

TAX INCREMENT FINANCING REVISIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill modifies provisions regarding redevelopment agencies and economic development tax increment financing.

Highlighted Provisions:

This bill:

- ▶ requires agencies to report certain information to the Governor's Office of Economic Opportunity;
- ▶ provides penalties for failing to comply with reporting requirements;
- ▶ provides for the allocation of project area funds that are unspent five years after the project area collection period ends; and
- ▶ requires project area plans to include the rationale for using tax increment financing, including an analysis of whether the goals for a project area could reasonably be expected to be accomplished through private development.

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 2021, Chapter 214



17C-1-603, as last amended by Laws of Utah 2021, Chapter 282

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

17C-5-105, as last amended by Laws of Utah 2019, Chapter 376

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;

90 or

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

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

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

98 (11) "Board" means the governing body of an agency, as described in Section
99 17C-1-203.

100 (12) "Budget hearing" means the public hearing on a proposed project area budget
101 required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,
102 Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection
103 17C-5-302(2)(e) for a community reinvestment project area budget.

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

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

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

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

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

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

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

120 (20) "Development impediment" means a condition of an area that meets the

requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the purposes described in Section 17C-1-411; or

(b) an agency's housing allocation.

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

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

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

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

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

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

(iii) requires remediation because:

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

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

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

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

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

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

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

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

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

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

represents the adjusted tax increment from that project area that is paid to the agency.

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

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

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

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

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

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

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

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

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

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

(a) includes a description of:

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

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

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

and

(iv) how the project area development contributes to achieving the goals, policies, and

purposes in the project area plan; and

(b) is approved by resolution of the board.

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

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

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

(45) "Private," with respect to real property, means property not owned by a public entity or 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;

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

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

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

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

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

254 (h) relocating a business;

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

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

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

258 (l) any activity described in this Subsection (48) outside of a project area that the board
259 determines to be a benefit to the project area.

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

263 (50) "Project area funds collection period" means the period of time that:

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

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

270 (51) "Project area plan" means an urban renewal project area plan, an economic
271 development project area plan, a community development project area plan, or a community
272 reinvestment project area plan that, after the project area plan's effective date, guides and
273 controls the project area development.

274 (52) (a) "Property tax" means each levy on an ad valorem basis on tangible or
275 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, local 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](#).

(57) "Superfund site":

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

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

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

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

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

(59) "Survey area resolution" means a resolution adopted by a board that designates a

survey area.

(60) "Taxable value" means:

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

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

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

(61) (a) "Tax increment" means the difference between:

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

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

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

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

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

(62) "Taxing entity" means a public entity that:

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

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

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

(64) "Unincorporated" means not within a municipality.

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

Section 2. Section 17C-1-603 is amended to read:

17C-1-603. Reporting requirements -- Governor's Office of Economic Opportunity to maintain a database -- Penalties for failure to provide the required reports.

(1) On or before June 1, 2022, the Governor's Office of Economic Opportunity shall:

(a) create a database to track information for each agency located within the state; and

(b) make the database publicly accessible from the office's website.

(2) (a) The Governor's Office of Economic Opportunity may:

(i) contract with a third party to create and maintain the database described in Subsection (1); and

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

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

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

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

(i) the base year;

(ii) the base taxable value;

(iii) the prior year's assessed value;

(iv) the estimated current assessed value;

(v) the percentage change in marginal value; and

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

(b) the amount of project area funds the agency received for each year of the project area funds collection period, including:

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

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

(B) if the agency has not yet received project area funds from the project area, the year in which the agency expects each project area funds collection period to begin;

(iii) a list of each taxing entity that levies or imposes a tax within the project area and a description of the benefits that each taxing entity receives from the project area; and

(iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;

(c) a description of current and anticipated project area development, including:

(i) a narrative of any significant project area development, including infrastructure development, site development, participation agreements, or vertical construction; and

(ii) other details of development within the project area, including:

(A) the total developed acreage;

(B) the total undeveloped acreage;

(C) the percentage of residential development; and

(D) the total number of housing units authorized, if applicable;

(d) the project area budget, if applicable, or other project area funds analyses, including:

(i) each project area funds collection period, including:

(A) the start and end date of the project area funds collection period; and

(B) the number of years remaining in each project area funds collection period;

(ii) the amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity, including:

(A) the total dollar amount; and

(B) the percentage of the total amount of project area funds generated within the project area;

(iii) the remaining amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity; ~~and~~

(iv) the amount of project area funds the agency is authorized to use to pay for the agency's administrative costs, as described in Subsection 17C-1-409(1), including:

(A) the total dollar amount; and

(B) the percentage of the total amount of all project area funds;

(v) the categories for budgetary expenditures; and

(vi) prior year actual expenditures, itemized by category;

(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) any other relevant information the agency elects to provide.

(4) (a) Until the Governor's Office of Economic Opportunity creates a database as required in Subsection (1), an agency shall, on or before November 1 of each calendar year, electronically submit a report to:

(i) the community in which the agency operates;

(ii) the county auditor;

(iii) the State Tax Commission;

(iv) the State Board of Education; and

(v) each taxing entity from which the agency receives project area funds.

(b) An agency shall ensure that the report described in Subsection (4)(a):

(i) contains the same information described in Subsection (3); and

(ii) is posted on the website of the community in which the agency operates.

(5) If an agency has no active project areas, the agency shall, on or before June 30 of each calendar year until the agency is dissolved under Section 17C-1-701.5, submit a report to the Governor's Office of Economic Opportunity stating that there are no active project areas.

