

1 **REDEVELOPMENT AGENCY REVISIONS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: James R. Gowans**

5

6 **LONG TITLE**

7 **General Description:**

8 This bill modifies provisions of the Redevelopment Agencies Act relating to school
9 districts.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies the definition of taxing entity to exclude school districts;
- 13 ▶ modifies the process for adopting a project area plan and reporting and other
14 requirements related to project area plans to eliminate requirements related to the
15 involvement of the State Board of Education for plans adopted after May 3, 2004;
- 16 ▶ modifies the composition of the taxing entity committee for post-May 3, 2004 plans
17 to eliminate the school district and State Board of Education representatives;
- 18 ▶ modifies taxing entity committee quorum requirements; and
- 19 ▶ makes conforming and technical changes.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 **AMENDS:**

26 **17B-4-102**, as last amended by Chapter 256, Laws of Utah 2003

27 **17B-4-402**, as last amended by Chapter 205, Laws of Utah 2002



- 28 **17B-4-410**, as enacted by Chapter 133, Laws of Utah 2001
- 29 **17B-4-506**, as last amended by Chapter 185, Laws of Utah 2002
- 30 **17B-4-702**, as last amended by Chapter 205, Laws of Utah 2002
- 31 **17B-4-1002**, as last amended by Chapter 205, Laws of Utah 2002
- 32 **17B-4-1004**, as last amended by Chapter 205, Laws of Utah 2002
- 33 **17B-4-1006**, as enacted by Chapter 133, Laws of Utah 2001
- 34 **17B-4-1301**, as last amended by Chapter 37, Laws of Utah 2002
- 35 **17B-4-1303**, as last amended by Chapter 37, Laws of Utah 2002
- 36 **17B-4-1305**, as enacted by Chapter 133, Laws of Utah 2001
- 37 **17B-4-1306**, as enacted by Chapter 133, Laws of Utah 2001
- 38 **17B-4-1401**, as enacted by Chapter 133, Laws of Utah 2001

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

41 Section 1. Section **17B-4-102** is amended to read:

42 **17B-4-102. Definitions.**

43 (1) "Agency" means a separate body corporate and politic, created under Section
 44 17B-4-201 or previous law, that is a political subdivision of the state, that is created to
 45 undertake or promote redevelopment, economic development, or education housing
 46 development, or any combination of them, as provided in this chapter, and whose geographic
 47 boundaries are coterminous with:

- 48 (a) for an agency created by a county, the unincorporated area of the county; and
- 49 (b) for an agency created by a city or town, the boundaries of the city or town.

50 (2) "Assessment property owner" or "assessment owner of property" means the owner
 51 of real property as shown on the assessment roll of the county in which the property is located,
 52 equalized as of the previous November 1.

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

54 (4) "Base taxable value" means the taxable value of the property within a project area
 55 from which tax increment will be collected, as shown upon the assessment roll last equalized
 56 before:

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

58 or

- 59 (b) for a post-June 30, 1993 project area plan:
- 60 (i) the date of the taxing entity committee's approval of the first project area budget; or
- 61 (ii) if no taxing entity committee approval is required for the project area budget, the
- 62 later of:
 - 63 (A) the date the project area plan is adopted by the community legislative body; and
 - 64 (B) the date the agency adopts the first project area budget.
- 65 (5) "Blight" or "blighted" means the condition of an area that meets the requirements of
- 66 Subsection 17B-4-604(1).
- 67 (6) "Blight hearing" means a public hearing under Subsection 17B-4-601(3) and
- 68 Section 17B-4-603 regarding the existence or nonexistence of blight within the proposed
- 69 redevelopment project area.
- 70 (7) "Blight study" means a study to determine the existence or nonexistence of blight
- 71 within a survey area as provided in Section 17B-4-602.
- 72 (8) "Board" means the governing body of an agency, as provided in Section 17B-4-203.
- 73 (9) "Budget hearing" means the public hearing on a draft project area budget required
- 74 under Subsection 17B-4-501(2)(e).
- 75 (10) "Community" means a county, city, or town.
- 76 (11) "Economic development" means to promote the creation or retention of public or
- 77 private jobs within the state through:
 - 78 (a) planning, design, development, construction, rehabilitation, business relocation, or
 - 79 any combination of these, within part or all of a project area; and
 - 80 (b) the provision of office, industrial, manufacturing, warehousing, distribution,
 - 81 parking, public, or other facilities, or other improvements that benefit the state or a community.
- 82 (12) "Education housing development" means the provision of high density housing
- 83 within a project area that is adjacent to a public or private institution of higher education.
- 84 (13) "Loan fund board" means the Olene Walker Housing Loan Fund Board,
- 85 established under Title 9, Chapter 4, Part 7, Olene Walker Housing Loan Fund.
- 86 (14) "Plan hearing" means the public hearing on a draft project area plan required
- 87 under Subsection 17B-4-402(1)(e).
- 88 (15) "Post-June 30, 1993 project area plan" means a redevelopment, economic
- 89 development, or education housing development project area plan adopted on or after July 1,

90 1993, whether or not amended subsequent to its adoption.

