

1                                   **COMMUNITY DEVELOPMENT AND RENEWAL**

2                                                           **AGENCY AMENDMENTS**

3                                                                                   2009 GENERAL SESSION

4                                                                                                           STATE OF UTAH

5                                                                                   **Chief Sponsor: Curtis S. Bramble**

6                                                                                                           House Sponsor: Brad L. Dee

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8   **LONG TITLE**

9   **General Description:**

10           This bill modifies provisions relating to community development and renewal agencies.

11   **Highlighted Provisions:**

12           This bill:

13           ▶ modifies the definitions of "base taxable value," "inactive airport site," and "project  
14 area budget";

15           ▶ authorizes an agency created by a county to undertake urban renewal, economic  
16 development, or community development within a town under certain  
17 circumstances;

18           ▶ modifies a provision relating to a public entity's assistance or cooperation in urban  
19 renewal, economic development, or community development;

20           ▶ modifies a provision relating to a resolution or interlocal agreement authorizing an  
21 agency to be paid tax increment or sales tax revenue;

22           ▶ requires the taxing entity committee to adopt an organizing resolution at its first  
23 meeting;

24           ▶ modifies the amount of tax increment to be paid under an urban renewal project  
25 area plan for an inactive airport site;

26           ▶ extends the length of time that an agency may be authorized to be paid tax  
27 increment under an urban renewal project area budget for an inactive industrial site

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- 28 or an inactive airport site from 15 to 20 years;
- 29       ▶ requires the applicable project area budget, resolution, or interlocal agreement to
- 30 specify limits on the amount of tax increment and sales tax revenue that an agency
- 31 will be paid and prohibits an agency from being paid more tax increment or sales
- 32 tax than specified, unless otherwise agreed;
- 33       ▶ prohibits an agency from using tax increment to pay for bonds or other obligations
- 34 for financing a telecommunications facility;
- 35       ▶ modifies a provision relating to funds for income targeted housing;
- 36       ▶ imposes obligations on an agency that uses tax increment to pay for communication
- 37 infrastructure or a communication facility;
- 38       ▶ extends from 30 to 90 days the period of time within which an agency is required to
- 39 file a copy of its annual budget after adopting the budget;
- 40       ▶ narrows application of a provision requiring an agency to allocate tax increment
- 41 funds for housing to economic development project area budgets adopted before
- 42 May 12, 2009; and
- 43       ▶ makes technical changes.

44 **Monies Appropriated in this Bill:**

45       None

46 **Other Special Clauses:**

47       None

48 **Utah Code Sections Affected:**

49 AMENDS:

- 50       **17C-1-102**, as last amended by Laws of Utah 2008, Chapters 125 and 330
- 51       **17C-1-204**, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 52       **17C-1-207**, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 53       **17C-1-401**, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 54       **17C-1-402**, as last amended by Laws of Utah 2007, Chapter 364
- 55       **17C-1-405**, as last amended by Laws of Utah 2007, Chapter 364
- 56       **17C-1-407**, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 57       **17C-1-409**, as last amended by Laws of Utah 2007, Chapter 364
- 58       **17C-1-411**, as last amended by Laws of Utah 2007, Chapter 364

- 59           17C-1-412, as last amended by Laws of Utah 2007, Chapter 364
- 60           17C-1-601, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 61           17C-2-110, as last amended by Laws of Utah 2007, Chapter 364
- 62           17C-2-201, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 63           17C-3-109, as enacted by Laws of Utah 2006, Chapter 359
- 64           17C-3-201, as enacted by Laws of Utah 2006, Chapter 359
- 65           17C-3-202, as enacted by Laws of Utah 2006, Chapter 359
- 66           17C-3-203, as enacted by Laws of Utah 2006, Chapter 359
- 67           17C-4-201, as enacted by Laws of Utah 2006, Chapter 359
- 68           17C-4-202, as last amended by Laws of Utah 2007, Chapter 364
- 69           17C-4-203, as enacted by Laws of Utah 2006, Chapter 359

70 ENACTS:

71           17C-1-415, Utah Code Annotated 1953



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

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

75           **17C-1-102. Definitions.**

76           As used in this title:

77           (1) "Adjusted tax increment" means:

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

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

82           (2) "Affordable housing" means housing to be owned or occupied by persons and  
83 families of low or moderate income, as determined by resolution of the agency.

84           (3) "Agency" or "community development and renewal agency" means a separate body  
85 corporate and politic, created under Section 17C-1-201 or as a redevelopment agency under  
86 previous law, that is a political subdivision of the state, that is created to undertake or promote  
87 urban renewal, economic development, or community development, or any combination of  
88 them, as provided in this title, and whose geographic boundaries are coterminous with:

89           (a) for an agency created by a county, the unincorporated area of the county; and

90 (b) for an agency created by a city or town, the boundaries of the city or town.

91 (4) "Annual income" has the meaning as defined under regulations of the U.S.  
92 Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as  
93 superseded by replacement regulations.

94 (5) "Assessment roll" has the meaning as defined in Section 59-2-102.

95 (6) "Base taxable value" means:

96 (a) for an urban renewal or economic development project area, the taxable value of  
97 the property within a project area from which tax increment will be collected, as shown upon  
98 the assessment roll last equalized before:

99 ~~[(a)]~~ (i) for a pre-July 1, 1993 project area plan, the effective date of the project area  
100 plan;

101 ~~[(b)]~~ (ii) for a post-June 30, 1993 project area plan:

102 ~~[(c)]~~ (A) the date of the taxing entity committee's approval of the first project area  
103 budget; or

104 ~~[(d)]~~ (B) if no taxing entity committee approval is required for the project area budget,  
105 the later of:

106 ~~[(A)]~~ (I) the date the project area plan is adopted by the community legislative body;  
107 and

108 ~~[(B)]~~ (II) the date the agency adopts the first project area budget;

109 ~~[(c)]~~ (iii) for a project on an inactive industrial site, a year after the date on which the  
110 inactive industrial site is sold for remediation and development; or

111 ~~[(d)]~~ (iv) for a project on an inactive airport site, a year after the later of:

112 ~~[(i)]~~ (A) the date on which the inactive airport site is sold for remediation and  
113 development; and

114 ~~[(ii)]~~ (B) the date on which the airport that had been operated on the inactive airport  
115 site ceased operations[-]; and

116 (b) for a community development project area, the agreed value specified in a  
117 resolution or interlocal agreement under Subsection 17C-4-201(2).

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

120 (8) "Blight" or "blighted" means the condition of an area that meets the requirements of

121 Subsection 17C-2-303(1).

122 (9) "Blight hearing" means a public hearing under Subsection 17C-2-102(1)(a)(i)(C)  
123 and Section 17C-2-302 regarding the existence or nonexistence of blight within the proposed  
124 urban renewal project area.

125 (10) "Blight study" means a study to determine the existence or nonexistence of blight  
126 within a survey area as provided in Section 17C-2-301.

127 (11) "Board" means the governing body of an agency, as provided in Section  
128 17C-1-203.

129 (12) "Budget hearing" means the public hearing on a draft project area budget required  
130 under Subsection 17C-2-201(2)(d) for an urban renewal project area budget or Subsection  
131 17C-3-201(2)(d) for an economic development project area budget.

132 (13) "Combined incremental value" means the combined total of all incremental values  
133 from all urban renewal project areas, except project areas that contain some or all of a military  
134 installation or inactive industrial site, within the agency's boundaries under adopted project area  
135 plans and adopted project area budgets at the time that a project area budget for a new urban  
136 renewal project area is being considered.

137 (14) "Community" means a county, city, or town.

138 (15) "Community development" means development activities within a community,  
139 including the encouragement, promotion, or provision of development.

140 (16) "Economic development" means to promote the creation or retention of public or  
141 private jobs within the state through:

142 (a) planning, design, development, construction, rehabilitation, business relocation, or  
143 any combination of these, within a community; and

144 (b) the provision of office, industrial, manufacturing, warehousing, distribution,  
145 parking, public, or other facilities, or other improvements that benefit the state or a community.

