

Utah League of Cities and Towns
Legislative Policy Committee Agenda – December 13, 2021, 12:00 p.m. – 1:30 p.m.
Utah Local Governments Trust and Zoom Webcast

1. Welcome, introductions, logistics, and adoption of November 15, 2021 minutes (ULCT 1st Vice President, Mayor Jeff Silvestrini)
2. Public Safety (ULCT Staff): *Update & Deliberation*
 - a. [Public Safety Retirement Amendments](#) (Rep. Gwynn)
 - b. [Postretirement Reemployment Amendments](#) (Rep. Birkeland)
3. Unified Economic Opportunity Commission (Cameron Diehl): *Update & Deliberation*
 - a. Retail incentives
 - b. CHA
 - c. [EDTIF revisions](#)
 - d. SB 34+
4. Land Use Task Force (ULCT Staff): *Update*
 - a. HB 409/subdivision vesting fix
 - b. Development standards
 - c. Impact fees
5. Highlights of Gov'ts proposed budget (ULCT Staff): *Update*
6. Other Policy Issues (ULCT Staff): *Update*
 - a. [Child Care Amendments](#)
 - b. Justice courts
 - c. Opioid settlement
 - d. Short-term rentals
 - e. Homelessness
 - f. Land and water
 - g. Fireworks
 - h. Eminent Domain
7. Session plans for LPC (Justin Lee): *Update*
8. Upcoming Events (Justin Lee): *Update*
 - a. Elected Officials Essentials – January 8, 2022 (Utah Local Gov'ts Trust)
 - b. Local Officials Day at the Capitol – January 19, 2022
9. Adjourn

To join via Zoom Webcast:

https://us02web.zoom.us/webinar/register/WN_0fecX9jeR2ulJq3w0MNxBA

2022 LPC Meetings:

*All 2022 LPC meetings are tentative hybrid meetings, subject to meeting room availability.

- Tentative legislative preview (date tbd, early January)
- Wednesday, January 19th (LOD) at the Salt Palace • [Register for Zoom webinar](#)
- Monday, January 24th at the State Capitol • [Register for Zoom webinar](#)

- Monday, January 31st at the State Capitol • [Register for Zoom webinar](#)
- Monday, February 7th at the State Capitol • [Register for Zoom webinar](#)
- Monday, February 14th at the State Capitol • [Register for Zoom webinar](#)
- Tuesday, February 22nd at the State Capitol • [Register for Zoom webinar](#)
- Monday, February 28th at the State Capitol • [Register for Zoom webinar](#)



LPC

December 13, 2021



Public Safety

Public Safety: Retirement

- Birkeland:
 - Shortens “Cooling Off” period for educators and public safety employees from 1 year to 60 days. After 60 days, they can return to work up to 20-hr/week (part-time) without any negative impact on their retirement collection.
 - Fiscal impact: URS working of fiscal impact. Anticipated public safety cost for cities/towns = ~\$9m

Public Safety: Retirement

- Gwynn:
 1. Shortens “cooling off” period for public safety employees from 1 year to 60 days.
 2. Reduces service tenure from 25 years to 20 years for retirement eligibility
 3. Increases multiplier for retirement contribution
 4. Retroactively backfills Tier II retirement
 5. Fiscal impact: URS estimates \$41 million
 - ~\$9m for cities and towns. public safety contributions would increase from 1.85% to 2.41% for public safety and from 1.19% to 1.6% for fire. This would impact tier 1 disproportionately because it isn’t pre-funded.
 - ~\$32 million falls on tier two employees. This equals an additional 11.15% increase to the employee contribution rate.
 - Increases the unfunded liability of the retirement pool overall to ~\$162 million, with Tier 2 being approximately \$77 million of that. This effectively drops the funded ratio in Tier 2 from 87% to 54.9%



Unified Economic Opportunity Commission

ULCT & UEOC and retail incentives key issues

- 1) Definition of retail that could not be incentivized
 - ULCT: “Regional retail” (big box, auto dealers)
 - UEOC: all retail, with some exceptions
- 2) Definition of incentives
 - Payment, rebate, subsidy, or any other form of tax revenue
- 3) Definition of infrastructure
 - Project improvements restricted; system improvements allowed
 - Direct benefit to developer/tenant v. broader public benefit
- 4) Mixed use w/housing
 - All incentives available if project includes 50% housing
- 5) Exceptions
 - Placemaking, small business, environmental, demolition, ZAP recipients, etc.

What's next on retail?

- Wed., Dec. 15: ULCT Board of Directors
 - Awaiting the latest retail incentives draft
 - Next draft:
 - Open to changes on the housing nexus IF ULCT has a better approach to increasing housing supply
 - Will likely have additional exceptions
- Tue., Jan. 11: UEOC full meeting (Governor, House Speaker, Senate President)
 - Will vote on a retail incentives proposal to advance to the legislative session
 - ULCT President and South Jordan Mayor Dawn Ramsey will vote on the proposal based on ULCT Board input

EDTIF changes (interim bill & UEOC)

State objectives:

- Narrow & focus state EDTIF
- Only targeted industries in urban areas
 - UEOC confirms targets every 5 years
- Tightened criteria for incentive
 - Supply chain, Utah nexus, HQ, corporate citizenry, “necessary” use of incentive

Local impact:

- Status quo:
 - GOEO may create an economic development zone if:
 - Area zoned to accommodate project, local gov’t has requested & approved, & local gov’t commits to provide incentives
- Proposed change:
 - Local gov’t may create an economic development zone if:
 - Located in commercial/industrial area
 - Long-term plan includes transportation, infrastructure, workforce development, and housing
 - **SB 34+**

MIHP+/SB 34+ key concepts

LPC survey results (and caucus discussions at Annual):

State incentives for cities w/affordable housing zoning overlays: 1.25

State incentives for cities to allow/increase residential density in commercial zones: 1.02

State incentives for cities to allow duplexes/triplexes in single-family zones: .41

State req'ts for cities to allow/increase residential density in commercial zones: -.93

Withhold B&C road funds from cities that don't fulfill intent of SB 34: -1.18

State req'ts for cities to allow duplexes/triplexes in single-family zones: -1.43

MIHP+/SB 34+ key concepts (MIHP in law since 1997)

ULCT approach based on survey results and member input:

- 1) Tighten language in the SB 34 menu with focus on implementation
- 2) Deadline for annual funding (Dec 1)
- 3) **New state incentives/consequences:**
 - 1) **ARPA local match part 2 (\$100 mill in Gov's budget)**
 - 2) **GOEO's economic development zones**
 - 3) **Status quo: TIF/TTIF \$ (state transport.)**
- 4) **State funding for technical assistance (in Gov's budget)**
- 5) Improve annual report to show implementation & market response

Property Rights Coalition recommendations on consequences:

- 1) Withhold B&C funds
- 2) Allow property owner to sue a city for damages for not complying with MIHP
- 3) Prohibit cities from using CRAs unless compliant with MIHP



Land Use Task Force

LUTF Background and Process

- Meeting 1-2x per month from May to December.
- Historically consists of property rights coalition (homebuilders, developers, realtors, etc.) and ULCT/UAC (attorneys, planners).
- This year included CHA co-chairs (Sen. Anderegg and Rep. Waldrip) and other CHA members to discuss housing policy items in addition to technical land use issues.
- ULCT and PRC both had 20+ item policy wish lists presented to the CHA in spring.
- CHA meeting today at 1pm to discuss the annual CHA bill, expected to vote on it during their next meeting January 7th.

Land Use Task Force – Subdivision Vesting

- HB409's negotiated 10-year vesting standard created concerns for local governments and the private sector. This is another attempt to address those concerns around what vests, for how long, and for what types of land use.
- PRC made a proposal, ULCT made a counter-proposal, now we're awaiting the counter to the counter-proposal.

Land Use Task Force – Development Standards

PRC proposal:

- Make any changes to infrastructure standards comply to a heightened notice requirement
- Make a 90-day delay on new public improvement standard implementation
- Add a provision that any public improvement standards exceeding an industry standard is an exaction. Standard is not defined.
 - Note: the most recent draft includes a placeholder for adjudication.
- States that subdivisions are vested in public improvement standards and municipalities cannot require standards in excess of those vested.

Local gov't negotiators: willing to work on process (improved notice, delayed implementation), oppose statewide uniform public improvement standards. Supports fostering researching and discussing any common ground with all affected stakeholders.

Land Use Task Force – Impact Fees

Legislative proposal:

Prohibit impact fees charged for the creation of all accessory dwelling units (interior and exterior).

Local gov't negotiators:

Recognize the legislative intent of HB 82.

Land Use Task Force - Annexation Petition Standing

PRC proposal:

- Clarifies that annexation protests may only be filed by those affected entities currently spelled out in statute.
- Clarifies that only parties statutorily entitled to protest an annexation petition or parties that have exhausted their administrative remedies may bring legal challenge to an annexation.
- States that adversely affected parties to not include parties claiming an alternative form of standing.

Local gov't negotiators: working on the first two provisions since they are consistent with policy outlined in state code, but they have expressed concerns with the third proposal.

Governor's FY2023 Budget Highlights

Governor's FY2023 Budget Highlights

Growth & Planning

- \$1 million one-time funding for a statewide study on growth to better understand housing affordability needs, air quality, water, and infrastructure investments.
- \$100 million one-time funding for the ARPA Local Matching Grant Program.
- As a reminder, the State of Utah provided \$50 million for this program and the ULCT Board of Directors officially requested this additional partnership.

