

**RETAIL FACILITY INCENTIVE PAYMENTS AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mike Schultz**

Senate Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill amends provisions relating to incentive payments for retail facilities.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits a public entity from making, or entering into an agreement to make, certain incentive payments related to retail facilities after a specified date;
- ▶ allows a person to bring a civil action against a public entity to enjoin a violation of the prohibitions in this bill;
- ▶ requires a public entity to recover any public funds lost to the state if a district court, in a civil action against the public entity, finds that a violation occurred; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-8-2**, as last amended by Laws of Utah 2021, Chapters 84, 345, and 355

**11-41-102**, as last amended by Laws of Utah 2021, Chapter 367



- 28 [11-41-103](#), as enacted by Laws of Utah 2004, Chapter 283
- 29 [17-27a-102](#), as last amended by Laws of Utah 2021, Chapter 432
- 30 [17C-1-407](#), as last amended by Laws of Utah 2019, Chapters 376 and 480
- 31 [17C-1-409](#), as last amended by Laws of Utah 2021, Chapter 214
- 32 [63N-1a-301](#), as renumbered and amended by Laws of Utah 2021, Chapter 282

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

35 Section 1. Section **10-8-2** is amended to read:

36 **10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal**  
37 **authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.**

38 (1) (a) [A] Subject to Section [11-41-103](#), a municipal legislative body may:

39 (i) appropriate money for corporate purposes only;

40 (ii) provide for payment of debts and expenses of the corporation;

41 (iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and  
42 dispose of real and personal property for the benefit of the municipality, whether the property is  
43 within or without the municipality's corporate boundaries, if the action is in the public interest  
44 and complies with other law;

45 (iv) improve, protect, and do any other thing in relation to this property that an  
46 individual could do; and

47 (v) subject to Subsection (2) and after first holding a public hearing, authorize  
48 municipal services or other nonmonetary assistance to be provided to or waive fees required to  
49 be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

50 (b) A municipality may:

51 (i) furnish all necessary local public services within the municipality;

52 (ii) purchase, hire, construct, own, maintain and operate, or lease public utilities  
53 located and operating within and operated by the municipality; and

54 (iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property  
55 located inside or outside the corporate limits of the municipality and necessary for any of the  
56 purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B,  
57 Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

58 (c) Each municipality that intends to acquire property by eminent domain under

59 Subsection (1)(b) shall comply with the requirements of Section [78B-6-505](#).

60 (d) Subsection (1)(b) may not be construed to diminish any other authority a  
61 municipality may claim to have under the law to acquire by eminent domain property located  
62 inside or outside the municipality.

63 (2) (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to  
64 the provisions of Subsection (3).

65 (b) The total amount of services or other nonmonetary assistance provided or fees  
66 waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the  
67 municipality's budget for that fiscal year.

68 (3) It is considered a corporate purpose to appropriate money for any purpose that, in  
69 the judgment of the municipal legislative body, provides for the safety, health, prosperity,  
70 moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality  
71 subject to this Subsection (3).

72 (a) The net value received for any money appropriated shall be measured on a  
73 project-by-project basis over the life of the project.

74 (b) (i) A municipal legislative body shall establish the criteria for a determination  
75 under this Subsection (3).

76 (ii) A municipal legislative body's determination of value received is presumed valid  
77 unless a person can show that the determination was arbitrary, capricious, or illegal.

78 (c) The municipality may consider intangible benefits received by the municipality in  
79 determining net value received.

80 (d) (i) Before the municipal legislative body makes any decision to appropriate any  
81 funds for a corporate purpose under this section, the municipal legislative body shall hold a  
82 public hearing.

83 (ii) At least 14 days before the date of the hearing, the municipal legislative body shall  
84 publish a notice of the hearing described in Subsection (3)(d)(i) by posting notice:

85 (A) in at least three conspicuous places within the municipality; and

86 (B) on the Utah Public Notice Website created in Section [63A-16-601](#).

87 (e) (i) Before a municipality provides notice as described in Subsection (3)(d)(ii), the  
88 municipality shall perform a study that analyzes and demonstrates the purpose for an  
89 appropriation described in this Subsection (3) in accordance with Subsection (3)(e)(iii).

