

COMMUNITY DEVELOPMENT AND RENEWAL AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: _____

LONG TITLE

General Description:

This bill amends Community Development and Renewal Agencies provisions relating to tax increment for housing.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires that tax increment funds allocated for housing be paid:
 - in the first tax year in which the agency receives tax increment under a project area budget; and
 - each succeeding tax year that the tax increment is collected;
- ▶ requires that an economic development agency review a draft housing project area plan with a draft project area plan; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-4-704, as last amended by Laws of Utah 2008, Chapter 382



- 28 **17C-1-102**, as last amended by Laws of Utah 2009, Chapter 387
- 29 **17C-1-204**, as last amended by Laws of Utah 2009, Chapter 387
- 30 **17C-1-401**, as last amended by Laws of Utah 2009, Chapter 387
- 31 **17C-1-409**, as last amended by Laws of Utah 2009, Chapter 387
- 32 **17C-1-412**, as last amended by Laws of Utah 2009, Chapter 387
- 33 **17C-2-203**, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 34 **17C-2-204**, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 35 **17C-2-205**, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 36 **17C-3-101**, as enacted by Laws of Utah 2006, Chapter 359
- 37 **17C-3-102**, as enacted by Laws of Utah 2006, Chapter 359
- 38 **17C-3-103**, as enacted by Laws of Utah 2006, Chapter 359
- 39 **17C-3-105**, as enacted by Laws of Utah 2006, Chapter 359
- 40 **17C-3-202**, as last amended by Laws of Utah 2009, Chapter 387
- 41 **17C-3-203**, as last amended by Laws of Utah 2009, Chapter 387
- 42 **17C-3-204**, as enacted by Laws of Utah 2006, Chapter 359
- 43 **17C-3-403**, as enacted by Laws of Utah 2006, Chapter 359



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

46 Section 1. Section **9-4-704** is amended to read:

47 **9-4-704. Distribution of fund moneys.**

48 (1) The executive director shall:

49 (a) make grants and loans from the fund for any of the activities authorized by Section
50 9-4-705, as directed by the board;

51 (b) establish the criteria with the approval of the board by which loans and grants will
52 be made; and

53 (c) determine with the approval of the board the order in which projects will be funded.

54 (2) The executive director shall distribute, as directed by the board, any federal moneys
55 contained in the fund according to the procedures, conditions, and restrictions placed upon the
56 use of those moneys by the federal government.

57 (3) (a) The executive director shall distribute, as directed by the board, any funds
58 received pursuant to Section [~~17C-1-412~~] 17C-1-411 to pay the costs of providing income

59 targeted housing within the community that created the community development and renewal
60 agency under Title 17C, Limited Purpose Local Government Entities - Community
61 Development and Renewal Agencies.

62 (b) As used in Subsection (3)(a):

63 (i) "Community" has the meaning as defined in Section 17C-1-102.

64 (ii) "Income targeted housing" has the meaning as defined in Section 17C-1-102.

65 (4) Except federal money and money received under Section [~~17C-1-412~~] 17C-1-411,
66 the executive director shall distribute, as directed by the board, all other moneys from the fund
67 according to the following requirements:

68 (a) Not less than 30% of all fund moneys shall be distributed to rural areas of the state.

69 (b) At least 50% of the moneys in the fund shall be distributed as loans to be repaid to
70 the fund by the entity receiving them.

71 (i) (A) Of the fund moneys distributed as loans, at least 50% shall be distributed to
72 benefit persons whose annual income is at or below 50% of the median family income for the
73 state.

74 (B) The remaining loan moneys shall be distributed to benefit persons whose annual
75 income is at or below 80% of the median family income for the state.

76 (ii) The executive director or the executive director's designee shall lend moneys in
77 accordance with this Subsection (4) at a rate based upon the borrower's ability to pay.

78 (c) Any fund moneys not distributed as loans shall be distributed as grants.

79 (i) At least 90% of the fund moneys distributed as grants shall be distributed to benefit
80 persons whose annual income is at or below 50% of the median family income for the state.

81 (ii) The remaining fund moneys distributed as grants may be used by the executive
82 director to obtain federal matching funds or for other uses consistent with the intent of this part,
83 including the payment of reasonable loan servicing costs, but no more than 3% of the revenues
84 of the fund may be used to offset other department or board administrative expenses.