146 (17) "Fair share ratio" means the ratio derived by:

147 (a) for a city or town, comparing the percentage of all housing units within the city or  
148 town that are publicly subsidized income targeted housing units to the percentage of all  
149 housing units within the whole county that are publicly subsidized income targeted housing  
150 units; or

151 (b) for the unincorporated part of a county, comparing the percentage of all housing

152 units within the unincorporated county that are publicly subsidized income targeted housing  
153 units to the percentage of all housing units within the whole county that are publicly subsidized  
154 income targeted housing units.

155 (18) "Family" has the meaning as defined under regulations of the U.S. Department of  
156 Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by  
157 replacement regulations.

158 (19) "Greenfield" means land not developed beyond agricultural or forestry use.

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

163 (21) "Housing funds" means the funds allocated in an urban renewal project area  
164 budget under Section 17C-2-203 for the purposes provided in Subsection 17C-1-412(1).

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

166 (i) consists of at least 100 acres;

167 (ii) is occupied by an airport [~~that~~]:

168 (A) (I) that is no longer in operation as an airport; [~~and~~] 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 (22)(a).

178 (23) (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 (23)(a).

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

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

192 (26) "Loan fund board" means the Olene Walker Housing Loan Fund Board,  
193 established under Title 9, Chapter 4, Part 7, Olene Walker Housing Loan Fund.

194 (27) "Marginal value" means the difference between actual taxable value and base  
195 taxable value.

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

199 (29) "Plan hearing" means the public hearing on a draft project area plan required  
200 under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection  
201 17C-3-102(1)(d) for an economic development project area plan, and Subsection  
202 17C-4-102(1)(d) for a community development project area plan.

203 (30) "Post-June 30, 1993 project area plan" means a project area plan adopted on or  
204 after July 1, 1993, whether or not amended subsequent to its adoption.

205 (31) "Pre-July 1, 1993 project area plan" means a project area plan adopted before July  
206 1, 1993, whether or not amended subsequent to its adoption.

207 (32) "Private," with respect to real property, means:

208 (a) not owned by the United States or any agency of the federal government, a public  
209 entity, or any other governmental entity; and

210 (b) not dedicated to public use.

211 (33) "Project area" means the geographic area described in a project area plan or draft  
212 project area plan where the urban renewal, economic development, or community  
213 development, as the case may be, set forth in the project area plan or draft project area plan

214 takes place or is proposed to take place.

215 (34) "Project area budget" means a multiyear projection of annual or cumulative  
216 revenues and expenses and other fiscal matters pertaining to a urban renewal or economic  
217 development project area that includes:

- 218 (a) the base taxable value of property in the project area;
- 219 (b) the projected tax increment expected to be generated within the project area;
- 220 (c) the amount of tax increment expected to be shared with other taxing entities;
- 221 (d) the amount of tax increment expected to be used to implement the project area plan,  
222 including the estimated amount of tax increment to be used for land acquisition, public  
223 improvements, infrastructure improvements, and loans, grants, or other incentives to private  
224 and public entities;

225 (e) the tax increment expected to be used to cover the cost of administering the project  
226 area plan;

227 (f) if the area from which tax increment is to be collected is less than the entire project  
228 area:

229 (i) the tax identification numbers of the parcels from which tax increment will be  
230 collected; or

231 (ii) a legal description of the portion of the project area from which tax increment will  
232 be collected; ~~and~~

233 (g) for property that the agency owns and expects to sell, the expected total cost of the  
234 property to the agency and the expected selling price[-]; and

235 (h) (i) for an urban renewal project area, the information required under Subsection  
236 17C-2-201(1)(b); and

237 (ii) for an economic development project area, the information required under  
238 Subsection 17C-3-201(1)(b).

239 (35) "Project area plan" means a written plan under Chapter 2, Part 1, Urban Renewal  
240 Project Area Plan, Chapter 3, Part 1, Economic Development Project Area Plan, or Chapter 4,  
241 Part 1, Community Development Project Area Plan, as the case may be, that, after its effective  
242 date, guides and controls the urban renewal, economic development, or community  
243 development activities within a project area.

244 (36) "Property tax" includes privilege tax and each levy on an ad valorem basis on



245 tangible or intangible personal or real property.

246 (37) "Public entity" means:

247 (a) the state, including any of its departments or agencies; or

248 (b) a political subdivision of the state, including a county, city, town, school district,  
249 local district, special service district, or interlocal cooperation entity.

250 (38) "Publicly owned infrastructure and improvements" means water, sewer, storm  
251 drainage, electrical, and other similar systems and lines, streets, roads, curb, gutter, sidewalk,  
252 walkways, parking facilities, public transportation facilities, and other facilities, infrastructure,  
253 and improvements benefitting the public and to be publicly owned or publicly maintained or  
254 operated.

255 (39) "Record property owner" or "record owner of property" means the owner of real  
256 property as shown on the records of the recorder of the county in which the property is located  
257 and includes a purchaser under a real estate contract if the contract is recorded in the office of  
258 the recorder of the county in which the property is located or the purchaser gives written notice  
259 of the real estate contract to the agency.

260 (40) "Superfund site":

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

263 (b) includes an area formerly included in the National Priorities List, as described in  
264 Subsection (40)(a), but removed from the list following remediation that leaves on site the  
265 waste that caused the area to be included in the National Priorities List.

266 (41) "Survey area" means an area designated by a survey area resolution for study to  
267 determine whether one or more urban renewal projects within the area are feasible.

268 (42) "Survey area resolution" means a resolution adopted by the agency board under  
269 Subsection 17C-2-101(1)(a) designating a survey area.

270 (43) "Taxable value" means the value of property as shown on the last equalized  
271 assessment roll as certified by the county assessor.

272 (44) (a) "Tax increment" means, except as provided in Subsection (44)(b), the  
273 difference between:

274 (i) the amount of property tax revenues generated each tax year by all taxing entities  
275 from the area within a project area designated in the project area plan as the area from which

276 tax increment is to be collected, using the current assessed value of the property; and  
277 (ii) the amount of property tax revenues that would be generated from that same area  
278 using the base taxable value of the property.

279 (b) "Tax increment" does not include taxes levied and collected under Section  
280 59-2-1602 on or after January 1, 1994 upon the taxable property in the project area unless:

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

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

285 (45) "Taxing entity" means a public entity that levies a tax on property within a  
286 community.

287 (46) "Taxing entity committee" means a committee representing the interests of taxing  
288 entities, created as provided in Section 17C-1-402.

289 (47) "Unincorporated" means not within a city or town.

290 (48) (a) "Urban renewal" means the development activities under a project area plan  
291 within an urban renewal project area, including:

292 (i) planning, design, development, demolition, clearance, construction, rehabilitation,  
293 environmental remediation, or any combination of these, of part or all of a project area;

294 (ii) the provision of residential, commercial, industrial, public, or other structures or  
295 spaces, including recreational and other facilities incidental or appurtenant to them;

296 (iii) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating, or  
297 any combination of these, existing structures in a project area;

298 (iv) providing open space, including streets and other public grounds and space around  
299 buildings;

300 (v) providing public or private buildings, infrastructure, structures, and improvements;  
301 and

302 (vi) providing improvements of public or private recreation areas and other public  
303 grounds.

304 (b) "Urban renewal" means "redevelopment," as defined under the law in effect before  
305 May 1, 2006, if the context requires.

306 Section 2. Section **17C-1-204** is amended to read:

307           **17C-1-204. Urban renewal, economic development, and community development**  
308 **by an adjoining agency -- Requirements.**

309           (1) An agency or community may, by resolution of its board or legislative body,  
310 respectively, authorize an agency to conduct urban renewal, economic development, or  
311 community development activities in a project area that includes an area within the authorizing  
312 agency's boundaries or within the boundaries of the authorizing community if the project area  
313 or community is contiguous to the boundaries of the other agency.

314           (2) If an agency board or community legislative body adopts a resolution under  
315 Subsection (1) authorizing another agency to undertake urban renewal, economic development,  
316 or community development activities in the authorizing agency's project area or within the  
317 boundaries of the authorizing community:

318           (a) the other agency may act in all respects as if the project area were within its own  
319 boundaries;

320           (b) the board of the other agency has all the rights, powers, and privileges with respect  
321 to the project area as if it were within its own boundaries; and

322           (c) the other agency may be paid tax increment funds to the same extent as if the  
323 project area were within its own boundaries.

