

SB0164S04 compared with SB0164S03

~~{deleted text}~~ shows text that was in SB0164S03 but was deleted in SB0164S04.

inserted text shows text that was not in SB0164S03 but was inserted into SB0164S04.

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Representative Steve Waldrip proposes the following substitute bill:

UTAH HOUSING AFFORDABILITY AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Steve Waldrip

LONG TITLE

General Description:

This bill modifies provisions related to affordable housing and the provision of services related to affordable housing.

Highlighted Provisions:

This bill:

~~{~~ → modifies definitions;

- ~~}~~ ▶ provides that a political subdivision may grant real property that will be used for affordable housing units;
- ▶ describes additional activities that may receive funding from the Olene Walker Housing Loan Fund, including a mediation program and predevelopment grants;

~~{~~ → creates an affordable housing pilot program for school districts within the Housing and Community Development Division;

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- ‡ ▶ modifies the responsibilities of the Automated Geographic Reference Center; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- ▶ to the Department of Workforce Services -- Olene Walker Housing Loan Fund as a one-time appropriation:
 - from the General Fund, One-time, \$800,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-401, as last amended by Laws of Utah 2019, Chapters 136 and 327

10-9a-404, as last amended by Laws of Utah 2020, Chapter 434

10-9a-408, as last amended by Laws of Utah 2020, Chapter 434

35A-8-505, as last amended by Laws of Utah 2020, Chapter 241

63F-1-507, as last amended by Laws of Utah 2019, Chapter 35

~~{ **63I-1-235**, as last amended by Laws of Utah 2020, Chapters 154 and 417~~

‡ENACTS:

10-8-501, Utah Code Annotated 1953

35A-8-507.5, Utah Code Annotated 1953

~~{ **35A-8-514**, Utah Code Annotated 1953~~

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

Section 1. Section **10-8-501** is enacted to read:

Part 5. Grants for Affordable Housing

10-8-501. Grant of real property for affordable housing.

(1) As used in this part, "affordable housing unit" means a rental housing unit where a household whose income is no more than 50% of the area median income for households where the housing unit is located is able to occupy the housing unit paying no more than 31% of the household's income for gross housing costs including utilities.

(2) Subject to the requirements of this section, and for a municipality, Subsection

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10-8-2(4), a political subdivision may grant real property owned by the political subdivision to an entity for the development of one or more affordable housing units on the real property that will serve households at various income levels whereby at least 20% of the housing units are affordable housing units.

(3) A political subdivision shall ensure that real property granted as described in Subsection (2) is deed restricted for affordable housing for at least 30 years after the day on which each affordable housing unit is completed and occupied.

(4) If applicable, a political subdivision granting real property under this section shall comply with the provisions of Title 78B, Chapter 6, Part 5, Eminent Domain.

(5) A municipality granting real property under this section is not subject to the provisions of Subsection 10-8-2(3).

Section 2. Section **10-9a-401** is amended to read:

10-9a-401. General plan required -- Content.

(1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:

- (a) present and future needs of the municipality; and
- (b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

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(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(j) an official map.

(3) (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.

(b) On or before December 1, 2019, each of the following that have a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a):

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and

(iii) a metro township with a population of 5,000 or more.

(c) The population figures described in Subsections (3)(b)(ii) and (iii) shall be derived from:

(i) the most recent official census or census estimate of the United States Census Bureau; or

(ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the Utah Population Committee.

(4) Subject to Subsection 10-9a-403[~~(2)~~](3), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 3. Section **10-9a-404** is amended to read:

10-9a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

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(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that it considers appropriate.

(b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for the planning commission's review and recommendation.

(4) The legislative body shall adopt:

(a) a land use element as provided in Subsection 10-9a-403~~[(2)]~~(3)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 10-9a-403~~[(2)]~~(3)(a)(ii); and

(c) for a municipality, other than a town, after considering the factors included in Subsection 10-9a-403~~[(2)(b)(ii)]~~(3)(b)(iii), a plan to provide a realistic opportunity to meet the need for additional moderate income housing within the next five years.