85 (5) The executive director may with the approval of the board:

86 (a) enact rules to establish procedures for the grant and loan process by following the
87 procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
88 and

89 (b) service or contract, pursuant to Title 63G, Chapter 6, Utah Procurement Code, for

90 the servicing of loans made by the fund.

91 Section 2. Section **17C-1-102** is amended to read:

92 **17C-1-102. Definitions.**

93 As used in this title:

94 (1) "Adjusted tax increment" means:

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

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

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

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

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

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

108 (4) "Annual income" has the meaning as defined under regulations of the U.S.

109 Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as
110 superseded by replacement regulations.

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

112 (6) "Base taxable value" means:

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

116 (i) for a pre-July 1, 1993 project area plan, the effective date of the project area plan;

117 (ii) for a post-June 30, 1993 project area plan:

118 (A) the date of the taxing entity committee's approval of the first project area budget;

119 or

120 (B) if no taxing entity committee approval is required for the project area budget, the

121 later of:

122 (I) the date the project area plan is adopted by the community legislative body; and

123 (II) the date the agency adopts the first project area budget;

124 (iii) for a project on an inactive industrial site, a year after the date on which the

125 inactive industrial site is sold for remediation and development; or

126 (iv) for a project on an inactive airport site, a year after the later of:

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

128 and

129 (B) the date on which the airport that had been operated on the inactive airport site

130 ceased operations; and

131 (b) for a community development project area, the agreed value specified in a

132 resolution or interlocal agreement under Subsection 17C-4-201(2).

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

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

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

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

137 (9) "Blight hearing" means a public hearing under Subsection 17C-2-102(1)(a)(i)(C)

138 and Section 17C-2-302 regarding the existence or nonexistence of blight within the proposed

139 urban renewal project area.

140 (10) "Blight study" means a study to determine the existence or nonexistence of blight

141 within a survey area as provided in Section 17C-2-301.

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

143 17C-1-203.

144 (12) "Budget hearing" means the public hearing on a draft project area budget required

145 under Subsection 17C-2-201(2)(d) for an urban renewal project area budget or Subsection

146 17C-3-201(2)(d) for an economic development project area budget.

147 (13) "Combined incremental value" means the combined total of all incremental values

148 from all urban renewal project areas, except project areas that contain some or all of a military

149 installation or inactive industrial site, within the agency's boundaries under adopted project area

150 plans and adopted project area budgets at the time that a project area budget for a new urban

151 renewal project area is being considered.

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

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

155 (16) "Draft housing project area plan" means a draft economic development project
156 area plan that includes tax increment for housing.

157 ~~[(16)]~~ (17) "Economic development" means to promote the creation or retention of
158 public or private jobs within the state through:

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

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

163 ~~[(17)]~~ (18) "Fair share ratio" means the ratio derived by:

164 (a) for a city or town, comparing the percentage of all housing units within the city or
165 town that are publicly subsidized income targeted housing units to the percentage of all
166 housing units within the whole county that are publicly subsidized income targeted housing
167 units; or

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

172 ~~[(18)]~~ (19) "Family" has the meaning as defined under regulations of the U.S.
173 Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as
174 superseded by replacement regulations.

175 ~~[(19)]~~ (20) "Greenfield" means land not developed beyond agricultural or forestry use.

176 ~~[(20)]~~ (21) "Hazardous waste" means any substance defined, regulated, or listed as a
177 hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant,
178 or toxic substance, or identified as hazardous to human health or the environment, under state
179 or federal law or regulation.

180 ~~[(21)]~~ (22) "Housing funds" means the funds allocated under Section 17C-1-411 in:

181 (a) an urban renewal project area budget [under Section 17C-2-203 for the purposes
182 provided in Subsection 17C-1-412(1)]; or

183 (b) an economic development renewal project area budget.

184 [~~(22)~~] (23) (a) "Inactive airport site" means land that:

185 (i) consists of at least 100 acres;

186 (ii) is occupied by an airport:

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

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

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

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

191 (iii) requires remediation because:

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

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

195 (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land
196 described in Subsection [~~(22)~~] (23)(a).

197 [~~(23)~~] (24) (a) "Inactive industrial site" means land that:

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

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

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

202 (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land
203 described in Subsection [~~(23)~~] (24)(a).