324           (3) Each project area plan approved by the other agency for the project area that is the  
325 subject of a resolution under Subsection (1) shall be adopted by ordinance of the legislative  
326 body of the community in which the project area is located.

327           (4) (a) As used in this Subsection (4):

328           (i) "County agency" means an agency that was created by a county.

329           (ii) "Industrial property" means private real property that:

330           (A) is located within the boundary of a town, as defined in Section 10-1-104; and

331           (B) comprises some or all of an inactive industrial site.

332           (b) A county agency may undertake urban renewal, economic development, or  
333 community development on industrial property if the record property owner of the industrial  
334 property submits a written request to the county agency to do so.

335           (c) If a county agency undertakes urban renewal, economic development, or  
336 community development on industrial property:

337           (i) the county agency may act in all respects as if the project area that includes the

338 industrial property were within the county agency's boundary;

339 (ii) the board of the county agency has each right, power, and privilege with respect to  
340 the project area as if the project area were within the county agency's boundary; and

341 (iii) the county agency may be paid tax increment to the same extent as if the project  
342 area were within the county agency's boundary.

343 (d) A project area plan for a project on industrial property that is approved by the  
344 county agency shall be adopted by ordinance of the legislative body of the county in which the  
345 project area is located.

346 Section 3. Section **17C-1-207** is amended to read:

347 **17C-1-207. Public entities may assist with urban renewal, economic development,**  
348 **or community development project.**

349 (1) In order to assist and cooperate in the planning, undertaking, construction, or  
350 operation of [an] urban renewal, economic development, or community development [project  
351 located] within the area in which it is authorized to act, a public entity may:

352 (a) (i) provide or cause to be furnished [~~adjacent to or in connection with an urban~~  
353 ~~renewal, economic development, or community development project~~]:

354 (A) parks, playgrounds, or other recreational facilities;

355 (B) community, educational, water, sewer, or drainage facilities; or

356 (C) any other works which the public entity is otherwise empowered to undertake;

357 (ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or  
358 replan streets, roads, roadways, alleys, sidewalks, or other places;

359 (iii) plan or replan, zone or rezone any part of a project area and make any legal  
360 exceptions from building regulations and ordinances;

361 (iv) purchase or legally invest in any of the bonds of an agency and exercise all of the  
362 rights of any holder of the bonds;

363 (v) enter into an agreement with another public entity concerning action to be taken  
364 pursuant to any of the powers granted in this title;

365 (vi) do any and all things necessary to aid or cooperate in the planning or carrying out  
366 of [an] the urban renewal, economic development, or community development [project];

367 (vii) in connection with the project area plan, become obligated to the extent  
368 authorized and funds have been made available to make required improvements or construct

369 required structures; and

370 (viii) lend, grant, or contribute funds to an agency for an urban renewal, economic  
371 development, or community development project; and

372 (b) 15 days after posting public notice:

373 (i) purchase or otherwise acquire property or lease property from an agency; or

374 (ii) sell, grant, convey, or otherwise dispose of the public entity's property or lease the  
375 public entity's property to an agency.

376 (2) Notwithstanding any law to the contrary, an agreement under Subsection (1)(a)(v)  
377 may extend over any period.

378 (3) A grant or contribution of funds from a public entity to an agency is not subject to  
379 the requirements of Section 10-8-2.

380 Section 4. Section **17C-1-401** is amended to read:

381 **17C-1-401. Agency receipt and use of tax increment and sales tax -- Distribution**  
382 **of tax increment and sales tax.**

383 (1) An agency may receive and use tax increment and sales tax, as provided in this  
384 part.

385 (2) (a) The applicable length of time or number of years for which an agency is to be  
386 paid tax increment or sales tax under this part shall be measured:

387 (i) for a pre-July 1, 1993 project area plan, from the first tax year regarding which the  
388 agency accepts tax increment from the project area;

389 (ii) for a post-June 30, 1993 urban renewal or economic development project area plan,  
390 from the first tax year for which the agency receives tax increment under the project area  
391 budget; or

392 (iii) for a community development project area plan, as indicated in the resolution or  
393 interlocal agreement of a taxing entity that establishes the agency's right to receive tax  
394 increment or sales tax.

395 (b) Tax increment may not be paid to an agency for a tax year prior to the tax year  
396 following:

397 (i) for an urban renewal or economic development project area plan, the effective date  
398 of the project area plan; and

399 (ii) for a community development project area plan, the effective date of the interlocal

400 agreement that establishes the agency's right to receive tax increment.

401 (3) With respect to a community development project area plan[;]:

402 (a) a taxing entity or public entity may, by resolution or through interlocal agreement,  
403 authorize an agency to be paid any or all of that taxing entity or public entity's tax increment or  
404 sales tax for any period of time[-]; and

405 (b) the resolution or interlocal agreement authorizing the agency to be paid tax  
406 increment or sales tax shall specify:

407 (i) the base taxable value of the project area; and

408 (ii) the method of calculating the amount of tax increment or sales tax to be paid to the  
409 agency.

410 (4) With the written consent of a taxing entity, an agency may be paid tax increment,  
411 from that taxing entity's tax revenues only, in a higher percentage or for a longer period of time,  
412 or both, than otherwise authorized under this title.

413 (5) Each county that collects property tax on property within a project area shall pay  
414 and distribute to the agency the tax increment that the agency is entitled to collect under this  
415 title, in the manner and at the time provided in Section 59-2-1365.

416 Section 5. Section **17C-1-402** is amended to read:

417 **17C-1-402. Taxing entity committee.**

418 (1) Each agency that adopts or proposes to adopt a post-June 30, 1993 urban renewal or  
419 economic development project area plan shall, and any other agency may, cause a taxing entity  
420 committee to be created.

421 (2) (a) (i) Each taxing entity committee shall be composed of:

422 (A) two school district representatives appointed as provided in Subsection (2)(a)(ii);

423 (B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives  
424 appointed by resolution of the legislative body of the county in which the agency is located; or

425 (II) in a county of the first class, one representative appointed by the county executive  
426 and one representative appointed by the legislative body of the county in which the agency is  
427 located;

428 (C) if the agency was created by a city or town, two representatives appointed by  
429 resolution of the legislative body of that city or town;

430 (D) one representative appointed by the State Board of Education; and

431 (E) one representative selected by majority vote of the legislative bodies or governing  
432 boards of all other taxing entities that levy a tax on property within the agency's boundaries, to  
433 represent the interests of those taxing entities on the taxing entity committee.

434 (ii) (A) If the agency boundaries include only one school district, that school district  
435 shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

436 (B) If the agency boundaries include more than one school district, those school  
437 districts shall jointly appoint the two school district representatives under Subsection  
438 (2)(a)(i)(A).

439 (b) (i) Each taxing entity committee representative under Subsection (2)(a) shall be  
440 appointed within 30 days after the agency provides notice of the creation of the taxing entity  
441 committee.

442 (ii) If a representative is not appointed within the time required under Subsection  
443 (2)(b)(i), the agency board may appoint a person to serve on the taxing entity committee in the  
444 place of the missing representative until that representative is appointed.

445 (c) (i) A taxing entity committee representative may be appointed for a set term or  
446 period of time, as determined by the appointing authority under Subsection (2)(a)(i).

447 (ii) Each taxing entity committee representative shall serve until a successor is  
448 appointed and qualified.

449 (d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether  
450 an initial appointment or an appointment to replace an already serving representative, the  
451 appointing authority shall:

452 (A) notify the agency in writing of the name and address of the newly appointed  
453 representative; and

454 (B) provide the agency a copy of the resolution making the appointment or, if the  
455 appointment is not made by resolution, other evidence of the appointment.

456 (ii) Each appointing authority of a taxing entity committee representative under  
457 Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a  
458 representative appointed by that appointing authority.

459 (3) At its first meeting, a taxing entity committee shall adopt an organizing resolution:

460 (a) designating a chair and a secretary of the committee; and

461 (b) if the committee considers it appropriate, governing the use of electronic meetings

462 under Section 52-4-207.