Governor's FY2023 Budget Highlights

Housing

- \$128 million one-time ARPA funding for deeply affordable housing. This will be deed restricted and serve Utahns making less than 40% area median income
- \$100 million one-time funding for housing affordability including
- \$50 million for private activity bonds to create 1,100 affordable units &
- \$50 million for new construction or rehabilitation of rural workforce housing
- \$5 million ongoing funding for the Homeless Mitigation Fund
- The ULCT Board of Directors officially requested the state partnership for deeply affordable housing and for the Homeless Mitigation Fund

Governor's FY2023 Budget Highlights

Economic Opportunity

- \$115 million one-time funding to expand rural broadband projects
- \$50 million one-time funding for the Rural Opportunity Fund
- \$1.45 million one-time funding for Rural County Grants

Governor's FY2023 Budget Highlights

Environmental Quality & Natural Resources Part 1

- \$400 million one-time ARPA funding for water conservation, restoration, prevention and infrastructure, including protecting the Great Salt Lake and Utah Lake
- \$200 million one-time funding for the installation of secondary water meters (in addition to the previously appropriated \$50 million ARPA funding)
- \$50 million one-time funding for wildland fire suppression
- \$3.7 million one-time funding to expand air quality monitoring along the Wasatch Front and Wasatch Back.

Governor's FY2023 Budget Highlights

Environmental Quality & Natural Resources Part 2

- \$1.5 million one-time funding for a water conservation turf buyback program
- \$890,000 to assist local communities in maintaining drinking water standards
- \$600,000 in restricted funds to update the Great Salt Lake Comprehensive resource management plan
- \$500,000 in one-time funding for water storage enhancements

Governor's FY2023 Budget Highlights

Transportation

- \$232 million one-time funding to replace the previously authorized FrontRunner bonding with cash, allowing the state TTIF to be used for other transit projects throughout the state
- \$62 million in one-time funding to replace other previously authorized transportation bonds with cash payments.
- \$46.2 million one-time funding for regional active transportation projects in addition to the \$35 million appropriated in FY22.
(Requires a 20% local match)

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Other Policy Issue Updates

Policy Issue Updates

- Justice Courts
- Opioids

Policy Issue Updates

- Homeless Mitigation Fund
 - +\$5m ongoing in governor's budget.
 - Working with Neiderhauser's team on how to allocate that money

Policy Issue Updates

- Land and Water Use
- Fireworks

Policy Issue Updates

- Eminent Domain
- Child Care Amendments

Upcoming Events

LPC During Legislative Session

- Wednesday, January 19th (LOD) at the Salt Palace – 11:00 a.m.
- Monday, January 24th at the State Capitol - Noon
- Monday, January 31st at the State Capitol - Noon
- Monday, February 7th at the State Capitol - Noon
- Monday, February 14th at the State Capitol - Noon
- Tuesday, February 22nd at the State Capitol - Noon
- Monday, February 28th at the State Capitol – Noon

Session Begins – Tuesday, January 18

Session Ends – Friday, March 4

Upcoming Events

Elected Officials Essentials

- January 8, 2022 (Utah Local Gov'ts Trust)

Local Officials Day at the Capitol – January 19, 2022



Happy Holidays!

PUBLIC SAFETY RETIREMENT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies requirements related to retirement from a public safety or firefighter retirement system.

Highlighted Provisions:

This bill:

- ▶ reduces the length of the period of separation for postretirement reemployment of a retiree from a public safety system or a firefighter retirement system;
- ▶ modifies the years of service and age requirements for a member's retirement from the New Public Safety and Firefighter Tier II Contributory Retirement Act;
- ▶ modifies the multiplier percentage for the calculation of the retirement allowance of a member in the New Public Safety and Firefighter Tier II Contributory Retirement Act; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-11-1204, as last amended by Laws of Utah 2020, Chapter 24

49-11-1205, as last amended by Laws of Utah 2021, Chapter 193

49-11-1302, as enacted by Laws of Utah 2016, Chapter 280 and last amended by

Coordination Clause, Laws of Utah 2016, Chapter 310

49-23-303, as last amended by Laws of Utah 2020, Chapter 449

49-23-304, as last amended by Laws of Utah 2019, Chapters 31, 31, and 484

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

Section 1. Section **49-11-1204** is amended to read:

49-11-1204. General restrictions -- Election following period of separation --

Amortization rate.

(1) A retiree may not for the same period of reemployment:

(a) (i) earn additional service credit; or

(ii) receive any retirement related contribution from a participating employer; and

(b) receive a retirement allowance.

(2) (a) Except as provided under Section 49-11-1205, the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within ~~[one year of the retiree's retirement date];~~:

(i) 60 days of the retiree's retirement date, if the retiree is retiring from one of the following retirement systems:

(A) Chapter 14, Public Safety Contributory Retirement Act;

(B) Chapter 15, Public Safety Noncontributory Retirement Act;

(C) Chapter 16, Firefighters' Retirement Act; or

(D) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act; or

(ii) one year of the retiree's retirement date, if the retiree retires from a system other than a system described in Subsection (2)(a)(i).

(b) If the office cancels the retiree's retirement allowance under Subsection (2)(a), the retiree may be eligible to earn additional service credit in the reemployed position and receive an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title.

(3) If a reemployed retiree, in accordance with Subsection (2)(a), is exempt from having the allowance cancelled, including for completing the ~~[one-year]~~ period of separation from employment with a participating employer, the retiree may elect to:

(a) cancel the retiree's retirement allowance and instead earn additional service credit in the reemployed position and receive an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title; or

(b) continue to receive the retiree's retirement allowance, forfeit earning additional service credit, and forfeit any retirement-related contribution from the participating employer that reemployed the retiree.

(4) (a) If a retiree's retirement allowance is cancelled and the retiree is eligible for retirement coverage in a reemployed position, the office shall reinstate the retiree to active member status on the first day of the month following the date of the employee's eligible reemployment.

(b) Except as provided under Subsection (4)(c), if the retiree is not otherwise eligible for retirement coverage in the reemployed position, the participating employer that reemploys the retiree shall contribute the amortization rate to the office on behalf of the retiree.

(c) A participating employer that reemploys a retiree in accordance with Subsection 49-11-1205(1) is not required to contribute the amortization rate to the office.

(5) (a) For a retiree reinstated to active member status under Subsection (4)(a) who retires within two years from the date of reemployment, the office:

(i) may not recalculate a retirement benefit for the retiree; and

(ii) shall resume the allowance that was being paid to the retiree at the time of the cancellation.

(b) Subject to Subsection (1), for a retiree who is reinstated to active membership under Subsection (4)(a) and retires two or more years after the date of reinstatement to active membership, the office shall:

(i) resume the allowance that was being paid at the time of cancellation; and

(ii) calculate an additional allowance for the retiree based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

Section 2. Section **49-11-1205** is amended to read:

49-11-1205. Postretirement reemployment restriction exceptions.

(1) (a) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within ~~[one year of the retiree's retirement date]~~ the period of separation required under Section 49-11-1204 if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (1)(a)(i), the retiree does not receive any employer paid benefits, including:

(A) retirement service credit or retirement-related contributions;

(B) medical benefits;

(C) dental benefits;

(D) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease Act, and withholdings required by federal or state law for social security, Medicare, and unemployment insurance; or

(E) paid time off, including sick, annual, or other type of leave; and

(iii) (A) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of \$15,000 or one-half of the retiree's final average salary upon which the retiree's retirement allowance is based; or

(B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

(b) The board shall adjust the amounts under Subsection (1)(a)(iii) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(2) A retiree shall be considered as having completed the ~~[one-year]~~ period of separation from employment with a participating employer required under Section 49-11-1204, if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) during the employment under Subsection (2)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, for which injury the retiree would have been approved for total disability in accordance with the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety service employee ineligible for long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program;

(iv) does not receive any long-term disability benefits from any participating employer; and

(v) is at least 50 years old; and

(b) is reemployed by a different participating employer.

(3) (a) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within [~~one year of the retiree's retirement date~~] the period of separation required under Section 49-11-1204 if the affiliated emergency services worker does not receive any compensation, except for:

(i) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;

(ii) a length-of-service award;

(iii) insurance policy premiums paid by the participating employer in the event of death of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

(iv) reimbursement of expenses incurred in the performance of duties.

(b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax credits, vouchers, and payments to an affiliated emergency services worker may not exceed \$500 per month.

(c) The board shall adjust the amount under Subsection (3)(b) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(d) A retiree is eligible for an exemption from the requirement to cease service without cancellation of a retirement allowance under this Subsection (3) only if the retiree, at the time of retirement, is at least:

(i) 50 years old, if the retiree is retiring from a public safety system or a firefighter system; or

(ii) 55 years old.

(4) (a) The office may not cancel the retirement allowance of a retiree employed as a part-time appointed or elected board member within [~~one year after the retiree's retirement date~~] the period of separation required under Section 49-11-1204 if the part-time appointed or elected board member does not receive any compensation exceeding the amount described in this Subsection (4).

(b) A retiree who is a part-time appointed or elected board member for one or more boards, commissions, councils, committees, panels, or other bodies of participating employers:

(i) may receive an aggregate amount of compensation, remuneration, a stipend, or other benefit for service on a single or multiple boards, commissions, councils, committees, panels, or other bodies of no more than \$5,000 per year; and

(ii) may not receive an employer paid retirement service credit or retirement-related contribution.

(c) For purposes of Subsection (4)(b)(i):

(i) a part-time appointed or elected board member's compensation includes:

(A) an amount paid for the part-time appointed or elected board member's coverage in a group insurance plan provided by the participating employer; and

(B) the part-time appointed or elected board member's receipt of any other benefit provided by the participating employer; and

(ii) the part-time appointed or elected board member's compensation does not include:

(A) an amount the participating employer pays for employer-matching employment taxes, if the participating employer treats the part-time appointed or elected board member as an employee for federal tax purposes; or

(B) an amount that the part-time appointed or elected board member receives for per diem and travel expenses for up to 12 approved meetings or activities of the government board per year, if the per diem and travel expenses do not exceed the amounts established by the Division of Finance under Sections 63A-3-106 and 63A-3-107 or by rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(d) The board shall adjust the amount under Subsection (4)(b)(i) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average, as determined by the board.