204 [~~(24)~~] (25) "Income targeted housing" means housing to be owned or occupied by a
205 family whose annual income is at or below 80% of the median annual income for the county in
206 which the housing is located.

207 [~~(25)~~] (26) "Incremental value" means a figure derived by multiplying the marginal
208 value of the property located within an urban renewal project area on which tax increment is
209 collected by a number that represents the percentage of adjusted tax increment from that project
210 area that is paid to the agency.

211 [~~(26)~~] (27) "Loan fund board" means the Olene Walker Housing Loan Fund Board,
212 established under Title 9, Chapter 4, Part 7, Olene Walker Housing Loan Fund.

213 [~~(27)~~] (28) "Marginal value" means the difference between actual taxable value and

214 base taxable value.

215 ~~[(28)]~~ (29) "Military installation project area" means a project area or a portion of a
216 project area located within a federal military installation ordered closed by the federal Defense
217 Base Realignment and Closure Commission.

218 ~~[(29)]~~ (30) "Plan hearing" means the public hearing on:

219 (a) a draft project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban
220 renewal project area plan~~[-];~~

221 (b) a draft project area plan and draft housing project area plan required under
222 Subsection 17C-3-102(1)(d) for an economic development project area plan~~[-];~~ and

223 (c) a draft project area plan required under Subsection 17C-4-102(1)(d) for a
224 community development project area plan.

225 ~~[(30)]~~ (31) "Post-June 30, 1993 project area plan" means a project area plan adopted on
226 or after July 1, 1993, whether or not amended subsequent to its adoption.

227 ~~[(31)]~~ (32) "Pre-July 1, 1993 project area plan" means a project area plan adopted
228 before July 1, 1993, whether or not amended subsequent to its adoption.

229 ~~[(32)]~~ (33) "Private," with respect to real property, means:

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

232 (b) not dedicated to public use.

233 ~~[(33)]~~ (34) "Project area" means the geographic area described in a project area plan or
234 draft project area plan where the urban renewal, economic development, or community
235 development, as the case may be, set forth in the project area plan or draft project area plan
236 takes place or is proposed to take place.

237 ~~[(34)]~~ (35) "Project area budget" means a multiyear projection of annual or cumulative
238 revenues and expenses and other fiscal matters pertaining to a urban renewal or economic
239 development project area that includes:

240 (a) the base taxable value of property in the project area;

241 (b) the projected tax increment expected to be generated within the project area;

242 (c) the amount of tax increment expected to be shared with other taxing entities;

243 (d) the amount of tax increment expected to be used to implement the project area plan,
244 including the estimated amount of tax increment to be used for land acquisition, public

245 improvements, infrastructure improvements, and loans, grants, or other incentives to private
246 and public entities;

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

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

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

253 (ii) a legal description of the portion of the project area from which tax increment will
254 be collected;

255 (g) for property that the agency owns and expects to sell, the expected total cost of the
256 property to the agency and the expected selling price; and

257 (h) (i) for an urban renewal project area, the information required under Subsection
258 17C-2-201(1)(b); and

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

261 ~~[(35)]~~ (36) (a) "Project area plan" means a written plan under Chapter 2, Part 1, Urban
262 Renewal Project Area Plan, Chapter 3, Part 1, Economic Development Project Area Plan, or
263 Chapter 4, Part 1, Community Development Project Area Plan, as the case may be, that, after
264 its effective date, guides and controls the urban renewal, economic development, or community
265 development activities within a project area.

266 (b) "Project area plan" includes a draft housing project area plan if the draft housing
267 project area plan is approved as the project area plan by an agency under Section 17C-3-102.

268 ~~[(36)]~~ (37) "Property tax" includes privilege tax and each levy on an ad valorem basis
269 on tangible or intangible personal or real property.

270 ~~[(37)]~~ (38) "Public entity" means:

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

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

274 ~~[(38)]~~ (39) "Publicly owned infrastructure and improvements" means water, sewer,
275 storm drainage, electrical, and other similar systems and lines, streets, roads, curb, gutter,

276 sidewalk, walkways, parking facilities, public transportation facilities, and other facilities,
277 infrastructure, and improvements benefitting the public and to be publicly owned or publicly
278 maintained or operated.

