

1 **TAX INCENTIVE REVISIONS**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4
5 **LONG TITLE**

6 **General Description:**

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

8 **Highlighted Provisions:**

9 This bill:

- 10 ▶ authorizes a community reinvestment agency to enter into a participation agreement
11 and moves the language relating to a participation agreement from the definition of
12 participation agreement to the provision authorizing the agency to enter into a
13 participation agreement;
- 14 ▶ modifies a provision relating to information that an agency is required to provide to
15 the Governor's Office of Economic Opportunity for inclusion in a database
16 maintained by the Office;
- 17 ▶ requires an agency with no active project area to submit a report to the Office;
- 18 ▶ requires the Office to refer an agency to the state auditor and post a notice on the
19 Office's website or report the agency to the county auditor and treasurer if an agency
20 fails to comply with applicable reporting requirements;
- 21 ▶ requires an agency with unexpended project area funds more than five years after
22 the expiration of the project area funds collection period to use those funds for
23 housing;
- 24 ▶ requires an analysis of whether project development would be likely to occur with
25 the use of tax incentives; and
- 26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

- 33 **17C-1-102**, as last amended by Laws of Utah 2023, Chapter 15
- 34 **17C-1-202**, as last amended by Laws of Utah 2021, Chapter 214
- 35 **17C-1-603**, as last amended by Laws of Utah 2023, Chapter 499
- 36 **17C-1-702**, as enacted by Laws of Utah 2016, Chapter 350
- 37 **17C-5-105**, as last amended by Laws of Utah 2023, Chapter 160
- 38 **63N-2-104.2**, as enacted by Laws of Utah 2022, Chapter 200



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

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

42 **17C-1-102. Definitions.**

43 As used in this title:

44 (1) "Active project area" means a project area that has not been dissolved in accordance
45 with Section 17C-1-702.

46 (2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%,
47 that an agency is authorized to receive:

48 (a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax
49 increment under Subsection 17C-1-403(3);

50 (b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax
51 increment under Section 17C-1-406;

52 (c) under a project area budget approved by a taxing entity committee; or

53 (d) under an interlocal agreement that authorizes the agency to receive a taxing entity's
54 tax increment.

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

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

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

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

63 (c) whose geographic boundaries are coterminous with:

- 64 (i) for an agency created by a county, the unincorporated area of the county; and
65 (ii) for an agency created by a municipality, the boundaries of the municipality.
- 66 (5) "Agency funds" means money that an agency collects or receives for agency
67 operations, implementing a project area plan or an implementation plan as defined in Section
68 17C-1-1001, or other agency purposes, including:
- 69 (a) project area funds;
70 (b) income, proceeds, revenue, or property derived from or held in connection with the
71 agency's undertaking and implementation of project area development or agency-wide project
72 development as defined in Section 17C-1-1001;
- 73 (c) a contribution, loan, grant, or other financial assistance from any public or private
74 source;
- 75 (d) project area incremental revenue as defined in Section 17C-1-1001; or
76 (e) property tax revenue as defined in Section 17C-1-1001.
- 77 (6) "Annual income" means the same as that term is defined in regulations of the
78 United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as
79 amended or as superseded by replacement regulations.
- 80 (7) "Assessment roll" means the same as that term is defined in Section 59-2-102.
- 81 (8) "Base taxable value" means, unless otherwise adjusted in accordance with
82 provisions of this title, a property's taxable value as shown upon the assessment roll last
83 equalized during the base year.
- 84 (9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year
85 during which the assessment roll is last equalized:
- 86 (a) for a pre-July 1, 1993, urban renewal or economic development project area plan,
87 before the project area plan's effective date;
- 88 (b) for a post-June 30, 1993, urban renewal or economic development project area
89 plan, or a community reinvestment project area plan that is subject to a taxing entity
90 committee:
- 91 (i) before the date on which the taxing entity committee approves the project area
92 budget; or
93 (ii) if taxing entity committee approval is not required for the project area budget,
94 before the date on which the community legislative body adopts the project area plan;

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

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

97 or

98 (ii) the date on which the airport that operated on the inactive airport site ceased

99 operations; or

100 (d) for a community development project area plan or a community reinvestment

101 project area plan that is subject to an interlocal agreement, as described in the interlocal

102 agreement.