(5) (a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Section 49-11-1204.

(b) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (1)(a)(iii), (3)(b), or (4)(b).

Section 3. Section **49-11-1302** is amended to read:

49-11-1302. Phased retirement -- Voluntary participation -- Employer duties.

A participating employer may elect to participate in phased retirement for a retiree who has not completed the ~~[one-year]~~ employment separation requirement under Section 49-11-1204 under the conditions established under this part, if the participating employer:

(1) establishes written policies and procedures for phased retirement that shall include provisions for:

(a) granting and denying a request for phased retirement;

(b) needed approvals within the participating employer;

(c) time limits or other restrictions;

(d) identifying positions that may be included or excluded; and

(e) the elements of a written agreement described under Section 49-11-1304;

(2) enters into an agreement described under Section 49-11-1304;

(3) submits an application to the office for phased retirement on behalf of the parties of the agreement described under Section 49-11-1304; and

(4) complies with this part.

Section 4. Section **49-23-303** is amended to read:

49-23-303. Defined benefit eligibility for an allowance -- Date of retirement --**Qualifications.**

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of ~~[62]~~ 60 years; or

~~[(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or]~~

219 ~~[(iv)]~~ (iii) the member has accrued at least ~~[25]~~ 20 years of service credit.

220 (2) (a) The member's retirement date:

221 (i) shall be the 1st or the 16th day of the month, as selected by the member;

222 (ii) shall be on or after the date of termination; and

223 (iii) may not be more than 90 days before or after the date the application is received by
224 the office.

225 (b) Except as provided under Subsection (3), a member may not be employed by a
226 participating employer in the system established by this chapter on the retirement date selected
227 under Subsection (2)(a)(i).

228 (3) (a) A member who is employed by a participating employer and who is also an
229 elected official is not required to cease service as an elected official to be qualified to receive
230 an allowance under Subsection (1), unless the member is retiring from service as an elected
231 official.

232 (b) A member who is employed by a participating employer and who is also a part-time
233 appointed board member, as described in Subsection 49-11-1203(2), is not required to cease
234 service as a part-time appointed board member to be qualified to receive an allowance under
235 Subsection (1).

236 (c) A member who is employed by a participating employer, who is also an affiliated
237 emergency services worker as defined in Section 49-11-1202 for a different agency, is not
238 required to cease service as an affiliated emergency services worker to be qualified to receive
239 an allowance under Subsection (1).

240 (d) A member who is employed by a participating employer and who is also a part-time
241 appointed or elected board member, as defined in Section 49-11-1202, for a different agency is
242 not required to cease service as a part-time appointed or elected board member to be qualified
243 to receive an allowance under Subsection (1).

244 (4) An exemption from the requirement to cease service and remain qualified to
245 receive an allowance as provided in Subsection (3) is available only for a member who, at the
246 time of retirement, is at least:

247 (a) 50 years old, if the member is retiring from a public safety system or firefighter
248 system; or

249 (b) 55 years old.

Section 5. Section **49-23-304** is amended to read:

49-23-304. Defined benefit service retirement plans -- Calculation of retirement allowance.

(1) (a) Except as provided under Subsection (6), the retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an annual allowance calculated as follows:

(a) If the retiree is at least 65 years ~~[of age]~~ old or has accrued at least ~~[25]~~ 20 years of service credit, the allowance is an amount equal to:

~~[(i) 1.5% of the retiree's final average salary multiplied by the number of years of service credit accrued on and after July 1, 2011, but before July 1, 2020; plus]~~

~~[(ii) 2% of the retiree's final average salary multiplied by the number of years of service credit accrued on and after July 1, 2020.]~~

(i) 2.5% of the retiree's final average salary multiplied by the number of years of service credit, limited to 20 years; plus

(ii) 2% of the retiree's final average salary multiplied by the number of years of service credit in excess of 20 years.

(b) If the retiree is less than 65 years ~~[of age]~~ old, the allowance shall be reduced by the full actuarial amount for each year of retirement from age 60 to age 65, unless the member has ~~[25]~~ 20 or more years of accrued credit in which event no reduction is made to the allowance.

(c) (i) Years of service includes any fractions of years of service to which the retiree may be entitled.

(ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within 1/10 of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.

(d) An Option One allowance is only payable to the member during the member's lifetime.

(3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

312 (b) Any payments made to the retiree shall be deducted from the amounts due to the
313 beneficiary.

314 (5) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the
315 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there
316 is no court order filed in the matter.

317 (b) A conversion to an Option One benefit under this Subsection (5) begins on the first
318 day of the month following the month in which the notification and supporting documentation
319 for the divorce are received by the office.

320 (6) A retiree may not choose payment of an allowance under a retirement option
321 described in this section that is not applicable to that retiree, including because the retiree did
322 not make member contributions or does not have a lawful spouse at the time of retirement.

323 **Section 6. Effective date.**

324 This bill takes effect on January 1, 2023.

POSTRETIREMENT REEMPLOYMENT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the postretirement reemployment restrictions for a retiree who was a public safety service employee or a teacher.

Highlighted Provisions:

This bill:

- defines terms;
- provides the circumstances under which a retiree who was a public safety service employee or a teacher may be reemployed with a participating employer within the one-year separation period without cancellation of the retiree's retirement allowance; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

49-11-1202, as last amended by Laws of Utah 2020, Chapter 449

49-11-1205, as last amended by Laws of Utah 2021, Chapter 193

49-11-1206, as enacted by Laws of Utah 2016, Chapter 310 and last amended by

Coordination Clause, Laws of Utah 2016, Chapter 310

49-11-1207, as last amended by Laws of Utah 2017, Chapter 141

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

Section 1. Section **49-11-1202** is amended to read:

49-11-1202. Definitions.

As used in this part:

(1) (a) "Affiliated emergency services worker" means a person who:

(i) is employed by a participating employer;

(ii) performs emergency services for another participating employer that is a different agency;

(iii) is trained in techniques and skills required for the emergency service;

(iv) continues to receive regular training required for the service;

(v) is on the rolls as a trained affiliated emergency services worker of the participating employer; and

(vi) provides ongoing service for a participating employer, which service may include service as a volunteer firefighter, reserve law enforcement officer, search and rescue worker, emergency medical technician, ambulance worker, park ranger, or public utilities worker.

(b) "Affiliated emergency services worker" does not include a person who performs work or service but does not meet the requirements of Subsection (1)(a).

(2) "Amortization rate" means the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree if the retiree's reemployed position were deemed to be an eligible, full-time position within that system.

(3) "Part-time appointed or elected board member" means an individual who:

(a) serves in a position:

(i) as a member of a board, commission, council, committee, panel, or other body of a participating employer; and

(ii) that is designated in the participating employer's governing statute, charter, creation document, or similar document;

(b) is appointed or elected to the position for a definite and fixed term of office by official and duly recorded action of the participating employer;

(c) except for the service in the position, does not perform other work or service for compensation for the participating employer, whether as an employee or under a contract; and

(d) retires from a participating employer that is different than the participating employer with the position in which the person serves.

(4) "Qualifying retiree" means a retiree who:

(a) is, at the time of retirement, a public safety service employee as defined in Section 49-14-102 and retires from the system described in Chapter 14, Public Safety Contributory

64 Retirement Act;

65 (b) is, at the time of retirement, a public safety service employee as defined in Section
66 49-15-102 and retires from the system described in Chapter 15, Public Safety Noncontributory
67 Retirement Act;

68 (c) is, at the time of retirement, a public safety service employee as defined in Section
69 49-23-102 and retires from the system described in Chapter 23, New Public Safety and
70 Firefighter Tier II Contributory Retirement Act; or

71 (d) is, at the time of retirement, a teacher and retires from one of the following
72 retirement systems:

73 (i) Chapter 12, Public Employees' Contributory Retirement Act;

74 (ii) Chapter 13, Public Employees' Noncontributory Retirement Act; or

75 (iii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

76 ~~[(4)]~~ (5) (a) "Reemployed," "reemploy," or "reemployment" means work or service
77 performed for a participating employer after retirement, in exchange for compensation.

78 (b) Reemployment includes work or service performed on a contract for a participating
79 employer if the retiree is:

80 (i) listed as the contractor; or

81 (ii) an owner, partner, or principal of the contractor.

82 ~~[(5)]~~ (6) "Retiree":

83 (a) means a person who:

84 (i) retired from a participating employer; and

85 (ii) begins reemployment on or after July 1, 2010, with a participating employer; and

86 (b) does not include a person:

87 (i) (A) who was reemployed by a participating employer before July 1, 2010; and

88 (B) whose participating employer that reemployed the person under Subsection ~~[(5)]~~

89 ~~(6)~~(b)(i)(A) was dissolved, consolidated, merged, or structurally changed in accordance with
90 Section 49-11-621 on or after July 1, 2010; or

91 (ii) who is working under a phased retirement agreement in accordance with ~~[Title 49,]~~
92 Chapter 11, Part 13, Phased Retirement.

93 (7) "Teacher" means an individual employed by a school district or charter school who
94 is required to hold an educator license issued by the state board and who has an assignment to

95 teach in a classroom.