90 (ii) A municipality shall make the study described in Subsection (3)(e)(i) available at  
91 the municipality for review by interested parties at least 14 days immediately before the public  
92 hearing described in Subsection (3)(d)(i).

93 (iii) A municipality shall consider the following factors when conducting the study  
94 described in Subsection (3)(e)(i):

95 (A) what identified benefit the municipality will receive in return for any money or  
96 resources appropriated;

97 (B) the municipality's purpose for the appropriation, including an analysis of the way  
98 the appropriation will be used to enhance the safety, health, prosperity, moral well-being,  
99 peace, order, comfort, or convenience of the inhabitants of the municipality; and

100 (C) whether the appropriation is necessary and appropriate to accomplish the  
101 reasonable goals and objectives of the municipality in the area of economic development, job  
102 creation, affordable housing, elimination of a development impediment, job preservation, the  
103 preservation of historic structures and property, and any other public purpose.

104 (f) (i) An appeal may be taken from a final decision of the municipal legislative body,  
105 to make an appropriation.

106 (ii) A person shall file an appeal as described in Subsection (3)(f)(i) with the district  
107 court within 30 days after the day on which the municipal legislative body makes a decision.

108 (iii) Any appeal shall be based on the record of the proceedings before the legislative  
109 body.

110 (iv) A decision of the municipal legislative body shall be presumed to be valid unless  
111 the appealing party shows that the decision was arbitrary, capricious, or illegal.

112 (g) The provisions of this Subsection (3) apply only to those appropriations made after  
113 May 6, 2002.

114 (h) This section applies only to appropriations not otherwise approved pursuant to Title  
115 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform  
116 Fiscal Procedures Act for Utah Cities.

117 (4) (a) Before a municipality may dispose of a significant parcel of real property, the  
118 municipality shall:

119 (i) provide reasonable notice of the proposed disposition at least 14 days before the  
120 opportunity for public comment under Subsection (4)(a)(ii); and

121 (ii) allow an opportunity for public comment on the proposed disposition.  
122 (b) Each municipality shall, by ordinance, define what constitutes:  
123 (i) a significant parcel of real property for purposes of Subsection (4)(a); and  
124 (ii) reasonable notice for purposes of Subsection (4)(a)(i).  
125 (5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire  
126 real property for the purpose of expanding the municipality's infrastructure or other facilities  
127 used for providing services that the municipality offers or intends to offer shall provide written  
128 notice, as provided in this Subsection (5), of its intent to acquire the property if:  
129 (i) the property is located:  
130 (A) outside the boundaries of the municipality; and  
131 (B) in a county of the first or second class; and  
132 (ii) the intended use of the property is contrary to:  
133 (A) the anticipated use of the property under the general plan of the county in whose  
134 unincorporated area or the municipality in whose boundaries the property is located; or  
135 (B) the property's current zoning designation.  
136 (b) Each notice under Subsection (5)(a) shall:  
137 (i) indicate that the municipality intends to acquire real property;  
138 (ii) identify the real property; and  
139 (iii) be sent to:  
140 (A) each county in whose unincorporated area and each municipality in whose  
141 boundaries the property is located; and  
142 (B) each affected entity.  
143 (c) A notice under this Subsection (5) is a protected record as provided in Subsection  
144 [63G-2-305\(8\)](#).  
145 (d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality  
146 previously provided notice under Section [10-9a-203](#) identifying the general location within the  
147 municipality or unincorporated part of the county where the property to be acquired is located.  
148 (ii) If a municipality is not required to comply with the notice requirement of  
149 Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide  
150 the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real  
151 property.

152 Section 2. Section 11-41-102 is amended to read:

153 CHAPTER 41. PROHIBITION ON RETAIL FACILITY INCENTIVE

154 PAYMENTS ACT

155 11-41-102. Definitions.

156 As used in this chapter:

157 (1) "Agreement" means an oral or written agreement between a[:]  
158 public entity and a  
person.

159 [~~(a) (i) county; or~~]

160 [~~(ii) municipality; and~~]

161 [~~(b) person.~~]

162 [(2) "Municipality" means a:]

163 [(a) city;]

164 [(b) town; or]

165 [(c) metro township.]

166 [(3) "Payment" includes:]

167 [(a) a payment;]

168 [(b) a rebate;]

169 [(c) a refund; or]

170 [(d) an amount similar to Subsections (3)(a) through (c).]

