

1 **AMENDMENTS RELATING TO THE MILITARY**
2 **INSTALLATION DEVELOPMENT AUTHORITY**

3 2020 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jerry W. Stevenson**

6 House Sponsor: Val L. Peterson

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions relating to the military installation development authority.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies the Public Infrastructure District Act to allow the military installation
14 development authority to create a public infrastructure district by adopting a
15 resolution creating the district with the consent of property owners;
- 16 ▶ provides that the number, appointment, and terms of members of the board of a
17 public infrastructure district created by the military installation development
18 authority are governed by the governing document;
- 19 ▶ provides for additional powers of a public infrastructure district created by the
20 military installation development authority;
- 21 ▶ modifies the Assessment Area Act to:
 - 22 • allow a public infrastructure district created by the military installation
23 development authority to designate an assessment area; and
 - 24 • modify the period for commencing an action to contest an assessment or a
25 proceeding to designate an assessment area, and the period of allowable
26 assessment installments, for an assessment area designated by the military
27 installation development authority or a public infrastructure district created by
28 the authority with the consent of all property owners;

- 29 ▶ modifies an assessment lien foreclosure provision relating to certain assessment
30 areas, including an assessment area created by the military installation development
31 authority or by a public infrastructure district created by the authority;
- 32 ▶ modifies the base year for purposes of determining the base taxable value of
33 property added to a military installation development authority's project area by
34 amendment;
- 35 ▶ modifies the definitions of "military land," "publicly owned infrastructure and
36 improvements," and "taxing entity" for purposes of the Military Installation
37 Development Authority Act;
- 38 ▶ adds a severability provision in the Military Installation Development Authority
39 Act;
- 40 ▶ modifies the powers of the military installation development authority to specify
41 that the authority may:
- 42 • acquire an interest in real property through a subsidiary; and
43 • by itself or through a subsidiary, provide expertise to another governmental
44 entity interested in public-private partnerships;
- 45 ▶ provides that services provided by the authority for the military are considered to be
46 for the authority's own needs and use;
- 47 ▶ modifies a provision relating to a property exchange for construction of a freeway
48 interchange;
- 49 ▶ specifies that a project area plan adopted by the authority board becomes effective
50 on the date designated by the board;
- 51 ▶ modifies provisions relating to an amendment to a project area plan adopted by the
52 military installation development authority and the adoption of a budget by the
53 authority;
- 54 ▶ authorizes the authority to designate an improved portion of a parcel as a separate
55 parcel for property tax allocation purposes;

- 56 ▶ enacts language relating to the recording of a notice of the payment required of a
- 57 parcel owner before improvements become subject to property tax and relating to
- 58 the owner's property tax obligation and provides for the prorating of the obligation
- 59 upon a transfer of title;
- 60 ▶ enacts a provision relating to the authority assuming jurisdiction over property
- 61 owned by the Department of Transportation; and
- 62 ▶ makes technical changes.

63 **Money Appropriated in this Bill:**

64 None

65 **Other Special Clauses:**

66 This bill provides a special effective date.

67 **Utah Code Sections Affected:**

68 AMENDS:

- 69 **11-42-102**, as last amended by Laws of Utah 2019, Chapters 230 and 399
- 70 **11-42-106**, as last amended by Laws of Utah 2015, Chapter 396
- 71 **11-42-202**, as last amended by Laws of Utah 2018, Chapter 197
- 72 **11-42-411**, as last amended by Laws of Utah 2017, Chapter 470
- 73 **11-42-502.1**, as last amended by Laws of Utah 2018, Chapter 197
- 74 **17B-2a-1202**, as enacted by Laws of Utah 2019, Chapter 490
- 75 **17B-2a-1204**, as enacted by Laws of Utah 2019, Chapter 490
- 76 **17B-2a-1205**, as enacted by Laws of Utah 2019, Chapter 490
- 77 **17B-2a-1206**, as enacted by Laws of Utah 2019, Chapter 490
- 78 **63H-1-102**, as last amended by Laws of Utah 2019, Chapter 498
- 79 **63H-1-201**, as last amended by Laws of Utah 2017, Chapter 216
- 80 **63H-1-202**, as last amended by Laws of Utah 2019, Chapter 498
- 81 **63H-1-206**, as enacted by Laws of Utah 2019, Chapter 498
- 82 **63H-1-403**, as last amended by Laws of Utah 2019, Chapter 498

- 83 [63H-1-403.5](#), as enacted by Laws of Utah 2008, Chapter 120
- 84 [63H-1-405](#), as last amended by Laws of Utah 2015, Chapter 377
- 85 [63H-1-501](#), as last amended by Laws of Utah 2019, Chapter 498
- 86 [63H-1-502](#), as last amended by Laws of Utah 2018, Chapter 442

87 ENACTS:

- 88 [63H-1-103](#), Utah Code Annotated 1953
- 89 [63H-1-207](#), Utah Code Annotated 1953



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

92 Section 1. Section **11-42-102** is amended to read:

93 **11-42-102. Definitions.**

94 (1) As used in this chapter:

95 (a) "Adequate protests" means, for all proposed assessment areas except sewer
96 assessment areas, timely filed, written protests under Section [11-42-203](#) that represent at least
97 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or
98 equivalent residential units of the property proposed to be assessed, according to the same
99 assessment method by which the assessment is proposed to be levied, after eliminating:

100 (i) protests relating to:

101 (A) property that has been deleted from a proposed assessment area; or

102 (B) an improvement that has been deleted from the proposed improvements to be
103 provided to property within the proposed assessment area; and

104 (ii) protests that have been withdrawn under Subsection [11-42-203\(3\)](#).

105 (b) "Adequate protests" means, for a proposed sewer assessment area, timely filed,
106 written protests under Section [11-42-203](#) that represent at least 70% of the frontage, area,
107 taxable value, fair market value, lots, number of connections, or equivalent residential units of
108 the property proposed to be assessed, according to the same assessment method by which the
109 assessment is proposed to be levied, after eliminating adequate protests under Subsection

110 (1)(a).

111 (2) "Assessment area" means an area, or, if more than one area is designated, the
112 aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a
113 local entity under Part 2, Designating an Assessment Area, for the purpose of financing the
114 costs of improvements, operation and maintenance, or economic promotion activities that
115 benefit property within the area.

116 (3) "Assessment bonds" means bonds that are:

117 (a) issued under Section 11-42-605; and

118 (b) payable in part or in whole from assessments levied in an assessment area,
119 improvement revenues, and a guaranty fund or reserve fund.

120 (4) "Assessment fund" means a special fund that a local entity establishes under
121 Section 11-42-412.

122 (5) "Assessment lien" means a lien on property within an assessment area that arises
123 from the levy of an assessment, as provided in Section 11-42-501.

124 (6) "Assessment method" means the method:

125 (a) by which an assessment is levied against benefitted property, whether by frontage,
126 area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential
127 unit, any combination of these methods, or any other method; and

128 (b) that, when applied to a benefitted property, accounts for an assessment that meets
129 the requirements of Section 11-42-409.

130 (7) "Assessment ordinance" means an ordinance adopted by a local entity under
131 Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

132 (8) "Assessment resolution" means a resolution adopted by a local entity under Section
133 11-42-404 that levies an assessment on benefitted property within an assessment area.

134 (9) "Benefitted property" means property within an assessment area that directly or
135 indirectly benefits from improvements, operation and maintenance, or economic promotion
136 activities.

137 (10) "Bond anticipation notes" means notes issued under Section 11-42-602 in
138 anticipation of the issuance of assessment bonds.

139 (11) "Bonds" means assessment bonds and refunding assessment bonds.

140 (12) "Commercial area" means an area in which at least 75% of the property is devoted
141 to the interchange of goods or commodities.

142 (13) (a) "Commercial or industrial real property" means real property used directly or
143 indirectly or held for one of the following purposes or activities, regardless of whether the
144 purpose or activity is for profit:

- 145 (i) commercial;
- 146 (ii) mining;
- 147 (iii) industrial;
- 148 (iv) manufacturing;
- 149 (v) governmental;
- 150 (vi) trade;
- 151 (vii) professional;
- 152 (viii) a private or public club;
- 153 (ix) a lodge;
- 154 (x) a business; or
- 155 (xi) a similar purpose.

156 (b) "Commercial or industrial real property" includes real property that:

- 157 (i) is used as or held for dwelling purposes; and
- 158 (ii) contains more than four rental units.

159 (14) "Connection fee" means a fee charged by a local entity to pay for the costs of
160 connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or
161 electrical system, whether or not improvements are installed on the property.

162 (15) "Contract price" means:

- 163 (a) the cost of acquiring an improvement, if the improvement is acquired; or

- 164 (b) the amount payable to one or more contractors for the design, engineering,
165 inspection, and construction of an improvement.
- 166 (16) "Designation ordinance" means an ordinance adopted by a local entity under
167 Section 11-42-206 designating an assessment area.
- 168 (17) "Designation resolution" means a resolution adopted by a local entity under
169 Section 11-42-206 designating an assessment area.
- 170 (18) "Economic promotion activities" means activities that promote economic growth
171 in a commercial area of a local entity, including:
- 172 (a) sponsoring festivals and markets;
 - 173 (b) promoting business investment or activities;
 - 174 (c) helping to coordinate public and private actions; and
 - 175 (d) developing and issuing publications designed to improve the economic well-being
176 of the commercial area.
- 177 (19) "Environmental remediation activity" means a surface or subsurface enhancement,
178 effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth
179 movement, or change to grade or elevation that improves the use, function, aesthetics, or
180 environmental condition of publicly owned property.
- 181 (20) "Equivalent residential unit" means a dwelling, unit, or development that is equal
182 to a single-family residence in terms of the nature of its use or impact on an improvement to be
183 provided in the assessment area.
- 184 (21) "Governing body" means:
- 185 (a) for a county, city, or town, the legislative body of the county, city, or town;
 - 186 (b) for a local district, the board of trustees of the local district;
 - 187 (c) for a special service district:
 - 188 (i) the legislative body of the county, city, or town that established the special service
189 district, if no administrative control board has been appointed under Section 17D-1-301; or
 - 190 (ii) the administrative control board of the special service district, if an administrative

191 control board has been appointed under Section 17D-1-301;

192 (d) for the military installation development authority created in Section 63H-1-201,
193 the board, as defined in Section 63H-1-102; and

194 (e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as
195 defined in Section 11-58-102.