96 Section 2. Section **49-11-1205** is amended to read:

97 **49-11-1205. Postretirement reemployment restriction exceptions.**

98 (1) (a) The office may not cancel the retirement allowance of a retiree who is
99 reemployed with a participating employer within one year of the retiree's retirement date if:

100 (i) the retiree is not reemployed by a participating employer for a period of at least 60
101 days from the retiree's retirement date;

102 (ii) upon reemployment after the break in service under Subsection (1)(a)(i), the retiree
103 does not receive any employer paid benefits, including:

104 (A) retirement service credit or retirement-related contributions;

105 (B) medical benefits;

106 (C) dental benefits;

107 (D) other insurance benefits except for workers' compensation as provided under Title
108 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease
109 Act, and withholdings required by federal or state law for social security, Medicare, and
110 unemployment insurance; or

111 (E) paid time off, including sick, annual, or other type of leave; and

112 (iii) (A) the retiree [~~does not earn~~] earns, in any calendar year of reemployment an
113 amount [~~in excess of~~] that is no more than the lesser of \$15,000 or one-half of the retiree's final
114 average salary upon which the retiree's retirement allowance is based; or

115 (B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

116 (b) The board shall adjust the amounts under Subsection (1)(a)(iii) by the annual
117 change in the Consumer Price Index during the previous calendar year as measured by a United
118 States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

119 (c) This Subsection (1) does not apply to a retiree who meets the requirements of
120 Subsection (5).

121 (2) A retiree shall be considered as having completed the one-year separation from
122 employment with a participating employer required under Section 49-11-1204, if the retiree:

123 (a) before retiring:

124 (i) was employed with a participating employer as a public safety service employee as
125 defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) during the employment under Subsection (2)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, for which injury the retiree would have been approved for total disability in accordance with the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety service employee ineligible for long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program;

(iv) does not receive any long-term disability benefits from any participating employer; and

(v) is at least 50 years old; and

(b) is reemployed by a different participating employer.

(3) (a) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within one year of the retiree's retirement date if the affiliated emergency services worker does not receive any compensation, except for:

(i) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;

(ii) a length-of-service award;

(iii) insurance policy premiums paid by the participating employer in the event of death of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

(iv) reimbursement of expenses incurred in the performance of duties.

(b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax credits, vouchers, and payments to an affiliated emergency services worker may not exceed \$500 per month.

(c) The board shall adjust the amount under Subsection (3)(b) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(d) A retiree is eligible for an exemption from the requirement to cease service without cancellation of a retirement allowance under this Subsection (3) only if the retiree, at the time of retirement, is at least:

157 (i) 50 years old, if the retiree is retiring from a public safety system or a firefighter
158 system; or

159 (ii) 55 years old.

160 (4) (a) The office may not cancel the retirement allowance of a retiree employed as a
161 part-time appointed or elected board member within one year after the retiree's retirement date
162 if the part-time appointed or elected board member does not receive any compensation
163 exceeding the amount described in this Subsection (4).

164 (b) A retiree who is a part-time appointed or elected board member for one or more
165 boards, commissions, councils, committees, panels, or other bodies of participating employers:

166 (i) may receive an aggregate amount of compensation, remuneration, a stipend, or other
167 benefit for service on a single or multiple boards, commissions, councils, committees, panels,
168 or other bodies of no more than \$5,000 per year; and

169 (ii) may not receive an employer paid retirement service credit or retirement-related
170 contribution.

171 (c) For purposes of Subsection (4)(b)(i):

172 (i) a part-time appointed or elected board member's compensation includes:

173 (A) an amount paid for the part-time appointed or elected board member's coverage in
174 a group insurance plan provided by the participating employer; and

175 (B) the part-time appointed or elected board member's receipt of any other benefit
176 provided by the participating employer; and

177 (ii) the part-time appointed or elected board member's compensation does not include:

178 (A) an amount the participating employer pays for employer-matching employment
179 taxes, if the participating employer treats the part-time appointed or elected board member as
180 an employee for federal tax purposes; or

181 (B) an amount that the part-time appointed or elected board member receives for per
182 diem and travel expenses for up to 12 approved meetings or activities of the government board
183 per year, if the per diem and travel expenses do not exceed the amounts established by the
184 Division of Finance under Sections 63A-3-106 and 63A-3-107 or by rules made by the
185 Division of Finance according to Sections 63A-3-106 and 63A-3-107.

186 (d) The board shall adjust the amount under Subsection (4)(b)(i) by the annual change
187 in the Consumer Price Index during the previous calendar year as measured by a United States

Bureau of Labor Statistics Consumer Price Index average, as determined by the board.

(5) (a) The office may not cancel the retirement allowance of a qualifying retiree who is reemployed with a participating employer within one year of the qualifying retiree's retirement date if:

(i) the qualifying retiree is not reemployed by a participating employer for a period of at least 60 days from the qualifying retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (5)(a)(i), the qualifying retiree does not receive any retirement service credit or retirement-related contributions;

(iii) the qualifying retiree is reemployed by a participating employer located in a county of the third, fourth, fifth, or sixth class; and

(iv) the qualifying retiree earns, in any calendar year of reemployment, an amount that is no more than one-half of the qualifying retiree's final average salary upon which the qualifying retiree's retirement allowance is based.

(b) The board shall adjust the amount under Subsection (5)(a)(iv) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

~~[(5)]~~ (6) (a) If a retiree is reemployed under the provisions of Subsection (1) [or], (4), or (5), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Section 49-11-1204.

(b) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (1)(a)(iii), (3)(b), [or] (4)(b), or (5)(a)(iv).

Section 3. Section **49-11-1206** is amended to read:

49-11-1206. Notice of postretirement reemployment.

(1) A participating employer shall immediately notify the office:

(a) if the participating employer reemploys a retiree;

(b) whether the reemployment is subject to Section 49-11-1204 or Subsection 49-11-1205(1), (2), ~~[or] (3), or (5)~~; and

(c) of any election by the retiree under Section 49-11-1204.

(2) A participating employer shall certify to the office whether the position of an elected official is or is not full time.

(3) A retiree subject to this part shall report to the office the status of the reemployment under Section 49-11-1204 or 49-11-1205.

Section 4. Section **49-11-1207** is amended to read:

49-11-1207. Postretirement reemployment -- Violations -- Penalties.

(1) (a) If the office receives notice or learns of the reemployment of a retiree in violation of Section 49-11-1204 or 49-11-1205, the office shall:

(i) immediately cancel the retiree's retirement allowance;

(ii) keep the retiree's retirement allowance cancelled for the remainder of the calendar year if the reemployment with a participating employer exceeded the limitation under Subsection 49-11-1205(1)(a)(iii)(A) ~~or~~, (3)(b), or (5)(a)(iv); and

(iii) recover any overpayment resulting from the violation in accordance with the provisions of Section 49-11-607 before the allowance may be reinstated.

(b) Reinstatement of an allowance following cancellation for a violation under this section is subject to the procedures and provisions under Section 49-11-1204.

(2) If a retiree or participating employer failed to report reemployment in violation of Section 49-11-1206, the retiree, participating employer, or both, who are found to be responsible for the failure to report, are liable to the office for the amount of any overpayment resulting from the violation.

(3) A participating employer is liable to the office for a payment or failure to make a payment in violation of this part.

(4) If a participating employer fails to notify the office in accordance with Section 49-11-1206, the participating employer is immediately subject to a compliance audit by the office.

Section 5. **Effective date.**

This bill takes effect on January 1, 2023.

ECONOMIC DEVELOPMENT MODIFICATIONS

2022 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions related to economic development.

Highlighted Provisions:

This bill:

- ▶ requires the Unified Economic Opportunity Commission, instead of the Business and Economic Development Subcommittee, to identify targeted industries for economic development in the state;
- ▶ modifies provisions related to the issuance of economic development tax credits by the Governor's Office of Economic Opportunity (GO Utah office), including by:
 - defining and modifying terms;
 - limiting tax credit eligibility to certain projects involving targeted industries, located within rural counties or approved by the Unified Economic Opportunity Commission;
 - repealing provisions allowing a local government entity or community reinvestment agency to receive a tax credit;
 - allowing a local government entity to create an economic development zone for the purpose of incentivizing projects within the local government entity's boundaries;
 - allowing the GO Utah office to issue tax credits for projects that establish remote work opportunities in the state;
 - requiring the GO Utah office to conduct an economic impact study to determine a business entity's eligibility for a tax credit;
 - establishing requirements for the GO Utah office to enter into a written agreement with a business entity, including factors for the GO Utah office to consider in determining the duration and amount of tax credit;
 - modifying provisions related to the process for a business entity to claim a tax credit; and

- 33 • allowing the GO Utah office to make rules for purposes of administration; and
34 ▸ makes technical and conforming changes.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 **AMENDS:**

- 41 **59-7-614.2**, as last amended by Laws of Utah 2021, Chapter 282
42 **63N-1a-102**, as last amended by Laws of Utah 2021, Chapter 381 and renumbered and
43 amended by Laws of Utah 2021, Chapter 282
44 **63N-1a-202**, as enacted by Laws of Utah 2021, Chapter 282
45 **63N-1a-301**, as renumbered and amended by Laws of Utah 2021, Chapter 282
46 **63N-2-102**, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and
47 amended by Laws of Utah 2015, Chapter 283
48 **63N-2-103**, as last amended by Laws of Utah 2021, Chapters 282 and 381
49 **63N-2-104**, as last amended by Laws of Utah 2021, Chapters 282, 381 and last
50 amended by Coordination Clause, Laws of Utah 2021, Chapter 282
51 **63N-2-105**, as last amended by Laws of Utah 2021, Chapters 282 and 381
52 **63N-2-107**, as last amended by Laws of Utah 2021, Chapters 282 and 382
53 **63N-3-102**, as last amended by Laws of Utah 2021, Chapter 282
54 **63N-3-111**, as last amended by Laws of Utah 2021, Chapters 282 and 382

55 **ENACTS:**

- 56 **63N-2-104.1**, Utah Code Annotated 1953
57 **63N-2-104.2**, Utah Code Annotated 1953
58 **63N-2-104.3**, Utah Code Annotated 1953
59 **63N-2-110**, Utah Code Annotated 1953

60 **REPEALS:**

- 61 **63N-2-108**, as last amended by Laws of Utah 2016, Chapter 350

62

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

Section 1. Section **59-7-614.2** is amended to read:

59-7-614.2. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section 63N-2-103.