103 (10) "Basic levy" means the portion of a school district's tax levy constituting the

104 minimum basic levy under Section 59-2-902.

105 (11) "Board" means the governing body of an agency, as described in Section

106 17C-1-203.

107 (12) "Budget hearing" means the public hearing on a proposed project area budget

108 required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,

109 Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection

110 17C-5-302(2)(e) for a community reinvestment project area budget.

111 (13) "Closed military base" means land within a former military base that the Defense

112 Base Closure and Realignment Commission has voted to close or realign when that action has

113 been sustained by the president of the United States and Congress.

114 (14) "Combined incremental value" means the combined total of all incremental values

115 from all project areas, except project areas that contain some or all of a military installation or

116 inactive industrial site, within the agency's boundaries under project area plans and project area

117 budgets at the time that a project area budget for a new project area is being considered.

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

119 (16) "Community development project area plan" means a project area plan adopted

120 under Chapter 4, Part 1, Community Development Project Area Plan.

121 (17) "Community legislative body" means the legislative body of the community that

122 created the agency.

123 (18) "Community reinvestment project area plan" means a project area plan adopted

124 under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

125 (19) "Contest" means to file a written complaint in the district court of the county in

126 which the agency is located.

127 (20) "Development impediment" means a condition of an area that meets the
128 requirements described in Section 17C-2-303 for an urban renewal project area or Section
129 17C-5-405 for a community reinvestment project area.

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

132 (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section
133 17C-2-302; or

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

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

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

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

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

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

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

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

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

157 (28) "Housing allocation" means project area funds allocated for housing under Section
158 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

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

161 (a) project area funds, project area incremental revenue as defined in Section
162 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the
163 purposes described in Section 17C-1-411; or

164 (b) an agency's housing allocation.

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

166 (i) consists of at least 100 acres;

167 (ii) is occupied by an airport:

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

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

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

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

172 (iii) requires remediation because:

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

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

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

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

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

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

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

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

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

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

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

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

196 (i) a fire station;

197 (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
203 Section 10-9a-103.

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

206 (38) "Military installation project area" means a project area or a portion of a project
207 area 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
210 10-2a-403.

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

213 (41) "Participation agreement" means a written agreement between a person and an
214 agency under Subsection 17C-1-202(5). ~~[that:]~~

215 ~~[(a) includes a description of:]~~

216 ~~[(i) the project area development that the person will undertake;]~~

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

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

219 and]

220 [~~(b) is approved by resolution of the board.~~]

221 (42) "Plan hearing" means the public hearing on a proposed project area plan required
222 under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection
223 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d)
224 for a community development project area plan, or Subsection 17C-5-104(3)(e) for a
225 community reinvestment project area plan.

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

229 (44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July
230 1, 1993, whether or not amended subsequent to the project area plan's adoption.

231 (45) "Private," with respect to real property, means property not owned by a public
232 entity or any other governmental entity.

233 (46) "Project area" means the geographic area described in a project area plan within
234 which the project area development described in the project area plan takes place or is
235 proposed to take place.

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

239 (a) for an urban renewal project area, Section 17C-2-201;

240 (b) for an economic development project area, Section 17C-3-201;

241 (c) for a community development project area, Section 17C-4-204; or

242 (d) for a community reinvestment project area, Section 17C-5-302.