279 ~~[(39)]~~ (40) "Record property owner" or "record owner of property" means the owner of
280 real property as shown on the records of the recorder of the county in which the property is
281 located and includes a purchaser under a real estate contract if the contract is recorded in the
282 office of the recorder of the county in which the property is located or the purchaser gives
283 written notice of the real estate contract to the agency.

284 ~~[(40)]~~ (41) "Superfund site":

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

287 (b) includes an area formerly included in the National Priorities List, as described in
288 Subsection ~~[(40)]~~ (41)(a), but removed from the list following remediation that leaves on site
289 the waste that caused the area to be included in the National Priorities List.

290 ~~[(41)]~~ (42) "Survey area" means an area designated by a survey area resolution for
291 study to determine whether one or more urban renewal projects within the area are feasible.

292 ~~[(42)]~~ (43) "Survey area resolution" means a resolution adopted by the agency board
293 under Subsection 17C-2-101(1)(a) designating a survey area.

294 ~~[(43)]~~ (44) "Taxable value" means the value of property as shown on the last equalized
295 assessment roll as certified by the county assessor.

296 ~~[(44)]~~ (45) (a) "Tax increment" means, except as provided in Subsection ~~[(44)]~~ (45)(b),
297 the difference between:

298 (i) the amount of property tax revenues generated each tax year by all taxing entities
299 from the area within a project area designated in the project area plan as the area from which
300 tax increment is to be collected, using the current assessed value of the property; and

301 (ii) the amount of property tax revenues that would be generated from that same area
302 using the base taxable value of the property.

303 (b) "Tax increment" does not include taxes levied and collected under Section
304 59-2-1602 on or after January 1, 1994 upon the taxable property in the project area unless:

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

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

309 [~~(45)~~] (46) "Taxing entity" means a public entity that levies a tax on property within a
310 community.

311 [~~(46)~~] (47) "Taxing entity committee" means a committee representing the interests of
312 taxing entities, created as provided in Section 17C-1-402.

313 [~~(47)~~] (48) "Unincorporated" means not within a city or town.

314 [~~(48)~~] (49) (a) "Urban renewal" means the development activities under a project area
315 plan within an urban renewal project area, including:

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

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

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

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

324 (v) providing public or private buildings, infrastructure, structures, and improvements;
325 and

326 (vi) providing improvements of public or private recreation areas and other public
327 grounds.

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

330 Section 3. Section **17C-1-204** is amended to read:

331 **17C-1-204. Urban renewal, economic development, and community development**
332 **by an adjoining agency -- Requirements.**

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

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

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

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

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

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

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

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

353 (ii) "Industrial property" means private real property:

354 (A) over half of which is located within the boundary of a town, as defined in Section
355 10-1-104; and

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

357 (iii) "Perimeter portion" means the portion of an inactive industrial site that is:

358 (A) part of the inactive industrial site because it lies within the perimeter described in
359 Subsection 17C-1-102[~~(23)~~](24)(b); and

360 (B) located within the boundary of a city, as defined in Section 10-1-104.

361 (b) (i) Subject to Subsection (4)(b)(ii), a county agency may undertake urban renewal,
362 economic development, or community development on industrial property if the record
363 property owner of the industrial property submits a written request to the county agency to do
364 so.

365 (ii) A county agency may not include a perimeter portion within a project area without
366 the approval of the city in which the perimeter portion is located.

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

369 (i) the county agency may act in all respects as if the project area that includes the
370 industrial property were within the county agency's boundary;

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

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

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

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

379 **17C-1-401. Agency receipt and use of tax increment and sales tax -- Distribution**
380 **of tax increment and sales tax.**

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

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

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

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

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

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

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

397 (ii) for a community development project area plan, the effective date of the interlocal
398 agreement that establishes the agency's right to receive tax increment.

399 (c) For a project area plan adopted by a legislative body on or after May 11, 2010, an

400 agency shall pay tax increment funds allocated for housing funds under Section 17C-1-411:

401 (i) in the first tax year in which the agency receives tax increment under a project area
402 budget; and

403 (ii) each tax year succeeding the year described in Subsection (2)(c)(i) that the tax
404 increment is collected.