~~[(5)]~~ (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.

(7) (a) If an agency fails to comply with the reporting requirements under Subsections (3) through (5), and fails to cure the noncompliance:

(i) within three months after the day on which a report is due, the Governor's Office of Economic Opportunity shall refer the agency to the State Auditor for review; and

(ii) within six months after the day on which a report is due, the Governor's Office of Economic Opportunity shall publish a notice identifying the agency and describing the agency's noncompliance.

(b) If an agency fails to comply with the reporting requirements under Subsections (3) through (5) for two consecutive years:

(i) the Governor's Office of Economic Opportunity shall notify the county auditor and treasurer of the noncompliance; and

(ii) the percent of tax increment funds to which the agency is entitled under the interlocal agreements with the taxing entities shall be reduced by 20 percentage points, until the Governor's Office of Economic Opportunity notifies the county auditor and treasurer that the agency has complied with the reporting requirements of this section.

~~[(6)]~~ (8) The provisions of this section apply regardless of when the agency or project area is created.

Section 3. Section **17C-1-702** is amended to read:

17C-1-702. Project area dissolution -- Distribution of unexpended project area funds.

(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) Project area funds that are unspent five years after the project area collection period ends shall be allocated in accordance with Subsection [17C-1-412\(1\)\(b\)](#).

Section 4. Section **17C-5-105** is amended to read:

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

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

464 (1) subject to Section 17C-1-414, if applicable, includes a boundary description and a
465 map of the community reinvestment project area;

466 (2) contains a general statement of the existing land uses, layout of principal streets,
467 population densities, and building intensities of the community reinvestment project area and
468 how each will be affected by project area development;

469 (3) states the standards that will guide project area development;

470 (4) shows how project area development will further purposes of this title;

471 (5) is consistent with the general plan of the community in which the community
472 reinvestment project area is located and shows that project area development will conform to
473 the community's general plan;

474 (6) if applicable, describes how project area development will eliminate or reduce a
475 development impediment in the community reinvestment project area;

476 (7) describes any specific project area development that is the object of the community
477 reinvestment project area plan;

478 (8) if applicable, explains how the agency plans to select a participant;

479 (9) states each reason the agency selected the community reinvestment project area;

480 (10) describes the physical, social, and economic conditions that exist in the
481 community reinvestment project area;

482 (11) describes each type of financial assistance that the agency anticipates offering a
483 participant;

484 (12) includes an analysis or description of the anticipated public benefit resulting from
485 project area development, including benefits to the community's economic activity and tax
486 base;

487 (13) includes the rationale for use of tax increment, including an analysis of whether
488 the proposed project area development might reasonably be expected to occur in the
489 foreseeable future solely through private investment;

490 ~~[(13)]~~ (14) if applicable, states that the agency shall comply with Section 9-8-404 as
491 required under Section 17C-5-106;

492 ~~[(14)]~~ (15) for a community reinvestment project area plan that an agency adopted

before May 14, 2019, states whether the community reinvestment project area plan or proposed community reinvestment project area plan is subject to a taxing entity committee or an interlocal agreement; and

~~[(15)]~~ (16) includes other information that the agency determines to be necessary or advisable.

Section 5. 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

524 service;

525 (iii) the number and wages of new incremental jobs associated with the new

526 commercial project;

527 (iv) the amount of financial support provided by local government entities for the new

528 commercial project;

529 (v) the amount of capital expenditures associated with the new commercial project;

530 (vi) whether the new commercial project returns jobs transferred overseas;

531 (vii) the rate of unemployment in the county in which the new commercial project is

532 located;

533 (viii) whether the new commercial project creates a remote work opportunity;

534 (ix) whether the new commercial project is located in a development zone created by a

535 local government entity as described in Subsection 63N-2-104(2);

536 (x) whether the business entity commits to hiring Utah workers for the new

537 commercial project;

538 (xi) whether the business entity adopts a corporate citizenry plan or supports initiatives

539 in the state that advance education, gender equality, diversity and inclusion, work-life balance,

540 environmental or social good, or other similar causes;

541 (xii) whether the business entity's headquarters are located within the state;

542 (xiii) the likelihood of other business entities relocating to another state as a result of

543 the new commercial project;

544 (xiv) the necessity of the tax credit for the business entity's expansion in the state or

545 relocation from another state; ~~and~~

546 (xv) whether the proposed new commercial project might be reasonably expected to

547 occur in the foreseeable future solely through private investment; and

548 ~~[(xv)]~~ (xvi) the location and impact of the new commercial project on existing and

549 planned transportation facilities, existing and planned housing, including affordable housing,

550 and public infrastructure; and

551 (c) consult with the GO Utah board.

552 (3) (a) In determining the amount of tax credit that a business entity may be authorized

553 to receive under a written agreement, the office may:

554 (i) authorize a higher or optimized amount of tax credit for a new commercial project

555 located within a development zone created by a local government entity as described in
556 Subsection 63N-2-104(2); and

557 (ii) establish by rule made in accordance with Title 63G, Chapter 3, Utah
558 Administrative Rulemaking Act, a process by which the office closely approximates the
559 amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for
560 a capital project.

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

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

567 (a) a change in the business entity's organization resulting from a merger with or
568 acquisition of another entity located in the state;

569 (b) a material increase in the business entity's retail operations that results in new state
570 revenue not subject to the incentive; or

571 (c) an increase in the business entity's operations that:

572 (i) is outside the scope of the written agreement or outside the boundaries of a
573 development zone; and

574 (ii) results in new state revenue not subject to the incentive.