

TAX INCREMENT AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: L. Alma Mansell

AN ACT RELATING TO SPECIAL DISTRICTS; MODIFYING THE DATE GOVERNING THE AVAILABILITY OF CERTAIN TAX INCREMENT FUNDS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17A-2-1247, as last amended by Chapters 21 and 194, Laws of Utah 1999

17A-2-1247.5, as last amended by Chapters 21 and 194, Laws of Utah 1999

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

Section 1. Section **17A-2-1247** is amended to read:

17A-2-1247. Tax increment financing authorized -- Division of tax revenues -- Greater allocation allowed if authorized by taxing agency.

(1) This section applies to projects for which a preliminary plan has been prepared prior to April 1, 1993, and for which all of the following have occurred prior to July 1, 1993: the agency blight study has been completed, and a hearing under Section 17A-2-1221 has in good faith been commenced by the agency.

(2) Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in a redevelopment project each year by or for the benefit of the state, any city, county, city and county, district, or other public corporation (hereinafter sometimes called "taxing agencies") after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the taxable value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of the property by the taxing agency, last equalized prior to the

28 effective date of the ordinance, shall be allocated to and when collected shall be paid into the funds
29 of the respective taxing agencies as taxes by or for the taxing agencies on all other property are
30 paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did
31 not include the territory in a redevelopment project on the effective date of the ordinance but to
32 which the territory has been annexed or otherwise included after the effective date, the assessment
33 roll of the county last equalized on the effective date of the ordinance shall be used in determining
34 the taxable value of the taxable property in the project on the effective date).

35 (b) In a redevelopment project with a redevelopment plan adopted before April 1, 1983,
36 that portion of the levied taxes each year in excess of the amount allocated to and when collected
37 paid into the funds of the respective taxing agencies under Subsection (2)(a) shall be allocated to
38 and when collected shall be paid into a special fund of the redevelopment agency to pay the
39 principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded,
40 assumed, or otherwise) incurred by the redevelopment agency before April 1, 1983, to finance or
41 refinance, in whole or in part, the redevelopment project. Payment of tax revenues to the
42 redevelopment agency shall be subject to and shall except uncollected or delinquent taxes in the
43 same manner as payments of taxes to other taxing agencies are subject to collection. Unless and
44 until the total taxable value of the taxable property in a redevelopment project exceeds the total
45 taxable value of the taxable property in the project as shown by the last equalized assessment roll
46 referred to in Subsection (2)(a), all of the taxes levied and collected upon the taxable property in
47 the redevelopment project shall be paid into the funds of the respective taxing agencies. When
48 the loans, advances, and indebtedness, if any, and any interest have been paid, all moneys received
49 from taxes upon the taxable property in the redevelopment project shall be paid into the funds of
50 the respective taxing agencies as taxes on all other property are paid.

51 (c) Notwithstanding the provisions of Subsections (2)(a) and (e), Subsection
52 17A-2-1210(5), or any other provision of this part, any loans, moneys advanced to, or indebtedness
53 (whether funded, refunded, assumed, or otherwise) issued prior to April 1, 1983, may be
54 refinanced and repaid from 100% of that portion of the levied taxes paid into the special fund of
55 the redevelopment agency each year in excess of the amount allocated to and when collected paid
56 into the funds of the respective taxing agencies under Subsection (2)(a) if the principal amount of
57 loans, moneys advanced to, or indebtedness is not increased in the refinancing.

58 (d) In a redevelopment project with a redevelopment plan adopted before April 1, 1983,

59 that portion of the levied taxes each year in excess of the amount allocated to and when collected
60 paid into the funds of the respective taxing agencies under Subsection (2)(a) shall be allocated to
61 and when collected shall be paid into a special fund of the redevelopment agency according to the
62 limits established in Subsection (2)(f) to pay the principal of and interest on loans, moneys
63 advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the
64 redevelopment agency after April 1, 1983, to finance or refinance, in whole or in part, the
65 redevelopment project. Payment of tax revenues to the redevelopment agency shall be subject to
66 and shall except uncollected or delinquent taxes in the same manner as payments of taxes to other
67 taxing agencies are subject to collection. Unless and until the total taxable value of the taxable
68 property in a redevelopment project exceeds the total taxable value of the taxable property in the
69 project as shown by the last equalized assessment roll referred to in Subsection (2)(a), all of the
70 taxes levied and collected upon the taxable property in the redevelopment project shall be paid into
71 the funds of the respective taxing agencies. When the loans, advances, and indebtedness, if any,
72 and any interest have been paid, all moneys received from taxes upon the taxable property in the
73 redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all
74 other property are paid.