405 (3) With respect to a community development project area plan:

406 (a) a taxing entity or public entity may, by resolution or through interlocal agreement,
407 authorize an agency to be paid any or all of that taxing entity or public entity's tax increment or
408 sales tax for any period of time; and

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

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

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

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

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

420 Section 5. Section **17C-1-409** is amended to read:

421 **17C-1-409. Allowable uses of tax increment and sales tax.**

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

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

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

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

429 (A) urban renewal activities in the project area from which the tax increment funds are
430 collected, including environmental remediation activities occurring before or after adoption of

431 the project area plan;

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

434 (C) housing expenditures, projects, or programs as provided in Section 17C-1-411 [~~or~~
435 ~~17C-1-412~~];

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

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

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

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

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

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

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

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

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

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

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

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

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

478 (7) Notwithstanding any other provision of this title, an agency may not use tax
479 increment under an urban renewal or economic development project area plan, to pay any of
480 the cost of the land, infrastructure, or construction of a stadium or arena constructed after
481 March 1, 2005, unless the tax increment has been pledged for that purpose before February 15,
482 2005.

483 (8) (a) An agency may not use tax increment to pay the debt service of or any other
484 amount related to a bond issued or other obligation incurred if the bond was issued or the
485 obligation was incurred:

486 (i) by an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation
487 Act;

488 (ii) on or after March 30, 2009; and

489 (iii) to finance a telecommunication facility.

490 (b) Subsection (8)(a) may not be construed to prohibit the refinancing, restatement, or
491 refunding of a bond issued before March 30, 2009.

492 Section 6. Section **17C-1-412** is amended to read:

493 **17C-1-412. Use of funds allocated for housing -- Separate accounting required --**
494 **Issuance of bonds for housing -- Action to compel agency to provide housing funds.**

495 (1) (a) Each agency shall use all funds allocated for housing under [~~this section~~]
496 Section 17C-1-411 to:

497 (i) pay part or all of the cost of land or construction of income targeted housing within
498 the boundary of the agency, if practicable in a mixed income development or area;

499 (ii) pay part or all of the cost of rehabilitation of income targeted housing within the
500 boundary of the agency;

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

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

506 (v) pay part or all of the cost of land or installation, construction, or rehabilitation of
507 any building, facility, structure, or other housing improvement, including infrastructure
508 improvements, related to housing located in a project area where blight has been found to exist;

509 (vi) replace housing units lost as a result of the urban renewal, economic development,
510 or community development;

511 (vii) make payments on or establish a reserve fund for bonds:

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

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

516 (viii) if the community's fair share ratio at the time of the first adoption of the project
517 area budget is at least 1.1 to 1.0, make payments on bonds:

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

520 (B) all or part of the proceeds of which were used within the community for the
521 purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi); or

522 (ix) relocate mobile home park residents displaced by an urban renewal, economic
523 development, or community development project.

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

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

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

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

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

535 (3) An agency may:

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

539 (b) issue refunding bonds for the payment or retirement of bonds under Subsection
540 (3)(a) previously issued by the agency.

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

544 (b) In an action under Subsection (4)(a), the court:

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

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

549 Section 7. Section **17C-2-203** is amended to read:

550 **17C-2-203. Part of tax increment funds in urban renewal project area budget to**
551 **be used for housing -- Waiver of requirement.**

552 (1) (a) Except as provided in Subsection (1)(b), each urban renewal project area budget
553 adopted on or after May 1, 2000 that provides for more than \$100,000 of annual tax increment
554 to be paid to the agency shall allocate at least 20% of the tax increment for housing as provided

555 in Section [~~17C-1-412~~] 17C-1-411.

556 (b) The 20% requirement of Subsection (1)(a) may be waived in part or whole by the
557 mutual consent of the loan fund board and the taxing entity committee if they determine that
558 20% of tax increment is more than is needed to address the community's need for income
559 targeted housing.

560 (2) An urban renewal project area budget not required under Subsection (1)(a) to
561 allocate tax increment for housing may allocate 20% of tax increment payable to the agency
562 over the life of the project area for housing as provided in Section [~~17C-1-412~~] 17C-1-411 if
563 the project area budget is under a project area plan that is adopted on or after July 1, 1998.

564 Section 8. Section **17C-2-204** is amended to read:

565 **17C-2-204. Consent of taxing entity committee required for urban renewal**
566 **project area budget -- Exception.**

567 (1) (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each
568 agency shall obtain the consent of the taxing entity committee for each urban renewal project
569 area budget under a post-June 30, 1993 project area plan before the agency may collect any tax
570 increment from the urban renewal project area.