463 ~~[(3)]~~ (4) A taxing entity committee represents all taxing entities regarding an urban  
464 renewal or economic development project area and may:

465 (a) cast votes that will be binding on all taxing entities;

466 (b) negotiate with the agency concerning a draft project area plan;

467 (c) approve or disapprove [a] an urban renewal project area budget as provided in  
468 Section 17C-2-204 ~~[for an urban renewal]~~ or an economic development project area budget  
469 ~~[and] as provided in~~ Section 17C-3-203 ~~[for an economic development project area budget];~~

470 (d) approve or disapprove amendments to a project area budget as provided in Section  
471 17C-2-206 for an urban renewal project area budget and Section 17C-3-205 for an economic  
472 development project area budget;

473 (e) approve exceptions to the limits on the value and size of a project area imposed  
474 under this title;

475 (f) approve exceptions to the percentage of tax increment and the period of time that  
476 tax increment is paid to the agency as provided in this title;

477 (g) approve the use of tax increment for publicly owned infrastructure and  
478 improvements outside of an urban renewal or economic development project area that the  
479 agency and community legislative body determine to be of benefit to the urban renewal or  
480 economic development project area, as provided in Subsection 17C-1-409(1)(a)(iii)(D);

481 (h) waive the restrictions imposed by Subsection 17C-2-202(1); and

482 (i) give other taxing entity committee approval or consent required or allowed under  
483 this title.

484 ~~[(4)]~~ (5) A quorum of a taxing entity committee consists of:

485 (a) if the urban renewal or economic development project area is located within a city  
486 or town, five members; or

487 (b) if the urban renewal or economic development project area is not located within a  
488 city or town, four members.

489 ~~[(5)]~~ (6) Taxing entity committee approval, consent, or other action requires the  
490 affirmative vote of two-thirds of all members present at a taxing entity committee meeting at  
491 which a quorum is present.

492 ~~[(6)]~~ (7) (a) An agency may call a meeting of the taxing entity committee by sending



493 written notice to the members of the taxing entity committee at least ten days before the date of  
494 the meeting.

495 (b) Each notice under Subsection [~~(6)~~] (7)(a) shall be accompanied by:

496 (i) the proposed agenda for the taxing entity committee meeting; and

497 (ii) if not previously provided and if they exist and are to be considered at the meeting:

498 (A) the urban renewal or economic development project area plan or proposed plan;

499 (B) the urban renewal or economic development project area budget or proposed  
500 budget;

501 (C) the analysis required under Subsection 17C-2-103(2) or 17C-3-103(2);

502 (D) the blight study;

503 (E) the agency's resolution making a finding of blight under Subsection  
504 17C-2-102(1)(a) (ii)(B); and

505 (F) other documents to be considered by the taxing entity committee at the meeting.

506 [~~(7)~~] (8) (a) A taxing entity committee may not vote on a proposed urban renewal or  
507 economic development project area budget or proposed amendment to an urban renewal or  
508 economic development project area budget at the first meeting at which the proposed budget or  
509 amendment is considered unless all members of the taxing entity committee present at the  
510 meeting consent.

511 (b) A second taxing entity committee meeting to consider an urban renewal or  
512 economic development project area budget or a proposed amendment to an urban renewal or  
513 economic development project area budget may not be held within 14 days after the first  
514 meeting unless all members of the taxing entity committee present at the first meeting consent.

515 [~~(8)~~] (9) Each taxing entity committee shall meet at least annually during the time that  
516 the agency receives tax increment under an urban renewal or economic development project  
517 area budget in order to review the status of the project area.

518 [~~(9)~~] (10) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open  
519 and Public Meetings Act.

520 [~~(10)~~] (11) Each time a school district representative or a representative of the State  
521 Board of Education votes as a member of a taxing entity committee to allow an agency to be  
522 paid tax increment or to increase the amount or length of time that an agency may be paid tax  
523 increment, that representative shall, within 45 days after the vote, provide to the

524 representative's respective school board an explanation in writing of the representative's vote  
525 and the reasons for the vote.

526 ~~[(11)]~~ (12) (a) The auditor of each county in which the agency is located shall provide a  
527 written report to the taxing entity committee stating, with respect to property within each urban  
528 renewal and economic development project area:

529 (i) the base taxable value, as adjusted by any adjustments under Section 17C-1-408;  
530 and

531 (ii) the assessed value.

532 (b) With respect to the information required under Subsection ~~[(11)]~~ (12)(a), the  
533 auditor shall provide:

534 (i) actual amounts for each year from the adoption of the urban renewal and economic  
535 development project area plan to the time of the report; and

536 (ii) estimated amounts for each year beginning the year after the time of the report and  
537 ending the time that the agency expects no longer to be paid tax increment from property  
538 within the urban renewal and economic development project area.

539 (c) The auditor of the county in which the agency is located shall provide a report  
540 under this Subsection ~~[(11)]~~ (12):

541 (i) at least annually; and

542 (ii) upon request of the taxing entity committee, before a taxing entity committee  
543 meeting at which the committee will consider whether to allow the agency to be paid tax  
544 increment or to increase the amount of tax increment that the agency may be paid or the length  
545 of time that the agency may be paid tax increment.

546 ~~[(12)]~~ (13) This section does not apply to a community development project area plan.  
547 Section 6. Section 17C-1-405 is amended to read:

548 **17C-1-405. Tax increment under a project area plan adopted on or after May 1,**  
549 **2006.**

550 (1) This section applies to tax increment under a project area plan adopted on or after  
551 May 1, 2006.

552 (2) Subject to the approval of the taxing entity committee, an agency board may  
553 provide in the urban renewal or economic development project area budget for the agency to be  
554 paid:

555 (a) for an urban renewal project area plan that proposes development of an inactive  
556 industrial site or inactive airport site, at least 60% of tax increment for at least [~~15~~] 20 years; or

557 (b) for each other project, any percentage of tax increment up to 100% or any specified  
558 dollar amount of tax increment for any period of time.

559 (3) A resolution or interlocal agreement relating to an agency's use of tax increment for  
560 a community development project area plan may provide for the agency to be paid any  
561 percentage of tax increment up to 100% or any specified dollar amount of tax increment for  
562 any period of time.

563 Section 7. Section **17C-1-407** is amended to read:

564 **17C-1-407. Limitations on tax increment.**

565 (1) (a) If the development of retail sales of goods is the primary objective of an urban  
566 renewal project area, tax increment from the urban renewal project area may not be paid to or  
567 used by an agency unless a finding of blight is made under Chapter 2, Part 3, Blight  
568 Determination in Urban Renewal Project Areas.

569 (b) Development of retail sales of goods does not disqualify an agency from receiving  
570 tax increment.

571 (c) After July 1, 2005, an agency may not be paid or use tax increment generated from  
572 the value of property within an economic development project area that is attributable to the  
573 development of retail sales of goods, unless the tax increment was previously pledged to pay  
574 for bonds or other contractual obligations of the agency.

575 (2) (a) An agency may not be paid any portion of a taxing entity's taxes resulting from  
576 an increase in the taxing entity's tax rate that occurs after the taxing entity committee approves  
577 the project area budget unless, at the time the taxing entity committee approves the project area  
578 budget, the taxing entity committee approves payment of those increased taxes to the agency.

579 (b) If the taxing entity committee does not approve of payment of the increased taxes to  
580 the agency under Subsection (2)(a), the county shall distribute to the taxing entity the taxes  
581 attributable to the tax rate increase in the same manner as other property taxes.

582 (3) Except as the taxing entity committee otherwise agrees, an agency may not receive  
583 tax increment under an urban renewal or economic development project area budget adopted  
584 after May 11, 2009:

585 (a) that exceeds the percentage of tax increment or cumulative dollar amount of tax

586 increment specified in the project area budget; or

587 (b) for more tax years than specified in the project area budget.