75 (e) In a redevelopment project with a redevelopment plan adopted after April 1, 1983, that
76 portion of the levied taxes each year in excess of the amount allocated to and when collected paid
77 into the funds of the respective taxing agencies under Subsection (2)(a) shall be allocated to and
78 when collected shall be paid into a special fund of the redevelopment agency according to the
79 limits established in Subsection (2)(f) to pay the principal of and interest on loans, moneys
80 advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the
81 redevelopment agency after April 1, 1983, to finance or refinance, in whole or in part, the
82 redevelopment project. Payment of tax revenues to the redevelopment agency shall be subject to
83 and shall except uncollected or delinquent taxes in the same manner as payments of taxes to other
84 taxing agencies are subject to collection. Unless and until the total taxable value of the taxable
85 property in a redevelopment project exceeds the total taxable value of the taxable property in the
86 project as shown by the last equalized assessment roll referred to in Subsection (2)(a), all of the
87 taxes levied and collected upon the taxable property in the redevelopment project shall be paid into
88 the funds of the respective taxing agencies. When the loans, advances, and indebtedness, if any,
89 and any interest have been paid, all moneys received from taxes upon the taxable property in the

90 redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all
91 other property are paid.

92 (f) For purposes of Subsections (2)(d) and (e), the maximum amounts which shall be
93 allocated to and when collected shall be paid into the special fund of a redevelopment agency may
94 not exceed the following percentages:

95 (i) for a period of the first five tax years commencing from the first tax year a
96 redevelopment agency accepts an amount allocated to and when collected paid into a special fund
97 of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or
98 indebtedness (whether funded, refunded, assumed, or otherwise) which loans, advances, or
99 indebtedness are incurred by the redevelopment agency after April 1, 1983, 100% of that portion
100 of the levied taxes each year in excess of the amount allocated to and when collected paid into the
101 funds of the respective taxing agencies under Subsection (2)(a);

102 (ii) for a period of the next five tax years 80% of that portion of the levied taxes each year
103 in excess of the amount allocated to and when collected paid into the funds of the respective taxing
104 agencies under Subsection (2)(a);

105 (iii) for a period of the next five tax years 75% of that portion of the levied taxes each year
106 in excess of the amount allocated to and when collected paid into the funds of the respective taxing
107 agencies under Subsection (2)(a);

108 (iv) for a period of the next five tax years 70% of that portion of the levied taxes each year
109 in excess of the amount allocated to and when collected paid into the funds of the respective taxing
110 agencies under Subsection (2)(a); and

111 (v) for a period of the next five tax years 60% of that portion of the levied taxes each year
112 in excess of the amount allocated to and when collected paid into the funds of the respective taxing
113 agencies under Subsection (2)(a).

114 (g) (i) In addition to the maximum amounts allocated to and when collected paid into the
115 special fund of a redevelopment agency under Subsection (2)(f), a redevelopment agency may
116 receive an additional percentage greater than those described in Subsection (2)(f) if the amount of
117 the tax increment funding received from the greater percentage is used:

118 (A) for an agency established by the governing body of a first class city:

119 (I) solely to pay all or part of the value of the land for and the cost of the installation and
120 construction of any building, facility, structure, or other improvement of a publicly or privately

121 owned convention center or sports complex, including parking and infrastructure improvements
122 related to such convention center or sports complex;

123 (II) solely to pay all or part of the cost of the installation and construction of an underpass
124 that has not received funding from the Centennial Highway Fund under Section 72-2-118 as part
125 of the construction of Interstate 15; or

126 (III) solely to pay all or part of the cost of the land for and the installation and construction
127 of a recreational facility, as defined in Section 59-12-702, or a cultural facility, including parking
128 and infrastructure improvements related to the recreational or cultural facility; or

129 (B) for any agency, to pay all or part of the cost of the installation, construction, or
130 reconstruction of the 10000 South underpass or the 11400 South or 12300 South interchange on
131 I-15 in Salt Lake County.

132 (ii) The additional percentage a redevelopment agency may receive under Subsection
133 (2)(g)(i) shall be:

134 (A) 100% of that portion of the levied taxes each year in excess of the amount allocated
135 to and when collected paid into the funds of the respective taxing agencies under Subsection (2)(a);
136 and

137 (B) paid for a period of the first 32 years commencing from the first tax year a
138 redevelopment agency accepts an amount allocated to and when collected paid into a special fund
139 of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or
140 indebtedness, whether funded, refunded, assumed, or otherwise, that are incurred by the
141 redevelopment agency after April 1, 1983.

