

**Senator Todd Weiler** proposes the following substitute bill:

**AFFORDABLE HOUSING REVISIONS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca P. Edwards**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to affordable housing and transit-oriented development.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires public transit districts to adopt transit-oriented development policies that include affordable housing;
- ▶ creates the Economic Revitalization and Investment Enterprise Fund;
- ▶ establishes requirements for the distribution of money from the fund; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**17B-2a-802**, as last amended by Laws of Utah 2011, Chapter 146



26 [17B-2a-804](#), as last amended by Laws of Utah 2014, Chapter 377  
 27 [35A-8-501](#), as renumbered and amended by Laws of Utah 2012, Chapter 212  
 28 [35A-8-506](#), as renumbered and amended by Laws of Utah 2012, Chapter 212

29 ENACTS:

30 [35A-8-509](#), Utah Code Annotated 1953  
 31 [35A-8-510](#), Utah Code Annotated 1953  
 32 [35A-8-511](#), Utah Code Annotated 1953  
 33 [35A-8-512](#), Utah Code Annotated 1953  
 34 [35A-8-513](#), Utah Code Annotated 1953

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

37 Section 1. Section [17B-2a-802](#) is amended to read:

38 **[17B-2a-802](#). Definitions.**

39 As used in this part:

40 (1) "Affordable housing" means housing occupied or reserved for occupancy by  
 41 households that meet certain gross household income requirements based on the area median  
 42 income for households of the same size.

43 (a) "Affordable housing" may include housing occupied or reserved for occupancy by  
 44 households that meet specific area median income targets or ranges of area median income  
 45 targets.

46 (b) "Affordable housing" does not include housing occupied or reserved for occupancy  
 47 by households with gross household incomes that are more than 60% of the area median  
 48 income for households of the same size.

49 ~~(1)~~ (2) "Appointing entity" means the person, county, unincorporated area of a  
 50 county, or municipality appointing a member to a public transit district board of trustees.

51 ~~(2)~~ (3) (a) "Chief executive officer" means a person appointed by the board of  
 52 trustees to serve as chief executive officer.

53 (b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities  
 54 defined in Sections [17B-2a-810](#) and [17B-2a-811](#) and includes all rights, duties, and  
 55 responsibilities assigned to the general manager but prescribed by the board of trustees to be  
 56 fulfilled by the chief executive officer.

57            [(3)] (4) "Department" means the Department of Transportation created in Section  
58 72-1-201.

59            [(4)] (5) (a) "General manager" means a person appointed by the board of trustees to  
60 serve as general manager.

61            (b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in  
62 Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees.

63            [(5)] (6) (a) "Locally elected public official" means a person who holds an elected  
64 position with a county or municipality.

65            (b) "Locally elected public official" does not include a person who holds an elected  
66 position if the elected position is not with a county or municipality.

67            (7) "Metropolitan planning organization" means the same as that term is defined in  
68 Section 72-1-208.5.

69            [(6)] (8) "Multicounty district" means a public transit district located in more than one  
70 county.

71            [(7)] (9) "Operator" means a public entity or other person engaged in the transportation  
72 of passengers for hire.

73            [(8)] (10) "Public transit" means the transportation of passengers only and their  
74 incidental baggage by means other than:

- 75            (a) chartered bus;
- 76            (b) sightseeing bus; or
- 77            (c) taxi.

78            [(9)] (11) "Transit facility" means a transit vehicle, transit station, depot, passenger  
79 loading or unloading zone, parking lot, or other facility:

- 80            (a) leased by or operated by or on behalf of a public transit district; and
- 81            (b) related to the public transit services provided by the district, including:
  - 82            (i) railway or other right-of-way;
  - 83            (ii) railway line; and
  - 84            (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by  
85 a transit vehicle.

86            [(10)] "~~Transit-oriented development~~" means a ~~mixed-use residential or commercial~~  
87 ~~area that is designed to maximize access to public transit.~~]

88           (12) "Transit-oriented development" means a mixed use residential or commercial area  
89 that is designed to maximize access to public transit and includes the development of land  
90 owned by a public transit district that serves a county of the first class.

91           (13) "Transit-supportive development" means a mixed use residential or commercial  
92 area that is designed to maximize access to public transit and does not include the development  
93 of land owned by a public transit district.

94           ~~[(H)]~~ (14) "Transit vehicle" means a passenger bus, coach, railcar, van, or other  
95 vehicle operated as public transportation by a public transit district.

96           Section 2. Section **17B-2a-804** is amended to read:

97           **17B-2a-804. Additional public transit district powers.**

98           (1) In addition to the powers conferred on a public transit district under Section  
99 **17B-1-103**, a public transit district may:

100           (a) provide a public transit system for the transportation of passengers and their  
101 incidental baggage;

102           (b) notwithstanding Subsection **17B-1-103(2)(g)** and subject to Section **17B-2a-817**,  
103 levy and collect property taxes only for the purpose of paying:

104           (i) principal and interest of bonded indebtedness of the public transit district; or

105           (ii) a final judgment against the public transit district if:

106           (A) the amount of the judgment exceeds the amount of any collectable insurance or  
107 indemnity policy; and

108           (B) the district is required by a final court order to levy a tax to pay the judgment;

109           (c) insure against:

110           (i) loss of revenues from damage to or destruction of some or all of a public transit  
111 system from any cause;

112           (ii) public liability;

113           (iii) property damage; or

114           (iv) any other type of event, act, or omission;

115           (d) acquire, contract for, lease, construct, own, operate, control, or use:

116           (i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal,  
117 parking lot, or any other facility necessary or convenient for public transit service; or

118           (ii) any structure necessary for access by persons and vehicles;

119 (e) (i) hire, lease, or contract for the supplying or management of a facility, operation,  
120 equipment, service, employee, or management staff of an operator; and

121 (ii) provide for a sublease or subcontract by the operator upon terms that are in the  
122 public interest;

123 (f) operate feeder bus lines and other feeder or ridesharing services as necessary;

124 (g) accept a grant, contribution, or loan, directly through the sale of securities or  
125 equipment trust certificates or otherwise, from the United States, or from a department,  
126 instrumentality, or agency of the United States;

127 (h) study and plan transit facilities in accordance with any legislation passed by  
128 Congress;

129 (i) cooperate with and enter into an agreement with the state or an agency of the state  
130 or otherwise contract to finance to establish transit facilities and equipment or to study or plan  
131 transit facilities;

132 (j) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds,  
133 to carry out the purposes of the district;

134 (k) from bond proceeds or any other available funds, reimburse the state or an agency  
135 of the state for an advance or contribution from the state or state agency;

136 (l) do anything necessary to avail itself of any aid, assistance, or cooperation available  
137 under federal law, including complying with labor standards and making arrangements for  
138 employees required by the United States or a department, instrumentality, or agency of the  
139 United States;

140 (m) sell or lease property;

141 (n) assist in or operate transit-oriented or transit-supportive developments;

142 (o) establish, finance, participate as a limited partner or member in a development with  
143 limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or  
144 operate transit facilities, equipment, and transit-oriented developments or transit-supportive  
145 developments; and

146 (p) subject to the restriction in Subsection (2), assist in a transit-oriented development  
147 or a transit-supportive development in connection with economic development or community  
148 development as defined in Section 17C-1-102 by:

149 (i) investing in a project as a limited partner or a member, with limited liabilities; or

150 (ii) subordinating an ownership interest in real property owned by the public transit  
151 district.

152 (2) (a) A public transit district may only assist in the [~~economic~~] development of areas  
153 under Subsection (1)(p):

154 (i) in the manner described in Subsection (1)(p)(i) or (ii); and

155 (ii) on no more than eight transit-oriented developments or transit-supportive  
156 developments selected by the board of trustees.

157 (b) A public transit district may not invest in a transit-oriented development or  
158 transit-supportive development as a limited partner or other limited liability entity under the  
159 provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity,  
160 makes an equity contribution equal to no less than 25% of the appraised value of the property  
161 to be contributed by the public transit district.