588 Section 8. Section **17C-1-409** is amended to read:

589 **17C-1-409. Allowable uses of tax increment and sales tax.**

590 (1) (a) An agency may use tax increment and sales tax proceeds received from a taxing  
591 entity:

592 (i) for any of the purposes for which the use of tax increment is authorized under this  
593 title;

594 (ii) for administrative, overhead, legal, and other operating expenses of the agency,  
595 including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B); or

596 (iii) to pay for, including financing or refinancing, all or part of:

597 (A) urban renewal activities in the project area from which the tax increment funds are  
598 collected, including environmental remediation activities occurring before or after adoption of  
599 the project area plan;

600 (B) economic development or community development activities in the project area  
601 from which the tax increment funds are collected;

602 (C) housing expenditures, projects, or programs as provided in Section 17C-1-411 or  
603 17C-1-412;

604 (D) subject to Subsections (1)(c) and (6), the value of the land for and the cost of the  
605 installation and construction of any publicly owned building, facility, structure, landscaping, or  
606 other improvement within the project area from which the tax increment funds were collected;  
607 and

608 (E) subject to Subsection (1)(d), the cost of the installation of publicly owned  
609 infrastructure and improvements outside the project area from which the tax increment funds  
610 were collected if the agency board and the community legislative body determine by resolution  
611 that the publicly owned infrastructure and improvements are of benefit to the project area.

612 (b) The determination of the agency board and the community legislative body under  
613 Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

614 (c) An agency may not use tax increment or sales tax proceeds received from a taxing  
615 entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal or economic  
616 development project area plan without the consent of the community legislative body.

617 (d) An agency may not use tax increment or sales tax proceeds received from a taxing  
618 entity for the purposes stated in Subsection (1)(a)(iii)(E) under an urban renewal or economic  
619 development project area plan without the consent of the community legislative body and the  
620 taxing entity committee.

621 (2) Sales tax proceeds that an agency receives from another public entity are not  
622 subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use  
623 Tax Incentive Payments Act.

624 (3) An agency may use sales tax proceeds it receives under a resolution or interlocal  
625 agreement under Section 17C-4-201 for the uses authorized in the resolution or interlocal  
626 agreement.

627 (4) (a) An agency may contract with the community that created the agency or another  
628 public entity to use tax increment to reimburse the cost of items authorized by this title to be  
629 paid by the agency that have been or will be paid by the community or other public entity.

630 (b) If land has been or will be acquired or the cost of an improvement has been or will  
631 be paid by another public entity and the land or improvement has been or will be leased to the  
632 community, an agency may contract with and make reimbursement from tax increment funds to  
633 the community.

634 (5) An agency created by a city of the first or second class may use tax increment from  
635 one project area in another project area to pay all or part of the value of the land for and the  
636 cost of the installation and construction of a publicly or privately owned convention center or  
637 sports complex or any building, facility, structure, or other improvement related to the  
638 convention center or sports complex, including parking and infrastructure improvements, if:

639 (a) construction of the convention center or sports complex or related building, facility,  
640 structure, or other improvement is commenced on or before June 30, 2002; and

641 (b) the tax increment is pledged to pay all or part of the value of the land for and the  
642 cost of the installation and construction of the convention center or sports complex or related  
643 building, facility, structure, or other improvement.

644 (6) Notwithstanding any other provision of this title, an agency may not use tax  
645 increment to construct municipal buildings, courts or other judicial buildings, or fire stations.

646 (7) Notwithstanding any other provision of this title, an agency may not use tax  
647 increment under an urban renewal or economic development project area plan, to pay any of

648 the cost of the land, infrastructure, or construction of a stadium or arena constructed after  
649 March 1, 2005, unless the tax increment has been pledged for that purpose before February 15,  
650 2005.

651 (8) An agency may not use tax increment to pay any amount related to a bond issued or  
652 other obligation incurred after May 11, 2009 if the bond is issued or the obligation is incurred  
653 to finance a telecommunication facility.

654 Section 9. Section **17C-1-411** is amended to read:

655 **17C-1-411. Use of tax increment for housing and for relocating mobile home park**  
656 **residents -- Funds to be held in separate accounts.**

657 (1) An agency may:

658 (a) use tax increment from a project area to pay all or part of the value of the land for  
659 and the cost of installation, construction, and rehabilitation of any building, facility, structure,  
660 or other housing improvement, including infrastructure improvements related to housing,  
661 located in any project area within the agency's boundaries; and

662 (b) use up to 20% of tax increment:

663 (i) outside of project areas for the purpose of:

664 (A) replacing housing units lost by urban renewal, economic development, or  
665 community development; or

666 (B) increasing, improving, and preserving generally the affordable housing supply [~~of~~  
667 ~~the community that created~~] within the boundary of the agency; or

668 (ii) for relocating mobile home park residents displaced by development, whether  
669 inside or outside a project area.

670 (2) (a) Each agency shall separately account for funds allocated under this section.

671 (b) Interest earned by the housing fund and any payments or repayments made to the  
672 agency for loans, advances, or grants of any kind from the fund, shall accrue to the housing  
673 fund.

674 (c) Each agency designating a housing fund under this section shall use the fund for:

675 (i) the purposes set forth in this section; or

676 (ii) the purposes set forth in this title relating to the urban renewal, economic  
677 development, or community development project area from which the funds originated.

678 (3) An agency may lend, grant, or contribute funds from the housing fund to a person,

679 public entity, housing authority, private entity or business, or nonprofit corporation for  
680 affordable housing.

681 Section 10. Section **17C-1-412** is amended to read:

682 **17C-1-412. Use of funds allocated for housing -- Separate accounting required --**  
683 **Issuance of bonds for housing -- Action to compel agency to provide housing funds.**

684 (1) (a) Each agency shall use all funds allocated for housing under this section to:

685 (i) pay part or all of the cost of land or construction of income targeted housing within  
686 the [~~community that created~~] boundary of the agency, if practicable in a mixed income  
687 development or area;

688 (ii) pay part or all of the cost of rehabilitation of income targeted housing within the  
689 [~~community that created~~] boundary of the agency;

690 (iii) lend, grant, or contribute money to a person, public entity, housing authority,  
691 private entity or business, or nonprofit corporation for income targeted housing within the  
692 boundary of the agency;

693 (iv) plan or otherwise promote income targeted housing within the boundary of the  
694 agency;

695 [~~(iii)~~] (v) pay part or all of the cost of land or installation, construction, or rehabilitation  
696 of any building, facility, structure, or other housing improvement, including infrastructure  
697 improvements, related to housing located in a project area where blight has been found to exist;

698 [~~(iv)~~] (vi) replace housing units lost as a result of the urban renewal, economic  
699 development, or community development;

700 [~~(v)~~] (vii) make payments on or establish a reserve fund for bonds:

701 (A) issued by the agency, the community, or the housing authority that provides  
702 income targeted housing within the community; and

703 (B) all or part of the proceeds of which are used within the community for the purposes  
704 stated in Subsection (1)(a)(i), (ii), (iii), [~~or~~] (iv), (v), or (vi);

705 [~~(vi)~~] (viii) if the community's fair share ratio at the time of the first adoption of the  
706 project area budget is at least 1.1 to 1.0, make payments on bonds:

707 (A) that were previously issued by the agency, the community, or the housing authority  
708 that provides income targeted housing within the community; and

709 (B) all or part of the proceeds of which were used within the community for the

710 purposes stated in Subsection (1)(a)(i), (ii), (iii), ~~or~~ (iv), (v), or (vi); or

711 ~~(vii)~~ (ix) relocate mobile home park residents displaced by an urban renewal,  
712 economic development, or community development project.

713 (b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or  
714 any portion of housing funds to:

715 (i) the community for use as provided under Subsection (1)(a);

716 (ii) the housing authority that provides income targeted housing within the community  
717 for use in providing income targeted housing within the community; or

718 (iii) the Olene Walker Housing Loan Fund, established under Title 9, Chapter 4, Part 7,  
719 Olene Walker Housing Loan Fund, for use in providing income targeted housing within the  
720 community.

721 (2) The agency or community shall separately account for the housing funds, together  
722 with all interest earned by the housing funds and all payments or repayments for loans,  
723 advances, or grants from the housing funds.

724 ~~[(3) In using housing funds under Subsection (1)(a), an agency may lend, grant, or~~  
725 ~~contribute housing funds to a person, public body, housing authority, private entity or business,~~  
726 ~~or nonprofit organization for use as provided in Subsection (1)(a).]~~

727 ~~[(4)]~~ (3) An agency may:

728 (a) issue bonds from time to time to finance a housing undertaking under this section,  
729 including the payment of principal and interest upon advances for surveys and plans or  
730 preliminary loans; and

731 (b) issue refunding bonds for the payment or retirement of bonds under Subsection  
732 ~~[(4)]~~ (3)(a) previously issued by the agency.