~~[(b) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.]~~

~~[(c)]~~ (b) "Incremental job" means the same as that term is defined in Section 63N-1a-102.

~~[(d) "Local government entity" means the same as that term is defined in Section 63N-2-103.]~~

~~[(e)]~~ (c) "New state revenue" means the same as that term is defined in Section 63N-1a-102.

~~[(f)]~~ (d) "Office" means the Governor's Office of Economic Opportunity.

(2) Subject to the other provisions of this section, a business entity~~[, local government entity, or community reinvestment agency]~~ may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity~~[, local government entity, or community reinvestment agency]~~ for the taxable year.

~~[(4) A community reinvestment agency may claim a tax credit under this section only if a local government entity assigns the tax credit to the community reinvestment agency in accordance with Section 63N-2-104.]~~

~~[(5)(a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall make a refund to the following that claim a tax credit under this section:]~~

~~[(i) a local government entity;~~

~~[(ii) a community reinvestment agency; or]~~

~~[(iii) a business entity if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~

the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community reinvestment agency as required by Subsection (5)(a).]

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as required by Subsection (4)(a).

~~[(6)]~~ (5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) Except as provided in Subsection ~~[(6)]~~ (5)(c), for purposes of the study required by this Subsection ~~[(6)]~~ (5), the office shall provide the following information, if available to the office, to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the office grants to each business entity~~[, local government entity, or community reinvestment agency]~~ for each calendar year;

(ii) the criteria that the office uses in granting a tax credit;

~~[(iii) (A) for a business entity, the new state revenue generated by the business entity for the calendar year; or]~~

~~[(B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section 63N-2-104, the new state revenue generated as a result of a new commercial project within the local government entity for each calendar year;]~~

(iii) the new state revenue generated by the business entity for the calendar year;

(iv) estimates for each of the next three calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenue that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(v) the information contained in the office's latest report under Section 63N-2-106; and

(vi) any other information that the Revenue and Taxation Interim Committee requests.

(c) (i) In providing the information described in Subsection [(6)] (5)(b), the office shall redact information that identifies a recipient of a tax credit under this section.

(ii) If, notwithstanding the redactions made under Subsection [(6)] (5)(c)(i), reporting the information described in Subsection [(6)] (5)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [(6)] (5)(b) in the aggregate for all business entities [~~and agencies~~] that receive the tax credit under this section.

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection [(6)] (5)(a) include an evaluation of:

- (i) the cost of the tax credit to the state;
- (ii) the purpose and effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit.

Section 2. Section **63N-1a-102** is amended to read:

63N-1a-102. Definitions.

As used in this title:

(1) "Baseline jobs" means the number of full-time employee positions that existed within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the GO Utah board.

(2) "Baseline state revenue" means the amount of state tax revenue collected from a business entity or the employees of a business entity during the year before the date on which a project related to the business entity is approved by the office or by the GO Utah board.

(3) "Commission" means the Unified Economic Opportunity Commission created in Section 63N-1a-201.

(4) "Economic opportunity agency" includes:

- (a) the Department of Workforce Services;
- (b) the Department of Cultural and Community Engagement;
- (c) the Department of Commerce;
- (d) the Department of Natural Resources;
- (e) the Office of Energy Development;
- (f) the State Board of Education;
- (g) institutions of higher education;

- 157 (h) the Utah Multicultural Commission;
- 158 (i) the World Trade Center Utah;
- 159 (j) local government entities;
- 160 (k) associations of governments;
- 161 (l) the Utah League of Cities and Towns;
- 162 (m) the Utah Association of Counties;
- 163 (n) the Economic Development Corporation of Utah;
- 164 (o) the Small Business Administration;
- 165 (p) chambers of commerce;
- 166 (q) industry associations;
- 167 (r) small business development centers; and
- 168 (s) other entities identified by the commission or the executive director.
- 169 (5) "Executive director" means the executive director of the office.
- 170 (6) "Full-time employee" means an employment position that is filled by an employee
- 171 who works at least 30 hours per week and:
- 172 (a) may include an employment position filled by more than one employee, if each
- 173 employee who works less than 30 hours per week is provided benefits comparable to a
- 174 full-time employee; and
- 175 (b) may not include an employment position that is shifted from one jurisdiction in the
- 176 state to another jurisdiction in the state.
- 177 (7) "GO Utah board" means the Business and Economic Development Subcommittee
- 178 created in Section 63N-1b-202.
- 179 (8) "High paying job" means a newly created full-time employee position where the
- 180 aggregate average annual gross wage of the employment position, not including health care or
- 181 other paid or unpaid benefits, is:
- 182 (a) at least 110% of the average wage of the county in which the employment position
- 183 exists; or
- 184 (b) for an employment position related to a project described in Chapter 2, Part 1,
- 185 Economic Development Tax Increment Financing, and that is located within the boundary of a
- 186 county of the third, fourth, fifth, or sixth class, or located within a municipality in a county of
- 187 the second class and where the municipality has a population of 10,000 or less:

188 (i) at least 100% of the average wage of the county in which the employment position
189 exists; or

190 (ii) an amount determined by rule made by the office in accordance with Title 63G,
191 Chapter 3, Utah Administrative Rulemaking Act, if the office determines the project is in a
192 county experiencing economic distress.

193 (9) (a) "Incremental job" means a full-time employment position in the state that:

194 (i) did not exist within a business entity in the state before the beginning of a project
195 related to the business entity; and

196 (ii) is created in addition to the number of baseline jobs that existed within a business
197 entity.

198 (b) "Incremental job" includes a full-time employment position where the employee is
199 hired:

200 (i) directly by a business entity; or

201 (ii) by a professional employer organization, as defined in Section 31A-40-102, on
202 behalf of a business entity.

203 (10) "New state revenue" means the state revenue collected from a business entity or a
204 business entity's employees during a calendar year minus the baseline state revenue calculation.

205 (11) "Office" or "GO Utah office" means the Governor's Office of Economic
206 Opportunity.

207 (12) "State revenue" means state tax liability paid by a business entity or a business
208 entity's employees under any combination of the following provisions:

209 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

210 (b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
211 Information;

212 (c) Title 59, Chapter 10, Part 2, Trusts and Estates;

213 (d) Title 59, Chapter 10, Part 4, Withholding of Tax; and

214 (e) Title 59, Chapter 12, Sales and Use Tax Act.

215 (13) "State strategic goals" means the strategic goals listed in Section 63N-1a-103.

216 (14) "Statewide economic development strategy" means the economic development
217 strategy developed by the commission in accordance with Section 63N-1a-202.

218 (15) "Targeted industry" means an industry or group of industries targeted by the

219 commission under Section 63N-1a-202, for economic development in the state.

220 Section 3. Section **63N-1a-202** is amended to read:

221 **63N-1a-202. Commission duties.**

222 (1) The commission shall:

223 (a) develop, coordinate, and lead a comprehensive statewide economic development
224 strategy that:

225 (i) unifies and coordinates economic development efforts in the state;

226 (ii) includes key performance indicators for long-term progress toward the state
227 strategic goals;

228 (iii) establishes reporting and accountability processes for the key performance
229 indicators; and

230 (iv) ensures the success of the statewide economic development strategy is shared
231 among the urban and rural areas of the state;

232 (b) receive feedback, input, and reports from economic opportunity agencies regarding
233 programs related to the statewide economic development strategy;

234 (c) develop the statewide economic strategy in view of the state water policy described
235 in Section 73-1-21, including the state's commitment to appropriate conservation, efficient and
236 optimal use of water resources, infrastructure development and improvement, optimal
237 agricultural use, water quality, reasonable access to recreational activities, effective wastewater
238 treatment, and protecting and restoring healthy ecosystems;

239 (d) direct and facilitate changes to or recommend elimination of economic
240 development programs to ensure alignment with the mission and vision described in Section
241 63N-1a-103;

242 (e) at least once every five years, identify [~~industry clusters on which the commission~~
243 ~~recommends the state focus recruiting and expansion efforts~~] which industries or groups of
244 industries shall be targeted for economic development in the state;

245 (f) establish strategies for the recruitment and retention of targeted [~~industry clusters~~]
246 industries while respecting the different needs of rural and urban areas throughout the state;

247 (g) establish strategies for supporting entrepreneurship and small business development
248 in the state;

249 (h) analyze the state's projected long-term population and economic growth and plan

for the anticipated impacts of the projected growth in a manner that improves quality of life and is consistent with the statewide economic development strategy and state strategic goals;

(i) identify gaps and potential solutions related to improving infrastructure, especially as related to the state's projected long-term population growth;

(j) support the development of a prepared workforce that can support [~~critical industries and industry clusters~~] targeted industries identified by the commission;

(k) coordinate and develop strategies that assist education providers and industry to cooperate in supporting students in developing market relevant skills to meet industry needs;

(l) develop strategies and plans to ensure comprehensive economic development efforts are targeted to the unique needs of rural areas of the state;

(m) study the unique needs of multicultural communities throughout the state and develop household-level plans to ensure residents of the state can participate in economic opportunities in the state;

(n) ensure the commission's efforts are, to the extent practicable, data-driven and evidence-based;

(o) support an integrated international trade strategy for the state;

(p) facilitate coordination among public, private, and nonprofit economic opportunity agencies; and

(q) in performing the commission's duties, consider the recommendations of the subcommittees described in Chapter 1b, Commission Subcommittees.