196 (22) "Guaranty fund" means the fund established by a local entity under Section
197 11-42-701.

198 (23) "Improved property" means property upon which a residential, commercial, or
199 other building has been built.

200 (24) "Improvement":

201 (a) (i) means a publicly owned infrastructure, facility, system, or environmental
202 remediation activity that:

203 (A) a local entity is authorized to provide;

204 (B) the governing body of a local entity determines is necessary or convenient to
205 enable the local entity to provide a service that the local entity is authorized to provide; or

206 (C) a local entity is requested to provide through an interlocal agreement in accordance
207 with Chapter 13, Interlocal Cooperation Act; and

208 (ii) includes facilities in an assessment area, including a private driveway, an irrigation
209 ditch, and a water turnout, that:

210 (A) can be conveniently installed at the same time as an infrastructure, system, or other
211 facility described in Subsection (24)(a)(i); and

212 (B) are requested by a property owner on whose property or for whose benefit the
213 infrastructure, system, or other facility is being installed; or

214 (b) for a local district created to assess groundwater rights in accordance with Section
215 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific
216 groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

217 (25) "Improvement revenues":

218 (a) means charges, fees, impact fees, or other revenues that a local entity receives from
219 improvements; and

220 (b) does not include revenue from assessments.

221 (26) "Incidental refunding costs" means any costs of issuing refunding assessment
222 bonds and calling, retiring, or paying prior bonds, including:

223 (a) legal and accounting fees;

224 (b) charges of financial advisors, escrow agents, certified public accountant verification
225 entities, and trustees;

226 (c) underwriting discount costs, printing costs, the costs of giving notice;

227 (d) any premium necessary in the calling or retiring of prior bonds;

228 (e) fees to be paid to the local entity to issue the refunding assessment bonds and to
229 refund the outstanding prior bonds;

230 (f) any other costs that the governing body determines are necessary and proper to incur
231 in connection with the issuance of refunding assessment bonds; and

232 (g) any interest on the prior bonds that is required to be paid in connection with the
233 issuance of the refunding assessment bonds.

234 (27) "Installment payment date" means the date on which an installment payment of an
235 assessment is payable.

236 (28) "Interim warrant" means a warrant issued by a local entity under Section
237 [11-42-601](#).

238 (29) "Jurisdictional boundaries" means:

239 (a) for a county, the boundaries of the unincorporated area of the county; and

240 (b) for each other local entity, the boundaries of the local entity.

241 (30) "Local district" means a local district under Title 17B, Limited Purpose Local
242 Government Entities - Local Districts.

243 (31) "Local entity" means:

244 (a) a county, city, town, special service district, or local district;

- 245 (b) an interlocal entity as defined in Section 11-13-103;
- 246 (c) [a] the military installation development authority, created in Section 63H-1-201;
- 247 (d) a public infrastructure district created by the military installation development
- 248 authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act;
- 249 [~~d~~] (e) the Utah Inland Port Authority, created in Section 11-58-201; or
- 250 [~~e~~] (f) any other political subdivision of the state.

251 (32) "Local entity obligations" means assessment bonds, refunding assessment bonds,
252 interim warrants, and bond anticipation notes issued by a local entity.

253 (33) "Mailing address" means:

254 (a) a property owner's last-known address using the name and address appearing on the
255 last completed real property assessment roll of the county in which the property is located; and

256 (b) if the property is improved property:

257 (i) the property's street number; or

258 (ii) the post office box, rural route number, or other mailing address of the property, if
259 a street number has not been assigned.

260 (34) "Net improvement revenues" means all improvement revenues that a local entity
261 has received since the last installment payment date, less all amounts payable by the local entity
262 from those improvement revenues for operation and maintenance costs.

263 (35) "Operation and maintenance costs":

264 (a) means the costs that a local entity incurs in operating and maintaining
265 improvements in an assessment area, whether or not those improvements have been financed
266 under this chapter; and

267 (b) includes service charges, administrative costs, ongoing maintenance charges, and
268 tariffs or other charges for electrical, water, gas, or other utility usage.

269 (36) "Overhead costs" means the actual costs incurred or the estimated costs to be
270 incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing
271 fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying

272 agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and
273 all other incidental costs.

274 (37) "Prior assessment ordinance" means the ordinance levying the assessments from
275 which the prior bonds are payable.

276 (38) "Prior assessment resolution" means the resolution levying the assessments from
277 which the prior bonds are payable.

278 (39) "Prior bonds" means the assessment bonds that are refunded in part or in whole by
279 refunding assessment bonds.

280 (40) "Project engineer" means the surveyor or engineer employed by or the private
281 consulting engineer engaged by a local entity to perform the necessary engineering services for
282 and to supervise the construction or installation of the improvements.

283 (41) "Property" includes real property and any interest in real property, including water
284 rights and leasehold rights.

285 (42) "Property price" means the price at which a local entity purchases or acquires by
286 eminent domain property to make improvements in an assessment area.

287 (43) "Provide" or "providing," with reference to an improvement, includes the
288 acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and
289 expansion of an improvement.

290 (44) "Public agency" means:

291 (a) the state or any agency, department, or division of the state; and

292 (b) a political subdivision of the state.

293 (45) "Reduced payment obligation" means the full obligation of an owner of property
294 within an assessment area to pay an assessment levied on the property after the assessment has
295 been reduced because of the issuance of refunding assessment bonds, as provided in Section
296 [11-42-608](#).

297 (46) "Refunding assessment bonds" means assessment bonds that a local entity issues
298 under Section [11-42-607](#) to refund, in part or in whole, assessment bonds.

299 (47) "Reserve fund" means a fund established by a local entity under Section
300 11-42-702.

301 (48) "Service" means:

302 (a) water, sewer, storm drainage, garbage collection, library, recreation,
303 communications, or electric service;

304 (b) economic promotion activities; or

305 (c) any other service that a local entity is required or authorized to provide.

306 (49) (a) "Sewer assessment area" means an assessment area that has as the assessment
307 area's primary purpose the financing and funding of public improvements to provide sewer
308 service where there is, in the opinion of the local board of health, substantial evidence of septic
309 system failure in the defined area due to inadequate soils, high water table, or other factors
310 proven to cause failure.

311 (b) "Sewer assessment area" does not include property otherwise located within the
312 assessment area:

313 (i) on which an approved conventional or advanced wastewater system has been
314 installed during the previous five calendar years;

315 (ii) for which the local health department has inspected the system described in
316 Subsection (49)(b)(i) to ensure that the system is functioning properly; and

317 (iii) for which the property owner opts out of the proposed assessment area for the
318 earlier of a period of 10 calendar years or until failure of the system described in Subsection
319 (49)(b)(i).

320 (50) "Special service district" means the same as that term is defined in Section
321 17D-1-102.

322 (51) "Unassessed benefitted government property" means property that a local entity
323 may not assess in accordance with Section 11-42-408 but is benefitted by an improvement,
324 operation and maintenance, or economic promotion activities.

325 (52) "Unimproved property" means property upon which no residential, commercial, or

326 other building has been built.

327 (53) "Voluntary assessment area" means an assessment area that contains only property
328 whose owners have voluntarily consented to an assessment.

329 Section 2. Section 11-42-106 is amended to read:

330 **11-42-106. Action to contest assessment or proceeding -- Requirements --**
331 **Exclusive remedy -- Bonds and assessment incontestable.**

332 (1) A person who contests an assessment or any proceeding to designate an assessment
333 area or levy an assessment may commence a civil action against the local entity to:

- 334 (a) set aside a proceeding to designate an assessment area; or
- 335 (b) enjoin the levy or collection of an assessment.

336 (2) (a) Each action under Subsection (1) shall be commenced in the district court with
337 jurisdiction in the county in which the assessment area is located.

338 (b) (i) ~~[(A)]~~ Except as provided in Subsection (2)(b)(ii), an action under Subsection (1)
339 may not be commenced against and a summons relating to the action may not be served on the
340 local entity more than 60 days after the effective date of the:

341 ~~[(i)]~~ (A) designation resolution or designation ordinance, if the challenge is to the
342 designation of an assessment area;

343 ~~[(ii)]~~ (B) assessment resolution or ordinance, if the challenge is to an assessment; or

344 ~~[(iii)]~~ (C) amended resolution or ordinance, if the challenge is to an amendment.

345 (ii) The period for commencing an action and serving a summons under Subsection
346 (2)(b)(i) is 30 days if the designation resolution, assessment resolution, or amended resolution
347 was:

348 (A) adopted by the military installation development authority, created in Section
349 63H-1-201, or a public infrastructure district created by the military installation development
350 authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act; and

351 (B) all owners of property within the assessment area or proposed assessment area
352 consent in writing to the designation resolution, assessment resolution, or amended resolution.

353 (3) (a) An action under Subsection (1) is the exclusive remedy of a person who:
354 (i) claims an error or irregularity in an assessment or in any proceeding to designate an
355 assessment area or levy an assessment; or
356 (ii) challenges a bondholder's right to repayment.

357 (b) A court may not hear any complaint under Subsection (1) that a person was
358 authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under
359 Section 11-42-204.