733 ~~[(5)]~~ (4) (a) If an agency fails to provide housing funds in accordance with the project  
734 area budget and, if applicable, the housing plan adopted under Subsection 17C-2-204(2), the  
735 loan fund board may bring legal action to compel the agency to provide the housing funds.

736 (b) In an action under Subsection ~~[(5)]~~ (4)(a), the court:

737 (i) shall award the loan fund board a reasonable attorney fee, unless the court finds that  
738 the action was frivolous; and

739 (ii) may not award the agency its attorney fees, unless the court finds that the action  
740 was frivolous.



741 Section 11. Section **17C-1-415** is enacted to read:

742 **17C-1-415. Obligations of agencies that use tax increment to pay for**  
743 **communication infrastructure or facility.**

744 An agency that uses tax increment after May 11, 2009 to pay for communication  
745 infrastructure or a communication facility:

746 (1) may not make or grant any undue or unreasonable preference or advantage to a  
747 provider of communication service; and

748 (2) shall allow the communication infrastructure and facilities for which tax increment  
749 is used to be used by any other provider of communication service on a fair, equitable, and  
750 nondiscriminatory basis.

751 Section 12. Section **17C-1-601** is amended to read:

752 **17C-1-601. Annual agency budget -- Fiscal year -- Public hearing required --**  
753 **Auditor forms -- Requirement to file form.**

754 (1) Each agency shall prepare and its board adopt an annual budget of revenues and  
755 expenditures for the agency for each fiscal year.

756 (2) Each annual agency budget shall be adopted:

757 (a) for an agency created by a city or town, before June 22; or

758 (b) for an agency created by a county, before December 15.

759 (3) The agency's fiscal year shall be the same as the fiscal year of the community that  
760 created the agency.

761 (4) (a) Before adopting an annual budget, each agency board shall hold a public hearing  
762 on the annual budget.

763 (b) Each agency shall provide notice of the public hearing on the annual budget by:

764 (i) publishing at least one notice in a newspaper of general circulation within the  
765 agency boundaries, one week before the public hearing; or

766 (ii) if there is no newspaper of general circulation within the agency boundaries,  
767 posting a notice of the public hearing in at least three public places within the agency  
768 boundaries.

769 (c) Each agency shall make the annual budget available for public inspection at least  
770 three days before the date of the public hearing.

771 (5) The state auditor shall prescribe the budget forms and the categories to be contained

772 in each agency budget, including:

773 (a) revenues and expenditures for the budget year;

774 (b) legal fees; and

775 (c) administrative costs, including rent, supplies, and other materials, and salaries of  
776 agency personnel.

777 (6) (a) Within [30] 90 days after adopting an annual budget, each agency board shall  
778 file a copy of the annual budget with the auditor of the county in which the agency is located,  
779 the State Tax Commission, the state auditor, the State Board of Education, and each taxing  
780 entity that levies a tax on property from which the agency collects tax increment.

781 (b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the  
782 state as a taxing entity is met if the agency files a copy with the State Tax Commission and the  
783 state auditor.

784 Section 13. Section **17C-2-110** is amended to read:

785 **17C-2-110. Amending an urban renewal project area plan.**

786 (1) An adopted urban renewal project area plan may be amended as provided in this  
787 section.

788 (2) If an agency proposes to amend an adopted urban renewal project area plan to  
789 enlarge the project area:

790 (a) subject to Subsection (2)(e), the requirements under this part that apply to adopting  
791 a project area plan apply equally to the proposed amendment as if it were a proposed project  
792 area plan;

793 (b) for a pre-July 1, 1993 project area plan, the base year taxable value for the new area  
794 added to the project area shall be determined under Subsection 17C-1-102(6)(a)(i) using the  
795 effective date of the amended project area plan;

796 (c) for a post-June 30, 1993 project area plan:

797 (i) the base year taxable value for the new area added to the project area shall be  
798 determined under Subsection 17C-1-102(6)(~~b~~)(a)(ii) using the date of the taxing entity  
799 committee's consent referred to in Subsection (2)(c)(ii); and

800 (ii) the agency shall obtain the consent of the taxing entity committee before the agency  
801 may collect tax increment from the area added to the project area by the amendment;

802 (d) the agency shall make a finding regarding the existence of blight in the area

803 proposed to be added to the project area by following the procedure set forth in Subsections  
804 17C-2-102(1)(a)(i) and (ii); and

805 (e) the agency need not make a finding regarding the existence of blight in the project  
806 area as described in the original project area plan, if the agency made a finding of the existence  
807 of blight regarding that project area in connection with adoption of the original project area  
808 plan.

809 (3) If a proposed amendment does not propose to enlarge an urban renewal project  
810 area, an agency board may adopt a resolution approving an amendment to an adopted project  
811 area plan after:

812 (a) the agency gives notice, as provided in Section 17C-2-502, of the proposed  
813 amendment and of the public hearing required by Subsection (3)(b);

814 (b) the agency board holds a public hearing on the proposed amendment that meets the  
815 requirements of a plan hearing;

816 (c) the agency obtains the taxing entity committee's consent to the amendment, if the  
817 amendment proposes:

818 (i) to enlarge the area within the project area from which tax increment is collected;

819 (ii) to permit the agency to receive a greater percentage of tax increment or to receive  
820 tax increment for a longer period of time, or both, than allowed under the adopted project area  
821 plan; or

822 (iii) for an amendment to a project area plan that was adopted before April 1, 1983, to  
823 expand the area from which tax increment is collected to exceed 100 acres of private property;  
824 and

825 (d) the agency obtains the consent of the legislative body or governing board of each  
826 taxing entity affected, if the amendment proposes to permit the agency to receive, from less  
827 than all taxing entities, a greater percentage of tax increment or to receive tax increment for a  
828 longer period of time, or both, than allowed under the adopted project area plan.

829 (4) (a) An adopted urban renewal project area plan may be amended without  
830 complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and  
831 (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the  
832 amendment:

833 (i) makes a minor adjustment in the legal description of a project area boundary

834 requested by a county assessor or county auditor to avoid inconsistent property boundary lines;  
835 or

836 (ii) subject to Subsection (4)(b), removes a parcel of real property from a project area  
837 because the agency determines that:

838 (A) the parcel is no longer blighted; or

839 (B) inclusion of the parcel is no longer necessary or desirable to the project area.

840 (b) An amendment removing a parcel of real property from a project area under  
841 Subsection (4)(a)(ii) may not be made without the consent of the record property owner of the  
842 parcel being removed.

843 (5) (a) An amendment approved by board resolution under this section may not take  
844 effect until adopted by ordinance of the legislative body of the community in which the project  
845 area that is the subject of the project area plan being amended is located.

846 (b) Upon a community legislative body passing an ordinance adopting an amendment  
847 to a project area plan, the agency whose project area plan was amended shall comply with the  
848 requirements of Section 17C-2-109 to the same extent as if the amendment were a project area  
849 plan.

850 Section 14. Section 17C-2-201 is amended to read:

851 **17C-2-201. Project area budget -- Requirements for adopting -- Contesting the**  
852 **budget or procedure -- Time limit.**

853 (1) (a) If an agency anticipates funding all or a portion of a post-June 30, 1993 urban  
854 renewal project area plan with tax increment, the agency shall, subject to Section 17C-2-202,  
855 adopt a project area budget as provided in this part.

856 (b) An urban renewal project area budget adopted after May 11, 2009 shall specify:

857 (i) the number of tax years for which the agency will be allowed to receive tax

858 increment from the project area; and

859 (ii) the percentage of tax increment or maximum cumulative dollar amount of tax  
860 increment the agency is entitled to receive from the project area under the project area budget.