571 (b) For an urban renewal project area budget adopted from July 1, 1998 through May 1,
572 2000 that allocates 20% or more of the tax increment for housing as provided in Section
573 [~~17C-1-412~~] 17C-1-411, an agency:

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

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

577 (A) the loan fund board has certified the project area budget as complying with the
578 requirements of [~~Section~~] Sections 17C-1-411 and 17C-1-412; and

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

581 (2) (a) Before a taxing entity committee may consent to an urban renewal project area
582 budget adopted on or after May 1, 2000 that is required under Subsection 17C-2-203(1)(a) to
583 allocate 20% of tax increment for housing, the agency shall:

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

585 (ii) provide a copy of the housing plan to the taxing entity committee and the loan fund

586 board.

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

589 Section 9. Section **17C-2-205** is amended to read:

590 **17C-2-205. Filing a copy of the urban renewal project area budget.**

591 Each agency adopting an urban renewal project area budget shall:

592 (1) within 30 days after adopting the project area budget, file a copy of the project area
593 budget with the auditor of the county in which the project area is located, the State Tax
594 Commission, the state auditor, the State Board of Education, and each taxing entity affected by
595 the agency's collection of tax increment under the project area budget; and

596 (2) if the project area budget allocates tax increment for housing under Section
597 [~~17C-1-412~~] 17C-1-411, file a copy of the project area budget with the loan fund board.

598 Section 10. Section **17C-3-101** is amended to read:

599 **17C-3-101. Resolution authorizing the preparation of a draft economic
600 development project area plan -- Request to adopt resolution.**

601 (1) An agency board may begin the process of adopting an economic development
602 project area plan by adopting a resolution that authorizes the preparation of:

603 (a) a draft project area plan~~[-];~~ and

604 (b) a draft housing project area plan.

605 (2) (a) Any person or any group, association, corporation, or other entity may submit a
606 written request to the board to adopt a resolution under Subsection (1).

607 (b) A request under Subsection (2)(a) may include plans showing the economic
608 development proposed for an area within the agency's boundaries.

609 (c) The board may, in its sole discretion, grant or deny a request under Subsection
610 (2)(a).

611 Section 11. Section **17C-3-102** is amended to read:

612 **17C-3-102. Process for adopting an economic development project area plan --
613 Prerequisites -- Restrictions.**

614 (1) In order to adopt an economic development project area plan, after adopting a
615 resolution under Subsection 17C-3-101(1) the agency shall:

616 (a) (i) prepare a draft [~~of an economic development~~] project area plan [and];

- 617 (ii) prepare a draft housing project area plan; and
- 618 (iii) conduct any examination, investigation, and negotiation regarding the draft project
- 619 area plan and the draft housing project area plan that the agency considers appropriate;
- 620 (b) make the draft project area plan and the draft housing project area plan available to
- 621 the public at the agency's offices during normal business hours;
- 622 (c) provide notice of the plan hearing as provided in Part 4, Economic Development
- 623 Notice Requirements;
- 624 (d) (i) hold a public hearing ~~[on]~~ to review at the same public hearing:
- 625 (A) the draft project area plan; and~~[, at that]~~
- 626 (B) the draft housing project area plan; and
- 627 (ii) at the public hearing described in Subsection (1)(d)(i):
- 628 ~~[(+)]~~ (A) allow public comment on:
- 629 ~~[(A)]~~ (I) the draft project area plan and the draft housing project area plan; and
- 630 ~~[(B)]~~ (II) whether the draft project area plan or the draft housing project area plan
- 631 should be revised, approved, or rejected; and
- 632 ~~[(+)]~~ (B) receive all written and hear all oral objections to the draft project area plan
- 633 and the draft housing project area plan;
- 634 (e) before holding the plan hearing, provide an opportunity for the State Board of
- 635 Education and each taxing entity that levies a tax on property within the proposed project area
- 636 to consult with the agency regarding the draft project area plan and the draft housing project
- 637 area plan;
- 638 (f) after holding the plan hearing, at the same meeting or at a subsequent meeting
- 639 consider:
- 640 (i) the oral and written objections to the draft project area plan and the draft housing
- 641 project area plan;
- 642 (ii) evidence and testimony for or against adoption of:
- 643 (A) the draft project area plan; and
- 644 (B) the draft housing project area plan; and
- 645 ~~[(+)]~~ (iii) whether to revise, approve, or reject:
- 646 (A) the draft project area plan; or
- 647 (B) the draft housing project area plan;

648 (g) approve either the draft project area plan or the draft housing project area plan, with
649 or without revisions, as the approved project area plan by a resolution that complies with
650 Section 17C-3-105; and

651 (h) submit the approved project area plan to the community legislative body for
652 adoption.

