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

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

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

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

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

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

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

(c) the executive director may not use more than 3% of the revenues of the fund to

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offset department or board administrative expenses;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

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

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

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

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

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

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

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

(1) As used in this section:

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

(i) the aggregate annual amount of the tax credit awarded that may be claimed by one

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or more qualified taxpayers that have been issued a special low-income housing tax credit certificate; and

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

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

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

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

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

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

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

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

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

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

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

(ii) that is located in the state.

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

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

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

(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor

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as determined by the governing documents of the housing sponsor.

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

(A) in a form prescribed by the commission;

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

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

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

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

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

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

(A) 12.5 cents; and

(B) the population of Utah.

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

(A) 34.5 cents; and

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(B) the population of Utah.

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(13)]~~ (14) The commission may, in consultation with the Utah Housing Corporation,

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make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) that is located in the state.

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

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

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

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

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

(A) in a form prescribed by the commission;

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

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

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

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

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

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

(A) 12.5 cents; and

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(B) the population of Utah.

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

(A) 34.5 cents; and

(B) the population of Utah.

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

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

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

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

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

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

and

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

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

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

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

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

(c) The amount of the tax credit specified in an allocation certificate may not exceed

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100% of the federal low-income housing credit awarded to a qualified development.

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

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

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

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

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

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

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

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

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

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

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

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

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may

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be carried over for allocation in subsequent years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 8. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

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

From General Fund, One-time \$10,000,000

Schedule of Programs:

Olene Walker Housing Loan Fund \$10,000,000

The Legislature intends that:

- (1) up to \$5,000,000 of the appropriation be used for gap financing of private activity bond financed multi-family housing; and
- (2) up to \$5,000,000 of the appropriation be used to match private dollars for the preservation or construction of affordable housing units for low-income individuals.

Section 9. **Effective date.**

- (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.
- (2) Section 59-9-108 takes effect on January 1, 2021.