91 (16) "Pre-July 1, 1993 project area plan" means a redevelopment project area plan
92 adopted before July 1, 1993, whether or not amended subsequent to its adoption.

93 (17) "Private," with respect to real property, means:

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

96 (b) not dedicated to public use.

97 (18) "Project area" means the geographic area described in a project area plan or draft
98 project area plan where the redevelopment, economic development, or education housing
99 development set forth in the project area plan or draft project area plan takes place or is
100 proposed to take place.

101 (19) "Project area budget" means a multiyear projection of annual or cumulative
102 revenues and expenses and other fiscal matters pertaining to a redevelopment, economic
103 development, or education housing development project area that includes:

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

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

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

107 (d) the amount of tax increment expected to be used to implement the project area plan,
108 including the estimated amount of tax increment to be used for land acquisition, public
109 improvements, infrastructure improvements, and loans, grants, or other incentives to private
110 and public entities;

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

113 (f) if the area from which tax increment is to be collected is less than the entire project
114 area, a legal description of the portion of the project area from which tax increment will be
115 collected; and

116 (g) for property that the agency owns and expects to sell, the expected total cost of the
117 property to the agency and the expected selling price.

118 (20) "Project area plan" means a written plan under Part 4, Project Area Plan, that, after
119 its effective date, guides and controls the redevelopment, economic development, or education
120 housing development activities within the project area.

121 (21) "Property tax" includes privilege tax and each levy on an ad valorem basis on
122 tangible or intangible personal or real property.

123 (22) "Public entity" means:

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

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

127 (23) "Public input hearing" means the public hearing required under Subsection
128 17B-4-402(1)(h)(ii) regarding a proposed redevelopment project.

129 (24) "Record property owner" or "record owner of property" means the owner of real
130 property as shown on the records of the recorder of the county in which the property is located
131 and includes a purchaser under a real estate contract if the contract is recorded in the office of
132 the recorder of the county in which the property is located or the purchaser gives written notice
133 of the real estate contract to the agency.

134 (25) "Redevelopment" means the development activities under a project area plan
135 within a redevelopment project area, including:

136 (a) planning, design, development, demolition, clearance, construction, rehabilitation,
137 or any combination of these, of part or all of a project area;

138 (b) the provision of residential, commercial, industrial, public, or other structures or
139 spaces, including recreational and other facilities incidental or appurtenant to them;

140 (c) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating, or
141 any combination of these, existing structures in a project area;

142 (d) providing open space, including streets and other public grounds and space around
143 buildings;

144 (e) providing public or private buildings, infrastructure, structures, and improvements;
145 and

146 (f) providing improvements of public or private recreation areas and other public
147 grounds.

148 (26) "Superfund site":

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

151 (b) includes an area formerly included in the National Priorities List, as described in

152 Subsection (26)(a), but removed from the list following remediation that leaves on site the
153 waste that caused the area to be included in the National Priorities List.

154 (27) "Survey area" means an area designated by a survey area resolution for study to
155 determine whether one or more redevelopment projects within the area are feasible.

156 (28) "Survey area resolution" means a resolution adopted by the agency board under
157 Subsection 17B-4-401(1)(a) designating a survey area.

158 (29) (a) "Tax increment" means, except as provided in Subsection (29)(b), the
159 difference between:

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

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

165 (b) "Tax increment" does not include taxes levied and collected under Section
166 59-2-906.1 on or after January 1, 1994 upon the taxable property in the project area unless:

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

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

171 (30) (a) "Taxing entity" means a public entity that levies a tax on property within a
172 project area or proposed project area.

173 (b) For a project area plan adopted on or after May 3, 2004, "taxing entity" does not
174 include a school district.

175 (31) "Taxing entity committee" means a committee representing the interests of taxing
176 entities, created as provided in Section 17B-4-1002.

177 Section 2. Section **17B-4-402** is amended to read:

178 **17B-4-402. Process for adopting project area plan -- Prerequisites -- Restrictions.**

179 (1) In order to adopt a project area plan, after adopting a resolution under Subsection
180 17B-4-401(1) the agency shall:

181 (a) prepare a draft of a project area plan and conduct any examination, investigation,
182 and negotiation regarding the project area plan that the agency considers appropriate;

- 183 (b) request input on the draft project area plan from the planning commission of the
184 community in which the proposed project area is located;
- 185 (c) make the draft project area plan available to the public at the agency's offices during
186 normal business hours;
- 187 (d) provide notice of the plan hearing as provided in Sections 17B-4-702 and
188 17B-4-704;
- 189 (e) hold a public hearing on the draft project area plan and, at that public hearing:
- 190 (i) allow public comment on:
- 191 (A) the draft project area plan; and
- 192 (B) whether the draft project area plan should be revised, approved, or rejected; and
- 193 (ii) receive all written and hear all oral objections to the draft project area plan;
- 194 (f) before holding the plan hearing[-];
- 195 (i) provide an opportunity for [~~the State Board of Education and~~] each taxing entity that
196 levies a tax on property within the proposed project area to consult with the agency regarding
197 the draft project area plan;
- 198 (ii) for a project area plan adopted before May 3, 2004, provide an opportunity for the
199 State Board of Education to consult with the agency regarding the draft project area plan;
- 200 (g) if applicable, hold the election required under Subsection 17B-4-406(3);
- 201 (h) for a redevelopment project area plan:
- 202 (i) comply with the requirements of Part 6, Blight Determination in Redevelopment
203 Project Areas;
- 204 (ii) before providing notice of the plan hearing, hold at least one public hearing to:
- 205 (A) inform the public about each area being considered for a redevelopment project
206 area; and
- 207 (B) allow public input into agency deliberations on proposing each redevelopment
208 project area;
- 209 (iii) select one or more project areas comprising part or all of the survey area; and
- 210 (iv) before sending the first notice to assessment owners of property for a public input
211 hearing, blight hearing, or combined public input and blight hearing, prepare and adopt
212 guidelines setting forth and governing the reasonable opportunities of record property owners
213 and tenants to participate in the redevelopment;

214 (i) after holding the plan hearing, at the same meeting or at a subsequent meeting
215 consider:

216 (i) the oral and written objections to the draft project area plan and evidence and
217 testimony for or against adoption of the draft project area plan; and

218 (ii) whether to revise, approve, or reject the draft project area plan;

219 (j) approve the draft project area plan, with or without revisions, as the project area
220 plan by a resolution that complies with Section 17B-4-407; and

221 (k) submit the project area plan to the community legislative body for adoption.

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

224 (a) has a planning commission; and

225 (b) has adopted a general plan under:

226 (i) if the community is a city or town, Title 10, Chapter 9, Part 3, General Plan; or

227 (ii) if the community is a county, Title 17, Chapter 27, Part 3, General Plan.

228 (3) (a) Subject to Subsection (3)(b), an agency board may not approve a project area
229 plan more than one year after:

230 (i) for a redevelopment project area plan involving the use of eminent domain,
231 adoption of a resolution making a finding of blight under Subsection 17B-4-601(4)(b); or

232 (ii) for an economic development or education housing development project area plan,
233 the date of the plan hearing.

234 (b) If a project area plan is submitted to an election under Subsection 17B-4-406(3),
235 the time between the plan hearing and the date of the election does not count for purposes of
236 calculating the year period under Subsection (3)(a).

237 (4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be
238 modified to add real property to the proposed project area unless the board holds a plan hearing
239 to consider the addition and gives notice of the plan hearing as required under Sections
240 17B-4-702 and 17B-4-704.

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

243 (i) the property is contiguous to the property already included in the proposed project
244 area under the draft project area plan;

245 (ii) the record owner of the property consents to adding the real property to the
246 proposed project area; and
247 (iii) for a redevelopment project area, the property is located within the survey area.

248 Section 3. Section **17B-4-410** is amended to read:

249 **17B-4-410. Agency required to transmit and record documents after adoption of**
250 **project area plan.**

251 Within 30 days after the community legislative body adopts, under Section 17B-4-408,
252 a project area plan, the agency shall:

253 (1) record with the recorder of the county in which the project area is located a
254 document containing:

- 255 (a) a description of the land within the project area;
- 256 (b) a statement that the project area plan for the project area has been adopted; and
- 257 (c) the date of adoption; and

258 (2) for a project area plan that provides for the payment of tax increment to the agency,
259 transmit a copy of the description of the land within the project area, a copy of the community
260 legislative body ordinance adopting the project area plan, and a map or plat indicating the
261 boundaries of the project area to:

- 262 (a) the auditor and assessor of the county in which the project area is located;
- 263 (b) the officer or officers performing the function of auditor or assessor for each taxing
264 entity that does not use the county assessment roll or collect its taxes through the county;
- 265 (c) the legislative body or governing board of each taxing entity;
- 266 (d) the State Tax Commission; and
- 267 (e) for a project area plan adopted before May 3, 2004, the State Board of Education.