(2) The commission shall provide a report to the office for inclusion in the office's annual written report described in Section 63N-1a-306, that includes:

(a) the statewide economic development strategy;

(b) a description of how the commission fulfilled the commission's statutory purposes and duties during the year, including any relevant findings;

(c) the key performance indicators included in the statewide economic development strategy, including data showing the extent to which the indicators are being met; and

(d) any legislative recommendations.

Section 4. Section **63N-1a-301** is amended to read:

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

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

(2) The office is:

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

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

(3) The office shall:

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

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

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

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

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

(f) act to create, develop, attract, and retain business, industry, and commerce in the state, in accordance with the statewide economic development plan and commission directives;

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

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

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

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

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

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

(ii) focusing industry recruitment and expansion [~~on strategically chosen clusters~~] of targeted industries;

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

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

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

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

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

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

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

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

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

(6) (a) The office shall:

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

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

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

Section 5. Section **63N-2-102** is amended to read:

63N-2-102. Purpose.

This part is enacted to:

(1) foster and develop ~~[industry]~~ targeted industries in the state, to ~~[provide additional employment opportunities for Utah's citizens]~~ stimulate community-focused economic growth, and to ~~[improve]~~ diversify and catalyze the state's economy;

~~[(2) address the loss of prospective high paying jobs, the loss of new economic growth, and the corresponding loss of incremental new state and local revenues to competing states]~~

~~caused by economic incentives offered by those states;]~~

(2) create high paying employment opportunities in the state;

(3) provide tax credits to attract new commercial projects and new jobs in economic development zones in the state; and

(4) provide a cooperative and unified working relationship between state and local economic development efforts.

Section 6. Section **63N-2-103** is amended to read:

63N-2-103. Definitions.

As used in this part:

~~[(1) "Authority" means:]~~

~~[(a) the Utah Inland Port Authority, created in Section 11-58-201; or]~~

~~[(b) the Military Installation Development Authority, created in Section 63H-1-201.]~~

~~[(2) "Authority project area" means a project area of:]~~

~~[(a) the Utah Inland Port Authority, created in Section 11-58-201; or]~~

~~[(b) the Military Installation Development Authority, created in Section 63H-1-201.]~~

~~[(3)]~~ (1) (a) "Business entity" means a person that enters into ~~[an]~~ a written agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(b) With respect to a tax credit authorized by the office in accordance with Subsection ~~[63N-2-104(3)(c)(ii)]~~ 63N-2-104.3(2), "business entity" includes a nonprofit entity.

(2) "Commercial or industrial zone" means an area zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a general plan that contemplates future growth.

~~[(4) "Community reinvestment agency" has the same meaning as that term is defined in Section 17C-1-102.]~~

~~[(5)]~~ (3) "Development zone" means an economic development zone created under Section 63N-2-104.

~~[(6) "Local government entity" means a county, city, town, or authority that enters into an agreement with the office to have a new commercial project that:]~~

~~[(a) is located within:]~~

~~[(i) the boundary of the county, city, or town; or]~~

374 ~~[(ii) an authority project area; and]~~
375 ~~[(b) qualifies the county, city, town, or authority to receive a tax credit under Section~~
376 ~~59-7-614.2.]~~
377 ~~[(7)(a) "New commercial project" means an economic development opportunity that:]~~
378 ~~[(i) involves new or expanded industrial, manufacturing, distribution, or business~~
379 ~~services in the state; and]~~
380 ~~[(ii) advances the statewide economic development strategy.]~~
381 ~~[(b) "New commercial project" includes an economic development opportunity that~~
382 ~~involves new or expanded agricultural or mining business services in Utah if the new~~
383 ~~commercial project is located within a:]~~
384 ~~[(i) county of the third, fourth, fifth, or sixth class; or]~~
385 ~~[(ii) municipality that has a population of 10,000 or less and the municipality is in a~~
386 ~~county of the second class.]~~
387 ~~[(c) "New commercial project" does not include retail business.]~~
388 (4) "Local government entity" means a county, city, town, or metro township.
389 (5) "New commercial project" means an economic development opportunity that:
390 (a) involves a targeted industry;
391 (b) is located within a county of the third, fourth, fifth, or sixth class; or
392 (c) involves an economic development opportunity that the commission determines to
393 be eligible for a tax credit under this part.
394 (6) "Remote work opportunity" means a new commercial project that:
395 (a) does not require a physical office in the state where employees associated with the
396 new commercial project are required to work; and
397 (b) requires employees associated with the new commercial project to:
398 (i) work remotely from a location within the state; and
399 (ii) maintain residency in the state.
400 ~~[(8)]~~ (7) "Significant capital investment" means an investment in capital or fixed assets
401 [in the following amounts], which may include real property, personal property, and other
402 fixtures related to a new commercial project that represents an expansion of existing operations
403 in the state or that increases the business entity's existing workforce in the state[.].
404 ~~[(a) except as described in Subsection (8)(b), an amount of at least \$10,000,000 for a~~

~~new commercial project located within the boundary of a county of the first or second class;]~~

~~[(b) an amount of at least \$500,000 for a new commercial project located within the boundary of a county of the third or fourth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less;]~~

~~[(c) an amount of at least \$250,000 for a new commercial project located within the boundary of a county of the fifth or sixth class; or]~~

~~[(d) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

~~[(9)] (8) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.~~

~~[(10)] (9) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.~~

~~[(11)] (10) "Tax credit certificate" means a certificate issued by the office that:~~

~~(a) lists the name of the business entity[, local government entity, or community development and renewal agency] to which the office authorizes a tax credit;~~

~~(b) lists the business entity's[, local government entity's, or community development and renewal agency's] taxpayer identification number;~~

~~(c) lists the amount of tax credit that the office authorizes the business entity[, local government entity, or community development and renewal agency] for the taxable year; and~~

~~(d) may include other information as determined by the office.~~

~~(11) "Written agreement" means a written agreement entered into between the office and a business entity under Section 63N-2-104.2.~~

Section 7. Section **63N-2-104** is amended to read:

63N-2-104. Creation of economic development zones.

(1) The office may create an economic development zone in the state if the following requirements are satisfied:

~~[(a) the area is zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a community-approved master plan that contemplates future growth;]~~

~~[(b) the request to create a development zone has first been approved by an appropriate local government entity; and]~~

436 (a) the area is located within a commercial or industrial zone;

437 (b) the local government entity having jurisdiction over the area supports the creation
438 of the development zone; and

439 (c) the local government entity described in Subsection (1)(b) provides or commits to
440 provide local incentives [have been or will be committed to be provided] within the area in
441 accordance with the [community's] local government entity's approved incentive policy [and
442 application process].

443 (2) A local government entity may, for the purpose of incentivizing new commercial
444 projects within the local government entity's boundaries, create an economic development zone
445 if the following requirements are satisfied:

446 (a) the area is located:

447 (i) within a commercial or industrial zone; and

448 (ii) within the geographic boundaries of the local government entity;

449 (b) the local government entity adopts a long-term plan that addresses the following
450 planning elements within the area:

451 (i) transportation and infrastructure;

452 (ii) workforce development; and

453 (iii) housing needs; and

454 (c) the office approves the local government entity's request to create the development
455 zone.

456 ~~[(2)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
457 ~~the office shall make rules establishing the requirements for a business entity or local~~
458 ~~government entity to qualify for a tax credit for a new commercial project in a development~~
459 ~~zone under this part.]~~

460 ~~[(b) The office shall ensure that the requirements described in Subsection (2)(a)~~
461 ~~include the following:]~~

462 ~~[(i) the new commercial project is within the development zone;]~~

463 ~~[(ii) the new commercial project includes direct investment within the geographic~~
464 ~~boundaries of the development zone;]~~

465 ~~[(iii) the new commercial project brings new incremental jobs to Utah;]~~

466 ~~[(iv) the new commercial project includes the creation of high paying jobs in the state;~~

~~significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors;]~~

~~[(v) the new commercial project generates new state revenues;]~~

~~[(vi) a business entity, a local government entity, or a community reinvestment agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63N-2-105; and]~~

~~[(vii) unless otherwise advisable in light of economic circumstances, the new commercial project relates to the industry clusters identified by the commission under Section 63N-1a-202.]~~

~~[(3)(a) The office, after consultation with the GO Utah board, may enter into a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the requirements described in this section.]~~

~~[(b)(i) With respect to a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.]~~

~~[(ii) In determining whether to authorize a tax credit with respect to a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.]~~

~~[(c)(i) Except as provided in Subsection (3)(c)(ii)(A), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize or commit to authorize a tax credit that exceeds:]~~

~~[(A) 50% of the new state revenues from the new commercial project in any given year; or]~~

~~[(B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years.]~~

~~[(ii) If the office authorizes or commits to authorize a tax credit for a new commercial project located within the boundary of:]~~

~~[(A) a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship as determined by the office, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial~~

project over the lesser of the life of the new commercial project or 20 years;]

~~[(B) a county of the third class, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years; and]~~

~~[(C) a county of the fourth, fifth, or sixth class, the office shall authorize a tax credit of 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years.]~~

~~[(iii) Notwithstanding any other provisions of this section, the office may not authorize a tax credit under this section for a new commercial project:]~~

~~[(A) to a business entity that has claimed a High Cost Infrastructure Development Tax Credit described in Section 79-6-603 related to the same new commercial project; or]~~

~~[(B) in an amount more than the amount of the capital investment in the new commercial project:]~~

~~[(d) (i) A local government entity may by resolution assign a tax credit authorized by the office to a community reinvestment agency:]~~

~~[(ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office:]~~

~~[(iii) If a local government entity assigns a tax credit to a community reinvestment agency, the written agreement described in Subsection (3)(a) shall:]~~

~~[(A) be between the office, the local government entity, and the community reinvestment agency:]~~

~~[(B) establish the obligations of the local government entity and the community reinvestment agency; and]~~

~~[(C) establish the extent to which any of the local government entity's obligations are transferred to the community reinvestment agency:]~~

~~[(iv) If a local government entity assigns a tax credit to a community reinvestment agency:]~~

~~[(A) the community reinvestment agency shall retain records as described in Subsection (4)(d); and]~~

~~[(B) a tax credit certificate issued in accordance with Section 63N-2-105 shall list the community reinvestment agency as the named applicant:]~~

~~[(4) The office shall ensure that the written agreement described in Subsection (3):]~~

~~[(a) specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;]~~

~~[(b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;]~~

~~[(c) establishes the length of time the business entity or local government entity may claim a tax credit;]~~

~~[(d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and]~~

~~[(e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.]~~

~~[(5) The office may attribute an incremental job or a high paying job to a new commercial project regardless of whether the job is performed in person, within the development zone or remotely from elsewhere in the state.]~~

Section 8. Section **63N-2-104.1** is enacted to read:

63N-2-104.1. Eligibility for tax credit -- Economic impact study.