Section 4. Section **10-9a-408** is amended to read:

10-9a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.

(1) The legislative body of a municipality described in Subsection 10-9a-401(3)(b) shall annually:

(a) review the moderate income housing plan element of the municipality's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the municipality's website.

(2) The report described in Subsection (1) shall include:

(a) a revised estimate of the need for moderate income housing in the municipality for the next five years;

(b) a description of progress made within the municipality to provide moderate income housing, demonstrated by analyzing and publishing data on the number of housing units in the municipality that are at or below:

(i) 80% of the adjusted median family income;

(ii) 50% of the adjusted median family income; and

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(iii) 30% of the adjusted median family income;

(c) a description of any efforts made by the municipality to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

(d) a description of how the municipality has implemented any of the recommendations related to moderate income housing described in Subsection 10-9a-403[(2)](3)(b)(iii).

(3) The legislative body of each municipality described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the municipality is located, and, if located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 5. 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;

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

(h) the award of predevelopment grants in accordance with Section 35A-8-507.5;

(i) the creation or financial support of a mediation program for landlords and tenants

designed to minimize the loss of housing for low-income persons, which program may include:

(i) funding for the hiring or training of mediators;

(ii) connecting landlords and tenants with mediation services; and

(iii) providing a limited amount of gap funding to assist a tenant in making a good faith payment towards attorney fees, damages, or other costs associated with eviction proceedings or avoiding eviction proceedings; and

~~(h)~~ (j) 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

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

Section 6. Section **35A-8-507.5** is enacted to read:

35A-8-507.5. Predevelopment grants.

(1) The executive director under the direction of the board may:

(a) award one or more predevelopment grants to non-profit or for-profit entities in preparation for the construction of low-income housing units;

(b) award a predevelopment grant in an amount of no more than \$50,000 per project;

(c) may only award a predevelopment grant in relation to a project in:

(i) a city of the fifth or sixth class, or a town, in a rural area of the state; or

(ii) any municipality or unincorporated area in a county of the fourth, fifth, or sixth class.

(2) The executive director under the direction of the board shall award each predevelopment grant in accordance with the provisions of this section and the provisions related to grant applications, grant awards, and reporting requirements in this part.

(3) A predevelopment grant:

(a) may be used by a recipient for offsetting the predevelopment funds needed to prepare for the construction of low-income housing units, including market studies, surveys, environmental and impact studies, technical assistance, and preliminary architecture, engineering, or legal work; and

(b) may not be used by a recipient for staff salaries of a grant recipient or construction costs.

(4) The executive director under the direction of the board shall prioritize the awarding of a predevelopment grant for a project in a county of the fifth or sixth class and where the municipality or unincorporated area has underdeveloped infrastructure as demonstrated by at least two of the following:

(a) limited or no availability of natural gas;

(b) limited or no availability of a sewer system;

(c) limited or no availability of broadband Internet;

(d) unpaved residential streets; or

(e) limited local construction professionals, vendors, or services.

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Section 7. ~~Section 35A-8-514 is enacted to read:~~

~~**35A-8-514. Affordable Housing Pilot Program:**~~

~~(1) As used in this section:~~

~~(a) "Pilot program" means the Affordable Housing Pilot Program created in Subsection (2):~~

~~(b) "Participating employee" means an employee of a participating school district who obtains housing as a participant in the pilot program:~~

~~(c) "Participating school district" means a local school district or charter school that is approved by the division based on the financial requirements of Subsection (6) to participate in the pilot program:~~

~~(2) There is created in the division the Affordable Housing Pilot Program to assist in helping employees of one or more participating school districts to obtain affordable housing and a pathway to home ownership:~~

~~(3) The pilot program shall consist of the following:~~

~~(a) in accordance with Title 63G, Chapter 6a, Utah Procurement Code, and with the oversight of the division, a local school district or charter school that is approved by the division to participate in the pilot program shall partner with a nonprofit entity selected by the division at the commencement of the pilot program and the participating school district shall make a contribution using money provided by the participating school district to a fund owned by the participating school district and managed by the nonprofit entity;~~