360 (c) (i) If a person has not brought a claim for which the person was previously
361 authorized to bring but is otherwise barred from making under Subsection (2)(b), the claim
362 may not be brought later because of an amendment to the resolution or ordinance unless the
363 claim arises from the amendment itself.

364 (ii) In an action brought pursuant to Subsection (1), a person may not contest a
365 previous decision, proceeding, or determination for which the service deadline described in
366 Subsection (2)(b) has expired by challenging a subsequent decision, proceeding, or
367 determination.

368 (4) An assessment or a proceeding to designate an assessment area or to levy an
369 assessment may not be declared invalid or set aside in part or in whole because of an error or
370 irregularity that does not go to the equity or justice of the proceeding or the assessment meeting
371 the requirements of Section 11-42-409.

372 (5) After the expiration of the [60-day] period referred to in Subsection (2)(b):

373 (a) assessment bonds and refunding assessment bonds issued or to be issued with
374 respect to an assessment area and assessments levied on property in the assessment area
375 become at that time incontestable against all persons who have not commenced an action and
376 served a summons as provided in this section; and

377 (b) a suit to enjoin the issuance or payment of assessment bonds or refunding
378 assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or
379 question in any way the legality of assessment bonds, refunding assessment bonds, or an

380 assessment may not be commenced, and a court may not inquire into those matters.

381 (6) (a) This section may not be interpreted to insulate a local entity from a claim of
382 misuse of assessment funds after the expiration of the [~~60-day~~] period described in Subsection
383 (2)(b).

384 (b) (i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus
385 is the sole form of relief available to a party challenging the misuse of assessment funds.

386 (ii) The limitation in Subsection (6)(b)(i) does not prohibit the filing of criminal
387 charges against or the prosecution of a party for the misuse of assessment funds.

388 Section 3. Section **11-42-202** is amended to read:

389 **11-42-202. Requirements applicable to a notice of a proposed assessment area**
390 **designation.**

391 (1) Each notice required under Subsection **11-42-201**(2)(a) shall:

392 (a) state that the local entity proposes to:

393 (i) designate one or more areas within the local entity's jurisdictional boundaries as an
394 assessment area;

395 (ii) provide an improvement to property within the proposed assessment area; and

396 (iii) finance some or all of the cost of improvements by an assessment on benefitted
397 property within the assessment area;

398 (b) describe the proposed assessment area by any reasonable method that allows an
399 owner of property in the proposed assessment area to determine that the owner's property is
400 within the proposed assessment area;

401 (c) describe, in a general and reasonably accurate way, the improvements to be
402 provided to the assessment area, including:

403 (i) the nature of the improvements; and

404 (ii) the location of the improvements, by reference to streets or portions or extensions
405 of streets or by any other means that the governing body chooses that reasonably describes the
406 general location of the improvements;

407 (d) state the estimated cost of the improvements as determined by a project engineer;

408 (e) for the version of notice mailed in accordance with Subsection (4)(b), state the
409 estimated total assessment specific to the benefitted property for which the notice is mailed;

410 (f) state that the local entity proposes to levy an assessment on benefitted property
411 within the assessment area to pay some or all of the cost of the improvements according to the
412 estimated benefits to the property from the improvements;

413 (g) if applicable, state that an unassessed benefitted government property will receive
414 improvements for which the cost will be allocated proportionately to the remaining benefitted
415 properties within the proposed assessment area and that a description of each unassessed
416 benefitted government property is available for public review at the location or website
417 described in Subsection (6);

418 (h) state the assessment method by which the governing body proposes to calculate the
419 proposed assessment, including, if the local entity is a municipality or county, whether the
420 assessment will be collected:

421 (i) by directly billing a property owner; or

422 (ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317
423 and in compliance with Section 11-42-401;

424 (i) state:

425 (i) the date described in Section 11-42-203 and the location at which protests against
426 designation of the proposed assessment area or of the proposed improvements are required to
427 be filed;

428 (ii) the method by which the governing body will determine the number of protests
429 required to defeat the designation of the proposed assessment area or acquisition or
430 construction of the proposed improvements; and

431 (iii) in large, boldface, and conspicuous type that a property owner must protest the
432 designation of the assessment area in writing if the owner objects to the area designation or
433 being assessed for the proposed improvements, operation and maintenance costs, or economic

- 434 promotion activities;
- 435 (j) state the date, time, and place of the public hearing required in Section 11-42-204;
- 436 (k) if the governing body elects to create and fund a reserve fund under Section
- 437 11-42-702, include a description of:
 - 438 (i) how the reserve fund will be funded and replenished; and
 - 439 (ii) how remaining money in the reserve fund is to be disbursed upon full payment of
 - 440 the bonds;
 - 441 (l) if the governing body intends to designate a voluntary assessment area, include a
 - 442 property owner consent form that:
 - 443 (i) estimates the total assessment to be levied against the particular parcel of property;
 - 444 (ii) describes any additional benefits that the governing body expects the assessed
 - 445 property to receive from the improvements;
 - 446 (iii) designates the date and time by which the fully executed consent form is required
 - 447 to be submitted to the governing body; and
 - 448 (iv) if the governing body intends to enforce an assessment lien on the property in
 - 449 accordance with Subsection 11-42-502.1(2)(a)(ii)(C):
 - 450 (A) appoints a trustee that satisfies the requirements described in Section 57-1-21;
 - 451 (B) gives the trustee the power of sale; ~~and~~
 - 452 (C) is binding on the property owner and all successors; and
 - 453 ~~[(C)] (D)~~ explains that if an assessment or an installment of an assessment is not paid
 - 454 when due, the local entity may sell the property owner's property to satisfy the amount due plus
 - 455 interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;
 - 456 (m) if the local entity intends to levy an assessment to pay operation and maintenance
 - 457 costs or for economic promotion activities, include:
 - 458 (i) a description of the operation and maintenance costs or economic promotion
 - 459 activities to be paid by assessments and the initial estimated annual assessment to be levied;
 - 460 (ii) a description of how the estimated assessment will be determined;

461 (iii) a description of how and when the governing body will adjust the assessment to
462 reflect the costs of:

463 (A) in accordance with Section 11-42-406, current economic promotion activities; or

464 (B) current operation and maintenance costs;

465 (iv) a description of the method of assessment if different from the method of
466 assessment to be used for financing any improvement; and

467 (v) a statement of the maximum number of years over which the assessment will be
468 levied for:

469 (A) operation and maintenance costs; or

470 (B) economic promotion activities;

471 (n) if the governing body intends to divide the proposed assessment area into
472 classifications under Subsection 11-42-201(1)(b), include a description of the proposed
473 classifications;

474 (o) if applicable, state the portion and value of the improvement that will be increased
475 in size or capacity to serve property outside of the assessment area and how the increases will
476 be financed; and

477 (p) state whether the improvements will be financed with a bond and, if so, the
478 currently estimated interest rate and term of financing, subject to Subsection (2), for which the
479 benefitted properties within the assessment area may be obligated.

480 (2) The estimated interest rate and term of financing in Subsection (1)(p) may not be
481 interpreted as a limitation to the actual interest rate incurred or the actual term of financing as
482 subject to the market rate at the time of the issuance of the bond.

483 (3) A notice required under Subsection 11-42-201(2)(a) may contain other information
484 that the governing body considers to be appropriate, including:

485 (a) the amount or proportion of the cost of the improvement to be paid by the local
486 entity or from sources other than an assessment;

487 (b) the estimated total amount of each type of assessment for the various improvements

488 to be financed according to the method of assessment that the governing body chooses; and

489 (c) provisions for any improvements described in Subsection 11-42-102(24)(a)(ii).

490 (4) Each notice required under Subsection 11-42-201(2)(a) shall:

491 (a) (i) (A) be published in a newspaper of general circulation within the local entity's
492 jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at
493 least five but not more than 20 days before the day of the hearing required in Section
494 11-42-204; or

495 (B) if there is no newspaper of general circulation within the local entity's jurisdictional
496 boundaries, be posted in at least three public places within the local entity's jurisdictional
497 boundaries at least 20 but not more than 35 days before the day of the hearing required in
498 Section 11-42-204; and

499 (ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for
500 four weeks before the deadline for filing protests specified in the notice under Subsection
501 (1)(i); and

502 (b) be mailed, postage prepaid, within 10 days after the first publication or posting of
503 the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed
504 assessment area at the property owner's mailing address.

505 (5) (a) The local entity may record the version of the notice that is published or posted
506 in accordance with Subsection (4)(a) with the office of the county recorder, by legal description
507 and tax identification number as identified in county records, against the property proposed to
508 be assessed.

509 (b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year
510 after the day on which the local entity records the notice if the local entity has failed to adopt
511 the designation ordinance or resolution under Section 11-42-201 designating the assessment
512 area for which the notice was recorded.

513 (6) A local entity shall make available on the local entity's website, or, if no website is
514 available, at the local entity's place of business, the address and type of use of each unassessed

515 benefitted government property described in Subsection (1)(g).

516 (7) If a governing body fails to provide actual or constructive notice under this section,
517 the local entity may not assess a levy against a benefitted property omitted from the notice
518 unless:

519 (a) the property owner gives written consent;

520 (b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did
521 not object to the levy of the assessment before the final hearing of the board of equalization; or

522 (c) the benefitted property is conveyed to a subsequent purchaser and, before the date
523 of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable,
524 Subsection 11-42-207(1)(d)(i) are met.

525 Section 4. Section 11-42-411 is amended to read:

526 **11-42-411. Installment payment of assessments.**

527 (1) (a) In an assessment resolution or ordinance, the governing body may, subject to
528 Subsection (1)(b), provide that some or all of the assessment be paid in installments over a
529 period:

530 (i) not to exceed 20 years from the effective date of the resolution or ordinance^[1],
531 except as provided in Subsection (1)(a)(ii); or

532 (ii) not to exceed 30 years from the effective date of the resolution, for a resolution
533 adopted by:

534 (A) the military installation development authority, created in Section 63H-1-201; or

535 (B) a public infrastructure district created by the military installation development
536 authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

537 (b) If an assessment resolution or ordinance provides that some or all of the assessment
538 be paid in installments for a period exceeding 10 years from the effective date of the resolution
539 or ordinance, the governing body:

540 (i) shall make a determination that:

541 (A) the improvement for which the assessment is made has a reasonable useful life for

542 the full period during which installments are to be paid; or

543 (B) it would be in the best interests of the local entity and the property owners for
544 installments to be paid for more than 10 years; and

545 (ii) may provide in the resolution or ordinance that no assessment is payable during
546 some or all of the period ending three years after the effective date of the resolution or
547 ordinance.

548 (2) An assessment resolution or ordinance that provides for the assessment to be paid
549 in installments may provide that the unpaid balance be paid over the period of time that
550 installments are payable:

551 (a) in substantially equal installments of principal; or

552 (b) in substantially equal installments of principal and interest.

553 (3) (a) Each assessment resolution or ordinance that provides for the assessment to be
554 paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance
555 of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and
556 variable rates, as determined by the governing body, from the effective date of the resolution or
557 ordinance or another date specified in the resolution or ordinance.

558 (b) If the assessment is for operation and maintenance costs or for the costs of
559 economic promotion activities:

560 (i) a local entity may charge interest only from the date each installment is due; and

561 (ii) the first installment of an assessment shall be due 15 days after the effective date of
562 the assessment resolution or ordinance.

563 (c) If an assessment resolution or ordinance provides for the unpaid balance of the
564 assessment to bear interest at a variable rate, the assessment resolution or ordinance shall
565 specify:

566 (i) the basis upon which the rate is to be determined from time to time;

567 (ii) the manner in which and schedule upon which the rate is to be adjusted; and

568 (iii) a maximum rate that the assessment may bear.

- 569 (4) Interest payable on assessments may include:
- 570 (a) interest on assessment bonds;
- 571 (b) ongoing local entity costs incurred for administration of the assessment area; and
- 572 (c) any costs incurred with respect to:
- 573 (i) securing a letter of credit or other instrument to secure payment or repurchase of
- 574 bonds; or
- 575 (ii) retaining a marketing agent or an indexing agent.
- 576 (5) Interest imposed in an assessment resolution or ordinance shall be paid in addition
- 577 to the amount of each installment annually or at more frequent intervals as provided in the
- 578 assessment resolution or ordinance.
- 579 (6) (a) Except for an assessment for operation and maintenance costs or for the costs of
- 580 economic promotion activities, a property owner may pay some or all of the entire assessment
- 581 without interest if paid within 25 days after the assessment resolution or ordinance takes effect.
- 582 (b) After the 25-day period stated in Subsection (6)(a), a property owner may at any
- 583 time prepay some or all of the assessment levied against the owner's property.
- 584 (c) A local entity may require a prepayment of an installment to include:
- 585 (i) an amount equal to the interest that would accrue on the assessment to the next date
- 586 on which interest is payable on bonds issued in anticipation of the collection of the assessment;
- 587 and
- 588 (ii) the amount necessary, in the governing body's opinion or the opinion of the officer
- 589 designated by the governing body, to assure the availability of money to pay:
- 590 (A) interest that becomes due and payable on those bonds; and
- 591 (B) any premiums that become payable on bonds that are called in order to use the
- 592 money from the prepaid assessment installment.

593 Section 5. Section **11-42-502.1** is amended to read:

594 **11-42-502.1. Enforcement of an assessment lien -- Post-May 10, 2016, procedure.**

595 (1) (a) Except as provided in Subsection (1)(b), the provisions of this section apply to

596 any property that is:

597 (i) located within the boundaries of an assessment area; and

598 (ii) the subject of a foreclosure procedure initiated on or after May 10, 2016, for an
599 assessment or an installment of an assessment that is not paid when due.

600 (b) The provisions of this chapter do not apply to property described in Subsection
601 11-42-502(1)(b).

602 (2) (a) If an assessment or an installment of an assessment is not paid when due in a
603 given year:

604 (i) subject to Subsection (2)(b):

605 (A) by September 15, the governing body of the local entity that levies the assessment
606 shall certify any unpaid amount calculated as of the date of the certification to the treasurer of
607 the county in which the assessed property is located; and

608 (B) the county treasurer shall include the certified amount on the property tax notice
609 required by Section 59-2-1317 for that year; and

610 (ii) the local entity may sell the property on which the assessment has been levied for
611 the amount due plus interest, penalties, and costs:

612 (A) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the
613 sale of property for delinquent general property taxes;

614 (B) by judicial foreclosure; or

615 (C) in the manner described in Title 57, Chapter 1, Conveyances, if the property is in a
616 voluntary assessment area and the owner of record of the property [~~at the time the local entity~~
617 ~~initiates the process to sell the property in accordance with Title 57, Chapter 1, Conveyances,~~]
618 executed a property owner's consent form described in Subsection 11-42-202(1)(l) that includes
619 a provision described in Subsection 11-42-202(1)(l)(iv).

620 (b) (i) The certification of the unpaid amount described in Subsection (2)(a)(i):

621 (A) has no effect on the amount due plus interest, penalties, and costs or other
622 requirements of the assessment as described in the assessment resolution or ordinance; and

623 (B) is required to provide for the ability of the local entity to collect the delinquent
624 assessment by the sale of property in a sale for delinquent general property taxes and tax notice
625 charges, as that term is defined in Section 59-2-1301.5, in accordance with Title 59, Chapter 2,
626 Part 13, Collection of Taxes.

627 (ii) A local entity's failure to certify an amount in accordance with Subsection (2)(a)(i)
628 or a county treasurer's failure to include the certified amount on the property tax notice is not a
629 defense to and does not delay, prohibit, or diminish a local entity's lien rights or authority to
630 pursue any enforcement remedy, other than a delay in the local entity's ability to collect the
631 delinquent assessment as described in Subsection (2)(b)(i)(B).

632 (c) Nothing in Subsection (2)(a)(i) or in Title 11, Chapter 60, Political Subdivision
633 Lien Authority, prohibits or diminishes a local entity's authority to pursue any remedy in
634 Subsection (2)(a)(ii).

635 (3) Except as otherwise provided in this chapter, each tax sale under Subsection
636 (2)(a)(ii)(A) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same
637 extent as if the sale were for the sale of property for delinquent general property taxes.

638 (4) (a) The redemption of property that is the subject of a tax sale under Subsection
639 (2)(a)(ii)(A) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

640 (b) The redemption of property that is the subject of a judicial foreclosure proceeding
641 under Subsection (2)(a)(ii)(B) is governed by Title 78B, Chapter 6, Part 9, Mortgage
642 Foreclosure.

643 (c) The redemption of property that is the subject of a foreclosure proceeding under
644 Subsection (2)(a)(ii)(C) is governed by Title 57, Chapter 1, Conveyances.

645 (5) (a) The remedies described in this part for the collection of an assessment and the
646 enforcement of an assessment lien are cumulative.

647 (b) The use of one or more of the remedies described in this part does not deprive the
648 local entity of any other available remedy or means of collecting the assessment or enforcing
649 the assessment lien.

650 Section 6. Section **17B-2a-1202** is amended to read:

651 **17B-2a-1202. Definitions.**

652 As used in this part:

653 (1) "Board" means the board of trustees of a public infrastructure district.

654 (2) "Creating entity" means the county [~~or~~], municipality, or development authority that
655 approves [~~of~~] the creation of the public infrastructure district.

656 (3) "Development authority" means the military installation development authority
657 created in Section 63H-1-201.

658 [~~(3)~~] (4) "District applicant" means the person proposing the creation of the public
659 infrastructure district.

660 [~~(4)~~] (5) "Division" means a division of a public infrastructure district:

661 (a) that is relatively equal in number of eligible voters or potential eligible voters to all
662 other divisions within the public infrastructure district, taking into account existing or potential
663 developments which, when completed, would increase or decrease the population within the
664 public infrastructure district; and

665 (b) which a member of the board represents.

666 [~~(5)~~] (6) "Governing document" means the document governing the public
667 infrastructure district to which the creating entity agrees before the creation of the public
668 infrastructure district, as amended from time to time, and subject to the limitations of Chapter
669 1, Provisions Applicable to All Local Districts, and this part.

670 [~~(6)~~] (7) (a) "Limited tax bond" means a bond:

671 (i) that is directly payable from and secured by ad valorem property taxes that are
672 levied:

673 (A) by the public infrastructure district that issues the bond; and

674 (B) on taxable property within the district;

675 (ii) that is a general obligation of the public infrastructure district; and

676 (iii) for which the ad valorem property tax levy for repayment of the bond does not

677 exceed the mill rate limit established under Section 17B-2a-1209 for any fiscal year, except as
678 provided in Subsection 17B-2a-1207(8).

679 (b) "Limited tax bond" does not include:

680 (i) a short-term bond;

681 (ii) a tax and revenue anticipation bond; or

682 (iii) a special assessment bond.

683 Section 7. Section 17B-2a-1204 is amended to read:

684 **17B-2a-1204. Creation.**

685 (1) (a) ~~[(a)]~~ Except as provided in Subsection (1)(b) and in addition to the provisions
686 regarding creation of a local district in Chapter 1, Provisions Applicable to All Local Districts,
687 a public infrastructure district may not be created unless:

688 ~~[(a)]~~ (i) if there are any registered voters within the applicable area, a petition is filed
689 with the creating entity that contains the signatures of 100% of registered voters within the
690 applicable area approving the creation of the public infrastructure district; and

691 ~~[(b)]~~ (ii) a petition is filed with the creating entity that contains the signatures of 100%
692 of surface property owners within the applicable area consenting to the creation of the public
693 infrastructure district.

694 (b) Notwithstanding Chapter 1, Part 2, Creation of a Local District, and any other
695 provision of this part, the development authority may adopt a resolution creating a public
696 infrastructure district as a subsidiary of the development authority if all owners of surface
697 property proposed to be included within the public infrastructure district consent in writing to
698 the creation of the public infrastructure district.

699 (2) The election requirement of Section 17B-1-214 does not apply to a petition meeting
700 the requirements of Subsection (1)(a).

701 (3) (a) Notwithstanding Chapter 1, Part 4, Annexation, an area outside of the
702 boundaries of a public infrastructure district may be annexed into the public infrastructure
703 district after:

704 (i) adoption of resolutions of the board and the creating entity, each approving of the
705 annexation;

706 (ii) if there are any registered voters within the area proposed to be annexed, a petition
707 is filed with the creating entity that contains the signatures of 100% of registered voters within
708 the area and approves of the annexation into the public infrastructure district; and

709 (iii) a petition is filed with the creating entity that contains the signatures of 100% of
710 surface property owners within the area proposed to be annexed and consents to the annexation
711 into the public infrastructure district.

712 (b) Upon meeting the requirements of Subsection (3)(a), the board shall comply with
713 the resolution and filing requirements of Subsections 17B-1-414(1) and (2).

714 (c) (i) Notwithstanding Chapter 1, Part 5, Withdrawal, property may be withdrawn
715 from a public infrastructure district after:

716 (A) adoption of resolutions of the board and the creating entity, each approving of the
717 annexation;

718 (B) if there are any registered voters within the area proposed to be withdrawn, a
719 petition is filed with the creating entity that contains the signatures of 100% of registered voters
720 within the area and approves of the withdrawal from the public infrastructure district; and

721 (C) a petition is filed with the creating entity that contains the signatures of 100% of
722 surface property owners within the area proposed to be withdrawn and consents to the
723 withdrawal from the public infrastructure district.

724 (ii) If any bonds that the public infrastructure district issues are allocable to the area to
725 be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains
726 subject to any taxes, fees, or assessments that the public infrastructure district imposes until the
727 bonds or any associated refunding bonds are paid.

728 (d) Upon meeting the requirements of Subsection (3)(c), the board shall comply with
729 the requirements of Section 17B-1-512.

730 (4) The creating entity may impose limitations on the powers of the public

731 infrastructure district through the governing document.

732 (5) (a) A public infrastructure district is separate and distinct from the creating entity.

733 (b) (i) Except as provided in Subsection (5)(b)(ii), any financial burden of a public

734 infrastructure district:

735 (A) is borne solely by the public infrastructure district; and

736 (B) is not borne by the creating entity [~~or any municipality, county,~~], by the state, or

737 [~~any~~] by any municipality, county, or other political subdivision.

738 (ii) Notwithstanding Subsection (5)(b)(i) and Section 17B-1-216, the governing

739 document may require:

740 (A) the district applicant to bear the initial costs of the public infrastructure district;

741 and

742 (B) the public infrastructure district to reimburse the district applicant for the initial

743 costs the creating entity bears.

744 (c) Any liability, judgment, or claim against a public infrastructure district:

745 (i) is the sole responsibility of the public infrastructure district; and

746 (ii) does not constitute a liability, judgment, or claim against the creating entity, the

747 state, or any municipality, county, or other political subdivision.

748 (d) (i) (A) The public infrastructure district solely bears the responsibility of any

749 collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment

750 the public infrastructure district imposes.

751 (B) The creating entity does not bear the responsibility described in Subsection

752 (5)(d)(i)(A).

753 (ii) A public infrastructure district, and not the creating entity, shall undertake the

754 enforcement responsibility described in, as applicable, Subsection (5)(d)(i) in accordance with

755 Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

756 (6) The creating entity may establish criteria in determining whether to approve or

757 disapprove of the creation of a public infrastructure district, including:

- 758 (a) historical performance of the district applicant;
- 759 (b) compliance with the creating entity's master plan;
- 760 (c) credit worthiness of the district applicant;
- 761 (d) plan of finance of the public infrastructure district; and
- 762 (e) proposed development within the public infrastructure district.

763 (7) (a) The creation of a public infrastructure district is subject to the sole discretion of
764 the creating entity responsible for approving or rejecting the creation of the public
765 infrastructure district.

766 (b) The proposed creating entity bears no liability for rejecting the proposed creation of
767 a public infrastructure district.

768 Section 8. Section **17B-2a-1205** is amended to read:

769 **17B-2a-1205. Public infrastructure district board -- Governing document.**

770 (1) The legislative body or board of the creating entity [~~that approves the creation of a~~
771 ~~public infrastructure district~~] shall appoint the members of the board, in accordance with the
772 governing document.

773 (2) (a) Unless otherwise limited in the governing document and except as provided in
774 Subsection (2)(b), the initial term of each member of the board is four years.

775 (b) Notwithstanding Subsection (2)(a), approximately half of the members of the initial
776 board shall serve a six-year term so that, after the expiration of the initial term, the term of
777 approximately half the board members expires every two years.

778 (c) A board may elect that a majority of the board serve an initial term of six years.

779 (d) After the initial term, the term of each member of the board is four years.

780 (3) (a) Notwithstanding Subsection **17B-1-302**(1)(b), a board member is not required
781 to be a resident within the boundaries of the public infrastructure district if:

782 (i) all of the surface property owners consent to the waiver of the residency
783 requirement;

784 (ii) there are no residents within the boundaries of the public infrastructure district;

785 (iii) no qualified candidate timely files to be considered for appointment to the board;

786 or

787 (iv) no qualified individual files a declaration of candidacy for a board position in
788 accordance with Subsection 17B-1-306(4).

789 (b) Except under the circumstances described in Subsection (3)(a)(iii) or (iv), the
790 residency requirement in Subsection 17B-1-302(1)(b) is applicable to any board member
791 elected for a division or board position that has transitioned from an appointed to an elected
792 board member in accordance with this section.

793 (c) An individual who is not a resident within the boundaries of the public
794 infrastructure district may not serve as a board member unless the individual is:

795 (i) an owner of land or an agent or officer of the owner of land within the boundaries of
796 the public infrastructure district; and

797 (ii) a registered voter at the individual's primary residence.

798 (4) (a) A governing document may provide for a transition from legislative body
799 appointment under Subsection (1) to a method of election by registered voters based upon
800 milestones or events that the governing document identifies, including a milestone for each
801 division or individual board position providing that when the milestone is reached:

802 (i) for a division, the registered voters of the division elect a member of the board in
803 place of an appointed member at the next municipal general election for the board position; or

804 (ii) for an at large board position established in the governing document, the registered
805 voters of the public infrastructure district elect a member of the board in place of an appointed
806 member at the next municipal general election for the board position.

807 (b) Regardless of whether a board member is elected under Subsection (4)(a), the
808 position of each remaining board member shall continue to be appointed under Subsection (1)
809 until the member's respective division or board position surpasses the density milestone
810 described in the governing document.

811 (5) (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no

812 more frequently than every four years, reestablish the boundaries of each division so that each
813 division that has reached a milestone specified in the governing document, as described in
814 Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.

815 (b) In reestablishing division boundaries under Subsection (5)(a), the board shall
816 consider existing or potential developments within the divisions which, when completed,
817 would increase or decrease the number of eligible voters within the division.

818 (c) The governing document may prohibit the board from reestablishing, without the
819 consent of the creating entity, the division boundaries as described in Subsection (5)(a).

820 (6) The public infrastructure district may not compensate a board member for the
821 member's service on the board under Section 17B-1-307 unless the board member is a resident
822 within the boundaries of the public infrastructure district.

823 (7) The governing document shall:

824 (a) include a boundary description and a map of the public infrastructure district;

825 (b) state the number of board members;

826 (c) describe any divisions of the public infrastructure district;

827 (d) establish any applicable mill rate limit for the public infrastructure district;

828 (e) establish any applicable limitation on the principal amount of indebtedness for the
829 public infrastructure district; and

830 (f) include other information that the public infrastructure district or the creating entity
831 determines to be necessary or advisable.

832 (8) (a) Except as provided in Subsection (8)(b), the board and the governing body of
833 the creating entity may amend a governing document by each adopting a resolution that
834 approves the amended governing document.

835 (b) Notwithstanding Subsection (8)(a), any amendment to a property tax mill limitation
836 requires:

837 (i) before the adoption of the resolution of the creating entity described in Subsection
838 (8)(a), the public infrastructure district to comply with the notice and public hearing

839 requirements of Section 59-2-919, with at least one member of the governing body of the
840 creating entity attending the public hearing required in Subsection 59-2-919(3)(a)(v) or (4)(b);
841 or

842 (ii) the consent of:

843 (A) 100% of surface property owners within the boundaries of the public infrastructure
844 district; and

845 (B) 100% of the registered voters, if any, within the boundaries of the public
846 infrastructure district.

847 (9) A board member is not in violation of Section 67-16-9 if the board member:

848 (a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8
849 and files the disclosure with the creating entity:

850 (i) before any appointment or election; and

851 (ii) upon any significant change in the business relationship; and

852 (b) conducts the affairs of the public infrastructure district in accordance with this title
853 and any parameters described in the governing document.

854 (10) Notwithstanding any other provision of this section, the governing document
855 governs the number, appointment, and terms of board members of a public infrastructure
856 district created by the development authority.

857 Section 9. Section 17B-2a-1206 is amended to read:

858 **17B-2a-1206. Additional public infrastructure district powers.**

859 In addition to the powers conferred on a public infrastructure district under Section
860 17B-1-103, a public infrastructure district may:

861 (1) issue negotiable bonds to pay:

862 (a) all or part of the costs of acquiring, acquiring an interest in, improving, or extending
863 any of the improvements, facilities, or property allowed under Section 11-14-103;

864 (b) capital costs of improvements in an energy assessment area, as defined in Section
865 11-42a-102, and other related costs, against the funds that the public infrastructure district will

866 receive because of an assessment in an energy assessment area, as defined in Section

867 [~~11-42a-401~~] 11-42a-102;

868 (c) public improvements related to the provision of housing; [~~and~~]

869 (d) capital costs related to public transportation; and

870 (e) for a public infrastructure district created by the development authority, the cost of
871 acquiring or financing publicly owned infrastructure and improvements;

872 (2) enter into an interlocal agreement in accordance with Title 11, Chapter 13,
873 Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers
874 of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal
875 Cooperation Act, without the consent of the creating entity;

876 (3) acquire completed or partially completed improvements for fair market value as
877 reasonably determined by:

878 (a) the board;

879 (b) the creating entity, if required in the governing document; or

880 (c) a surveyor or engineer that a public infrastructure district employs or engages to
881 perform the necessary engineering services for and to supervise the construction or installation
882 of the improvements; [~~and~~]

883 (4) contract with the creating entity for the creating entity to provide administrative
884 services on behalf of the public infrastructure district, when agreed to by both parties, in order
885 to achieve cost savings and economic efficiencies, at the discretion of the creating entity[~~-~~]; and

886 (5) for a public infrastructure district created by a development authority:

887 (a) (i) operate and maintain publicly owned infrastructure and improvements the
888 district acquires or finances; and

889 (ii) use fees, assessments, or taxes to pay for the operation and maintenance of those
890 publicly owned infrastructure and improvements; and

891 (b) issue bonds under Title 11, Chapter 42, Assessment Area Act.

892 Section 10. Section **63H-1-102** is amended to read:

893 **63H-1-102. Definitions.**

894 As used in this chapter:

895 (1) "Authority" means the Military Installation Development Authority, created under
896 Section [63H-1-201](#).

897 (2) "Base taxable value" means:

898 (a) for military land or other land that was exempt from a property tax at the time that a
899 project area was created that included the military land or other land, a taxable value of zero; or

900 (b) for private property that is included in a project area, the taxable value of the
901 property within any portion of the project area, as designated by board resolution, from which
902 the property tax allocation will be collected, as shown upon the assessment roll last equalized:

903 (i) before the year in which the authority creates the project area[-]; or

904 (ii) before the year in which the project area plan is amended, for property added to a
905 project area by an amendment to a project area plan.

906 (3) "Board" means the governing body of the authority created under Section
907 [63H-1-301](#).

908 (4) (a) "Dedicated tax collections" means the property tax that remains after the
909 authority is paid the property tax allocation the authority is entitled to receive under Subsection
910 [63H-1-501](#)(1), for a property tax levied by:

911 (i) a county, including a district the county has established under Subsection [17-34-3](#)(2)
912 to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated
913 Areas; or

914 (ii) an included municipality.

915 (b) "Dedicated tax collections" does not include a county additional property tax or
916 multicounty assessing and collecting levy imposed in accordance with Section [59-2-1602](#).

917 (5) (a) "Development" means an activity occurring:

918 (i) on land within a project area that is owned or operated by the military, the authority,
919 another public entity, or a private entity; or

- 920 (ii) on military land associated with a project area.
- 921 (b) "Development" includes the demolition, construction, reconstruction, modification,
922 expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or
923 recreational amenity.
- 924 (6) "Development project" means a project to develop land within a project area.
- 925 (7) "Elected member" means a member of the authority board who:
- 926 (a) is a mayor or member of a legislative body appointed under Subsection
927 [63H-1-302\(2\)\(b\)](#); or
- 928 (b) (i) is appointed to the authority board under Subsection [63H-1-302\(2\)\(a\)](#) or (3); and
929 (ii) concurrently serves in an elected state, county, or municipal office.
- 930 (8) "Included municipality" means a municipality, some or all of which is included
931 within a project area.
- 932 (9) (a) "Military" means a branch of the armed forces of the United States, including
933 the Utah National Guard.
- 934 (b) "Military" includes, in relation to property, property that is occupied by the military
935 and is owned by the government of the United States or the state.
- 936 (10) "Military Installation Development Authority accommodations tax" or "MIDA
937 accommodations tax" means the tax imposed under Section [63H-1-205](#).
- 938 (11) "Military Installation Development Authority energy tax" or "MIDA energy tax"
939 means the tax levied under Section [63H-1-204](#).
- 940 (12) "Military land" means land or a facility, including leased land or a leased facility,
941 that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the
942 jurisdiction of the United States Department of Defense, the United States Department of
943 Veterans Affairs, or the Utah National Guard.
- 944 (13) "Municipal energy tax" means a municipal energy sales and use tax under Title
945 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.
- 946 (14) "Municipal services revenue" means revenue that the authority:

- 947 (a) collects from the authority's:
- 948 (i) levy of a municipal energy tax;
- 949 (ii) levy of a MIDA energy tax;
- 950 (iii) levy of a telecommunications tax;
- 951 (iv) imposition of a transient room tax; and
- 952 (v) imposition of a resort communities tax;
- 953 (b) receives under Subsection [59-12-205\(2\)\(b\)\(ii\)](#); and
- 954 (c) receives as dedicated tax collections.
- 955 (15) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA
- 956 accommodations tax, telecommunications tax, transient room tax, or resort communities tax.
- 957 (16) "Project area" means the land, including military land, whether consisting of a
- 958 single contiguous area or multiple noncontiguous areas, described in a project area plan or draft
- 959 project area plan, where the development project set forth in the project area plan or draft
- 960 project area plan takes place or is proposed to take place.
- 961 (17) "Project area budget" means a multiyear projection of annual or cumulative
- 962 revenues and expenses and other fiscal matters pertaining to a project area that includes:
- 963 (a) the base taxable value of property in the project area;
- 964 (b) the projected property tax allocation expected to be generated within the project
- 965 area;
- 966 (c) the amount of the property tax allocation expected to be shared with other taxing
- 967 entities;
- 968 (d) the amount of the property tax allocation expected to be used to implement the
- 969 project area plan, including the estimated amount of the property tax allocation to be used for
- 970 land acquisition, public improvements, infrastructure improvements, and loans, grants, or other
- 971 incentives to private and public entities;
- 972 (e) the property tax allocation expected to be used to cover the cost of administering
- 973 the project area plan;

974 (f) if the property tax allocation is to be collected at different times or from different
975 portions of the project area, or both:

976 (i) (A) the tax identification numbers of the parcels from which the property tax
977 allocation will be collected; or

978 (B) a legal description of the portion of the project area from which the property tax
979 allocation will be collected; and

980 (ii) an estimate of when other portions of the project area will become subject to
981 collection of the property tax allocation; and

982 (g) for property that the authority owns or leases and expects to sell or sublease, the
983 expected total cost of the property to the authority and the expected selling price or lease
984 payments.

985 (18) "Project area plan" means a written plan that, after the plan's effective date, guides
986 and controls the development within a project area.

987 (19) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4,
988 Privilege Tax, except as described in Subsection (19)(b), and each levy on an ad valorem basis
989 on tangible or intangible personal or real property.

990 (b) "Property tax" does not include a privilege tax on the taxable value:

991 (i) attributable to a portion of a facility leased to the military for a calendar year when:

992 (A) a lessee of military land has constructed a facility on the military land that is part of
993 a project area;

994 (B) the lessee leases space in the facility to the military for the entire calendar year; and

995 (C) the lease rate paid by the military for the space is \$1 or less for the entire calendar
996 year, not including any common charges that are reimbursements for actual expenses; or

997 (ii) of the following property owned by the authority, regardless of whether the
998 authority enters into a long-term operating agreement with a privately owned entity under
999 which the privately owned entity agrees to operate the property:

1000 (A) a hotel;

1001 (B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3;
1002 and

1003 (C) a commercial condominium unit in a condominium project, as defined in Section
1004 57-8-3.

1005 (20) "Property tax allocation" means the difference between:

1006 (a) the amount of property tax revenues generated each tax year by all taxing entities
1007 from the area within a project area designated in the project area plan as the area from which
1008 the property tax allocation is to be collected, using the current assessed value of the property;
1009 and

1010 (b) the amount of property tax revenues that would be generated from that same area
1011 using the base taxable value of the property.

1012 (21) "Public entity" means:

1013 (a) the state, including each department or agency of the state; or

1014 (b) a political subdivision of the state, including a county, city, town, school district,
1015 local district, special service district, or interlocal cooperation entity.

1016 (22) (a) "Publicly owned infrastructure and improvements" means infrastructure,
1017 improvements, facilities, or buildings that benefit the public, the authority, the military, or
1018 military-related entities and are:

1019 (i) publicly owned by the military, the authority, a public infrastructure district under
1020 Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, or another public entity;

1021 (ii) owned by a utility; or

1022 (iii) publicly maintained or operated by the military, the authority, or another public
1023 entity.

1024 (b) "Publicly owned infrastructure and improvements" includes:

1025 (i) facilities, lines, or systems that harness geothermal energy or provide water, chilled
1026 water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications; [~~and~~]

1027 (ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking

1028 facilities, ~~and~~ public transportation facilities~~[-]~~, and parks, trails, and other recreational
1029 facilities;

1030 (iii) snowmaking equipment and related improvements that can also be used for water
1031 storage or fire suppression purposes; and

1032 (iv) a building and related improvements for occupancy by the public, the authority, the
1033 military, or military-related entities.

1034 (23) "Remaining municipal services revenue" means municipal services revenue that
1035 the authority has not:

1036 (a) spent during the authority's fiscal year for municipal services as provided in
1037 Subsection [63H-1-503](#)(1); or

1038 (b) redirected to use in accordance with Subsection [63H-1-502](#)(3).

1039 (24) "Resort communities tax" means a sales and use tax imposed under Section
1040 [59-12-401](#).

1041 (25) "Taxable value" means the value of property as shown on the last equalized
1042 assessment roll ~~[as certified by the county assessor]~~.

1043 (26) "Taxing entity":

1044 (a) means a public entity that levies a tax on property within a project area~~[-]~~; and

1045 (b) does not include a public infrastructure district that the authority creates under Title
1046 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

1047 (27) "Telecommunications tax" means a telecommunications license tax under Title
1048 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

1049 (28) "Transient room tax" means a tax under Section [59-12-352](#).

1050 Section 11. Section **63H-1-103** is enacted to read:

1051 **63H-1-103. Severability.**

1052 If a court determines that any provision of this chapter, or the application of any
1053 provision of this chapter, is invalid, the remainder of this chapter shall be given effect without
1054 the invalid provision or application.

1055 Section 12. Section **63H-1-201** is amended to read:

1056 **63H-1-201. Creation of military installation development authority -- Status and**
1057 **powers of authority -- Limitation.**

1058 (1) There is created a military installation development authority.

1059 (2) The authority is:

1060 (a) an independent, nonprofit, separate body corporate and politic, with perpetual
1061 succession and statewide jurisdiction, whose purpose is to facilitate the development of land
1062 within a project area or on military land associated with a project area;

1063 (b) a political subdivision of the state; and

1064 (c) a public corporation, as defined in Section [63E-1-102](#).

1065 (3) The authority may:

1066 (a) as provided in this chapter, facilitate the development of land within one or more
1067 project areas, including the ongoing operation of facilities within a project area, or
1068 development of military land associated with a project area;

1069 (b) sue and be sued;

1070 (c) enter into contracts generally;

1071 (d) by itself or through a subsidiary, buy, obtain an option upon, or otherwise acquire
1072 any interest in real or personal property:

1073 (i) in a project area; or

1074 (ii) outside a project area for publicly owned infrastructure and improvements, if the
1075 board considers the purchase, option, or other interest acquisition to be necessary for fulfilling
1076 the authority's development objectives;

1077 (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or
1078 personal property;

1079 (f) enter into a lease agreement on real or personal property, either as lessee or lessor:

1080 (i) in a project area; or

1081 (ii) outside a project area, if the board considers the lease to be necessary for fulfilling

1082 the authority's development objectives;

1083 (g) provide for the development of land within a project area or military land

1084 associated with the project area under one or more contracts;

1085 (h) exercise powers and perform functions under a contract, as authorized in the

1086 contract;

1087 (i) exercise exclusive police power within a project area to the same extent as though

1088 the authority were a municipality, including the collection of regulatory fees;

1089 (j) receive the property tax allocation and other taxes and fees as provided in this

1090 chapter;

1091 (k) accept financial or other assistance from any public or private source for the

1092 authority's activities, powers, and duties, and expend any funds so received for any of the

1093 purposes of this chapter;

1094 (l) borrow money, contract with, or accept financial or other assistance from the federal

1095 government, a public entity, or any other source for any of the purposes of this chapter and

1096 comply with any conditions of the loan, contract, or assistance;

1097 (m) issue bonds to finance the undertaking of any development objectives of the

1098 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and

1099 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

1100 (n) hire employees, including contract employees;

1101 (o) transact other business and exercise all other powers provided for in this chapter;

1102 (p) enter into a development agreement with a developer of land within a project area;

1103 (q) enter into an agreement with a political subdivision of the state under which the

1104 political subdivision provides one or more municipal services within a project area;

1105 (r) enter into an agreement with a private contractor to provide one or more municipal

1106 services within a project area;

1107 (s) provide for or finance an energy efficiency upgrade, a renewable energy system, or

1108 electric vehicle charging infrastructure as defined in Section [~~11-42-102~~] [11-42a-102](#), in

1109 accordance with Title 11, Chapter [~~42, Assessment Area Act~~] 42a, Commercial Property
1110 Assessed Clean Energy Act;

1111 (t) exercise powers and perform functions that the authority is authorized by statute to
1112 exercise or perform; [~~and~~]

1113 (u) enter into an agreement with the federal government or an agency of the federal
1114 government under which the federal government or agency:

1115 (i) provides law enforcement services only to military land within a project area; and

1116 (ii) may enter into a mutual aid or other cooperative agreement with a law enforcement
1117 agency of the state or a political subdivision of the state[-]; and

1118 (v) by itself or through a subsidiary, provide expertise and knowledge to another
1119 governmental entity interested in public-private partnerships.

1120 (4) The authority may not itself provide law enforcement service or fire protection
1121 service within a project area but may enter into an agreement for one or both of those services,
1122 as provided in Subsection (3)(q).

1123 (5) Because providing procurement, utility, construction, and other services for use by
1124 a military installation, including providing publicly owned infrastructure and improvements for
1125 use or occupancy by the military, are core functions of the authority and are typically provided
1126 by a local government for the local government's own needs or use, these services provided by
1127 the authority for the military under this chapter are considered to be for the authority's own
1128 needs and use.

1129 Section 13. Section **63H-1-202** is amended to read:

1130 **63H-1-202. Applicability of other law.**

1131 (1) The authority or land within a project area is not subject to:

1132 (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

1133 (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

1134 (c) ordinances or regulations of a county or municipality, including those relating to
1135 land use, health, business license, or franchise; or

1136 (d) the jurisdiction of a local district under Title 17B, Limited Purpose Local
1137 Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1,
1138 Special Service District Act.

1139 (2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107,
1140 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed
1141 by Title 63E, Independent Entities Code.

1142 (3) (a) The definitions in Section 57-8-3 apply to this Subsection (3).

1143 (b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership
1144 Act, or any other provision of law:

1145 (i) if the military is the owner of land in a project area on which a condominium project
1146 is constructed, the military is not required to sign, execute, or record a declaration of a
1147 condominium project; and

1148 (ii) if a condominium unit in a project area is owned by the military or owned by the
1149 authority and leased to the military for \$1 or less per calendar year, not including any common
1150 charges that are reimbursements for actual expenses:

1151 (A) the condominium unit is not subject to any liens under Title 57, Chapter 8,
1152 Condominium Ownership Act;

1153 (B) condominium unit owners within the same building or commercial condominium
1154 project may agree on any method of allocation and payment of common area expenses,
1155 regardless of the size or par value of each unit; and

1156 (C) the condominium project may not be dissolved without the consent of all the
1157 condominium unit owners.

1158 (4) Notwithstanding any other provision, when a law requires the consent of a local
1159 government, the authority is the consenting entity for a project area.

1160 (5) (a) A department, division, or other agency of the state and a political subdivision
1161 of the state shall cooperate with the authority to the fullest extent possible to provide whatever
1162 support, information, or other assistance the authority requests that is reasonably necessary to

1163 help the authority fulfill the authority's duties and responsibilities under this chapter.

1164 (b) Subsection (5)(a) does not apply to a political subdivision that does not have any of
1165 a project area located within the boundary of the political subdivision.

1166 Section 14. Section **63H-1-206** is amended to read:

1167 **63H-1-206. Property exchange -- Freeway interchange construction.**

1168 (1) (a) If the authority receives title to real property from [a military installation] the
1169 Secretary of the United States Air Force, pursuant to Section 2831 of the National Defense
1170 Authorization Act for Fiscal Year 2020, for construction of an interchange by the Department
1171 of Transportation, the authority shall exchange the real property intended for the interchange
1172 with the Department of Transportation for any unused remainder of real property that the
1173 Department of Transportation does not need for the freeway after the interchange is complete.

1174 (b) The authority or a subsidiary of the authority is the designee of the state, within the
1175 meaning of Section 2831(a) of the National Defense Authorization Act for Fiscal Year 2020.

1176 (2) An exchange described in Subsection (1) shall occur at no cost to the authority or
1177 the Department of Transportation, regardless of the value of the real property.

1178 (3) (a) The authority shall demolish the structures on and, as required by the Secretary
1179 of the United States Air Force and the Utah Department of Environmental Quality,
1180 environmentally mitigate the real property that the authority exchanges with the Department of
1181 Transportation under this section.

1182 (b) The Department of Transportation shall remove unneeded freeway improvements
1183 from the real property that the Department of Transportation exchanges with the authority
1184 under this section.

1185 (4) Upon the authority's receipt of title to real property under this section, the real
1186 property automatically becomes included within the project area adjacent to the real property.

1187 Section 15. Section **63H-1-207** is enacted to read:

1188 **63H-1-207. Authority jurisdiction over Department of Transportation property.**

1189 (1) As used in this section:

1190 (a) "Highway land" means land that is:
1191 (i) owned by the Department of Transportation, created in Section 72-1-201; and
1192 (ii) within an authority project area that was created to provide military recreation
1193 facilities and support.
1194 (b) "Highway land" does not include:
1195 (i) a class A state road that is in active use; and
1196 (ii) a shoulder or appurtenance that is contiguous to a class A state road that is in active
1197 use.
1198 (2) Notwithstanding any other provision of statute, the authority has jurisdiction and
1199 control over highway land, subject to Subsection (3).
1200 (3) The executive director of the Department of Transportation may, in consultation
1201 with the authority, transfer, sell, trade, or lease the highway land or any interest in the highway
1202 land as provided in Section 72-5-111 and any applicable rules and regulations.
1203 Section 16. Section **63H-1-403** is amended to read:
1204 **63H-1-403. Notice of project area plan adoption -- Effective date of plan --**
1205 **Contesting the formation of the plan.**
1206 (1) Upon the board's adoption of a project area plan, the board shall provide notice as
1207 provided in Subsection (1)(b) by publishing or causing to be published legal notice:
1208 (a) in a newspaper of general circulation within or near the project area; and
1209 (b) as required by Section 45-1-101.
1210 (2) (a) Each notice under Subsection (1) shall include:
1211 (i) the board resolution adopting the project area plan or a summary of the resolution;
1212 and
1213 (ii) a statement that the project area plan is available for general public inspection and
1214 the hours for inspection.
1215 (b) The statement required under Subsection (2)(a)(ii) may be included in the board
1216 resolution or summary described in Subsection (2)(a)(i).