(1) The office shall certify a business entity's eligibility for a tax credit as provided in this section.

(2) A business entity is eligible to receive a tax credit for a new commercial project if:

(a) the new commercial project:

(i) (A) is located and provides direct investment within the geographic boundaries of a development zone; or

(B) creates a remote work opportunity;

(ii) includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors; and

(iii) generates new state revenues; and

(b) the business entity has not claimed a High Cost Infrastructure Development Tax Credit under Section 79-6-603 for the same new commercial project.

(3) The office shall conduct a study of the economic impacts associated with a new commercial project to determine whether a business entity meets the requirements of Subsection (2).

(4) In determining whether a new commercial project meets the requirements of Subsection (2)(a)(ii), the office may attribute an incremental job or a high paying job to a new commercial project regardless of whether the job is performed in person, within a development zone, or remotely from elsewhere in the state.

Section 9. Section **63N-2-104.2** is enacted to read:

63N-2-104.2. Written Agreement -- Contents -- Grounds for amendment or termination.

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

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

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

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

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

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

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

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

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

(b) consider the following factors:

(i) whether the new commercial project provides vital or specialized support to supply

591 chains;
592 (ii) whether the new commercial project provides an innovative product, technology, or
593 service;
594 (iii) the number and wages of new incremental jobs associated with the new
595 commercial project;
596 (iv) the amount of financial support provided by local government entities for the new
597 commercial project;
598 (v) the amount of capital expenditures associated with the new commercial project;
599 (vi) whether the new commercial project returns jobs transferred overseas;
600 (vii) the rate of unemployment in the county in which the new commercial project is
601 located;
602 (viii) whether the new commercial project creates a remote work opportunity;
603 (ix) whether the new commercial project is located in a development zone created by a
604 local government entity as described in Subsection 63N-2-104(2);
605 (x) whether the business entity commits to hiring Utah workers for the new
606 commercial project;
607 (xi) whether the business entity adopts a corporate citizenry plan or supports initiatives
608 in the state that advance education, gender equality, diversity and inclusion, work-life balance,
609 environmental or social good, or other similar causes;
610 (xii) whether the business entity's headquarters are located within the state;
611 (xiii) the likelihood of other business entities relocating to another state as a result of
612 the new commercial project; and
613 (xiv) the necessity of the tax credit for the business entity's expansion in the state or
614 relocation from another state; and
615 (c) consult with the GO Utah board.
616 (3) (a) In determining the amount of tax credit that a business entity may be authorized
617 to receive under a written agreement, the office may:
618 (i) authorize a higher or optimized amount of tax credit for a new commercial project
619 located within a development zone created by a local government entity as described in
620 Subsection 63N-2-104(2); and
621 (ii) establish by rule made in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, a process by which the office closely approximates the amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for a capital project.

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

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

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

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

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

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

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

Section 10. Section **63N-2-104.3** is enacted to read:

63N-2-104.3. Limitations on tax credit amount.

(1) Except as provided in Subsection (2)(a), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize a tax credit that exceeds:

(a) 50% of the new state revenues from the new commercial project in any given year;

(b) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years; or

(c) 35% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years, if:

(i) the new commercial project brings 2,500 or more new incremental jobs to the state;

(ii) the amount of capital expenditures associated with the new commercial project is \$1,000,000,000 or more; and

(iii) the commission approves the tax credit.

(2) If the office authorizes a tax credit for a new commercial project located within the boundary of:

(a) a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship as determined by the office, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years;

(b) a county of the third class, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years; and

(c) a county of the fourth, fifth, or sixth class, the office shall authorize a tax credit of 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years.

Section 11. Section **63N-2-105** is amended to read:

63N-2-105. Requirements for claiming tax credit -- Application for tax credit certificate -- Procedure.

~~[(1) The office shall certify a business entity's or local government entity's eligibility for a tax credit as provided in this part.]~~

(1) A business entity may claim a tax credit under this part if the office:

(a) determines that the business entity is eligible for a tax credit under Section 63N-2-104.1;

(b) enters into a written agreement with the business entity in accordance with Section 63N-2-104.2; and

(c) issues a tax credit certificate to the business entity in accordance with this section.

~~(2) A business entity [or local government entity] seeking to receive a tax credit [as provided in this part] shall provide the office with:~~

~~(a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;~~

~~(b) [(i) for a business entity,] documentation of the new state revenues from the business entity's new commercial project that were paid during a calendar year; [or]~~

~~[(ii) for a local government entity, documentation of the new state revenues from the new commercial project within the area of the local government entity that were paid during a~~

684 ~~calendar year;]~~

685 (c) known or expected detriments to the state or existing businesses in the state;

686 ~~[(d) if a local government entity seeks to assign the tax credit to a community~~
687 ~~reinvestment agency as described in Section 63N-2-104, a statement providing the name and~~
688 ~~taxpayer identification number of the community reinvestment agency to which the local~~
689 ~~government entity seeks to assign the tax credit;]~~

690 ~~[(e) (i) with respect to a business entity that seeks to claim a tax credit:]~~

691 ~~[(A)]~~ (d) a document that expressly directs and authorizes the State Tax Commission to
692 disclose to the office the business entity's returns and other information that would otherwise
693 be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
694 [and]

695 ~~[(B)]~~ (e) a document that expressly directs and authorizes the Department of
696 Workforce Services to disclose to the office the business entity's unemployment insurance
697 contribution reports that would otherwise be subject to confidentiality under Section
698 35A-4-312; and

699 (f) documentation that the business entity has satisfied the performance benchmarks
700 outlined in the written agreement.

701 ~~[(ii) with respect to a local government entity that seeks to claim the tax credit:]~~

702 ~~[(A) a document that expressly directs and authorizes the State Tax Commission to~~
703 ~~disclose to the office the local government entity's returns and other information that would~~
704 ~~otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal~~
705 ~~Revenue Code; and]~~

706 ~~[(B) if the new state revenues collected as a result of a new commercial project are~~
707 ~~attributable in whole or in part to a new or expanded industrial, manufacturing mining,~~
708 ~~agricultural, distribution, or business service within a new commercial project within the area~~
709 ~~of the local government entity, a document signed by an authorized representative of the new~~
710 ~~or expanded industrial, manufacturing, mining, agricultural, distribution, or business service~~
711 ~~that:]~~

712 ~~[(f) expressly directs and authorizes the State Tax Commission to disclose to the office~~
713 ~~the returns of the new or expanded industrial, manufacturing, distribution, or business service~~
714 ~~and other information that would otherwise be subject to confidentiality under Section~~

715 ~~59-1-403 or Section 6103, Internal Revenue Code; and]~~

716 ~~[(H) lists the taxpayer identification number of the new or expanded industrial,~~
717 ~~manufacturing, mining, agricultural, distribution, or business service; or]~~

718 ~~[(iii) with respect to a local government entity that seeks to assign the tax credit to a~~
719 ~~community reinvestment agency:]~~

720 ~~[(A) a document signed by the members of the governing body of the community~~
721 ~~reinvestment agency that expressly directs and authorizes the State Tax Commission to~~
722 ~~disclose to the office the returns of the community reinvestment agency and other information~~
723 ~~that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103,~~
724 ~~Internal Revenue Code; and]~~

725 ~~[(B) if the new state revenues collected as a result of a new commercial project are~~
726 ~~attributable in whole or in part to a new or expanded industrial, manufacturing, mining,~~
727 ~~agricultural, distribution, or business service within a new commercial project within the~~
728 ~~community reinvestment agency, a document signed by an authorized representative of the new~~
729 ~~or expanded industrial, manufacturing, mining, agricultural, distribution, or business service~~
730 ~~that:]~~

731 ~~[(f) expressly directs and authorizes the State Tax Commission to disclose to the office~~
732 ~~the returns of the new or expanded industrial, manufacturing, mining, agricultural, distribution,~~
733 ~~or business service and other information that would otherwise be subject to confidentiality~~
734 ~~under Section 59-1-403 or Section 6103, Internal Revenue Code; and]~~

735 ~~[(H) lists the taxpayer identification number of the new or expanded industrial,~~
736 ~~manufacturing, mining, agricultural, distribution, or business service; and]~~

737 ~~[(f) for a business entity only, documentation that the business entity has satisfied the~~
738 ~~performance benchmarks outlined in the written agreement described in Subsection~~
739 ~~63N-2-104(3)(a), and as defined by rule made in accordance with Title 63G, Chapter 3, Utah~~
740 ~~Administrative Rulemaking Act, including the creation of new:]~~

741 ~~[(i) incremental jobs;]~~

742 ~~[(ii) high paying jobs; and]~~

743 ~~[(iii) state revenue:]~~

744 (3) (a) (i) The office shall submit the ~~[documents]~~ document described in Subsection

745 ~~[(2)(e)]~~ (2)(d) to the State Tax Commission.