~~(b) money in the fund shall be used to pay a portion of the purchase price of a home for each participating employee;~~

~~(c) the participating school district shall identify potential participating employees who are employed by the participating school district;~~

~~(d) the nonprofit entity shall perform an analysis to choose each participating employee based on criteria determined by the participating school district and the nonprofit entity;~~

~~(e) for each participating employee, the nonprofit entity shall determine an appropriate and affordable monthly payment based on the participating employee's financial situation and may assist in helping the participating employee find a suitable home;~~

~~(f) the nonprofit entity shall purchase a home for use by each participating employee and secure third-party financing for a portion of the cost of the home;~~

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~~— (g) the participating employee's monthly payment for the home shall be based on the participating employee's proportional ownership of the home and shall consist of three elements:~~

~~— (i) a portion of the payment will go to the third-party lender described in Subsection (3)(f);~~

~~— (ii) a portion will go to the nonprofit entity for operating expenses and repaying the proportional amount of the home purchased by the nonprofit entity using money from the fund owned by the participating school district; and~~

~~— (iii) a portion may go towards a mandatory savings requirement as agreed to between the participating employee and the nonprofit entity; and~~

~~— (h) as a requirement of participating in the pilot program, a participating employee shall enter into a written agreement with the nonprofit entity:~~

~~— (i) committing to abide by the requirements of the pilot program; and~~

~~— (ii) that describes the participating employee's right to, if the employee is not in violation of the terms of the written agreement:~~

~~— (A) purchase, sell, or refinance the home at any time during the duration of the written agreement;~~

~~— (B) receive the equity benefit of the participating employee's principal payments; and~~

~~— (C) receive the participating employee's share of any appreciation of the home in accordance with the terms of the written agreement.~~

~~— (4) Before participating in the pilot program, a local school district or charter school shall apply to the division, in a form approved by the division, to participate in the pilot program, which application shall include:~~

~~— (a) details of the local school district's proposed implementation of the pilot program; and~~

~~— (b) the written approval of the local school district or charter school's local school board to participate in the pilot program.~~

~~— (5) A local school district or charter school that is selected by the division to be a participating school district shall agree to provide ongoing information or reporting to comply with the annual reporting requirements of Subsection (8) as requested by:~~

~~— (a) the division; and~~

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- ~~_____ (b) the participating school district's local school board;~~
- ~~_____ (6) In selecting participating school districts and overseeing the pilot program, the division shall ensure that:~~
 - ~~_____ (a) the total amount of the contribution described in Subsection (3)(a) provided by each participating school district is not more than the lesser of:~~
 - ~~_____ (i) \$4,000,000; or~~
 - ~~_____ (ii) 10% of the participating school district's reserves; and~~
 - ~~_____ (b) the amount of the contribution described in Subsection (3)(a) for all participating school districts combined is not more than:~~
 - ~~_____ (i) \$13,000,000, for participating school districts in counties of the first or second class; and~~
 - ~~_____ (ii) \$7,000,000, for participating school districts in counties of the third, fourth, fifth, or sixth class;~~
- ~~_____ (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, the division may make rules regarding the:~~
 - ~~_____ (a) administration of the pilot program, including application requirements for local school districts; and~~
 - ~~_____ (b) reporting requirements for each participating school district and the nonprofit entity to satisfy the requirements of Subsection (8);~~
- ~~_____ (8) (a) By October 1, the division, with the cooperation of each participating school district and the nonprofit entity, shall provide an annual written report to the Economic Development and Workforce Services Interim Committee:~~
 - ~~_____ (b) The annual report shall describe:~~
 - ~~_____ (i) the operations of the pilot program;~~
 - ~~_____ (ii) each local school district that is participating in the pilot program;~~
 - ~~_____ (iii) the number of employees participating in the pilot program;~~
 - ~~_____ (iv) recommendations regarding potential expansion, improvements, or modifications to the pilot program; and~~
 - ~~_____ (v) the results of the annual audit described in Subsection (9);~~
 - ~~_____ (c) If the division determines that the pilot program is successful, and that other local school districts and state governmental subdivisions would benefit from participation in the~~

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~~pilot program, the annual report may recommend that the Legislature:~~

~~— (i) increase the maximum contribution amount allowed under the pilot program; or~~

~~— (ii) expand the pilot program to other political subdivisions of the state.~~

~~— (9) By September 1, the state auditor shall conduct an annual audit of the pilot program for the previous fiscal year and shall:~~

~~— (a) report the results of the audit in writing to the division; and~~

~~— (b) make the written audit report available to the division and to the public.~~

~~Section 8.~~ Section **63F-1-507** is amended to read:

63F-1-507. State Geographic Information Database.

(1) There is created a State Geographic Information Database to be managed by the center.

(2) The database shall:

(a) serve as the central reference for all information contained in any GIS database by any state agency;

(b) serve as a clearing house and repository for all data layers required by multiple users;

(c) serve as a standard format for geographic information acquired, purchased, or produced by any state agency;

(d) include an accurate representation of all civil subdivision boundaries of the state; and

(e) for each public highway, as defined in Section 72-1-102, in the state, include an accurate representation of the highway's centerline, physical characteristics, and associated street address ranges.

(3) The center shall, in coordination with municipalities, counties, emergency communications centers, and the Department of Transportation:

(a) develop the information described in Subsection (2)(e); and

(b) update the information described in Subsection (2)(e) in a timely manner after a county recorder records a final plat.

(4) The center, in coordination with county assessors and metropolitan planning organizations:

(a) shall inventory existing housing units and their general characteristics within each

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county of the first or second class to support infrastructure planning and economic development in each of those counties; and

(b) may inventory existing housing units and their general characteristics within one or more counties of the third, fourth, fifth, or sixth class to support infrastructure planning and economic development in one or more of those counties.

~~[(4)] (5)~~ Each state agency that acquires, purchases, or produces digital geographic information data shall:

- (a) inform the center of the existence of the data layers and their geographic extent;
- (b) allow the center access to all data classified public; and
- (c) comply with any database requirements established by the center.

~~[(5)] (6)~~ At least annually, the State Tax Commission shall deliver to the center information the State Tax Commission receives under Section 67-1a-6.5 relating to the creation or modification of the boundaries of political subdivisions.

~~[(6)] (7)~~ The boundary of a political subdivision within the State Geographic Information Database is the official boundary of the political subdivision for purposes of meeting the needs of the United States Bureau of the Census in identifying the boundary of the political subdivision.

Section ~~{9. Section 63I-1-235 is amended to read:~~

~~————— 63I-1-235. Repeal dates, Title 35A.~~

~~————— (1) Subsection 35A-1-109(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.~~

~~————— (2) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2021.~~

~~————— (3) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2021.~~

~~————— (4) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, 2022.~~

~~————— (5) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2022.~~

~~————— (6) Section 35A-8-514, which creates the Affordable Housing Pilot Program, is repealed July 1, 2024.~~

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~~[(6)] (7) Title 35A, Chapter 8, Part 22, Commission on Housing Affordability, is repealed July 1, 2023.~~

~~[(7)] (8) Section 35A-9-501 is repealed January 1, 2023.~~

~~[(8)] (9) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed January 1, 2025.~~

~~[(9)] (10) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2023.~~

~~[(10)] (11) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.~~

~~[(11)] (12) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.~~

~~[(12)] (13) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.~~

~~Section 10} 8. **Appropriation.**~~

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. 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 \$800,000

Schedule of Programs:

Olene Walker Housing Loan Fund: \$800,000

The Legislature intends that:

(1) up to \$300,000 of the appropriation in ITEM 1 be used for financing a mediation program for landlords and tenants of low-income housing units;

(2) up to \$500,000 of the appropriation in ITEM 1 be used for financing predevelopment grants in advance of the construction of low-income housing units; and

(3) under Section 63J-1-603, appropriations under Subsections (1) and (2) not lapse at the close of fiscal year 2022.

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