142 (iii) This Subsection (2)(g) applies only to a redevelopment agency created by a city that
143 is located in a county of the first class and in which:

144 (A) construction has begun on a building, facility, structure, or other improvement of a
145 publicly or privately owned convention center or sports complex, including parking and
146 infrastructure improvements related to such convention center or sports complex, on or before June
147 30, 1997;

148 (B) construction has begun on or before June 30, [~~2000~~] 2002, on an underpass that has
149 not received funding from the Centennial Highway Fund under Section 72-2-118 as part of the
150 construction of Interstate 15;

151 (C) the installation, construction, or reconstruction of the 10000 South underpass or the

152 11400 South or 12300 South interchange on I-15 in Salt Lake County has begun on or before June
153 30, [~~2000~~] 2002; or

154 (D) construction has begun on a recreational facility, as defined in Section 59-12-702, or
155 a cultural facility on or before June 30, [~~2000~~] 2002.

156 (iv) An additional amount described in Subsection (2)(g)(i) may no longer be allocated to
157 or used by the redevelopment agency, notwithstanding any other law to the contrary, if the
158 additional amount is not pledged:

159 (A) to pay all or part of the value of the land for and the cost of the installation and
160 construction of any building, facility, structure, or other improvement described in Subsection
161 (2)(g)(i)(A)(I) on or before June 30, 1997;

162 (B) on or before June 30, [~~2000~~] 2002, to pay all or part of the cost of the installation and
163 construction of an underpass that has not received funding from the Centennial Highway Fund
164 under Section 72-2-118 as part of the construction of Interstate 15;

165 (C) on or before June 30, [~~2000~~] 2002, to pay all or part of the cost of the installation,
166 construction, or reconstruction of the 10000 South underpass or the 11400 South or 12300 South
167 interchange on I-15 in Salt Lake County; or

168 (D) on or before June 30, [~~2000~~] 2002, to pay all or part of the cost of the land for and the
169 installation and construction of a recreational facility, as defined in Section 59-12-702, or a cultural
170 facility, including parking and infrastructure improvements related to the recreational or cultural
171 facility.

172 (v) Notwithstanding any other provision of this Subsection (2)(g), a school district may
173 not receive less tax increment because of application of the other provisions of this Subsection
174 (2)(g) than it would have received without those provisions.

175 (3) Nothing contained in Subsections (2)(d), (e), (f), and (g) prevents an agency from
176 receiving a greater percentage than those established in Subsections (2)(f) and (g) of the levied
177 taxes of any local taxing agency each year in excess of the amount allocated to and when collected
178 paid into the funds of the respective local taxing agency if the governing body of the local taxing
179 agency consents in writing.

180 (4) Nothing in this section may be construed to prevent an agency from using funds
181 allocated under Subsection (2)(f) for a project allowed under Subsection (2)(g)(i).

182 Section 2. Section **17A-2-1247.5** is amended to read:

183 **17A-2-1247.5. Tax increment financing -- Project area budget approval -- Payment**
184 **of additional tax increment.**

185 (1) This section applies to projects for which a preliminary plan has been adopted on or
186 after July 1, 1993.

187 (2) (a) A taxing agency committee shall be created for each redevelopment or economic
188 development project. The committee membership shall be selected as follows:

189 (i) two representatives appointed by the school district in the project area;

190 (ii) two representatives appointed by resolution of the county commission or county
191 council for the county in which the project area is located;

192 (iii) two representatives appointed by resolution of the city or town's legislative body in
193 which the project area is located if the project is located within a city or town;

194 (iv) a representative approved by the State School Board; and

195 (v) one representative who shall represent all of the remaining governing bodies of the
196 other local taxing agencies that levy taxes upon the property within the proposed project area. The
197 representative shall be selected by resolution of each of the governing bodies of those taxing
198 agencies within 30 days after the notice provided in Subsection 17A-2-1256(3).

199 (b) If the project is located within a city or town, a quorum of a taxing agency committee
200 consists of five members. If the project is not located within a city or town, a quorum consists of
201 four members.

202 (c) A taxing agency committee formed in accordance with this section has the authority
203 to:

204 (i) represent all taxing entities in a project area and cast votes that will be binding on the
205 governing boards of all taxing entities in a project area;

206 (ii) negotiate with the agency concerning the redevelopment plan;

207 (iii) approve or disapprove project area budgets under Subsection (3); and

208 (iv) approve an exception to the limits on the value and size of project areas imposed by
209 Section 17A-2-1210, or the time and amount of tax increment financing under this section.