1217 (3) The project area plan [~~shall become~~] becomes effective on the date [~~of publication~~
1218 ~~of the notice~~] designated in the board resolution adopting the project area plan.

1219 (4) The authority shall make the adopted project area plan available to the general
1220 public at its offices during normal business hours.

1221 (5) Within 10 days after the day on which a project area plan is adopted that establishes
1222 a project area, or after an amendment to a project area plan is adopted under which the
1223 boundary of a project area is modified, the authority shall send notice of the establishment or
1224 modification of the project area and an accurate map or plat of the project area to:

1225 (a) the State Tax Commission;

1226 (b) the Automated Geographic Reference Center created in Section [63F-1-506](#); and

1227 (c) the assessor and recorder of each county where the project area is located.

1228 (6) (a) A legal action or other challenge to a project area plan or a project area
1229 described in a project area plan is barred unless brought within 30 days after the effective date
1230 of the project area plan.

1231 (b) For a project area created before December 1, 2018, a legal action or other
1232 challenge is barred.

1233 (c) For a project area created after December 1, 2018, and before May 14, 2019, a legal
1234 action or other challenge is barred after July 1, 2019.

1235 Section 17. Section [63H-1-403.5](#) is amended to read:

1236 **[63H-1-403.5. Amendment to a project area plan.](#)**

1237 (1) The authority may amend a project area plan by following the same procedure
1238 under this part as applies to the adoption of a project area plan.

1239 (2) The provisions of this part apply to the authority's adoption of an amendment to a
1240 project area plan to the same extent as they apply to the adoption of a project area plan.

1241 (3) An amendment to a project area plan does not affect the base taxable value
1242 determination for property already within the project area before the amendment.

1243 Section 18. Section [63H-1-405](#) is amended to read:

1244 **63H-1-405. Project area budget.**

1245 (1) Before the authority may receive or use the property tax allocation, the authority
1246 board shall prepare and adopt a project area budget.

1247 (2) The authority board may amend an adopted project area budget as and when the
1248 authority board considers it appropriate.

1249 (3) If the authority adopts a budget under Part 7, Authority Budget and Reports, that
1250 also meets the requirements of this part, the authority need not separately adopt a budget under
1251 this part.

1252 Section 19. Section **63H-1-501** is amended to read:

1253 **63H-1-501. Authority receipt and use of property tax allocation -- Contractual**
1254 **annual payment -- Distribution of property tax allocation.**

1255 (1) (a) The authority may:

1256 (i) subject to Subsection (1)(b):

1257 (A) receive up to 75% of the property tax allocation for up to 25 years, as provided in
1258 this part; and

1259 (B) after the time period described in Subsection (1)(a)(i)(A) expires, receive up to
1260 75% of the property tax allocation for up to 15 years, if the board determines the additional
1261 years will produce significant benefit; and

1262 (ii) use the property tax allocation before, during, and after the period described in
1263 Subsection (1)(a)(i).

1264 (b) With respect to a parcel located within a project area, the 25-year period described
1265 in Subsection (1)(a)(i)(A) [~~shall begin~~] begins on the day on which the authority receives the
1266 first property tax allocation from that parcel.

1267 (2) (a) For purposes of Subsection (1)(b), the authority may designate an improved
1268 portion of a parcel in a project area as a separate parcel.

1269 (b) An authority designation of an improved portion of a parcel as a separate parcel
1270 under Subsection (2)(a) is for purposes of Subsection (1)(b) only and does not constitute a

1271 subdivision for any other purpose.

1272 (c) A county recorder shall assign a separate tax identification number to the improved
1273 portion of a parcel designated by the authority as a separate parcel under Subsection (2)(a).

1274 ~~[(2)]~~ (3) Improvements on a parcel within a project area become subject to property tax
1275 on January 1 immediately following the day on which the authority or an entity designated by
1276 the authority issues a certificate of occupancy with respect to those improvements.

1277 ~~[(3)]~~ (4) (a) If the authority or an entity designated by the authority has not issued a
1278 certificate of occupancy for a private parcel within a project area, the private parcel owner shall
1279 ~~[enter into a contract with the authority to]~~ make an annual payment to the authority:

1280 (i) that is equal to 1.2% of the taxable value of the parcel above the base taxable value
1281 of the parcel; and

1282 (ii) until the parcel becomes subject to the property tax described in Subsection ~~[(2)]~~
1283 (3).

1284 (b) The authority may use the revenue from payments described in Subsection (3)(a)
1285 for any purpose described in Subsection 63H-1-502(1).

1286 (c) The authority may submit for recording to the office of the recorder of the county in
1287 which a private parcel described in Subsection (4)(a) is located:

1288 (i) a copy of an agreement between the authority and the private parcel owner that
1289 memorializes the payment obligation under Subsection (4)(a); or

1290 (ii) a notice that describes the payment obligation under Subsection (4)(a).

1291 (d) An owner of a private parcel described in Subsection (4)(a) may not be required to
1292 make a payment that exceeds or is in addition to the payment described in Subsection (4)(a)(i)
1293 until the private parcel becomes subject to the property tax described in Subsection (3).

1294 (e) Upon the transfer of title of a private parcel described in Subsection (4)(a), the
1295 amount of the annual payment required under Subsection (4)(a) shall be:

1296 (i) treated the same as a property tax; and

1297 (ii) prorated between the previous owner and the owner who acquires title from the

1298 previous owner.

1299 ~~[(4)]~~ (5) Each county that collects property tax on property within a project area shall
1300 pay and distribute to the authority the property tax allocation and dedicated tax collections that
1301 the authority is entitled to collect under this title, in the manner and at the time provided in
1302 Section 59-2-1365.

1303 ~~[(5)]~~ (6) (a) The board shall determine by resolution when the entire project area or an
1304 individual parcel within a project area is subject to property tax allocation.

1305 (b) The board shall amend the project area budget to reflect whether a parcel within a
1306 project area is subject to property tax allocation.

1307 ~~[(6)]~~ (7) The following property owned by the authority is not subject to any property
1308 tax under Title 59, Chapter 2, Property Tax Act, or any privilege tax under Title 59, Chapter 4,
1309 Privilege Tax, regardless of whether the authority enters into a long-term operating agreement
1310 with a privately owned entity under which the privately owned entity agrees to operate the
1311 property:

1312 (a) a hotel;

1313 (b) a hotel condominium unit in a condominium project, as defined in Section 57-8-3;

1314 and

1315 (c) a commercial condominium unit in a condominium project, as defined in Section

1316 57-8-3.

1317 Section 20. Section 63H-1-502 is amended to read:

1318 **63H-1-502. Allowable uses of property tax allocation and other funds.**

1319 (1) Other than municipal services revenue, the authority may use the property tax
1320 allocation and other funds available to the authority:

1321 (a) for any purpose authorized under this chapter;

1322 (b) for administrative, overhead, legal, and other operating expenses of the authority;

1323 (c) to pay for, including financing or refinancing, all or part of the development of land
1324 within the project area from which the property tax allocation or other funds were collected,

1325 including assisting the ongoing operation of a development or facility within the project area;

1326 (d) to pay the cost of the installation and construction of publicly owned infrastructure
1327 and improvements within the project area from which the property tax allocation funds were
1328 collected;

1329 (e) to pay the cost of the installation of publicly owned infrastructure and
1330 improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the
1331 project area if:

1332 (i) the authority board determines by resolution that the infrastructure and
1333 improvements are of benefit to the project area; and

1334 (ii) for a passenger ropeway, at least one end of the ropeway is located within the
1335 project area;

1336 (f) to pay the principal and interest on bonds issued by the authority;

1337 (g) to pay for a morale, welfare, and recreation program of a United States Air Force
1338 base in Utah, affiliated with the project area from which the funds were collected; or

1339 (h) to pay for the promotion of:

1340 (i) a development within the project area; or

1341 (ii) amenities outside of the project area that are associated with a development within
1342 the project area.

1343 (2) The authority may use revenue generated from the operation of publicly owned
1344 infrastructure operated by the authority or improvements operated by the authority to:

1345 (a) operate and maintain the infrastructure or improvements; and

1346 (b) pay for authority operating expenses, including administrative, overhead, and legal
1347 expenses.

1348 (3) For purposes of Subsection (1), the authority may use:

1349 (a) tax revenue received under Subsection 59-12-205(2)(b)(ii);

1350 (b) resort communities tax revenue;

1351 (c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have

1352 to be used in the project area where the revenue was generated;
1353 (d) MIDA accommodations tax revenue, received under Section 63H-1-205;
1354 (e) transient room tax revenue generated from hotels located on authority-owned or
1355 other public-entity-owned property;
1356 (f) municipal energy tax revenue generated from hotels located on authority-owned or
1357 other public-entity-owned property; or
1358 (g) payments received under Subsection 63H-1-501~~(3)~~(4).
1359 (4) The determination of the authority board under Subsection (1)(e) regarding benefit
1360 to the project area is final.

1361 Section 21. **Effective date.**

1362 If approved by two-thirds of all the members elected to each house, this bill takes effect
1363 upon approval by the governor, or the day following the constitutional time limit of Utah
1364 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
1365 the date of veto override.