

TAX INCENTIVE REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions relating to tax incentives for new development projects.

Highlighted Provisions:

This bill:

- authorizes a community reinvestment agency to enter into a participation agreement and moves the language relating to a participation agreement from the definition of participation agreement to the provision authorizing the agency to enter into a participation agreement;

- modifies a provision relating to information that an agency is required to provide to the Governor's Office of Economic Opportunity for inclusion in a database maintained by the Office;

- requires an agency with no active project area to submit a report to the Office;

- requires the Office to refer an agency to the state auditor and post a notice on the Office's website or report the agency to the county auditor and treasurer if an agency fails to comply with applicable reporting requirements;

- requires an agency with unexpended project area funds more than five years after the expiration of the project area funds collection period to use those funds for housing;

- requires an analysis of whether project development would be likely to occur ~~with~~ without the use of tax incentives; and

- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17C-1-102, as last amended by Laws of Utah 2023, Chapter 15

17C-1-202, as last amended by Laws of Utah 2021, Chapter 214

17C-1-603, as last amended by Laws of Utah 2023, Chapter 499

17C-1-702, as enacted by Laws of Utah 2016, Chapter 350

17C-5-105, as last amended by Laws of Utah 2023, Chapter 160

63N-2-104.2, as enacted by Laws of Utah 2022, Chapter 200

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.
- (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 an implementation plan as defined in Section 17C-1-1001, 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 agency-wide project development as defined in Section 17C-1-1001;
 - (c) a contribution, loan, grant, or other financial assistance from any public or private source;
 - (d) project area incremental revenue as defined in Section 17C-1-1001; or
 - (e) property tax revenue as defined in Section 17C-1-1001.
- (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 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.
- (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

- 130 17C-2-302; or
- 131 (b) community reinvestment project area under Section 17C-5-404.
- 132 (22) "Development impediment study" means a study to determine whether a development
- 133 impediment exists within a survey area as described in Section 17C-2-301 for an urban
- 134 renewal project area or Section 17C-5-403 for a community reinvestment project area.
- 135 (23) "Economic development project area plan" means a project area plan adopted under
- 136 Chapter 3, Part 1, Economic Development Project Area Plan.
- 137 (24) "Fair share ratio" means the ratio derived by:
- 138 (a) for a municipality, comparing the percentage of all housing units within the
- 139 municipality that are publicly subsidized income targeted housing units to the
- 140 percentage of all housing units within the county in which the municipality is located
- 141 that are publicly subsidized income targeted housing units; or
- 142 (b) for the unincorporated part of a county, comparing the percentage of all housing
- 143 units within the unincorporated county that are publicly subsidized income targeted
- 144 housing units to the percentage of all housing units within the whole county that are
- 145 publicly subsidized income targeted housing units.
- 146 (25) "Family" means the same as that term is defined in regulations of the United States
- 147 Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended
- 148 or as superseded by replacement regulations.
- 149 (26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.
- 150 (27) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous
- 151 substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or
- 152 toxic substance, or identified as hazardous to human health or the environment, under
- 153 state or federal law or regulation.
- 154 (28) "Housing allocation" means project area funds allocated for housing under Section
- 155 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.
- 156 (29) "Housing fund" means a fund created by an agency for purposes described in Section
- 157 17C-1-411 or 17C-1-412 that is comprised of:
- 158 (a) project area funds, project area incremental revenue as defined in Section 17C-1-1001,
- 159 or property tax revenue as defined in Section 17C-1-1001 allocated for the purposes
- 160 described in Section 17C-1-411; or
- 161 (b) an agency's housing allocation.
- 162 (30) (a) "Inactive airport site" means land that:
- 163 (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).