653 (2) An agency may not propose a project area plan under Subsection (1) unless the
654 community in which the proposed project area is located:

655 (a) has a planning commission; and

656 (b) has adopted a general plan under:

657 (i) if the community is a city or town, Title 10, Chapter 9a, Part 4, General Plan; or

658 (ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

659 (3) An agency board may not approve a project area plan more than one year after the
660 date of the plan hearing.

661 (4) (a) Except as provided in Subsection (4)(b), a draft project area plan or a draft
662 housing project area plan may not be modified to add real property to the proposed project area
663 unless the board holds a plan hearing to consider the addition and gives notice of the plan
664 hearing as required under Part 4, Economic Development Notice Requirements.

665 (b) The notice and hearing requirements under Subsection (4)(a) do not apply to a draft
666 project area plan or a draft housing project area plan being modified to add real property to the
667 proposed project area if:

668 (i) the property is contiguous to the property already included in the proposed project
669 area under the draft project area plan; and

670 (ii) the record owner of the property consents to adding the real property to the
671 proposed project area.

672 Section 12. Section **17C-3-103** is amended to read:

673 **17C-3-103. Economic development project area plan requirements.**

674 (1) Each economic development project area plan [~~and~~], draft project area plan, and
675 draft housing project area plan shall:

676 (a) describe the boundaries of the project area, subject to Section 17C-1-414, if
677 applicable;

678 (b) contain a general statement of the land uses, layout of principal streets, population

679 densities, and building intensities of the project area and how they will be affected by the
680 economic development;

681 (c) state the standards that will guide the economic development;

682 (d) show how the purposes of this title will be attained by the economic development;

683 (e) be consistent with the general plan of the community in which the project area is
684 located and show that the economic development will conform to the community's general
685 plan;

686 (f) describe how the economic development will create additional jobs;

687 (g) describe any specific project or projects that are the object of the proposed
688 economic development;

689 (h) identify how private developers, if any, will be selected to undertake the economic
690 development and identify each private developer currently involved in the economic
691 development process;

692 (i) state the reasons for the selection of the project area;

693 (j) describe the physical, social, and economic conditions existing in the project area;

694 (k) describe any tax incentives offered private entities for facilities located in the
695 project area;

696 (l) include an analysis, as provided in Subsection (2), of whether adoption of the
697 project area plan is beneficial under a benefit analysis;

698 (m) if any of the existing buildings or uses in the project area are included in or eligible
699 for inclusion in the National Register of Historic Places or the State Register, state that the
700 agency shall comply with Subsection 9-8-404(1) as though the agency were a state agency; and

701 (n) include other information that the agency determines to be necessary or advisable.

702 (2) Each analysis under Subsection (1)(l) shall consider:

703 (a) the benefit of any financial assistance or other public subsidy proposed to be
704 provided by the agency, including:

705 (i) an evaluation of the reasonableness of the costs of economic development;

706 (ii) efforts the agency or developer has made or will make to maximize private
707 investment;

708 (iii) the rationale for use of tax increment, including an analysis of whether the
709 proposed development might reasonably be expected to occur in the foreseeable future solely

710 through private investment; and

711 (iv) an estimate of the total amount of tax increment that will be expended in
712 undertaking economic development and the length of time for which it will be expended; and

713 (b) the anticipated public benefit to be derived from the economic development,
714 including:

715 (i) the beneficial influences upon the tax base of the community;

716 (ii) the associated business and economic activity likely to be stimulated; and

717 (iii) the number of jobs or employment anticipated to be generated or preserved.

718 Section 13. Section **17C-3-105** is amended to read:

719 **17C-3-105. Board resolution approving an economic development project area**
720 **plan -- Requirements.**

721 Each board resolution approving a draft [~~economic development~~] project area plan or a
722 draft housing project area plan as the project area plan under Subsection 17C-3-102(1)(g) shall
723 contain:

724 (1) a legal description of the boundaries of the project area that is the subject of the
725 project area plan;

726 (2) the agency's purposes and intent with respect to the project area;

727 (3) the project area plan incorporated by reference; and

728 (4) the board findings and determinations that:

729 (a) there is a need to effectuate a public purpose;

730 (b) there is a public benefit under the analysis described in Subsection 17C-3-103(2);

731 (c) it is economically sound and feasible to adopt and carry out the project area plan;

732 (d) the project area plan conforms to the community's general plan; and

733 (e) carrying out the project area plan will promote the public peace, health, safety, and
734 welfare of the community in which the project area is located.

735 Section 14. Section **17C-3-202** is amended to read:

736 **17C-3-202. Part of tax increment funds in an economic development project area**
737 **budget to be used for housing -- Waiver of requirement.**

738 (1) This section applies only to an economic development project area budget adopted
739 on or after May 1, 2000, but before March 30, 2009.

740 (2) (a) Except as provided in Subsection (2)(b), each economic development project

741 area budget adopted on or after May 1, 2000 but before March 30, 2009 that provides for more
 742 than \$100,000 of annual tax increment to be paid to the agency shall allocate at least 20% of
 743 the tax increment for housing as provided in Section [~~17C-1-412~~] 17C-1-411.

744 (b) The 20% requirement of Subsection (2)(a) may be waived:

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

748 (ii) in fifth and sixth class counties, by the taxing entity committee for economic
 749 development project area budgets adopted on or after May 1, 2002 but before March 30, 2009,
 750 if the economic development project area consists of an area without housing units.

751 (3) An economic development project area budget not required under Subsection (2)(a)
 752 to allocate tax increment for housing may allocate 20% of tax increment payable to the agency
 753 over the life of the project area for housing as provided in Section [~~17C-1-412~~] 17C-1-411 if
 754 the project area budget is under a project area plan that is adopted on or after July 1, 1998.

755 Section 15. Section **17C-3-203** is amended to read:

756 **17C-3-203. Consent of taxing entity committee required for economic**
 757 **development project area budget -- Exception.**

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

762 (b) For an economic development project area budget adopted from July 1, 1998
 763 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided
 764 in Section [~~17C-1-412~~] 17C-1-411, an agency:

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

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

768 (A) the loan fund board has certified the project area budget as complying with the
 769 requirements of [~~Section~~] Sections 17C-1-411 and 17C-1-412; and

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

772 (2) (a) Before a taxing entity committee may consent to an economic development
773 project area budget adopted on or after May 1, 2000 that allocates 20% of tax increment for
774 housing under Subsection 17C-3-202(2)(a) or (3), the agency shall:

- 775 (i) adopt a housing plan showing the uses for the housing funds; and
- 776 (ii) provide a copy of the housing plan to the taxing entity committee and the loan fund
777 board.

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

780 Section 16. Section **17C-3-204** is amended to read:

781 **17C-3-204. Filing a copy of the economic development project area budget.**

782 Each agency adopting an economic development project area budget shall:

- 783 (1) within 30 days after adopting the project area budget, file a copy of the project area
784 budget with the auditor of the county in which the project area is located, the State Tax
785 Commission, the state auditor, the State Board of Education, and each taxing entity affected by
786 the agency's collection of tax increment under the project area budget; and

- 787 (2) if the project area budget allocates tax increment for housing under Section
788 [~~17C-1-412~~] 17C-1-411, file a copy of the project area budget with the loan fund board.

789 Section 17. Section **17C-3-403** is amended to read:

790 **17C-3-403. Additional requirements for notice of a plan hearing.**

791 Each notice under Section 17C-3-402 of a plan hearing shall include:

- 792 (1) a statement that any person objecting to [~~the draft project area plan~~] or contesting
793 the regularity of any of the proceedings to adopt [~~it~~] a draft project area plan or a draft housing
794 project area plan may appear before the agency board at the hearing to show cause why the
795 draft project area plan or draft housing project area plan should not be adopted; and

- 796 (2) a statement that the [~~proposed economic development~~] draft project area plan [is]
797 and draft housing project area plan are available for inspection at the agency offices.

Legislative Review Note
as of 2-15-10 9:03 AM

Office of Legislative Research and General Counsel

S.B. 196 - Community Development and Renewal Amendments

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