268 Section 4. Section **17B-4-506** is amended to read:

269 **17B-4-506. Filing a copy of the project area budget.**

270 Each agency adopting a project area budget shall:

271 (1) within 30 days after adopting the project area budget, file a copy of the project area
272 budget with:

- 273 (a) the auditor of the county in which the project area is located[;];
- 274 (b) the State Tax Commission[;];
- 275 (c) the state auditor[;];

276 (d) for a project area plan adopted before May 3, 2004, the State Board of Education[;];
277 and

278 (e) each taxing entity affected by the agency's collection of tax increment under the
279 project area budget; and

280 (2) if the project area budget allocates tax increment for housing under Section
281 17B-4-1010, file a copy of the project area budget with the loan fund board.

282 Section 5. Section **17B-4-702** is amended to read:

283 **17B-4-702. Requirements for notice provided by agency.**

284 (1) The notice required by Section 17B-4-701 shall be given by:

285 (a) (i) publishing notice, excluding the map referred to in Subsection (2)(b), in a
286 newspaper of general circulation within the county in which the project area or proposed
287 project area is located, at least once a week for the four successive weeks immediately
288 preceding the hearing; or

289 (ii) if there is no newspaper of general circulation, posting notice in at least three
290 conspicuous places within the county in which the project area or proposed project area is
291 located;

292 (b) at least 30 days before the hearing:

293 (i) sending notice by certified mail to:

294 (A) each assessment owner of property located within the project area or proposed
295 project area; and

296 (B) each assessment owner of property located outside but within 300 feet of the
297 project area or proposed project area;

298 (ii) mailing notice to:

299 (A) the State Tax Commission;

300 (B) the assessor and auditor of the county in which the project area or proposed project
301 area is located; and

302 (C) (I) each member of the taxing entity committee; or

303 (II) if a taxing entity committee has not yet been formed[;];

304 (Aa) for a project area plan adopted before May 3, 2004, the State Board of Education;
305 and

306 (Bb) the legislative body or governing board of each taxing entity.

- 307 (2) The agency shall include in each notice required under Section 17B-4-701:
- 308 (a) a specific description of the boundaries of the project area or proposed project area;
- 309 (b) a map of the boundaries of the project area or proposed project area;
- 310 (c) an explanation of the purpose of the hearing; and
- 311 (d) a statement of the date, time, and location of the hearing.
- 312 (3) The agency shall include in each notice under Subsection (1)(b)(ii):
- 313 (a) a statement that property tax revenues resulting from an increase in valuation of
- 314 property within the project area or proposed project area will be paid to the agency for
- 315 redevelopment, economic development, or education housing development purposes rather
- 316 than to the taxing entity to which the tax revenues would otherwise have been paid if:
- 317 (i) a majority of the taxing entity committee consents to the project area budget; and
- 318 (ii) the project area plan provides for the agency to receive tax increment; and
- 319 (b) an invitation to the recipient of the notice to submit to the agency comments
- 320 concerning the subject matter of the hearing before the date of the hearing.
- 321 (4) An agency may include in a notice under Subsection (1) any other information the
- 322 agency considers necessary or advisable, including the public purpose served by the project and
- 323 any future tax benefits expected to result from the project.
- 324 Section 6. Section **17B-4-1002** is amended to read:
- 325 **17B-4-1002. Taxing entity committee.**
- 326 (1) Each agency that adopts or proposes to adopt a post-June 30, 1993 project area plan
- 327 shall, and any other agency may, cause a taxing entity committee to be created.
- 328 (2) (a) (i) Each taxing entity committee shall be composed of:
- 329 (A) for a project area plan adopted before May 3, 2004, two school district
- 330 representatives appointed as provided in Subsection (2)(a)(ii);
- 331 (B) (I) in counties of the second, third, fourth, fifth, or sixth class, two representatives
- 332 appointed by resolution of the legislative body of the county in which the agency is located; or
- 333 (II) in counties of the first class, two representatives appointed by the county executive
- 334 of the county in which the agency is located;
- 335 (C) if the agency was created by a city or town, two representatives appointed by
- 336 resolution of the legislative body of that city or town;
- 337 (D) for a project area plan adopted before May 3, 2004, one representative appointed

338 by the State Board of Education; and

339 (E) one representative selected by majority vote of the legislative bodies or governing
340 boards of all other taxing entities that levy a tax on property within the agency's boundaries, to
341 represent the interests of those taxing entities on the taxing entity committee.

342 (ii) (A) If the agency boundaries include only one school district, that school district
343 shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

344 (B) If the agency boundaries include more than one school district, those school
345 districts shall jointly appoint the two school district representatives under Subsection
346 (2)(a)(i)(A).

347 (b) (i) Each taxing entity committee representative under this Subsection (2) shall be
348 appointed within 30 days after the agency provides notice of the creation of the taxing entity
349 committee.

350 (ii) If a representative is not appointed within the time required under Subsection
351 (2)(b)(i), the agency board may appoint a person to serve on the taxing entity committee in the
352 place of the missing representative until that representative is appointed.

353 (c) (i) A taxing entity committee representative may be appointed for a set term or
354 period of time, as determined by the appointing authority under Subsection (2)(a)(i).

355 (ii) Each taxing entity committee representative shall serve until a successor is
356 appointed and qualified.

357 (d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether
358 an initial appointment or an appointment to replace an already serving representative, the
359 appointing authority shall:

360 (A) notify the agency in writing of the name and address of the newly appointed
361 representative; and

362 (B) provide the agency a copy of the resolution making the appointment or, if the
363 appointment is not made by resolution, other evidence of the appointment.

364 (ii) Each appointing authority of a taxing entity committee representative under
365 Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a
366 representative appointed by that appointing authority.

367 (3) A taxing entity committee represents all taxing entities regarding a project area and
368 may:

- 369 (a) cast votes that will be binding on all taxing entities;
- 370 (b) negotiate with the agency concerning a draft project area plan;
- 371 (c) approve or disapprove a project area budget as provided in Section 17B-4-505;
- 372 (d) approve or disapprove amendments to a project area budget as provided in Section
- 373 17B-4-507;
- 374 (e) approve exceptions to the limits on the value and size of a project area imposed
- 375 under this chapter;
- 376 (f) approve exceptions to the percentage of tax increment and the period of time that
- 377 tax increment is paid to the agency as provided in this part;
- 378 (g) approve the use of tax increment for access and utilities outside of a project area
- 379 that the agency and community legislative body determine to be of benefit to the project area,
- 380 as provided in Subsection 17B-4-1007(1)(a)(ii)(D);
- 381 (h) waive the restrictions imposed by Subsection 17B-4-503(2)(a); and
- 382 (i) give other taxing entity committee approval or consent required or allowed under
- 383 this chapter.
- 384 (4) A quorum of a taxing entity committee consists of:
- 385 (a) except as provided in Subsection (4)(b):
- 386 (i) if the project area is located within a city or town[;]:
- 387 (A) for a project area plan adopted before May 3, 2004, five members; or
- 388 (B) for a project area plan adopted on or after May 3, 2004, three members; or
- 389 (ii) if the project area is not located within a city or town[;]:
- 390 (A) for a project area plan adopted before May 3, 2004, four members; or
- 391 (B) for a project area plan adopted on or after May 3, 2004, two members; or
- 392 (b) for an education housing development project area as to which the school district
- 393 has elected under Subsection 17B-4-1004(5) not to allow the agency to be paid tax increment
- 394 from school district tax revenues:
- 395 (i) if the project area is located within a city or town, three members; or
- 396 (ii) if the project area is not located within a city or town, two members.
- 397 (5) Taxing entity committee approval, consent, or other action requires the affirmative
- 398 vote of a majority of a quorum present at a taxing entity committee meeting.
- 399 (6) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and

400 Public Meetings.

401 (7) [~~Each time~~] If a school district representative or a representative of the State Board
402 of Education votes as a member of a taxing entity committee under a project area plan adopted
403 before May 3, 2004 to allow an agency to be paid tax increment or to increase the amount or
404 length of time that an agency may be paid tax increment, that representative shall, within 45
405 days after the vote, provide to the representative's respective school board an explanation in
406 writing of the representative's vote and the reasons for the vote.

407 (8) (a) The assessor of each county in which the agency is located shall provide a
408 written report to the taxing entity committee stating, with respect to property within each
409 project area:

410 (i) the base taxable value, as adjusted by any adjustments under Section 17B-4-1006;
411 and

412 (ii) the assessed value.

413 (b) With respect to the information required under Subsection (8)(a), the assessor shall
414 provide:

415 (i) actual amounts for each year from the adoption of the project area plan to the time
416 of the report; and

417 (ii) estimated amounts for each year beginning the year after the time of the report and
418 ending the time that the agency expects no longer to be paid tax increment from property
419 within the project area.