861 (2) To adopt an urban renewal project area budget, the agency shall:

862 (a) prepare a draft of a project area budget;

863 (b) make a copy of the draft project area budget available to the public at the agency's  
864 offices during normal business hours;

865 (c) provide notice of the budget hearing as required by Part 5, Urban Renewal Notice  
866 Requirements;

867 (d) hold a public hearing on the draft project area budget and, at that public hearing,  
868 allow public comment on:

869 (i) the draft project area budget; and

870 (ii) whether the draft project area budget should be revised, adopted, or rejected;

871 (e) (i) if required under Subsection 17C-2-204(1), obtain the approval of the taxing  
872 entity committee on the draft project area budget or a revised version of the draft project area  
873 budget; or

874 (ii) if applicable, comply with the requirements of Subsection 17C-2-204(2); and

875 (f) after the budget hearing, hold a board meeting in the same meeting as the public  
876 hearing or in a subsequent meeting to:

877 (i) consider comments made and information presented at the public hearing relating to  
878 the draft project area budget; and

879 (ii) adopt by resolution the draft project area budget, with any revisions, as the project  
880 area budget.

881 (3) (a) For a period of 30 days after the agency's adoption of the project area budget  
882 under Subsection (2)(f), any person in interest may contest the project area budget or the  
883 procedure used to adopt the project area budget if the budget or procedure fails to comply with  
884 applicable statutory requirements.

885 (b) After the 30-day period under Subsection (3)(a) expires, no person may contest the  
886 project area budget or procedure used to adopt the project area budget for any cause.

887 Section 15. Section **17C-3-109** is amended to read:

888 **17C-3-109. Amending an economic development project area plan.**

889 (1) An adopted economic development project area plan may be amended as provided  
890 in this section.

891 (2) If an agency proposes to amend an adopted economic development project area  
892 plan to enlarge the project area:

893 (a) the requirements under this part that apply to adopting a project area plan apply  
894 equally to the proposed amendment as if it were a proposed project area plan;

895 (b) the base year taxable value for the new area added to the project area shall be

896 determined under Subsection 17C-1-102(6)~~(b)~~(a)(ii) using the date of the taxing entity  
897 committee's consent referred to in Subsection (2)(c); and

898 (c) the agency shall obtain the consent of the taxing entity committee before the agency  
899 may collect tax increment from the area added to the project area by the amendment.

900 (3) If a proposed amendment does not propose to enlarge an economic development  
901 project area, an agency board may adopt a resolution approving an amendment to an adopted  
902 project area plan after:

903 (a) the agency gives notice, as provided in Section 17C-3-402, of the proposed  
904 amendment and of the public hearing required by Subsection (3)(b);

905 (b) the agency board holds a public hearing on the proposed amendment that meets the  
906 requirements of a plan hearing;

907 (c) the agency obtains the taxing entity committee's consent to the amendment, if the  
908 amendment proposes:

909 (i) to enlarge the area within the project area from which tax increment is collected; or

910 (ii) to permit the agency to receive a greater percentage of tax increment or to receive  
911 tax increment for a longer period of time than allowed under the adopted project area plan; and

912 (d) the agency obtains the consent of the legislative body or governing board of each  
913 taxing entity affected, if the amendment proposes to permit the agency to receive, from less  
914 than all taxing entities, a greater percentage of tax increment or to receive tax increment for a  
915 longer period of time, or both, than allowed under the adopted project area plan.

916 (4) (a) An adopted project area plan may be amended without complying with the  
917 notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without  
918 obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

919 (i) makes a minor adjustment in the legal description of a project area boundary  
920 requested by a county assessor or county auditor to avoid inconsistent property boundary lines;  
921 or

922 (ii) subject to Subsection (4)(b), removes a parcel of real property from a project area  
923 because the agency determines that inclusion of the parcel is no longer necessary or desirable to  
924 the project area.

925 (b) An amendment removing a parcel of real property from a project area under  
926 Subsection (4)(a) may not be made without the consent of the record property owner of the

927 parcel being removed.

928 (5) (a) An amendment approved by board resolution under this section may not take  
929 effect until adopted by ordinance of the legislative body of the community in which the project  
930 area that is the subject of the project area plan being amended is located.

931 (b) Upon a community legislative body passing an ordinance adopting an amendment  
932 to a project area plan, the agency whose project area plan was amended shall comply with the  
933 requirements of Section 17C-3-108 to the same extent as if the amendment were a project area  
934 plan.

935 Section 16. Section **17C-3-201** is amended to read:

936 **17C-3-201. Economic development project area budget -- Requirements for**  
937 **adopting -- Contesting the budget or procedure -- Time limit.**

938 (1) (a) If an agency anticipates funding all or a portion of a post-June 30, 1993  
939 economic development project area plan with tax increment, the agency shall, subject to  
940 Section 17C-3-202, adopt a project area budget as provided in this part.

941 (b) An economic development project area budget adopted after May 11, 2009 shall  
942 specify:

943 (i) the number of tax years for which the agency will be allowed to receive tax  
944 increment from the project area; and

945 (ii) the percentage of tax increment or maximum cumulative dollar amount of tax  
946 increment the agency is entitled to receive from the project area under the project area budget.

947 (2) To adopt an economic development project area budget, the agency shall:

948 (a) prepare a draft of an economic development project area budget;

949 (b) make a copy of the draft project area budget available to the public at the agency's  
950 offices during normal business hours;

951 (c) provide notice of the budget hearing as required by Part 4, Economic Development  
952 Notice Requirements;

953 (d) hold a public hearing on the draft project area budget and, at that public hearing,  
954 allow public comment on:

955 (i) the draft project area budget; and

956 (ii) whether the draft project area budget should be revised, adopted, or rejected;

957 (e) (i) if required under Subsection 17C-3-203(1), obtain the approval of the taxing

958 entity committee on the draft project area budget or a revised version of the draft project area  
959 budget; or

960 (ii) if applicable, comply with the requirements of Subsection 17C-3-203(2); and

961 (f) after the budget hearing, hold a board meeting in the same meeting as the public  
962 hearing or in a subsequent meeting to:

963 (i) consider comments made and information presented at the public hearing relating to  
964 the draft project area budget; and

965 (ii) adopt by resolution the draft project area budget, with any revisions, as the project  
966 area budget.

967 (3) (a) For a period of 30 days after the agency's adoption of the project area budget  
968 under Subsection (2)(f), any person in interest may contest the project area budget or the  
969 procedure used to adopt the project area budget if the budget or procedure fails to comply with  
970 applicable statutory requirements.

971 (b) After the 30-day period under Subsection (3)(a) expires, no person may contest the  
972 project area budget or procedure used to adopt the project area budget for any cause.

973 Section 17. Section **17C-3-202** is amended to read:

974 **17C-3-202. Part of tax increment funds in an economic development project area**  
975 **budget to be used for housing -- Waiver of requirement.**

976 (1) This section applies only to an economic development project area budget adopted  
977 before May 12, 2009.

978 ~~[(+)]~~ (2) (a) Except as provided in Subsection ~~[(+)]~~ (2)(b), each economic development  
979 project area budget adopted on or after May 1, 2000 but before May 12, 2009 that provides for  
980 more than \$100,000 of annual tax increment to be paid to the agency shall allocate at least 20%  
981 of the tax increment for housing as provided in Section 17C-1-412.

982 (b) The 20% requirement of Subsection ~~[(+)]~~ (2)(a) may be waived:

983 (i) in part or whole by the mutual consent of the loan fund board and the taxing entity  
984 committee if they determine that 20% of tax increment is more than is needed to address the  
985 community's need for income targeted housing; or

986 (ii) in fifth and sixth class counties, by the taxing entity committee for economic  
987 development project area budgets adopted on or after May 1, 2002 but before May 12, 2009, if  
988 the economic development project area consists of an area without housing units.



989           ~~[(2)]~~ (3) An economic development project area budget not required under Subsection  
990 ~~[(+)]~~ (2)(a) to allocate tax increment for housing may allocate 20% of tax increment payable to  
991 the agency over the life of the project area for housing as provided in Section 17C-1-412 if the  
992 project area budget is under a project area plan that is adopted on or after July 1, 1998.

993           Section 18. Section **17C-3-203** is amended to read:

994           **17C-3-203. Consent of taxing entity committee required for economic**  
995 **development project area budget -- Exception.**

996           (1) (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each  
997 agency shall obtain the consent of the taxing entity committee for each economic development  
998 project area budget under a post-June 30, 1993 economic development project area plan before  
999 the agency may collect any tax increment from the project area.