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

246 (a) promoting, creating, or retaining public or private jobs within the state or a
247 community;

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

- 250 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or
251 remediating environmental issues;
- 252 (d) providing residential, commercial, industrial, public, or other structures or spaces,
253 including recreational and other facilities incidental or appurtenant to the structures or spaces;
- 254 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating
255 existing structures;
- 256 (f) providing open space, including streets or other public grounds or space around
257 buildings;
- 258 (g) providing public or private buildings, infrastructure, structures, or improvements;
- 259 (h) relocating a business;
- 260 (i) improving public or private recreation areas or other public grounds;
- 261 (j) eliminating a development impediment or the causes of a development impediment;
- 262 (k) redevelopment as defined under the law in effect before May 1, 2006; or
- 263 (l) any activity described in this Subsection (48) outside of a project area that the board
264 determines to be a benefit to the project area.
- 265 (49) "Project area funds" means tax increment or sales and use tax revenue that an
266 agency receives under a project area budget adopted by a taxing entity committee or an
267 interlocal agreement.
- 268 (50) "Project area funds collection period" means the period of time that:
- 269 (a) begins the day on which the first payment of project area funds is distributed to an
270 agency under a project area budget approved by a taxing entity committee or an interlocal
271 agreement; and
- 272 (b) ends the day on which the last payment of project area funds is distributed to an
273 agency under a project area budget approved by a taxing entity committee or an interlocal
274 agreement.
- 275 (51) "Project area plan" means an urban renewal project area plan, an economic
276 development project area plan, a community development project area plan, or a community
277 reinvestment project area plan that, after the project area plan's effective date, guides and
278 controls the project area development.
- 279 (52) (a) "Property tax" means each levy on an ad valorem basis on tangible or
280 intangible personal or real property.

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

283 (53) "Public entity" means:

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

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

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

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

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

297 (56) "Sales and use tax revenue" means revenue that is:

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

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

301 (57) "Superfund site":

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

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

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

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

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

329 (b) "Tax increment" does not include taxes levied and collected under Section
330 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

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

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

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

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

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

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

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

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

- 343 Section 2. Section **17C-1-202** is amended to read:
- 344 **17C-1-202. Agency powers.**
- 345 (1) An agency may:
- 346 (a) sue and be sued;
- 347 (b) enter into contracts generally;
- 348 (c) buy, obtain an option upon, acquire by gift, or otherwise acquire any interest in real
349 or personal property;
- 350 (d) hold, sell, convey, grant, gift, or otherwise dispose of any interest in real or personal
351 property;
- 352 (e) own, hold, maintain, utilize, manage, or operate real or personal property, which
353 may include the use of agency funds or the collection of revenue;
- 354 (f) enter into a lease agreement on real or personal property, either as lessee or lessor;
- 355 (g) provide for project area development as provided in this title;
- 356 (h) receive and use agency funds as provided in this title;
- 357 (i) if disposing of or leasing land, retain controls or establish restrictions and covenants
358 running with the land consistent with the project area plan;
- 359 (j) accept financial or other assistance from any public or private source for the
360 agency's activities, powers, and duties, and expend any funds the agency receives for any
361 purpose described in this title;
- 362 (k) borrow money or accept financial or other assistance from a public entity or any
363 other source for any of the purposes of this title and comply with any conditions of any loan or
364 assistance;
- 365 (l) issue bonds to finance the undertaking of any project area development or for any of
366 the agency's other purposes, including:
- 367 (i) reimbursing an advance made by the agency or by a public entity to the agency;
- 368 (ii) refunding bonds to pay or retire bonds previously issued by the agency; and
- 369 (iii) refunding bonds to pay or retire bonds previously issued by the community that
370 created the agency for expenses associated with project area development;
- 371 (m) pay an impact fee, exaction, or other fee imposed by a community in connection
372 with land development;
- 373 (n) subject to Part 10, Agency Taxing Authority, levy a property tax; or

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

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

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

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

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

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

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

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

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

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

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

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

394 **17C-1-603. Reporting requirements -- Governor's Office of Economic**
395 **Opportunity to maintain a database.**

396 (1) As used in this section:

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

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

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

400 ~~[(1)] (2) [On or before June 1, 2022, the Governor's Office of Economic Opportunity]~~

401 The office shall:

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

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

- 405 ~~[(2)]~~ (3) (a) The ~~[Governor's Office of Economic Opportunity]~~ office may:
- 406 (i) contract with a third party to create and maintain the database ~~[described in~~
- 407 ~~Subsection (1)]~~; and
- 408 (ii) charge a fee for a county, city, or agency to provide information to the database~~[~~
- 409 ~~described in Subsection (1)]~~.
- 410 (b) The ~~[Governor's Office of Economic Opportunity]~~ office shall make rules, in
- 411 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a fee
- 412 schedule for the fee described in Subsection ~~[(2)(a)(ii)]~~ (3)(a)(ii).
- 413 ~~[(3)]~~ (4) ~~[Beginning in 2022, on]~~ On or before June 30 of each ~~[calendar]~~ year, an
- 414 agency shall, for each active project area for which the project area funds collection period has
- 415 not expired, ~~[provide to]~~ submit to the office for inclusion in the database ~~[described in~~
- 416 ~~Subsection (1)]~~ the following information:
- 417 (a) an assessment of the change in marginal value, including:
- 418 (i) the base year;
- 419 (ii) the base taxable value;
- 420 (iii) the prior year's assessed value;
- 421 (iv) the estimated current assessed value;
- 422 (v) the percentage change in marginal value; and
- 423 (vi) a narrative description of the relative growth in assessed value;
- 424 (b) the amount of project area funds the agency received and the amount of project area
- 425 funds the agency spent for each year of the project area funds collection period, broken down
- 426 by the applicable budget or funds analysis category described in Subsection (4)(d), including:
- 427 (i) a comparison of the actual project area funds received and spent for each year to the
- 428 amount of project area funds forecasted for each year when the project area was created, if
- 429 available;
- 430 (ii) (A) the agency's historical receipts and expenditures of project area funds,
- 431 including the tax year for which the agency first received project area funds from the project
- 432 area; or
- 433 (B) if the agency has not yet received project area funds from the project area, the year
- 434 in which the agency expects each project area funds collection period to begin;
- 435 (iii) a list of each taxing entity that levies or imposes a tax within the project area and a

436 description of the benefits that each taxing entity receives from the project area; and
437 (iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;
438 (c) a description of current and anticipated project area development, including:
439 (i) a narrative of any significant project area development, including infrastructure
440 development, site development, participation agreements, or vertical construction; and
441 (ii) other details of development within the project area, including:
442 (A) the total developed acreage;
443 (B) the total undeveloped acreage;
444 (C) the percentage of residential development; and
445 (D) the total number of housing units authorized, if applicable;
446 (d) the project area budget, if applicable, or other project area funds analyses, with
447 receipts and expenditures categorized by the type of receipt and expenditure related to the
448 development performed or to be performed under the project area plan, including:
449 (i) each project area funds collection period, including:
450 (A) the start and end date of the project area funds collection period; and
451 (B) the number of years remaining in each project area funds collection period;
452 (ii) the amount of project area funds the agency is authorized to receive from the
453 project area cumulatively and from each taxing entity, including:
454 (A) the total dollar amount; and
455 (B) the percentage of the total amount of project area funds generated within the
456 project area;
457 (iii) the remaining amount of project area funds the agency is authorized to receive
458 from the project area cumulatively and from each taxing entity; and
459 (iv) the amount of project area funds the agency is authorized to use to pay for the
460 agency's administrative costs, as described in Subsection 17C-1-409(1), including:
461 (A) the total dollar amount; and
462 (B) the percentage of the total amount of all project area funds;
463 (e) the estimated amount of project area funds that the agency is authorized to receive
464 from the project area for the current calendar year;
465 (f) the estimated amount of project area funds to be paid to the agency for the next
466 calendar year;

- 467 (g) a map of the project area; ~~and]~~
- 468 (h) a description of how the goals, policies, and purposes of the project area plan have
- 469 been furthered during the preceding year; and
- 470 ~~(h)~~ (i) any other relevant information the agency elects to provide.
- 471 (5) An agency with no active project area shall, no later than June 30 of each year until
- 472 the agency is dissolved under Section 17C-1-701.5, submit a report to the office stating that the
- 473 agency has no active project area.
- 474 ~~(4)~~ (6) Any information an agency submits in accordance with this section:
- 475 (a) is for informational purposes only; and
- 476 (b) does not alter the amount of project area funds that an agency is authorized to
- 477 receive from a project area.
- 478 ~~(5)~~ (7) The provisions of this section apply regardless of when the agency or project
- 479 area is created.
- 480 ~~(6)~~ (8) On or before September 1 of each year, the ~~[Governor's Office of Economic~~
- 481 ~~Opportunity]~~ office shall prepare and submit an annual written report to the Political
- 482 Subdivisions Interim Committee that identifies~~[-]~~
- 483 ~~(a)~~ the agencies that complied and the agencies that failed to comply with the
- 484 reporting requirements of this section during the preceding reporting period~~[-and].~~
- 485 ~~(b) any agencies that failed to comply with the reporting requirements of this section~~
- 486 ~~during the preceding reporting period.]~~
- 487 (9) (a) If, by September 30 of the year the information is due, the office does not
- 488 receive the information that an agency is required to submit under Subsection (4), the office
- 489 shall:
- 490 (i) refer the noncompliant agency to the state auditor for review; and
- 491 (ii) post a notice on the office website identifying the noncompliant agency and
- 492 describing the agency's noncompliance.
- 493 (b) If the office does not receive a report an agency is required to submit under
- 494 Subsection (5), the office shall refer the noncompliant agency to the state auditor for review.
- 495 (c) If, for two consecutive years, the office does not receive information an agency is
- 496 required to submit under Subsection (4):
- 497 (i) the office shall notify the auditor and treasurer of the county in which the

498 noncompliant agency is located of the agency's noncompliance; and
499 (ii) upon receiving the notice described in Subsection (9)(c)(i), the county treasurer
500 shall withhold from the agency 20% of the amount the agency is otherwise entitled to receive
501 under an interlocal agreement with a taxing entity for the sharing of tax increment, until the
502 office notifies the county auditor and treasurer that the agency has complied with the
503 requirement of Subsection (5)

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

505 **17C-1-702. Project area dissolution.**

506 (1) Regardless of when a project area funds collection period ends, the project area
507 remains in existence until:

508 (a) the agency adopts a resolution dissolving the project area; and
509 (b) the community legislative body adopts an ordinance dissolving the project area.

510 (2) The ordinance described in Subsection (1)(b) shall include:

511 (a) the name of the project area; and
512 (b) a project area map or boundary description.

513 (3) Within 30 days after the day on which the community legislative body adopts an
514 ordinance described in Subsection (1)(b), the community legislative body shall:

515 (a) submit a copy of the ordinance to the county recorder of the county in which the
516 dissolved project area is located; and

517 (b) mail or electronically submit a copy of the ordinance to the county auditor, the State
518 Tax Commission, the State Board of Education, and each taxing entity that levies or imposes a
519 tax on property within the dissolved project area.

520 (4) (a) As used in this Subsection (4), "dormancy period" means a period that ends the
521 later of:

522 (i) five years after the project area funds collection period ends; and

523 (ii) five years after the effective date of this section.

524 (b) An agency with project area funds remaining at the end of the dormancy period
525 shall use the unexpended funds as provided in Subsection 17C-1-412(1)(b).

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

527 **17C-5-105. Community reinvestment project area plan requirements.**

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

529 proposed community reinvestment project area plan:

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

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

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

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

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

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

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

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

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

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

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

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

553 (13) includes the rationale for the use of tax increment, including an analysis of
554 whether the proposed project area development might reasonably be expected to occur in the
555 foreseeable future without the use of tax increment;

556 [~~13~~] (14) if applicable, states that the agency shall comply with Section 9-8a-404 as
557 required under Section 17C-5-106;

558 [~~14~~] (15) for a community reinvestment project area plan that an agency adopted
559 before May 14, 2019, states whether the community reinvestment project area plan or proposed

560 community reinvestment project area plan is subject to a taxing entity committee or an
561 interlocal agreement; and

562 ~~[(15)]~~ (16) includes other information that the agency determines to be necessary or
563 advisable.

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

565 **63N-2-104.2. Written agreement -- Contents -- Grounds for amendment or**
566 **termination.**

567 (1) If the office determines that a business entity is eligible for a tax credit under
568 Section 63N-2-104.1, the office may enter into a written agreement with the business entity
569 that:

570 (a) establishes performance benchmarks for the business entity to claim a tax credit,
571 including any minimum wage requirements;

572 (b) specifies the maximum amount of tax credit that the business entity may be
573 authorized for a taxable year and over the life of the new commercial project, subject to the
574 limitations in Section 63N-2-104.3;

575 (c) establishes the length of time the business entity may claim a tax credit;

576 (d) requires the business entity to retain records supporting a claim for a tax credit for
577 at least four years after the business entity claims the tax credit;

578 (e) requires the business entity to submit to audits for verification of any tax credit
579 claimed; and

580 (f) requires the business entity, in order to claim a tax credit, to meet the requirements
581 of Section 63N-2-105.

582 (2) In establishing the terms of a written agreement, including the duration and amount
583 of tax credit that the business entity may be authorized to receive, the office shall:

584 (a) authorize the tax credit in a manner that provides the most effective incentive for
585 the new commercial project;

586 (b) consider the following factors:

587 (i) whether the new commercial project provides vital or specialized support to supply
588 chains;

589 (ii) whether the new commercial project provides an innovative product, technology, or
590 service;

- 591 (iii) the number and wages of new incremental jobs associated with the new
592 commercial project;
- 593 (iv) the amount of financial support provided by local government entities for the new
594 commercial project;
- 595 (v) the amount of capital expenditures associated with the new commercial project;
- 596 (vi) whether the new commercial project returns jobs transferred overseas;
- 597 (vii) the rate of unemployment in the county in which the new commercial project is
598 located;
- 599 (viii) whether the new commercial project creates a remote work opportunity;
- 600 (ix) whether the new commercial project is located in a development zone created by a
601 local government entity as described in Subsection 63N-2-104(2);
- 602 (x) whether the business entity commits to hiring Utah workers for the new
603 commercial project;
- 604 (xi) whether the business entity adopts a corporate citizenry plan or supports initiatives
605 in the state that advance education, gender equality, diversity and inclusion, work-life balance,
606 environmental or social good, or other similar causes;
- 607 (xii) whether the business entity's headquarters are located within the state;
- 608 (xiii) the likelihood of other business entities relocating to another state as a result of
609 the new commercial project;
- 610 (xiv) the necessity of the tax credit for the business entity's expansion in the state or
611 relocation from another state; ~~and~~
- 612 (xv) whether the proposed new commercial project might reasonably be expected to
613 occur in the foreseeable future without the tax credit; and
- 614 ~~[(xv)]~~ (xvi) the location and impact of the new commercial project on existing and
615 planned transportation facilities, existing and planned housing, including affordable housing,
616 and public infrastructure; and
- 617 (c) consult with the GO Utah board.
- 618 (3) (a) In determining the amount of tax credit that a business entity may be authorized
619 to receive under a written agreement, the office may:
- 620 (i) authorize a higher or optimized amount of tax credit for a new commercial project
621 located within a development zone created by a local government entity as described in

622 Subsection 63N-2-104(2); and

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

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

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

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

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

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

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

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

641 Section 7. **Effective date.**

642 This bill takes effect on May 1, 2024.