420 (c) The assessor of the county in which the agency is located shall provide a report
421 under this Subsection (8):

422 (i) at least annually; and

423 (ii) upon request of the taxing entity committee, before a taxing entity committee
424 meeting at which the committee will consider whether to allow the agency to be paid tax
425 increment or to increase the amount or length of time that the agency may be paid tax
426 increment.

427 Section 7. Section **17B-4-1004** is amended to read:

428 **17B-4-1004. Tax increment under a post-June 30, 1993 project area plan.**

429 (1) This section applies to tax increment under a post-June 30, 1993 project area plan
430 only.

431 (2) An agency board may provide in the project area budget for the agency to be paid:
432 (a) if 20% of the project area budget is allocated for housing under Section 17B-4-504:
433 (i) 100% of annual tax increment for 15 years;
434 (ii) 75% of annual tax increment for 24 years; or
435 (iii) if approved by the taxing entity committee, any percentage of tax increment up to
436 100%, or any specified dollar amount, for any period of time; or
437 (b) if 20% of the project area budget is not allocated for housing under Section
438 17B-4-504:
439 (i) 100% of annual tax increment for 12 years;
440 (ii) 75% of annual tax increment for 20 years; or
441 (iii) if approved by the taxing entity committee, any percentage of tax increment up to
442 100%, or any specified dollar amount, for any period of time.
443 (3) (a) An agency may, without the approval of the taxing entity committee, elect to be
444 paid 100% of annual tax increment for each year beyond the periods specified in Subsection (2)
445 to a maximum of 25 years, including the years the agency is paid tax increment under
446 Subsection (2), if:
447 (i) for an agency in a city in which is located all or a portion of an interchange on I-15
448 or that would directly benefit from an interchange on I-15:
449 (A) the tax increment paid to the agency during the additional years is used to pay
450 some or all of the cost of the installation, construction, or reconstruction of:
451 (I) an interchange on I-15, whether or not the interchange is located within a project
452 area; or
453 (II) frontage and other roads connecting to the interchange, as determined by the
454 Department of Transportation created under Section 72-1-201 and the Transportation
455 Commission created under Section 72-1-301, whether or not the frontage or other road is
456 located within a project area; and
457 (B) the installation, construction, or reconstruction of the interchange or frontage and
458 other roads has begun on or before June 30, 2002;
459 (ii) for an agency in a city of the first or second class:
460 (A) the tax increment paid to the agency during the additional years is used to pay
461 some or all of the cost of the land for and installation and construction of a recreational facility,

462 as defined in Section 59-12-702, or a cultural facility, including parking and infrastructure
463 improvements related to the recreational or cultural facility, whether or not the facility is
464 located within a project area; and

465 (B) the installation or construction of the recreational or cultural facility has begun on
466 or before June 30, 2002.

467 (b) Notwithstanding any other provision of this section, an agency may use tax
468 increment received under Subsection (2) for any of the uses indicated in this Subsection (3).

469 (c) Notwithstanding Subsection (3)(a), a school district may not, without its consent,
470 receive less tax increment because of application of Subsection (3)(a) than it would have
471 received without that subsection.

472 (4) Unless the taxing entity committee consents, an agency may not be paid tax
473 increment from the project area for more than 25 years.

474 (5) (a) A school district that levies a tax on property located within a project area under
475 an education housing development project area plan adopted before May 3, 2004 may elect not
476 to allow the agency to be paid tax increment from the property tax revenues generated by the
477 school district.

478 (b) An election under Subsection (5)(a) shall be made in writing to the agency before
479 the taxing entity committee's approval of the project area budget.

480 (c) If a school district makes an election under this Subsection (5):

481 (i) the agency may not be paid tax increment from property tax revenues generated by
482 the school district; and

483 (ii) the school district representatives and the State Board of Education representative
484 on the taxing entity committee may not vote on any matter concerning the education housing
485 development project area or project area budget.

486 Section 8. Section **17B-4-1006** is amended to read:

487 **17B-4-1006. Base taxable value to be adjusted to reflect other changes.**

488 (1) (a) (i) As used in this Subsection (1), "qualifying decrease" means:

489 (A) a decrease of more than 20% from the previous tax year's levy; or

490 (B) a cumulative decrease over a consecutive five-year period of more than 100% from
491 the levy in effect at the beginning of the five-year period.

492 (ii) The year in which a qualifying decrease under Subsection (1)(a)(i)(B) occurs is the

493 fifth year of the five-year period.

494 (b) [Hf] For a project area plan adopted before May 3, 2004, if there is a qualifying
495 decrease in the minimum basic school levy under Section 59-2-902 that would result in a
496 reduction of the amount of tax increment to be paid to an agency:

497 (i) the base taxable value of taxable property within the project area shall be reduced in
498 the year of the qualifying decrease to the extent necessary, even if below zero, to provide the
499 agency with approximately the same amount of tax increment that would have been paid to the
500 agency each year had the qualifying decrease not occurred; and

501 (ii) the amount of tax increment paid to the agency each year for the payment of bonds
502 and indebtedness may not be less than what would have been paid to the agency if there had
503 been no qualifying decrease.

504 (2) (a) The amount of the base taxable value to be used in determining tax increment
505 shall be:

506 (i) increased or decreased by the amount of an increase or decrease that results from:

507 (A) a statute enacted by the Legislature or by the people through an initiative;

508 (B) a judicial decision;

509 (C) an order from the State Tax Commission to a county to adjust or factor its
510 assessment rate under Subsection 59-2-704(2);

511 (D) a change in exemption provided in Utah Constitution Article XIII, Section 2, or
512 Section 59-2-103; or

513 (E) an increase or decrease in the percentage of fair market value, as defined under
514 Section 59-2-102; and

515 (ii) reduced for any year to the extent necessary, even if below zero, to provide an
516 agency with approximately the same amount of money the agency would have received without
517 a reduction in the county's certified tax rate if:

518 (A) in that year there is a decrease in the county's certified tax rate under Subsection
519 59-2-924(2)(c) or (d)(i);

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

522 (C) the decrease would result in a reduction of the amount of tax increment to be paid
523 to the agency.

524 (b) Notwithstanding an increase or decrease under Subsection (2)(a), the amount of tax
525 increment paid to an agency each year for payment of bonds or other indebtedness may not be
526 less than would have been paid to the agency each year if there had been no increase or
527 decrease under Subsection (2)(a).

528 Section 9. Section **17B-4-1301** is amended to read:

529 **17B-4-1301. Annual agency budget -- Fiscal year -- Public hearing required --**
530 **Auditor forms -- Requirement to file form.**

531 (1) Each agency shall prepare and its board adopt an annual budget of revenues and
532 expenditures for the agency for each fiscal year.

533 (2) Each annual agency budget shall be adopted:

534 (a) for an agency created by a city or town, before June 22; or

535 (b) for an agency created by a county, before December 15.

536 (3) The agency's fiscal year shall be the same as the fiscal year of the community that
537 created the agency.

538 (4) (a) Before adopting an annual budget, each agency board shall hold a public hearing
539 on the annual budget.

540 (b) Each agency shall provide notice of the public hearing on the annual budget by:

541 (i) publishing at least one notice in a newspaper of general circulation within the
542 agency boundaries, one week before the public hearing; or

543 (ii) if there is no newspaper of general circulation within the agency boundaries,
544 posting a notice of the public hearing in at least three public places within the agency
545 boundaries.

546 (c) Each agency shall make the annual budget available for public inspection at least
547 three days before the date of the public hearing.

548 (5) The state auditor shall prescribe the budget forms and the categories to be contained
549 in each agency budget, including:

550 (a) revenues and expenditures for the budget year;

551 (b) legal fees; and

552 (c) administrative costs, including rent, supplies, and other materials, and salaries of
553 agency personnel.

554 (6) (a) Within 30 days after adopting an annual budget, each agency board shall file a

555 copy of the annual budget with:

556 (i) the auditor of the county in which the agency is located[;];

557 (ii) the State Tax Commission[;];

558 (iii) the state auditor[;];

559 (iv) for a project area plan adopted before May 3, 2004, the State Board of
560 Education[;]; and

561 (v) each taxing entity that levies a tax on property from which the agency collects tax
562 increment.

563 (b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the
564 state as a taxing entity is met if the agency files a copy with the State Tax Commission and the
565 state auditor.

566 Section 10. Section **17B-4-1303** is amended to read:

567 **17B-4-1303. Agency report.**

568 (1) (a) On or before November 1 of each year, each agency shall prepare and file a
569 report with:

570 (i) the county auditor[;];

571 (ii) the State Tax Commission[;];

572 (iii) for a project area plan adopted before May 3, 2004, the State Board of
573 Education[;]; and

574 (iv) each taxing entity that levies a tax on property from which the agency collects tax
575 increment.

576 (b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a
577 taxing entity is met if the agency files a copy with the State Tax Commission and the state
578 auditor.

579 (2) Each report under Subsection (1) shall contain:

580 (a) an estimate of the tax increment to be paid to the agency for the calendar year
581 ending December 31; and

582 (b) an estimate of the tax increment to be paid to the agency for the calendar year
583 beginning the next January 1.