171 [(4) "Regional retail business" means a:]

172 [(a) retail business that occupies a floor area of more than 80,000 square feet;]

173 [(b) dealer as defined in Section 41-1a-102;]

174 [(c) retail shopping facility that has at least two anchor tenants if the total number of  
175 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square  
176 feet; or]

177 [(d) grocery store that occupies a floor area of more than 30,000 square feet.]

178 [(5) (a) "Sales and use tax" means a tax:]

179 [(i) imposed on transactions within a:]

180 [(A) county; or]

181 [(B) municipality; and]

182 [(ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,

183 ~~Sales and Use Tax Act.]~~

184 ~~[(b) "Sales and use tax" does not include a tax authorized under:]~~

185 ~~[(i) Subsection 59-12-103(2)(a)(i);]~~

186 ~~[(ii) Subsection 59-12-103(2)(b)(i);]~~

187 ~~[(iii) Subsection 59-12-103(2)(c)(i);]~~

188 ~~[(iv) Subsection 59-12-103(2)(d);]~~

189 ~~[(v) Subsection 59-12-103(2)(c)(i)(A);]~~

190 ~~[(vi) Section 59-12-301;]~~

191 ~~[(vii) Section 59-12-352;]~~

192 ~~[(viii) Section 59-12-353;]~~

193 ~~[(ix) Section 59-12-603; or]~~

194 ~~[(x) Section 59-12-1201.]~~

195 ~~[(6) (a) "Sales and use tax incentive payment" means a payment of revenues:]~~

196 (2) (a) "Ancillary retail facility" means a retail facility where any retail transactions  
197 occur as an ancillary or minor component of the business entity's primary operations.

198 (b) "Ancillary retail facility" includes:

199 (i) a retail facility that serves primarily as a business entity's office; or

200 (ii) a retail facility that operates primarily for the purpose of manufacturing,  
201 warehousing, or distributing products.

202 (3) "Business entity" means a sole proprietorship, partnership, limited partnership,  
203 limited liability company, corporation, or other entity or association used to carry on a business  
204 for profit.

205 (4) "Environmental mitigation" means an action or activity intended to remedy known  
206 negative impacts to the environment.

207 (5) "Mixed-use development" means development with mixed land uses, including  
208 housing.

209 (6) "Moderate income housing plan" means the moderate income housing plan element  
210 of a municipality's or county's general plan as adopted under Section 10-9a-403 or 17-27a-403.

211 (7) "Political subdivision" means any county, city, town, metro township, school  
212 district, local district, special service district, community reinvestment agency, or entity created  
213 by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act.

214 (8) "Public entity" means:  
215 (a) a political subdivision;  
216 (b) a state agency as defined in Section [63J-1-220](#);  
217 (c) a higher education institution as defined in Section [53B-1-201](#);  
218 (d) the Military Installation Development Authority created in Section [63H-1-201](#);  
219 (e) the Utah Inland Port Authority created in Section [11-58-201](#); or  
220 (f) the Point of the Mountain State Land Authority created in Section [11-59-201](#).  
221 (9) "Public funds" means any money received by a public entity from appropriations,  
222 taxes, fees, interest, or other returns on investment.  
223 (10) "Retail facility" means any facility operated by a business entity where a retail  
224 transaction occurs.  
225 (11) (a) "Retail facility incentive payment" means a payment of public funds:  
226 (i) to a person by a public entity;  
227 ~~[(ii) by a:~~  
228 ~~[(A) county; or]~~  
229 ~~[(B) municipality;]~~  
230 ~~[(iii) to induce the person to locate or relocate a regional retail business within the:]~~  
231 ~~[(A) county; or]~~  
232 ~~[(B) municipality; and]~~  
233 ~~[(iv) that are derived from a sales and use tax.]~~  
234 ~~[(b) "Sales and use tax incentive payment" does not include funding for public~~  
235 ~~infrastructure.]~~  
236 (ii) for the development, construction, renovation, or operation of a retail facility  
237 within an area of the state; and  
238 (iii) in the form of:  
239 (A) a payment;  
240 (B) a rebate;  
241 (C) a refund;  
242 (D) a subsidy;  
243 (E) a waiver or adjustment of impact fees imposed under Title 11, Chapter 36a, Impact  
244 Fees Act; or