1000           (b) For an economic development project area budget adopted from July 1, 1998  
1001 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided  
1002 in Section 17C-1-412, an agency:

1003           (i) need not obtain the consent of the taxing entity committee for the project area  
1004 budget; and

1005           (ii) may not collect any tax increment from all or part of the project area until after:

1006           (A) the loan fund board has certified the project area budget as complying with the  
1007 requirements of Section 17C-1-412; and

1008           (B) the agency board has approved and adopted the project area budget by a two-thirds  
1009 vote.

1010           (2) (a) Before a taxing entity committee may consent to an economic development  
1011 project area budget adopted on or after May 1, 2000 that ~~[is required under Subsection~~  
1012 ~~17C-3-202(1)(a) to allocate]~~ allocates 20% of tax increment for housing under Subsection  
1013 17C-3-202(2)(a) or (3), the agency shall:

1014           (i) adopt a housing plan showing the uses for the housing funds; and

1015           (ii) provide a copy of the housing plan to the taxing entity committee and the loan fund  
1016 board.

1017           (b) If an agency amends a housing plan prepared under Subsection (2)(a), the agency  
1018 shall provide a copy of the amendment to the taxing entity committee and the loan fund board.

1019           Section 19. Section **17C-4-201** is amended to read:

1020           **17C-4-201. Consent of a taxing entity or public entity to an agency receiving tax**  
1021 **increment or sales tax funds for community development project.**

1022           (1) An agency may negotiate with a taxing entity and public [agency] entity for the  
1023 taxing entity's or public [agency's] entity's consent to the agency receiving the entity's or public  
1024 [agency's] entity's tax increment or sales tax revenues, or both, for the purpose of providing  
1025 funds to carry out a proposed or adopted community development project area plan.

1026           (2) The consent of a taxing entity or public [agency] entity under Subsection (1) may  
1027 be expressed in:

1028           (a) a resolution adopted by the taxing entity or public [agency] entity; or

1029           (b) an interlocal agreement, under Title 11, Chapter 13, Interlocal Cooperation Act,  
1030 between the taxing entity or public [agency] entity and the agency.

1031           (3) A resolution adopted or interlocal agreement entered under Subsection (2) after  
1032 May 11, 2009 shall specify:

1033           (a) if the resolution or interlocal agreement provides for the agency to be paid tax  
1034 increment:

1035           (i) the method of calculating the amount of the taxing entity's tax increment from the  
1036 project area that will be paid to the agency, including the agreed base year and agreed base  
1037 taxable value;

1038           (ii) the number of tax years that the agency will be paid the taxing entity's tax  
1039 increment from the project area; and

1040           (iii) the percentage of the taxing entity's tax increment or maximum cumulative dollar  
1041 amount of the taxing entity's tax increment that the agency will be paid; and

1042           (b) if the resolution or interlocal agreement provides for the agency to be paid a public  
1043 entity's sales tax revenue:

1044           (i) the method of calculating the amount of the public entity's sales tax revenue that the  
1045 agency will be paid;

1046           (ii) the number of tax years that the agency will be paid the sales tax revenue; and

1047           (iii) the percentage of sales tax revenue or the maximum cumulative dollar amount of  
1048 sales tax revenue that the agency will be paid.

1049           (4) (a) Unless the taxing entity otherwise agrees, an agency may not be paid a taxing  
1050 entity's tax increment:

1051 (i) that exceeds the percentage or maximum cumulative dollar amount of tax increment  
 1052 specified in the resolution or interlocal agreement under Subsection (2); or

1053 (ii) for more tax years than specified in the resolution or interlocal agreement under  
 1054 Subsection (2).

1055 (b) Unless the public entity otherwise agrees, an agency may not be paid a public  
 1056 entity's sales tax revenue:

1057 (i) that exceeds the percentage or maximum cumulative dollar amount of sales tax  
 1058 revenue specified in the resolution or interlocal agreement under Subsection (2); or

1059 (ii) for more tax years than specified in the resolution or interlocal agreement under  
 1060 Subsection (2).

1061 [~~3~~] (5) A school district may consent to an agency receiving tax increment from the  
 1062 school district's basic levy only to the extent that the school district also consents to the agency  
 1063 receiving tax increment from the school district's local levy.

1064 [~~4~~] (6) (a) A resolution or interlocal agreement under this section may be amended  
 1065 from time to time.

1066 (b) Each amendment of a resolution or interlocal agreement shall be subject to and  
 1067 receive the benefits of the provisions of this part to the same extent as if the amendment were  
 1068 an original resolution or interlocal agreement.

1069 [~~5~~] (7) A taxing entity's or public [agency's] entity's consent to an agency receiving  
 1070 funds under this section is not subject to the requirements of Section 10-8-2.

1071 Section 20. Section **17C-4-202** is amended to read:

1072 **17C-4-202. Resolution or interlocal agreement to provide funds for the**  
 1073 **community development project area plan -- Notice -- Effective date of resolution or**  
 1074 **interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability**  
 1075 **of resolution or interlocal agreement.**

1076 (1) The approval and adoption of each resolution or interlocal agreement under  
 1077 Subsection 17C-4-201(2) shall be in an open and public meeting.

1078 (2) (a) Upon the adoption of a resolution or interlocal agreement under Section  
 1079 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by:

1080 (i) publishing or causing to be published a notice in a newspaper of general circulation  
 1081 within the agency's boundaries; or

1082 (ii) if there is no newspaper of general circulation within the agency's boundaries,  
1083 causing a notice to be posted in at least three public places within the agency's boundaries.

1084 (b) Each notice under Subsection (2)(a) shall:

1085 (i) set forth a summary of the resolution or interlocal agreement; and

1086 (ii) include a statement that the resolution or interlocal agreement is available for  
1087 general public inspection and the hours of inspection.

1088 (3) The resolution or interlocal agreement shall become effective on the date of:

1089 (a) if notice was published under Subsection (2)(a), publication of the notice; or

1090 (b) if notice was posted under Subsection (2)(a), posting of the notice.

1091 (4) (a) For a period of 30 days after the effective date of the resolution or interlocal  
1092 agreement under Subsection (3), any person in interest may contest the resolution or interlocal  
1093 agreement or the procedure used to adopt the resolution or interlocal agreement if the  
1094 resolution or interlocal agreement or procedure fails to comply with applicable statutory  
1095 requirements.

1096 (b) After the 30-day period under Subsection (4)(a) expires, no person may contest the  
1097 resolution or interlocal agreement for any cause.

1098 (5) Each agency that is to receive funds under a resolution or interlocal agreement  
1099 under Section 17C-4-201 and each taxing entity or public [agency] entity that approves a  
1100 resolution or enters into an interlocal agreement under Section 17C-4-201 shall make the  
1101 resolution or interlocal agreement, as the case may be, available at its offices to the general  
1102 public for inspection and copying during normal business hours.

1103 Section 21. Section **17C-4-203** is amended to read:

1104 **17C-4-203. Requirement to file a copy of the resolution or interlocal agreement --**  
1105 **County payment of tax increment to the agency.**

1106 (1) Each agency that is to receive funds under a resolution or interlocal agreement  
1107 under Section 17C-4-201 shall, within 30 days after the effective date of the resolution or  
1108 interlocal agreement, file a copy of it with:

1109 (a) the State Tax Commission, the State Board of Education, and the state auditor; and

1110 (b) the auditor of the county in which the project area is located, if the resolution or  
1111 interlocal agreement provides for the agency to receive tax increment from the taxing entity or  
1112 public [agency] entity that adopted the resolution or entered into the interlocal agreement.

1113           (2) Each county that collects property tax on property within a community  
1114 development project area shall, in the manner and at the time provided in Section 59-2-1365,  
1115 pay and distribute to the agency the tax increment that the agency is entitled to receive under a  
1116 resolution approved or an interlocal agreement adopted under Section 17C-4-201.

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**Legislative Review Note**  
**as of 2-16-09 3:09 PM**

**Office of Legislative Research and General Counsel**

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**S.B. 205 - Community Development and Renewal Agency Amendments**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill extends for five years the tax increment amount of industrial sites and inactive airports that can be diverted from local taxing entities. Certain individuals could be impacted in that this bill could reduce the number of low income housing units created annually; the housing provision could also shorten the time period of projects. On the provision related to telecommunication facilities, this may decrease the bonding ability of the agencies referred to in the bill; this provision may also provide more price competition between service providers.

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