584 Section 11. Section **17B-4-1305** is amended to read:

585 **17B-4-1305. Audit report.**

586 (1) Each agency required to be audited under Section 17B-4-1304 shall, within 180
587 days after the end of the agency's fiscal year, file a copy of the audit report with:

- 588 (a) the county auditor[-];
- 589 (b) the State Tax Commission[-];
- 590 (c) for a project area plan adopted before May 3, 2004, the State Board of Education[-];

591 and

592 (d) each taxing entity that levies a tax on property from which the agency collects tax
593 increment.

594 (2) Each audit report under Subsection (1) shall include:

- 595 (a) the tax increment collected by the agency for each project area;
- 596 (b) the amount of tax increment paid to each taxing entity under Section 17B-4-1008;
- 597 (c) the outstanding principal amount of bonds issued or other loans incurred to finance

598 the costs associated with the agency's project areas;

599 (d) the actual amount expended for:

- 600 (i) acquisition of property;
- 601 (ii) site improvements or site preparation costs;
- 602 (iii) installation of public utilities or other public improvements; and
- 603 (iv) administrative costs of the agency.

604 Section 12. Section **17B-4-1306** is amended to read:

605 **17B-4-1306. County auditor report on project areas.**

606 (1) (a) On or before March 31 of each year, the auditor of each county in which an
607 agency is located shall prepare a report on the project areas within each agency.

608 (b) The county auditor shall send a copy of each report under Subsection (1)(a) to:

- 609 (i) the agency that is the subject of the report[-];
- 610 (ii) the State Tax Commission[-];
- 611 (iii) for a project area plan adopted before May 3, 2004, the State Board of

612 Education[-]; and

613 (iv) each taxing entity that levies a tax on property from which the agency collects tax
614 increment.

615 (2) Each report under Subsection (1)(a) shall report:

- 616 (a) the total assessed property value within each project area for the previous tax year;

- 617 (b) the base taxable value of property within each project area for the previous tax year;
 618 (c) the tax increment available to be paid to the agency for the previous tax year;
 619 (d) the tax increment requested by the agency for the previous tax year; and
 620 (e) the tax increment paid to the agency for the previous tax year.

621 (3) Within 30 days after a request by an agency, the State Tax Commission, the State
 622 Board of Education for a project area plan adopted before May 3, 2004, or any taxing entity
 623 that levies a tax on property from which the agency receives tax increment, the county auditor
 624 or the county assessor shall provide access to:

625 (a) the county auditor's method and calculations used to make adjustments under
 626 Section 17B-4-1006;

627 (b) the unequalized assessed valuation of an existing or proposed project area, or any
 628 parcel or parcels within an existing or proposed project area, if the equalized assessed valuation
 629 has not yet been determined for that year; [~~and~~]

630 (c) the most recent equalized assessed valuation of an existing or proposed project area
 631 or any parcel or parcels within an existing or proposed project area; and

632 (d) the tax rate of each taxing entity adopted as of November 1 for the previous tax
 633 year.

634 Section 13. Section **17B-4-1401** is amended to read:

635 **17B-4-1401. Dissolution by ordinance -- Restrictions -- Filing copy of ordinance --**
 636 **Agency records -- Dissolution expenses.**

637 (1) (a) Subject to Subsection (1)(b), the legislative body of the community that created
 638 an agency may, by ordinance, deactivate and dissolve the agency.

639 (b) An ordinance dissolving an agency may not be adopted unless the agency has no
 640 outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally
 641 binding contractual obligations with persons or entities other than the community.

642 (2) The legislative body of each community that adopts an ordinance under Subsection
 643 (1) shall:

644 (a) file a certified copy of the ordinance with:

645 (i) the State Tax Commission[;];

646 (ii) the county assessor[;];

647 (iii) the county auditor[;];

648 (iv) for a project area plan adopted before May 3, 2004, the State Board of
649 Education[;]; and
650 (v) each taxing entity; and
651 (b) cause a notice of dissolution to be published in a newspaper of general circulation
652 in the county in which the dissolved agency is located.
653 (3) The books, documents, records, papers, and seal of each dissolved agency shall be
654 deposited for safekeeping and reference with the recorder of the community that dissolved the
655 agency.
656 (4) The agency shall pay all expenses of the deactivation and dissolution.

Legislative Review Note
as of 2-16-04 3:43 PM

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

Office of Legislative Research and General Counsel

State Impact

Passage of this bill could increase property tax revenues to the school district over time. The bill could also increase the period of time future Redevelopment Agency projects are authorized for. The bill reduces the Redevelopment Agency increment by 40 percent. There is a potential shift to other entities of 66.7 percent of the increment.

Individual and Business Impact

Passage of this bill could increase taxes on businesses and individuals over time.

Office of the Legislative Fiscal Analyst