162 (c) (i) For transit-oriented development projects, a public transit district shall adopt  
163 transit-oriented development policies and guidelines that include provisions on affordable  
164 housing.

165 (ii) For transit-supportive development projects, a public transit district shall work with  
166 the metropolitan planning organization and city and county governments where the project is  
167 located to collaboratively seek to create joint plans for the areas within one-half mile of transit  
168 stations, including plans for affordable housing.

169 [~~e~~] (d) A current board member of a public transit district to which the board member  
170 is appointed may not have any interest in the transactions engaged in by the public transit  
171 district pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board  
172 member's fiduciary duty as a board member.

173 (3) A public transit district may be funded from any combination of federal, state,  
174 local, or private funds.

175 (4) A public transit district may not acquire property by eminent domain.

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

177 **35A-8-501. Definitions.**

178 As used in this part:

179 (1) "Affordable housing" means housing occupied or reserved for occupancy by  
180 households whose incomes are at or below certain income requirements at rental rates

181 affordable to such households.

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

183 ~~[(2)]~~ (3) "Fund" means the Olene Walker Housing Loan Fund created by this part.

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

188 (b) "Housing sponsor" may include:

189 (i) a local public body;

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

191 (iii) a limited partnership;

192 (iv) a limited liability company;

193 (v) a joint venture;

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

195 (vii) a cooperative;

196 (viii) a mutual housing organization;

197 (ix) a local government;

198 (x) a local housing authority;

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

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

201 (5) "Revitalization fund" means the Economic Revitalization and Investment  
202 Enterprise Fund created in Section [35A-8-509](#).

203 ~~[(3)]~~ (6) "Rural" means a county in the state other than Utah, Salt Lake, Davis, or  
204 Weber.

205 Section 4. Section **35A-8-506** is amended to read:

206 **35A-8-506. Entities authorized to receive fund money.**

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

209 ~~[(2)]~~ "Housing sponsor" includes a person who constructs, develops, rehabilitates,  
210 purchases, or owns a housing development that is or will be subject to legally enforceable  
211 restrictive covenants that require the housing development to provide, at least in part,

212 residential housing to low and moderate income persons.]

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

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

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

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

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

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

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

220 the Utah Housing Corporation;]

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

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

223 [~~(i) a local government;~~]

224 [~~(j) a local housing authority;~~]

225 [~~(k) a regional or statewide nonprofit housing or assistance organization; or]~~

226 [~~(l) any other type of entity or arrangement that helps provide affordable housing for~~

227 low and moderate income persons.]

228 Section 5. Section **35A-8-509** is enacted to read:

229 **35A-8-509. Economic Revitalization and Investment Enterprise Fund.**

230 (1) (a) There is created an enterprise fund known as the "Economic Revitalization and  
 231 Investment Enterprise Fund" administered by the executive director or the executive director's  
 232 designee.

233 (b) The department is the administrator of the revitalization fund.

234 (2) The revitalization fund shall be funded by:

235 (a) money appropriated to the revitalization fund by the Legislature;

236 (b) private contributions;

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

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

239 (3) The state treasurer shall:

240 (a) invest the money in the revitalization fund by following the procedures and  
 241 requirements of Title 51, Chapter 7, State Money Management Act; and

242 (b) deposit all interest or other earnings derived from those investments into the

243 revitalization fund.

244 (4) The executive director may only distribute money from the revitalization fund to  
245 fund one or more projects that:

246 (a) include affordable housing units for households:

247 (i) that make no more than 30% of the area median income for households of the same  
248 size in the area where the project is located; and

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

250 (b) have not been awarded a 9% tax credit as part of the Low Income Housing Tax

251 Credit program administered by the United States Department of the Treasury; and

252 (c) have been approved by the board as described in Section [35A-8-510](#).

