

**Senator John L. Valentine** proposes to substitute the following bill:

**REDEVELOPMENT AGENCY AMENDMENT**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: John L. Valentine**

AN ACT RELATING TO SPECIAL DISTRICTS; MODIFYING THE DEFINITION OF ECONOMIC DEVELOPMENT; MODIFYING THE MAKEUP OF THE TAXING AGENCY COMMITTEE UNDER CERTAIN CIRCUMSTANCES; ALLOWING SCHOOL DISTRICTS TO CHOOSE NOT TO LOSE TAX INCREMENT FUNDS UNDER CERTAIN CIRCUMSTANCES; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

**17A-2-1202**, as last amended by Chapter 320, Laws of Utah 1995

**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-2-1202** is amended to read:

**17A-2-1202. Definitions.**

As used in this part:

(1) "Agency" means the legislative body of a community when designated by the legislative body itself to act as a redevelopment agency.

(2) "Base tax amount" means that portion of taxes that would be produced by the rate upon which the tax is levied each year by or for all taxing agencies upon the total sum of the taxable value of the taxable property in a redevelopment project area as shown upon the assessment roll used in connection with the taxation of the property by the taxing agencies, last equalized before the effective date of the:

(a) ordinance approving the plan for projects for which a preliminary plan has been

26 prepared prior to April 1, 1993, and for which all of the following have occurred prior to July 1,  
27 1993: the agency blight study has been completed, and a hearing under Section 17A-2-1221 has  
28 in good faith been commenced by the agency; or

29 (b) the first approved project area budget for projects for which a preliminary plan has  
30 been prepared after April 1, 1993, and for which any of the following have occurred after July 1,  
31 1993: the completion of the agency blight study, and the good faith commencement of the hearing  
32 by the agency under Section 17A-2-1221; and

33 (c) as adjusted by Sections 17A-2-1250.5, 17A-2-1251, 17A-2-1252, and 17A-2-1253.

34 (3) "Blighted area" or "blight" means:

35 (a) for projects for which a preliminary plan has been prepared prior to April 1, 1993, and  
36 for which all of the following have occurred prior to July 1, 1993: the agency blight study has been  
37 completed, and a hearing under Section 17A-2-1221 has in good faith been commenced by the  
38 agency, an area used or intended to be used for residential, commercial, industrial, or other  
39 purposes or any combination of such uses which is characterized by two or more of the following  
40 factors:

41 (i) defective design and character of physical construction;

42 (ii) faulty interior arrangement and exterior spacing;

43 (iii) high density of population and overcrowding;

44 (iv) inadequate provision for ventilation, light, sanitation, open spaces, and recreation  
45 facilities;

46 (v) age, obsolescence, deterioration, dilapidation, mixed character, or shifting of uses;

47 (vi) economic dislocation, deterioration, or disuse, resulting from faulty planning;

48 (vii) subdividing and sale of lots of irregular form and shape and inadequate size for proper  
49 usefulness and development;

50 (viii) laying out of lots in disregard of the contours and other physical characteristics of  
51 the ground and surrounding conditions;

52 (ix) existence of inadequate streets, open spaces, and utilities; and

53 (x) existence of lots or other areas which are subject to being submerged by water.

54 (b) For projects for which a preliminary plan has been prepared after April 1, 1993, and  
55 for which any of the following have occurred after July 1, 1993: the completion of the agency  
56 blight study, and the good faith commencement of the hearing by the agency under Section

57 17A-2-1221, when a finding of blight is required, an area with buildings or improvements, used  
58 or intended to be used for residential, commercial, industrial, or other urban purposes or any  
59 combination of these uses, which:

60 (i) contains buildings and improvements, not including out-buildings, on at least 50% of  
61 the number of parcels and the area of those parcels is at least 50% of the project area; and

62 (ii) is unfit or unsafe to occupy or may be conducive to ill health, transmission of disease,  
63 infant mortality, juvenile delinquency, or crime because of any three or more of the following  
64 factors:

65 (A) defective character of physical construction;

66 (B) high density of population and overcrowding;

67 (C) inadequate provision for ventilation, light, sanitation, and open spaces;

68 (D) mixed character and shifting of uses which results in obsolescence, deterioration, or  
69 dilapidation;

70 (E) economic deterioration or continued disuse;

71 (F) lots of irregular form and shape and inadequate size for proper usefulness and  
72 development, or laying out of lots in disregard of the contours and other physical characteristics  
73 of the ground and surrounding conditions;

74 (G) existence of inadequate streets, open spaces, and utilities;

75 (H) existence of lots or other areas which are subject to being submerged by water; and

76 (I) existence of any hazardous or solid waste defined as any substance defined, regulated,  
77 or listed as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic waste,"  
78 "pollutant," "contaminant," or "toxic substances," or identified as hazardous to human health or  
79 the environment under state or federal law or regulation.