746 ~~[(b)]~~ (ii) Upon receipt of [a] the document described in Subsection ~~[(2)(e)]~~ (2)(d), the
747 State Tax Commission shall provide the office with the returns and other information requested
748 by the office that the State Tax Commission is directed or authorized to provide to the office in
749 accordance with Subsection ~~[(2)(e)]~~ (2)(d).

750 (b) (i) The office shall submit the document described in Subsection (2)(e) to the
751 Department of Workforce Services.

752 (ii) Upon receipt of the document described in Subsection (2)(e), the Department of
753 Workforce Services shall provide the office with the information that the Department of
754 Workforce Services is directed or authorized to provide to the office in accordance with
755 Subsection (2)(e).

756 (4) If the returns and other information provided under Subsections (2) and (3) provide
757 the office with a reasonable justification for authorizing or continuing a tax credit, the office
758 shall:

759 (a) determine the amount of the tax credit to be granted to the business entity,
760 consistent with the terms of the written agreement;

761 (b) issue a tax credit certificate to the business entity; and

762 (c) provide a digital record of the tax credit certificate to the State Tax Commission.

763 ~~[(4) If, with respect to an agreement described in Subsection 63N-2-104(3)(a) between~~
764 ~~the office and a business entity, the office identifies one of the following events, the office and~~
765 ~~the business entity shall amend or the office may terminate the agreement:]~~

766 ~~[(a) a change in the business entity's organization resulting from a merger with or~~
767 ~~acquisition of another entity located in the state;]~~

768 ~~[(b) a material increase in the business entity's retail operations that results in new state~~
769 ~~revenue not subject to the incentive; or]~~

770 ~~[(c) an increase in the business entity's operations that:]~~

771 ~~[(f) is outside the scope of the agreement or outside the boundaries of a development~~
772 ~~zone; and]~~

773 ~~[(ii) results in new state revenue not subject to the incentive.]~~

774 ~~[(5) If, after review of the returns and other information provided by the State Tax~~
775 ~~Commission, or after review of the ongoing performance of the business entity or local~~
776 ~~government entity, the office determines that the returns and other information are inadequate~~

to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:]

~~[(a) (i) deny the tax credit; or]~~

~~[(ii) terminate the agreement described in Subsection 63N-2-104(3)(a) for failure to meet the performance standards established in the agreement; or]~~

~~[(b) inform the business entity or local government entity that the returns or other information were inadequate and ask the business entity or local government entity to submit new documentation.]~~

~~[(6) If after review of the returns and other information provided by the State Tax Commission, the office determines that the returns and other information provided by the business entity or local government entity provide reasonable justification for authorizing a tax credit, the office shall, based upon the returns and other information:]~~

~~[(a) determine the amount of the tax credit to be granted to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N-2-104, to the community reinvestment agency to which the local government entity assigns the tax credit;]~~

~~[(b) issue a tax credit certificate to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N-2-104, to the community reinvestment agency to which the local government entity assigns the tax credit; and]~~

~~[(c) provide a digital record of the tax credit certificate to the State Tax Commission.]~~

~~[(7)(a) For purposes of determining the amount of a business entity's tax credit in accordance with this section, the office may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process by which the office closely approximates the amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for a capital project.]~~

~~[(b) The office may apply a process described in Subsection (7)(a) to a business entity only with respect to a new agreement described in Subsection 63N-2-104(3)(a) that takes effect on or after January 1, 2022.]~~

~~[(8) A business entity, local government entity, or community reinvestment agency may not claim a tax credit unless the business entity, local government entity, or community reinvestment agency has a tax credit certificate issued by the office.]~~

808 ~~[(9)] (5)~~ (a) A business entity~~[, local government entity, or community reinvestment~~
809 ~~agency]~~ may claim a tax credit in the amount listed on the tax credit certificate on its tax return.

810 (b) A business entity~~[, local government entity, or community reinvestment agency]~~
811 that claims a tax credit under this section shall retain the tax credit certificate in accordance
812 with Section 59-7-614.2 or 59-10-1107.

813 Section 12. Section **63N-2-107** is amended to read:

814 **63N-2-107. Reports of new state revenues, partial rebates, and tax credits.**

815 (1) Before October 1 of each year, the office shall submit a report to the Governor's
816 Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of
817 Finance identifying:

818 (a) (i) the total estimated amount of new state revenues created from new commercial
819 projects ~~[in development zones]~~;

820 (ii) the estimated amount of new state revenues from new commercial projects ~~[in~~
821 ~~development zones]~~ that will be generated from:

822 (A) sales tax;

823 (B) income tax; and

824 (C) corporate franchise and income tax; and

825 (iii) the minimum number of new incremental jobs and high paying jobs that will be
826 created before any tax credit is awarded; and

827 (b) the total estimated amount of tax credits that the office projects that business
828 entities~~[, local government entities, or community reinvestment agencies]~~ will qualify to claim
829 under this part.

830 (2) By the first business day of each month, the office shall submit a report to the
831 Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the
832 Division of Finance identifying:

833 (a) each new written agreement that the office entered into ~~[by the office]~~ since the last
834 report;

835 (b) the estimated amount of new state revenues that will be generated under each
836 written agreement described in Subsection (2)(a);

837 (c) the estimated maximum amount of tax credits that a business entity~~[, local~~
838 ~~government entity, or community reinvestment agency]~~ could qualify for under each written

agreement described in Subsection (2)(a); and

(d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.

(3) At the reasonable request of the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G-2-103.

(4) By June 30, the office shall submit to the Economic Development and Workforce Services Interim Committee, the Business, Economic Development, and Labor Appropriations Subcommittee, and the governor, a written report that provides an overview of the implementation and efficacy of the statewide economic development strategy, including an analysis of the extent to which the office's programs are aligned with the prevailing economic conditions expected in the next fiscal year.

Section 13. Section **63N-2-110** is enacted to read:

63N-2-110. Rulemaking authority.

The office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer this part.

Section 14. Section **63N-3-102** is amended to read:

63N-3-102. Definitions.

As used in this part:

(1) "Administrator" means the executive director or the executive director's designee.

(2) "Economic opportunities" means unique business situations or community circumstances, including the development of recreation infrastructure and the promotion of the high tech sector in the state, which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state as determined by the GO Utah board.

(3) "Restricted Account" means the restricted account known as the Industrial Assistance Account created in Section 63N-3-103.

870 ~~[(4) "Targeted industry" means an industry or group of industries targeted by the GO~~
871 ~~Utah board under Section 63N-3-111, for economic development in the state.]~~

872 ~~[(5)]~~ (4) "Talent development grant" means a grant awarded under Section 63N-3-112.

873 Section 15. Section **63N-3-111** is amended to read:

874 **63N-3-111. Annual policy considerations.**

875 ~~[(1)(a) The GO Utah board shall determine annually which industries or groups of~~
876 ~~industries shall be targeted industries as defined in Section 63N-3-102.]~~

877 ~~[(b)]~~ (1) (a) The office shall make recommendations to state and federal agencies, local
878 governments, the governor, and the Legislature regarding policies and initiatives that promote
879 the economic development of targeted industries.

880 ~~[(c)]~~ (b) The office may create one or more voluntary advisory committees that may
881 include public and private stakeholders to solicit input on policy guidance and best practices in
882 encouraging the economic development of targeted industries.

883 (2) In evaluating the economic impact of applications for assistance, the GO Utah
884 board shall use an econometric cost-benefit model.

885 (3) The GO Utah board may establish:

886 (a) minimum interest rates to be applied to loans granted that reflect a fair social rate of
887 return to the state comparable to prevailing market-based rates such as the prime rate, U.S.
888 Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators
889 such as the rate of unemployment; and

890 (b) minimum applicant expense ratios, as long as they are at least equal to those
891 required under Subsection 63N-3-105(1)(b).

892 Section 16. **Repealer.**

893 This bill repeals:

894 Section **63N-2-108, Expenditure of amounts received by a local government entity**
895 **or community reinvestment agency as a tax credit -- Commingling of tax credit amounts**
896 **with certain other amounts.**



Child Care Amendments

#1. Clarifies that the Department of Health has authority under the Utah Child Care Licensing Act to license and certify child care providers and establish licensing/certification categories and classifications for such providers, not cities and counties

(Lines 47-66; 271-274)



Child Care Amendments

#2. Allows a community reinvestment agency to use its housing allocation to pay for the expansion of child care facilities

(Lines 124-125)



Child Care Amendments

#3. Requires that a proposal for a housing and transit reinvestment zone promote “increasing access to child care” as an objective in creating the zone.

(Line 379)



Child Care Amendments

#4. Requires the Department of Health to adopt rules allowing for a provider to provide “after school” care to additional qualifying children.

(Lines 228-231)



Child Care Amendments

#5. Removes provisions in statute limiting the number of infants and toddlers that a certified residential provider may care for.

(Lines 315-316)



Child Care Amendments

#6. Requires the Office of Child Care to use COVID-19 relief funds to provide grants to providers that contract with employers to provide care for an employers' employees.

(Lines 327-350)



Child Care Amendments

#7. Requires the Office of Child Care to report information about the office's use of COVID-19 relief funds.

(Lines 351-360)



Child Care Amendments

#8. Increases, from 4 to 6, the number of “qualifying children” that a residential provider may care for without obtaining a certificate from the Department of Health.

(Lines 170-171, 277-279, 319-323)