(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;

- 198 (iii) a city hall; or
199 (iv) a court or other judicial building.
- 200 (b) "Local government building" does not include a building the primary purpose of
201 which is cultural or recreational in nature.
- 202 (36) "Major transit investment corridor" means the same as that term is defined in Section
203 10-9a-103.
- 204 (37) "Marginal value" means the difference between actual taxable value and base taxable
205 value.
- 206 (38) "Military installation project area" means a project area or a portion of a project area
207 located within a federal military installation ordered closed by the federal Defense Base
208 Realignment and Closure Commission.
- 209 (39) "Municipality" means a city, town, or metro township as defined in Section 10-2a-403.
- 210 (40) "Participant" means one or more persons that enter into a participation agreement with
211 an agency.
- 212 (41) "Participation agreement" means a written agreement between a person and an agency [
213 ~~that:~~] under Subsection 17C-1-202(5).
- 214 [~~(a) includes a description of:~~]
215 [~~(i) the project area development that the person will undertake;~~]
216 [~~(ii) the amount of project area funds the person may receive; and~~]
217 [~~(iii) the terms and conditions under which the person may receive project area funds;~~
218 ~~and~~]
219 [~~(b) is approved by resolution of the board.~~]
- 220 (42) "Plan hearing" means the public hearing on a proposed project area plan required
221 under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection
222 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102
223 (1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e)
224 for a community reinvestment project area plan.
- 225 (43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after
226 July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the
227 project area plan's adoption.
- 228 (44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1,
229 1993, whether or not amended subsequent to the project area plan's adoption.
- 230 (45) "Private," with respect to real property, means property not owned by a public entity or
231 any other governmental entity.

(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.

(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.

(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 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 (48) outside of a project area that the board determines to be a benefit to the project area.

(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.

(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.

(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 controls the project area development.

(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.

(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, special district, special service district, community reinvestment agency, or interlocal cooperation entity.

(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.

(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.

(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.

- 300 (57) "Superfund site":
- 301 (a) means an area included in the National Priorities List under the Comprehensive
- 302 Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec.
- 303 9605; and
- 304 (b) includes an area formerly included in the National Priorities List, as described in
- 305 Subsection (57)(a), but removed from the list following remediation that leaves on
- 306 site the waste that caused the area to be included in the National Priorities List.
- 307 (58) "Survey area" means a geographic area designated for study by a survey area
- 308 resolution to determine whether:
- 309 (a) one or more project areas within the survey area are feasible; or
- 310 (b) a development impediment exists within the survey area.
- 311 (59) "Survey area resolution" means a resolution adopted by a board that designates a
- 312 survey area.
- 313 (60) "Taxable value" means:
- 314 (a) the taxable value of all real property a county assessor assesses in accordance with
- 315 Title 59, Chapter 2, Part 3, County Assessment, for the current year;
- 316 (b) the taxable value of all real and personal property the commission assesses in
- 317 accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current
- 318 year; and
- 319 (c) the year end taxable value of all personal property a county assessor assesses in
- 320 accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the
- 321 prior year's tax rolls of the taxing entity.
- 322 (61) (a) "Tax increment" means the difference between:
- 323 (i) the amount of property tax revenue generated each tax year by a taxing entity from
- 324 the area within a project area designated in the project area plan as the area from
- 325 which tax increment is to be collected, using the current assessed value of the
- 326 property and each taxing entity's current certified tax rate as defined in Section
- 327 59-2-924; and
- 328 (ii) the amount of property tax revenue that would be generated from that same area
- 329 using the base taxable value of the property and each taxing entity's current
- 330 certified tax rate as defined in Section 59-2-924.
- 331 (b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602
- 332 on or after January 1, 1994, upon the taxable property in the project area unless:
- 333 (i) the project area plan was adopted before May 4, 1993, whether or not the project