- 245 (F) any other similar incentive, award, or offset.
- 246 (b) "Retail facility incentive payment" does not include a payment of public funds for:
- 247 (i) system improvements as defined in Section 11-36a-102;
- 248 (ii) the demolition of an existing facility;
- 249 (iii) assistance under a local main street program;
- 250 (iv) environmental mitigation, if the total costs of environmental mitigation exceed the
- 251 total value of the real property for which the environmental mitigation funding is provided;
- 252 (v) assistance under a water conservation program or energy efficiency program, if any
- 253 business entity located within the public entity's boundaries or subject to the public entity's
- 254 jurisdiction is eligible to participate in the program;
- 255 (vi) emergency aid or assistance, if any business entity located within the public entity's
- 256 boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid
- 257 or assistance; or
- 258 (vii) assistance under a public safety or security program, if any business entity located
- 259 within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to
- 260 participate in the program.
- 261 (12) "Retail transaction" means any transaction subject to a sales and use tax under
- 262 Title 59, Chapter 12, Sales and Use Tax Act.
- 263 (13) (a) "Small business" means a business entity that:
- 264 (i) has fewer than 30 full-time equivalent employees; and
- 265 (ii) maintains the business entity's principal office in the state.
- 266 (b) "Small business" does not include:
- 267 (i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;
- 268 (ii) a dealer, as defined in Section 41-1a-102; or
- 269 (iii) a subsidiary or affiliate of another business entity that is not a small business.
- 270 Section 3. Section 11-41-103 is amended to read:
- 271 **11-41-103. Prohibition on public entity making a retail facility incentive payment**
- 272 **or entering into an agreement to make a retail facility incentive payment -- Exceptions --**
- 273 **Civil action to enjoin violation.**
- 274 [~~A county or municipality may not:~~]
- 275 (1) Except as provided in Subsection (2), a public entity may not:

276 [(1)] (a) make a [~~sales and use tax~~] retail facility incentive payment under an agreement  
277 entered into on or after July 1, [~~2004~~] 2022; or

278 [(2)] (b) enter into an agreement on or after July 1, [~~2004~~] 2022, to make a [~~sales and~~  
279 ~~use tax~~] retail facility incentive payment.

280 (2) Subsection (1) does not apply to a retail facility incentive payment made in  
281 connection with:

282 (a) a retail facility located entirely within a census block in which the area median  
283 income is less than 70% of state median income;

284 (b) a retail facility included as part of a mixed-use development where:

285 (i) at least 50% of the developable area within the development is dedicated to new or  
286 proposed housing units; and

287 (ii) at least 50% of the new or proposed housing units within the development qualify  
288 as moderate income housing, in accordance with the moderate income housing plan of the  
289 municipality or county in which the development is located;

290 (c) a retail facility located within a county of the fifth or sixth class;

291 (d) an ancillary retail facility;

292 (e) a retail facility for a small business; or

293 (f) a retail facility for a Utah-based nonprofit arts or cultural organization.

294 (3) (a) A person may bring a civil action against a public entity to enjoin a violation of  
295 this section.

296 (b) The person bringing an action described in Subsection (3)(a):

297 (i) shall bring the action in the district court with jurisdiction in the county in which the  
298 violation is alleged to have occurred; and

299 (ii) may not bring the action against the public entity more than 30 days after the day  
300 on which the violation is alleged to have occurred.

301 (c) In an action described in Subsection (3)(a), if the court finds a violation of this  
302 section, the court shall:

303 (i) enjoin the violation;

304 (ii) order the public entity to recover or recoup any amount of public funds lost to the  
305 state as a result of the violation; and

306 (iii) provide any other relief that the court considers appropriate.

307 Section 4. Section **17-27a-102** is amended to read:

308 **17-27a-102. Purposes -- General land use authority -- Limitations.**

309 (1) (a) The purposes of this chapter are to:

310 (i) provide for the health, safety, and welfare;

311 (ii) promote the prosperity;

312 (iii) improve the morals, peace, good order, comfort, convenience, and aesthetics of  
313 each county and each county's present and future inhabitants and businesses;

314 (iv) protect the tax base;

315 (v) secure economy in governmental expenditures;

316 (vi) foster the state's agricultural and other industries;

317 (vii) protect both urban and nonurban development;

318 (viii) protect and ensure access to sunlight for solar energy devices;

319 (ix) provide fundamental fairness in land use regulation;

320 (x) facilitate orderly growth and allow growth in a variety of housing types; and

321 (xi) protect property values.