80 (c) For purposes of Subsection (3)(b), if a developer involved in the project area  
81 redevelopment or economic development causes any of the factors of blight listed in Subsection  
82 (3)(b)(ii), the developer-caused blight may not be used as one of the three required elements of  
83 blight. Notwithstanding the provisions of this section, any blight caused by owners or tenants who  
84 may become developers under the provisions of Section 17A-2-1214 shall not be subject to this  
85 Subsection (3)(c).

86 (4) "Bond" means any bonds, notes, interim certificates, debentures, or other obligations  
87 issued by an agency.

88 (5) "Community" means a city, county, town, or any combination of these.

89 (6) "Economic development" means:

90 (a) the planning or replanning, design or redesign, development or redevelopment,  
91 construction or reconstruction, rehabilitation, business relocation or any combination of these,  
92 within all or part of a project area; and

93 (b) (i) the provision of office, industrial, manufacturing, warehousing, distribution,  
94 parking, public or other facilities, or improvements as may benefit the state or the community in  
95 order for a public or private employer to create additional jobs within the state[-]; or

96 (ii) the provision of high density housing adjacent to a public or private institution of  
97 higher education.

98 (7) "Federal government" means the United States or any of its agencies or  
99 instrumentalities.

100 (8) "Legislative body" means the city council, city commission, county legislative body,  
101 or other legislative body of the community.

102 (9) "Planning commission" means a city, town, or county planning commission established  
103 pursuant to law or charter.

104 (10) "Project area" or "redevelopment project area" means an area of a community within  
105 a designated redevelopment survey area, the redevelopment of which is necessary to eliminate  
106 blight or provide economic development and which is selected by the redevelopment agency  
107 pursuant to this part.

108 (11) "Project area budget" means, for projects for which a preliminary plan has been  
109 prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993:  
110 the completion of the agency blight study, and the good faith commencement of the hearing by the  
111 agency under Section 17A-2-1221, a multiyear budget for the redevelopment plan prepared by the  
112 redevelopment agency showing:

113 (a) the base year taxable value of the project area;

114 (b) the projected tax increment of the project area, including the amount of any tax  
115 increment shared with other taxing districts which shall include:

116 (i) the tax increment expected to be used to implement the redevelopment plan including  
117 the estimated amount of tax increment to be used for land acquisition, public, and infrastructure  
118 improvements, and loans, grants, or tax incentives to private and public entities; and

119 (ii) the total principal amount of bonds expected to be issued by the redevelopment agency  
120 to finance the project;

121 (c) the tax increment expected to be used to cover the cost of administering the project area  
122 plan;

123 (d) a legal description for the portion of the project area from which tax increment will be  
124 collected pursuant to Section 17A-2-1247.5, if the area from which tax increment is to be collected  
125 is less than the entire project area; and

126 (e) for properties to be sold, the expected total cost of the property to the agency and the  
127 expected sales price to be paid by the purchaser.

128 (12) "Public body" means the state, or any city, county, district, authority, or any other  
129 subdivision or public body of the state, their agencies, instrumentalities, or political subdivisions.

130 (13) (a) "Redevelopment" means the planning, development, replanning, redesign,  
131 clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a project  
132 area, and the provision of residential, commercial, industrial, public, or other structures or spaces  
133 that are appropriate or necessary to eliminate blight in the interest of the general welfare, including  
134 recreational and other facilities incidental or appurtenant to them.

135 (b) "Redevelopment" includes:

136 (i) the alteration, improvement, modernization, reconstruction, or rehabilitation, or any  
137 combination of these, of existing structures in a project area;

138 (ii) provision for open space types of use, such as streets and other public grounds and  
139 space around buildings, and public or private buildings, structures and improvements, and  
140 improvements of public or private recreation areas and other public grounds; and

141 (iii) the replanning or redesign or original development of undeveloped areas as to which  
142 either of the following conditions exist:

143 (A) the areas are stagnant or improperly utilized because of defective or inadequate street  
144 layout, faulty lot layout in relation to size, shape, accessibility, or usefulness, or for other causes;

145 or

146 (B) the areas require replanning and land assembly for reclamation or development in the  
147 interest of the general welfare.

148 (14) "Redevelopment plan" means a plan developed by the agency and adopted by  
149 ordinance of the governing body of a community to guide and control redevelopment and

150 economic development undertakings in a specific project area.

151 (15) "Redevelopment survey area" or "survey area" means an area of a community  
152 designated by resolution of the legislative body or the governing body of the agency for study by  
153 the agency to determine if blight exists if redevelopment is planned, and if a redevelopment or  
154 economic development project or projects within the area are feasible.

155 (16) "Taxes" include all levies on an ad valorem basis upon land, real property, personal  
156 property, or any other property, tangible or intangible.

157 (17) "Taxing agencies" mean the public entities, including the state, any city, county, city  
158 and county, any school district, special district, or other public corporation, which levy property  
159 taxes within the project area.

160 (18) "Tax increment" means that portion of the levied taxes each year in excess of the base  
161 tax amount which excess amount is to be paid into a special fund of an agency.