- 334 area plan was subsequently amended; and
- 335 (ii) the taxes were pledged to support bond indebtedness or other contractual
- 336 obligations of the agency.
- 337 (62) "Taxing entity" means a public entity that:
- 338 (a) levies a tax on property located within a project area; or
- 339 (b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.
- 340 (63) "Taxing entity committee" means a committee representing the interests of taxing
- 341 entities, created in accordance with Section 17C-1-402.
- 342 (64) "Unincorporated" means not within a municipality.
- 343 (65) "Urban renewal project area plan" means a project area plan adopted under Chapter 2,
- 344 Part 1, Urban Renewal Project Area Plan.
- 345 Section 2. Section **17C-1-202** is amended to read:
- 346 **17C-1-202 . Agency powers.**
- 347 (1) An agency may:
- 348 (a) sue and be sued;
- 349 (b) enter into contracts generally;
- 350 (c) buy, obtain an option upon, acquire by gift, or otherwise acquire any interest in real
- 351 or personal property;
- 352 (d) hold, sell, convey, grant, gift, or otherwise dispose of any interest in real or personal
- 353 property;
- 354 (e) own, hold, maintain, utilize, manage, or operate real or personal property, which may
- 355 include the use of agency funds or the collection of revenue;
- 356 (f) enter into a lease agreement on real or personal property, either as lessee or lessor;
- 357 (g) provide for project area development as provided in this title;
- 358 (h) receive and use agency funds as provided in this title;
- 359 (i) if disposing of or leasing land, retain controls or establish restrictions and covenants
- 360 running with the land consistent with the project area plan;
- 361 (j) accept financial or other assistance from any public or private source for the agency's
- 362 activities, powers, and duties, and expend any funds the agency receives for any
- 363 purpose described in this title;
- 364 (k) borrow money or accept financial or other assistance from a public entity or any
- 365 other source for any of the purposes of this title and comply with any conditions of
- 366 any loan or assistance;
- 367 (l) issue bonds to finance the undertaking of any project area development or for any of

the agency's other purposes, including:

(i) reimbursing an advance made by the agency or by a public entity to the agency;

(ii) refunding bonds to pay or retire bonds previously issued by the agency; and

(iii) refunding bonds to pay or retire bonds previously issued by the community that

created the agency for expenses associated with project area development;

(m) pay an impact fee, exaction, or other fee imposed by a community in connection

with land development;

(n) subject to Part 10, Agency Taxing Authority, levy a property tax; or

(o) transact other business and exercise all other powers described in this title.

(2) The establishment of controls or restrictions and covenants under Subsection (1)(i) is a public purpose.

(3) An agency may acquire real property under Subsection (1)(c) that is outside a project area only if the board determines that the property will benefit a project area.

(4) An agency is not subject to Section 10-8-2 or 17-50-312.

(5) (a) An agency may, subject to Subsection (5)(c), enter into an agreement with a person to govern the development the person will undertake within a project area.

(b) An agreement under Subsection (5)(a) shall include a description of:

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

(ii) the amount of project area funds the agency agrees to pay to the person to facilitate the development; and

(iii) the terms and conditions under which the agency agrees to pay project area funds to the person.

(c) (i) An agreement under Subsection (5)(a) is subject to board approval by resolution of the board.

(ii) A resolution under Subsection (5)(c)(i) shall include a finding by the board describing how the project area development described in the agreement will contribute to achieving the goals, policies, and purposes of the project area plan.

Section 3. Section **17C-1-603** is amended to read:

17C-1-603 . Reporting requirements -- Governor's Office of Economic Opportunity to maintain a database.

(1) As used in this section:

(a) "Database" means the collection of electronic data described in Subsection (2)(a).

(b) "Office" means the Governor's Office of Economic Opportunity.

(c) "Office website" means a public website maintained by the office.

402 ~~[(1)] (2) [On or before June 1, 2022, the Governor's Office of Economic Opportunity] The~~
403 office shall:

404 (a) create ~~[a database]~~ and maintain electronic data to track information for each agency
405 located within the state; and

406 (b) make the database publicly accessible from the ~~[office's]~~ office website.

407 ~~[(2)] (3)~~ (a) The ~~[Governor's Office of Economic Opportunity]~~ office may:

408 (i) contract with a third party to create and maintain the database ~~[described in~~
409 Subsection (1)]; and

410 (ii) charge a fee for a county, city, or agency to provide information to the database~~[~~
411 described in Subsection (1)].

412 (b) The ~~[Governor's Office of Economic Opportunity]~~ office shall make rules, in
413 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
414 establish a fee schedule for the fee described in Subsection ~~[(2)(a)(ii)]~~ (3)(a)(ii).

415 ~~[(3)] (4) [Beginning in 2022, on]~~ On or before June 30 of each ~~[-calendar]~~ year, an agency
416 shall, for each active project area for which the project area funds collection period has
417 not expired, ~~[provide to]~~ submit to the office for inclusion in the database~~[-described in~~
418 Subsection (1)] the following information:

419 (a) an assessment of the change in marginal value, including:

420 (i) the base year;

421 (ii) the base taxable value;

422 (iii) the prior year's assessed value;

423 (iv) the estimated current assessed value;

424 (v) the percentage change in marginal value; and

425 (vi) a narrative description of the relative growth in assessed value;

426 (b) the amount of project area funds the agency received and the amount of project area
427 funds the agency spent for each year of the project area funds collection period,
428 broken down by the applicable budget or funds analysis category described in
429 Subsection (4)(d), including:

430 (i) a comparison of the actual project area funds received and spent for each year to
431 the amount of project area funds forecasted for each year when the project area
432 was created, if available;

433 (ii) (A) the agency's historical receipts and expenditures of project area funds,
434 including the tax year for which the agency first received project area funds
435 from the project area; or

- 436 (B) if the agency has not yet received project area funds from the project area, the
437 year in which the agency expects each project area funds collection period to
438 begin;
- 439 (iii) a list of each taxing entity that levies or imposes a tax within the project area and
440 a description of the benefits that each taxing entity receives from the project area;
441 and
- 442 (iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;
- 443 (c) a description of current and anticipated project area development, including:
- 444 (i) a narrative of any significant project area development, including infrastructure
445 development, site development, participation agreements, or vertical construction;
446 and
- 447 (ii) other details of development within the project area, including:
- 448 (A) the total developed acreage;
- 449 (B) the total undeveloped acreage;
- 450 (C) the percentage of residential development; and
- 451 (D) the total number of housing units authorized, if applicable;
- 452 (d) the project area budget, if applicable, or other project area funds analyses, with
453 receipts and expenditures categorized by the type of receipt and expenditure related
454 to the development performed or to be performed under the project area plan,
455 including:
- 456 (i) each project area funds collection period, including:
- 457 (A) the start and end date of the project area funds collection period; and
- 458 (B) the number of years remaining in each project area funds collection period;
- 459 (ii) the amount of project area funds the agency is authorized to receive from the
460 project area cumulatively and from each taxing entity, including:
- 461 (A) the total dollar amount; and
- 462 (B) the percentage of the total amount of project area funds generated within the
463 project area;
- 464 (iii) the remaining amount of project area funds the agency is authorized to receive
465 from the project area cumulatively and from each taxing entity; and
- 466 (iv) the amount of project area funds the agency is authorized to use to pay for the
467 agency's administrative costs, as described in Subsection 17C-1-409(1), including:
- 468 (A) the total dollar amount; and
- 469 (B) the percentage of the total amount of all project area funds;

(e) the estimated amount of project area funds that the agency is authorized to receive from the project area for the current calendar year;

(f) the estimated amount of project area funds to be paid to the agency for the next calendar year;

(g) a map of the project area; [and]

(h) a description of how the goals, policies, and purposes of the project area plan have been furthered during the preceding year; and

~~[(h)]~~ (i) any other relevant information the agency elects to provide.

~~(5)~~ An agency with no active project area shall, no later than June 30 of each year until the agency is dissolved under Section 17C-1-701.5, submit a report to the office stating that the agency has no active project area.

~~[(4)]~~ (6) Any information an agency submits in accordance with this section:

(a) is for informational purposes only; and

(b) does not alter the amount of project area funds that an agency is authorized to receive from a project area.

~~[(5)]~~ (7) The provisions of this section apply regardless of when the agency or project area is created.

~~[(6)]~~ (8) On or before September 1 of each year, the ~~[Governor's Office of Economic Opportunity]~~ office shall prepare and submit an annual written report to the Political Subdivisions Interim Committee that identifies~~[- (a)]~~ the agencies that complied and the agencies that failed to comply with the reporting requirements of this section during the preceding reporting period[- and] .