322 (b) [~~Except as provided in~~] Subject to Subsection (4) and Section [11-41-103](#), to

323 accomplish the purposes of this chapter, a county may enact all ordinances, resolutions, and  
324 rules and may enter into other forms of land use controls and development agreements that the  
325 county considers necessary or appropriate for the use and development of land within the  
326 unincorporated area of the county or a designated mountainous planning district, including  
327 ordinances, resolutions, rules, restrictive covenants, easements, and development agreements  
328 governing:

329 (i) uses;

330 (ii) density;

331 (iii) open spaces;

332 (iv) structures;

333 (v) buildings;

334 (vi) energy-efficiency;

335 (vii) light and air;

336 (viii) air quality;

337 (ix) transportation and public or alternative transportation;

- 338 (x) infrastructure;
- 339 (xi) street and building orientation and width requirements;
- 340 (xii) public facilities;
- 341 (xiii) fundamental fairness in land use regulation; and
- 342 (xiv) considerations of surrounding land uses to balance the foregoing purposes with a
- 343 landowner's private property interests and associated statutory and constitutional protections.

344 (2) Each county shall comply with the mandatory provisions of this part before any

345 agreement or contract to provide goods, services, or municipal-type services to any storage

346 facility or transfer facility for high-level nuclear waste, or greater than class C radioactive

347 waste, may be executed or implemented.

348 (3) (a) Any ordinance, resolution, or rule enacted by a county pursuant to its authority

349 under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas

350 activity, as described in Section 40-6-2.5.

351 (b) A county may enact an ordinance, resolution, or rule that regulates surface activity

352 incident to an oil and gas activity if the county demonstrates that the regulation:

- 353 (i) is necessary for the purposes of this chapter;
  - 354 (ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and
  - 355 (iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas
- 356 activity, as described in Section 40-6-2.5.

357 (4) (a) This Subsection (4) applies to development agreements entered into on or after

358 May 5, 2021.

359 (b) A provision in a county development agreement is unenforceable if the provision

360 requires an individual or an entity, as a condition for issuing building permits or otherwise

361 regulating development activities within an unincorporated area of the county, to initiate a

362 process for a municipality to annex the unincorporated area in accordance with Title 10,

363 Chapter 2, Part 4, Annexation.

364 (c) Subsection (4)(b) does not affect or impair the enforceability of any other provision

365 in the development agreement.

366 Section 5. Section 17C-1-407 is amended to read:

367 **17C-1-407. Limitations on tax increment.**

368 (1) (a) If the development of retail sales of goods is the primary objective of an urban

369 renewal project area, tax increment from the urban renewal project area may not be paid to or  
370 used by an agency unless the agency makes a development impediment determination under  
371 Chapter 2, Part 3, Development Impediment Determination in Urban Renewal Project Areas.

372 (b) [~~Development~~] Except as provided in Section 11-41-103, development of retail  
373 sales of goods does not disqualify an agency from receiving tax increment.

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

378 (2) (a) For the purpose of this Subsection (2):

379 (i) "Final tax rate" means the rate used to determine the amount of taxes a taxing entity  
380 levies as described in the notice to a taxpayer under Subsection 59-2-1317(2).

381 (ii) "Increased tax revenue" means tax revenue attributable to a tax rate increase.

382 (iii) "Tax rate increase" means the amount calculated by subtracting a taxing entity's  
383 certified rate, as defined in Section 59-2-924, from the taxing entity's final tax rate.

384 (b) Except as provided in Subsection (2)(c), for a year in which a taxing entity imposes  
385 a final tax rate higher than the certified tax rate, a county shall not pay an agency any portion of  
386 a taxing entity's increased tax revenue.

387 (c) Notwithstanding Subsection (2)(b), a county may pay all or a portion of a taxing  
388 entity's increased tax revenue to an agency if, at the time of the project area budget approval,  
389 the taxing entity committee or each taxing entity that is a party to an agreement under Section  
390 17C-4-201 or 17C-5-204 consents to pay the agency the increased tax revenue.

391 (d) If the taxing entity committee or each tax entity that is a party to an agreement  
392 under Section 17C-4-201 or 17C-5-204 does not consent to payment of the increased tax  
393 revenue to the agency under Subsection (2)(c), the county shall distribute to the taxing entity  
394 the increased tax revenue in the same manner as other property tax revenue.

395 (e) Notwithstanding any other provision of this section, if, before tax year 2013,  
396 increased tax revenue is paid to an agency without the consent of the taxing entity committee or  
397 each taxing entity that is a party to an agreement under Section 17C-4-201 or 17C-5-204, and  
398 notwithstanding the law at the time that the tax revenue was collected or increased:

399 (i) the State Tax Commission, the county as the collector of the taxes, a taxing entity,

400 or any other person or entity may not recover, directly or indirectly, the increased tax revenue  
401 from the agency by adjustment of a tax rate used to calculate tax increment or otherwise;

402 (ii) the county is not liable to a taxing entity or any other person or entity for the  
403 increased tax revenue that was paid to the agency; and

404 (iii) tax increment, including the increased tax revenue, shall continue to be paid to the  
405 agency subject to the same number of tax years, percentage of tax increment, and cumulative  
406 dollar amount of tax increment as approved in the project area budget and previously paid to  
407 the agency.

408 (f) An adjustment may not be made to incremental value under Section 59-2-924 for  
409 increased tax revenue not paid to an agency under this section.

410 (3) Except as the taxing entity committee otherwise agrees, an agency may not receive  
411 tax increment under an urban renewal or economic development project area budget adopted  
412 on or after March 30, 2009:

413 (a) that exceeds the percentage of tax increment or cumulative dollar amount of tax  
414 increment specified in the project area budget; or

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

416 Section 6. Section 17C-1-409 is amended to read:

417 **17C-1-409. Allowable uses of agency funds.**

418 (1) (a) An agency may use agency funds:

419 (i) for any purpose authorized under this title;

420 (ii) for administrative, overhead, legal, or other operating expenses of the agency,  
421 including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for  
422 a business resource center;

423 (iii) subject to Section 11-41-103, to pay for, including financing or refinancing, all or  
424 part of:

425 (A) project area development in a project area, including environmental remediation  
426 activities occurring before or after adoption of the project area plan;

427 (B) housing-related expenditures, projects, or programs as described in Section  
428 17C-1-411 or 17C-1-412;

429 (C) an incentive or other consideration paid to a participant under a participation  
430 agreement;

431 (D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the  
432 installation and construction of any publicly owned building, facility, structure, landscaping, or  
433 other improvement within the project area from which the project area funds are collected; or

434 (E) the cost of the installation of publicly owned infrastructure and improvements  
435 outside the project area from which the project area funds are collected if the board and the  
436 community legislative body determine by resolution that the publicly owned infrastructure and  
437 improvements benefit the project area;

438 (iv) in an urban renewal project area that includes some or all of an inactive industrial  
439 site and subject to Subsection (1)(e), to reimburse the Department of Transportation created  
440 under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8,  
441 Public Transit District Act, for the cost of:

442 (A) construction of a public road, bridge, or overpass;

443 (B) relocation of a railroad track within the urban renewal project area; or

444 (C) relocation of a railroad facility within the urban renewal project area;

445 (v) subject to Subsection (5), to transfer funds to a community that created the agency;

446 or

447 (vi) subject to Subsection (1)(f), for agency-wide project development under Part 10,  
448 Agency Taxing Authority.

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

451 (c) An agency may not use project area funds received from a taxing entity for the  
452 purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an  
453 economic development project area plan, or a community reinvestment project area plan  
454 without the community legislative body's consent.

455 (d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a  
456 project area fund to another project area fund if:

457 (A) the board approves; and

458 (B) the community legislative body approves.

459 (ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the  
460 projections for agency funds are sufficient to repay the loan amount.

461 (iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5,

462 Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal  
463 Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for  
464 Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

465 (e) Before an agency may pay any tax increment or sales tax revenue under Subsection  
466 (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the  
467 reimbursement with:

- 468 (i) the Department of Transportation; or
- 469 (ii) a public transit district.

470 (f) Before an agency may use project area funds for agency-wide project development,  
471 as defined in Section 17C-1-1001, the agency shall obtain the consent of the taxing entity  
472 committee or each taxing entity party to an interlocal agreement with the agency.