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

255 (b) The application shall include:

256 (i) the location of the project;

257 (ii) the number, size, and income requirements of affordable housing units described in  
258 Subsection (4)(a) the project will include; and

259 (iii) a written commitment to enter into a deed restriction that reserves for a period of  
260 30 years the affordable housing units described in Subsection (5)(b)(ii), or their equivalent, for  
261 occupancy by households that meet the income requirements described in Subsection (5)(b)(ii).

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

264 (i) (A) occupied or reserved for occupancy by a household that makes no more than  
265 30% of the area median income for households of the same size in the area where the project is  
266 located; or

267 (B) occupied by a household that makes no more than 60% of the area median income  
268 for households of the same size in the area where the project is located, if that household met  
269 the income requirement described in Subsection (5)(c)(i)(A) when the household originally  
270 entered into the lease agreement for the housing unit; and

271 (ii) rented at a rate no greater than the rate described in Subsection [35A-8-511\(2\)\(b\)](#).

272 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
273 department may make additional rules providing procedures for a person to apply to the

274 department to receive a distribution described in Subsection (4).

275 Section 6. Section **35A-8-510** is enacted to read:

276 **35A-8-510. Board approval of a project.**

277 (1) The board shall review the project applications described in Subsection

278 35A-8-509(5).

279 (2) The board may approve a project that meets the requirements of Subsections

280 35A-8-509(4) and (5) to receive money from the revitalization fund.

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

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

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

287 (c) with high local government project contributions in the form of infrastructure,  
288 improvements, or other assistance;

289 (d) that encourage ownership, management, or other project-related responsibility  
290 opportunities;

291 (e) where the applicant has demonstrated the ability, stability, and resources to  
292 complete the project;

293 (f) that will serve the greatest need;

294 (g) that promote economic development benefits;

295 (h) that allow integration into a local government housing plan;

296 (i) that would mitigate or correct existing health, safety, or welfare concerns; and

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

298 Section 7. Section **35A-8-511** is enacted to read:

299 **35A-8-511. Activities authorized to receive revitalization fund money.**

300 (1) Subject to appropriation, the executive director may distribute money from the  
301 revitalization fund for any of the following activities undertaken as part of an approved project:

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

304 (b) the purchase of land for the construction of a building that will include affordable

305 housing units; or

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

308 (2) The maximum amount of money from the revitalization fund that may be  
309 distributed for each affordable housing unit that has been committed in accordance with  
310 Subsection 35A-8-509(5)(b)(iii) is the present value, based on the current market interest rate  
311 as determined by the board for a multi-family mortgage loan in the county or metropolitan area  
312 where the project is located, of 360 monthly payments equal to the difference between:

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

316 (b) an affordable rent equal to 30% of the income requirement described in Subsection  
317 35A-8-509(5)(b)(ii) for a household of:

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

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

320 (iii) four people if the unit is a two-bedroom unit;

321 (iv) five people if the unit is a three-bedroom unit;

322 (v) six people if the unit is a four-bedroom unit; or

323 (vi) eight people if the unit is a five-bedroom or larger unit.

324 Section 8. Section 35A-8-512 is enacted to read:

325 **35A-8-512. Repayment of funds.**

326 (1) Upon the earlier of 30 years from the date of funding or the sale or transfer of the  
327 affordable housing units acquired, constructed, or rehabilitated as part of an approved project  
328 funded under Section 35A-8-511, the housing sponsor shall remit to the department:

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

331 (b) an additional amount of money determined by contract with the department before  
332 the initial disbursement of funds from the revitalization fund.

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

335 (3) Any money returned to the department under this section shall be placed into the

336 revitalization fund.

337 Section 9. Section **35A-8-513** is enacted to read:

338 **35A-8-513. Annual accounting.**

339 (1) The executive director shall monitor the activities of a recipient of money from the  
340 revitalization fund on a yearly basis to ensure compliance with the terms and conditions  
341 imposed on the recipient by the executive director with the approval of the board.

342 (2) An entity that receives money from the revitalization fund shall provide the  
343 executive director with an annual accounting of how the money the entity received from the  
344 revitalization fund has been spent and evidence that the commitment described in Subsection  
345 [35A-8-509\(5\)](#) has been met.

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

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

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

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