~~[(b) any agencies that failed to comply with the reporting requirements of this section during the preceding reporting period.]~~

(9) (a) If, by September 30 of the year the information is due, the office does not receive the information that an agency is required to submit under Subsection (4), the office shall:

(i) refer the noncompliant agency to the state auditor for review; and

(ii) post a notice on the office website identifying the noncompliant agency and describing the agency's noncompliance.

(b) If the office does not receive a report an agency is required to submit under Subsection (5), the office shall refer the noncompliant agency to the state auditor for review.

(c) If, for two consecutive years, the office does not receive information an agency is

required to submit under Subsection (4):

- (i) the office shall, no later than July 31 of the second consecutive year, notify the auditor and treasurer of the county in which the noncompliant agency is located of the agency's noncompliance; and
- (ii) upon receiving the notice described in Subsection (9)(c)(i), the county treasurer shall withhold from the agency 20% of the amount of tax increment the agency is otherwise entitled to receive until the office notifies the county auditor and treasurer that the agency has complied with the requirement of Subsection (4).

Section 4. Section **17C-1-702** is amended to read:

17C-1-702 . Project area dissolution -- Use of unexpended funds for housing.

- (1) Regardless of when a project area funds collection period ends, the project area remains in existence until:
 - (a) the agency adopts a resolution dissolving the project area; and
 - (b) the community legislative body adopts an ordinance dissolving the project area.
- (2) The ordinance described in Subsection (1)(b) shall include:
 - (a) the name of the project area; and
 - (b) a project area map or boundary description.
- (3) Within 30 days after the day on which the community legislative body adopts an ordinance described in Subsection (1)(b), the community legislative body shall:
 - (a) submit a copy of the ordinance to the county recorder of the county in which the dissolved project area is located; and
 - (b) mail or electronically submit a copy of the ordinance to the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies or imposes a tax on property within the dissolved project area.
- (4) (a) As used in this Subsection (4), "dormancy period" means a period that ends the later of:
 - (i) five years after the project area funds collection period ends; and
 - (ii) five years after the effective date of this section.
- (b) An agency with project area funds remaining at the end of the dormancy period shall use the unexpended funds as provided in Subsection 17C-1-412(1)(b).

Section 5. Section **17C-5-105** is amended to read:

17C-5-105 . Community reinvestment project area plan requirements.

An agency shall ensure that each community reinvestment project area plan and proposed community reinvestment project area plan:

- 538 (1) subject to Section 17C-1-414, if applicable, includes a boundary description and a map
539 of the community reinvestment project area;
- 540 (2) contains a general statement of the existing land uses, layout of principal streets,
541 population densities, and building intensities of the community reinvestment project area
542 and how each will be affected by project area development;
- 543 (3) states the standards that will guide project area development;
- 544 (4) shows how project area development will further purposes of this title;
- 545 (5) is consistent with the general plan of the community in which the community
546 reinvestment project area is located and shows that project area development will
547 conform to the community's general plan;
- 548 (6) if applicable, describes how project area development will eliminate or reduce a
549 development impediment in the community reinvestment project area;
- 550 (7) describes any specific project area development that is the object of the community
551 reinvestment project area plan;
- 552 (8) if applicable, explains how the agency plans to select a participant;
- 553 (9) states each reason the agency selected the community reinvestment project area;
- 554 (10) describes the physical, social, and economic conditions that exist in the community
555 reinvestment project area;
- 556 (11) describes each type of financial assistance that the agency anticipates offering a
557 participant;
- 558 (12) includes an analysis or description of the anticipated public benefit resulting from
559 project area development, including benefits to the community's economic activity and
560 tax base;
- 561 (13) includes the rationale for the use of tax increment, including an analysis of whether the
562 proposed project area development might reasonably be expected to occur in the
563 foreseeable future without the use of tax increment;
- 564 ~~[(13)]~~ (14) if applicable, states that the agency shall comply with Section 9-8a-404 as
565 required under Section 17C-5-106;
- 566 ~~[(14)]~~ (15) for a community reinvestment project area plan that an agency adopted before
567 May 14, 2019, states whether the community reinvestment project area plan or proposed
568 community reinvestment project area plan is subject to a taxing entity committee or an
569 interlocal agreement; and
- 570 ~~[(15)]~~ (16) includes other information that the agency determines to be necessary or
571 advisable.

Section 6. Section **63N-2-104.2** is amended to read:

63N-2-104.2 . Written agreement -- Contents -- Grounds for amendment or termination.

- (1) If the office determines that a business entity is eligible for a tax credit under Section 63N-2-104.1, the office may enter into a written agreement with the business entity that:
- (a) establishes performance benchmarks for the business entity to claim a tax credit, including any minimum wage requirements;
 - (b) specifies the maximum amount of tax credit that the business entity may be authorized for a taxable year and over the life of the new commercial project, subject to the limitations in Section 63N-2-104.3;
 - (c) establishes the length of time the business entity may claim a tax credit;
 - (d) requires the business entity to retain records supporting a claim for a tax credit for at least four years after the business entity claims the tax credit;
 - (e) requires the business entity to submit to audits for verification of any tax credit claimed; and
 - (f) requires the business entity, in order to claim a tax credit, to meet the requirements of Section 63N-2-105.
- (2) In establishing the terms of a written agreement, including the duration and amount of tax credit that the business entity may be authorized to receive, the office shall:
- (a) authorize the tax credit in a manner that provides the most effective incentive for the new commercial project;
 - (b) consider the following factors:
 - (i) whether the new commercial project provides vital or specialized support to supply chains;
 - (ii) whether the new commercial project provides an innovative product, technology, or service;
 - (iii) the number and wages of new incremental jobs associated with the new commercial project;
 - (iv) the amount of financial support provided by local government entities for the new commercial project;
 - (v) the amount of capital expenditures associated with the new commercial project;
 - (vi) whether the new commercial project returns jobs transferred overseas;
 - (vii) the rate of unemployment in the county in which the new commercial project is located;

- (viii) whether the new commercial project creates a remote work opportunity;
- (ix) whether the new commercial project is located in a development zone created by a local government entity as described in Subsection 63N-2-104(2);
- (x) whether the business entity commits to hiring Utah workers for the new commercial project;
- (xi) whether the business entity adopts a corporate citizenry plan or supports initiatives in the state that advance education, gender equality, diversity and inclusion, work-life balance, environmental or social good, or other similar causes;
- (xii) whether the business entity's headquarters are located within the state;
- (xiii) the likelihood of other business entities relocating to another state as a result of the new commercial project;
- (xiv) the necessity of the tax credit for the business entity's expansion in the state or relocation from another state; ~~and~~
- ~~(xv) whether the proposed new commercial project might reasonably be expected to occur in the foreseeable future without the tax credit; and~~
- ~~[(xv)]~~ (xvi) the location and impact of the new commercial project on existing and planned transportation facilities, existing and planned housing, including affordable housing, and public infrastructure; and

(c) consult with the GO Utah board.

(3) (a) In determining the amount of tax credit that a business entity may be authorized to receive under a written agreement, the office may:

- (i) authorize a higher or optimized amount of tax credit for a new commercial project located within a development zone created by a local government entity as described in Subsection 63N-2-104(2); and
- (ii) establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process by which the office closely approximates the amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for a capital project.

(b) The office may apply a process described in Subsection (3)(a)(ii) to a business entity only with respect to a new or amended written agreement that takes effect on or after January 1, 2022.

(4) If the office identifies any of the following events after entering into a written agreement with a business entity, the office and the business entity shall amend, or the office may terminate, the written agreement:

- 640 (a) a change in the business entity's organization resulting from a merger with or
641 acquisition of another entity located in the state;
- 642 (b) a material increase in the business entity's retail operations that results in new state
643 revenue not subject to the incentive; or
- 644 (c) an increase in the business entity's operations that:
- 645 (i) is outside the scope of the written agreement or outside the boundaries of a
646 development zone; and
- 647 (ii) results in new state revenue not subject to the incentive.

648 Section 7. **Effective date.**

649 This bill takes effect on May 1, 2024.