473 (2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not  
474 subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use  
475 Tax Incentive Payments Act.

476 (b) An agency may use sales and use tax revenue that the agency receives under an  
477 interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the  
478 interlocal agreement.

479 (3) (a) An agency may contract with the community that created the agency or another  
480 public entity to use agency funds to reimburse the cost of items authorized by this title to be  
481 paid by the agency that are paid by the community or other public entity.

482 (b) If land is acquired or the cost of an improvement is paid by another public entity  
483 and the land or improvement is leased to the community, an agency may contract with and  
484 make reimbursement from agency funds to the community.

485 (4) Notwithstanding any other provision of this title, an agency may not use project  
486 area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax  
487 revenue as defined in Section 17C-1-1001, to construct a local government building unless the  
488 taxing entity committee or each taxing entity party to an interlocal agreement with the agency  
489 consents.

490 (5) For the purpose of offsetting the community's annual local contribution to the  
491 Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in  
492 a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and



493 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in  
494 Section 35A-8-606.

495 Section 7. Section 63N-1a-301 is amended to read:

496 **63N-1a-301. Creation of office -- Responsibilities.**

497 (1) There is created the Governor's Office of Economic Opportunity.

498 (2) The office is:

499 (a) responsible for implementing the statewide economic development strategy  
500 developed by the commission; and

501 (b) the industrial and business promotion authority of the state.

502 (3) The office shall:

503 (a) consistent with the statewide economic development strategy, coordinate and align  
504 into a single effort the activities of the economic opportunity agencies in the field of economic  
505 development;

506 (b) provide support and direction to economic opportunity agencies in establishing  
507 goals, metrics, and activities that align with the statewide economic development strategy;

508 (c) administer and coordinate state and federal economic development grant programs;

509 (d) promote and encourage the economic, commercial, financial, industrial,  
510 agricultural, and civic welfare of the state;

511 (e) promote and encourage the employment of workers in the state and the purchase of  
512 goods and services produced in the state by local businesses;

513 (f) act to create, develop, attract, and retain business, industry, and commerce in the  
514 state[;];

515 (i) in accordance with the statewide economic development plan and commission  
516 directives; and

517 (ii) subject to the restrictions in Section 11-41-103;

518 (g) act to enhance the state's economy;

519 (h) act to assist strategic industries that are likely to drive future economic growth;

520 (i) assist communities in the state in developing economic development capacity and  
521 coordination with other communities;

522 (j) identify areas of education and workforce development in the state that can be  
523 improved to support economic and business development;

524 (k) consistent with direction from the commission, develop core strategic priorities for  
525 the office, which may include:

526 (i) enhancing statewide access to entrepreneurship opportunities and small business  
527 support;

528 (ii) focusing industry recruitment and expansion on strategically chosen clusters of  
529 industries;

530 (iii) ensuring that in awarding competitive economic development incentives the office  
531 accurately measures the benefits and costs of the incentives; and

532 (iv) assisting communities with technical support to aid those communities in  
533 improving economic development opportunities;

534 (l) submit an annual written report as described in Section [63N-1a-306](#); and

535 (m) perform other duties as provided by the Legislature.

536 (4) In order to perform its duties under this title, the office may:

537 (a) enter into a contract or agreement with, or make a grant to, a public or private  
538 entity, including a municipality, if the contract or agreement is not in violation of state statute  
539 or other applicable law;

540 (b) except as provided in Subsection (4)(c), receive and expend funds from a public or  
541 private source for any lawful purpose that is in the state's best interest; and

542 (c) solicit and accept a contribution of money, services, or facilities from a public or  
543 private donor, but may not use the contribution for publicizing the exclusive interest of the  
544 donor.

545 (5) Money received under Subsection (4)(c) shall be deposited ~~[in]~~ into the General  
546 Fund as dedicated credits of the office.

547 (6) (a) The office shall:

548 (i) obtain the advice of the GO Utah board before implementing a change to a policy,  
549 priority, or objective under which the office operates; and

550 (ii) provide periodic updates to the commission regarding the office's efforts under  
551 Subsections (3)(a) and (b).

552 (b) Subsection (6)(a)(i) does not apply to the routine administration by the office of  
553 money or services related to the assistance, retention, or recruitment of business, industry, or  
554 commerce in the state.