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

163 **17A-2-1247.5. Tax increment financing -- Project area budget approval -- Payment**  
164 **of additional tax increment.**

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

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

169 [(i)] (A) unless a school district chooses not to appoint representatives under Subsection  
170 (2)(a)(ii)(A), two representatives appointed by the school district in the project area; or

171 [(ii)] (B) two representatives appointed by resolution of the county commission or county  
172 council for the county in which the project area is located;

173 [(iii)] (C) two representatives appointed by resolution of the city or town's legislative body  
174 in which the project area is located if the project is located within a city or town;

175 [(iv)] (D) unless a school district chooses not to appoint representatives under Subsection  
176 (2)(a)(ii)(A), a representative approved by the State School Board; and

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

181 (ii) (A) A school district that levies a tax on property located within a project area may  
182 choose not to appoint representatives to the taxing agency committee under Subsection (2)(a)(i)(A)  
183 if:

184 (I) the project area is established under an economic development project that includes the  
185 provision of high density housing adjacent to a public or private institution of higher education;  
186 and

187 (II) the project area budget of the project area under Subsection (2)(a)(ii)(A)(I) is adopted  
188 on or after May 1, 2000.

189 (B) If a school district chooses not to appoint representatives to the taxing agency  
190 committee under Subsection (2)(a)(ii)(A), the State School Board may not appoint a representative  
191 to the taxing agency committee.

192 (b) (i) If the project is located within a city or town, a quorum of a taxing agency  
193 committee consists of:

194 (A) if a school district chooses not to appoint representatives to the taxing agency  
195 committee under Subsection (2)(a)(ii)(A), three members; or

196 (B) in all other cases, five members.

197 (ii) If the project is not located within a city or town, a quorum consists of:

198 (A) if a school district chooses not to appoint representatives to the taxing agency  
199 committee under Subsection (2)(a)(ii)(A), two members; or

200 (B) in all other cases, four members.

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

203 (i) (A) represent all taxing entities in a project area, except a school district that has chosen  
204 under Subsection (2)(a)(ii)(A) not to appoint representatives to the taxing agency committee; and

205 (B) cast votes that will be binding on the governing boards of all taxing entities in a project  
206 area that the taxing agency committee represents under Subsection (2)(c)(i)(A);

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

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

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

211 (3) (a)(i) If the project area budget does not allocate 20% of the tax increment for housing

212 as provided in Subsection 17A-2-1264(2)(a):

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

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

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

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

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

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

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

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

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

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

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

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



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

245 (4) (a) [An] Except as provided in Subsections (6) and (8), an agency may collect tax  
246 increment from all or a part of a project area. The tax increment shall be paid to the agency in the  
247 same manner and at the same time as payments of taxes to other taxing agencies to pay the  
248 principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded,  
249 assumed, or otherwise, to finance or refinance, in whole or in part, the redevelopment or economic  
250 development project and the housing projects and programs under Sections 17A-2-1263 and  
251 17A-2-1264.

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

253 (A) if 20% of the project area budget is not allocated for housing as provided in Subsection  
254 17A-2-1264(2)(a):

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

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

257 (B) if 20% of the project area budget is allocated for housing as provided in Subsection  
258 17A-2-1264(2)(a):

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

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

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

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

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

274 taxing agency imposing the tax rate increase in the same manner as other property taxes.

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

277 (i) a statute enacted by the Legislature, a judicial decision, or an order from the State Tax  
278 Commission to a county to adjust or factor its assessment rate under Subsection 59-2-704(2);

279 (ii) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section  
280 59-2-103;

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

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

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

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

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

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

297 (C) the decrease results in a reduction of the amount to be paid to the agency under Section  
298 17A-2-1247 or 17A-2-1247.5.

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

303 (b) For redevelopment plans first adopted after May 3, 1993, beginning January 1, 1994,  
304 all of the taxes levied and collected upon the taxable property in the redevelopment project under

305 Section 59-2-906.1 are exempt from the provisions of Subsection (4).

306 (7) (a) In addition to the amounts and periods that an agency may elect to be paid tax  
307 increment under Subsection (4)(b), an agency may elect to be paid 100% of annual tax increment  
308 for an additional period, as provided in Subsection (7)(b), beyond those periods provided under  
309 Subsection (4)(b), without the approval of the taxing agency committee, if the tax increment  
310 funding for the additional period is used:

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

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

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

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

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

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

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

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

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

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

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

336 (ii) for an agency in a city of the first class, the installation or construction of a recreational  
337 facility, as defined in Subsection 59-12-702(3), or a cultural facility has begun on or before June  
338 30, 2000.

339 (d) Notwithstanding any other provision of this Subsection (7), a school district may not  
340 receive less tax increment because of application of the other provisions of this Subsection (7) than  
341 it would have received without those provisions.

342 (8) If a school district chooses not to appoint representatives to the taxing agency  
343 committee under Subsection (2)(a)(ii)(A), all of the taxes levied and collect upon taxable property  
344 in the redevelopment project by the school district are exempt from Subsection (4) and the agency  
345 may not collect tax increment from taxes levied by the school district in the project area.