210 (3) (a)(i) If the project area budget does not allocate 20% of the tax increment for housing
211 as provided in Subsection 17A-2-1264(2)(a):

212 (A) an agency may not collect any tax increment for a project area until after the agency
213 obtains the majority consent of a quorum of the taxing agency committee for the project area

214 budget; and

215 (B) a project area budget adopted under Subsection (3)(a)(i)(A) may be amended if the
216 agency obtains the majority consent of a quorum of the taxing agency committee.

217 (ii) If the project area budget allocates 20% of the tax increment for housing as provided
218 in Subsection 17A-2-1264(2)(a):

219 (A) an agency may not collect tax increment from all or part of a project area until after:

220 (I) the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part
221 7, Olene Walker Housing Trust Fund, has certified the project area budget as complying with the
222 requirements of Section 17A-2-1264; and

223 (II) the agency's governing body has approved and adopted the project area budget by a
224 two-thirds vote; and

225 (B) a project area budget adopted under Subsection (3)(a)(ii)(A) may be amended if:

226 (I) the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part
227 7, Olene Walker Housing Trust Fund, certifies the amendment as complying with the requirements
228 of Section 17A-2-1264; and

229 (II) the agency's governing body approves and adopts the amendment by a two-thirds vote.

230 (b) Within 30 days after the approval and adoption of a project area budget, each agency
231 shall file a copy of the budget with the county auditor, the State Tax Commission, the state auditor,
232 and each property taxing entity affected by the agency's collection of tax increment under the
233 project area budget.

234 (c) (i) Beginning on January 1, 1997, before an amendment to a project area budget is
235 approved, the agency shall advertise and hold one public hearing on the proposed change in the
236 project area budget.

237 (ii) The public hearing under Subsection (3)(c)(i) shall be conducted according to the
238 procedures and requirements of Subsection 17A-2-1222(2), except that if the amended budget
239 allocates a greater proportion of tax increment to a project area than was allocated to the project
240 area under the previous budget, the advertisement shall state the percentage allocated under the
241 previous budget and the percentage allocated under the amended budget.

242 (d) If an amendment is not approved, the agency shall continue to operate under the
243 previously approved, unamended project area budget.

244 (4) (a) An agency may collect tax increment from all or a part of a project area. The tax

245 increment shall be paid to the agency in the same manner and at the same time as payments of
246 taxes to other taxing agencies to pay the principal of and interest on loans, moneys advanced to,
247 or indebtedness, whether funded, refunded, assumed, or otherwise, to finance or refinance, in
248 whole or in part, the redevelopment or economic development project and the housing projects and
249 programs under Sections 17A-2-1263 and 17A-2-1264.

250 (b) (i) An agency may elect to be paid:

251 (A) if 20% of the project area budget is not allocated for housing as provided in Subsection
252 17A-2-1264(2)(a):

253 (I) 100% of annual tax increment for 12 years; or

254 (II) 75% of annual tax increment for 20 years; or

255 (B) if 20% of the project area budget is allocated for housing as provided in Subsection
256 17A-2-1264(2)(a):

257 (I) 100% of annual tax increment for 15 years; or

258 (II) 75% of annual tax increment for 24 years.

259 (ii) Tax increment paid to an agency under this Subsection (4)(b) shall be paid for the
260 applicable length of time beginning the first tax year the agency accepts tax increment from a
261 project area.

262 (c) An agency may receive a greater percentage of tax increment or receive tax increment
263 for a longer period of time than that specified in Subsection (4)(b) if the agency obtains the
264 majority consent of the taxing agency committee.

265 (5) (a) The redevelopment plan shall provide that the portion of the taxes, if any, due to
266 an increase in the tax rate by a taxing agency after the date the project area budget is approved by
267 the taxing agency committee may not be allocated to and when collected paid into a special fund
268 of the redevelopment agency according to the provisions of Subsection (4) unless the taxing
269 agency committee approves the inclusion of the increase in the tax rate at the time the project area
270 budget is approved. If approval of the inclusion of the increase in the tax rate is not obtained, the
271 portion of the taxes attributable to the increase in the rate shall be distributed by the county to the
272 taxing agency imposing the tax rate increase in the same manner as other property taxes.

273 (b) The amount of the tax rate to be used in determining tax increment shall be increased
274 or decreased by the amount of an increase or decrease as a result of:

275 (i) a statute enacted by the Legislature, a judicial decision, or an order from the State Tax

276 Commission to a county to adjust or factor its assessment rate under Subsection 59-2-704(2);

277 (ii) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section
278 59-2-103;

279 (iii) an increase or decrease in the percentage of fair market value, as defined under
280 Section 59-2-102; or

281 (iv) a decrease in the certified tax rate under Subsection 59-2-924(2)(c) or (2)(d)(i).

282 (c) (i) Notwithstanding the increase or decrease resulting from Subsection (5)(b), the
283 amount of money allocated to, and when collected paid to the agency each year for payment of
284 bonds or other indebtedness may not be less than would have been allocated to and when collected
285 paid to the agency each year if there had been no increase or decrease under Subsection (5)(b).

286 (ii) For a decrease resulting from Subsection (5)(b)(iv), the taxable value for the base year
287 under Subsection 17A-2-1202(2) or 17A-2-1247(2)(a), as the case may be, shall be reduced for any
288 year to the extent necessary, including below zero, to provide an agency with approximately the
289 same amount of money the agency would have received without a reduction in the county's
290 certified tax rate if:

291 (A) in that year there is a decrease in the certified tax rate under Subsection 59-2-924(2)(c)
292 or (2)(d)(i);

293 (B) the amount of the decrease is more than 20% of the county's certified tax rate of the
294 previous year; and

295 (C) the decrease results in a reduction of the amount to be paid to the agency under Section
296 17A-2-1247 or 17A-2-1247.5.

297 (6) (a) For redevelopment plans first adopted before May 4, 1993, beginning January 1,
298 1994, all of the taxes levied and collected upon the taxable property in the redevelopment project
299 under Section 59-2-906.1 which are not pledged to support bond indebtedness and other
300 contractual obligations are exempt from the provisions of Subsection (4).

301 (b) For redevelopment plans first adopted after May 3, 1993, beginning January 1, 1994,
302 all of the taxes levied and collected upon the taxable property in the redevelopment project under
303 Section 59-2-906.1 are exempt from the provisions of Subsection (4).

304 (7) (a) In addition to the amounts and periods that an agency may elect to be paid tax
305 increment under Subsection (4)(b), an agency may elect to be paid 100% of annual tax increment
306 for an additional period, as provided in Subsection (7)(b), beyond those periods provided under

307 Subsection (4)(b), without the approval of the taxing agency committee, if the tax increment
308 funding for the additional period is used:

309 (i) for an agency in a city in which is located all or a portion of an interchange on I-15 or
310 that would directly benefit from an interchange on I-15, to pay some or all of the cost of the
311 installation, construction, or reconstruction of:

312 (A) an interchange on I-15; or

313 (B) frontage and other roads connecting to the interchange, as determined by the
314 Department of Transportation created under Section 72-1-201 and the Transportation Commission
315 created under Section 72-1-301; or

316 (ii) for an agency in a city of the first class, to pay some or all of the cost of the land for
317 and installation and construction of a recreational facility, as defined in Subsection 59-12-702(3),
318 or a cultural facility, including parking and infrastructure improvements related to the recreational
319 or cultural facility.

320 (b) The additional period for which an agency may be paid 100% of annual tax increment
321 under Subsection (7)(a) is an additional:

322 (i) 13 years, for an agency that initially elected to be paid under Subsection (4)(b)(i)(A)(I);

323 (ii) five years, for an agency that initially elected to be paid under Subsection
324 (4)(b)(i)(A)(II);

325 (iii) ten years, for an agency that initially elected to be paid under Subsection
326 (4)(b)(i)(B)(I); and

327 (iv) one year, for an agency that initially elected to be paid under Subsection
328 (4)(b)(i)(B)(II).

329 (c) This Subsection (7) applies only to an agency established by a city in which:

330 (i) for an agency in a city in which is located all or a portion of an interchange on I-15 or
331 that would directly benefit from an interchange on I-15, the installation, construction, or
332 reconstruction of an interchange on I-15 or frontage or other roads connecting to the interchange
333 has begun on or before June 30, [~~2000~~] 2002; and

334 (ii) for an agency in a city of the first class, the installation or construction of a recreational
335 facility, as defined in Subsection 59-12-702(3), or a cultural facility has begun on or before June
336 30, [~~2000~~] 2002.

337 (d) Notwithstanding any other provision of this Subsection (7), a school district may not

338 receive less tax increment because of application of the other provisions of this Subsection (7) than
339 it would have received without those provisions.

Legislative Review Note
as of 1-24-00 7:17 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel