

SB0192S02 compared with SB0192S01

~~deleted text~~ shows text that was in SB0192S01 but was deleted in SB0192S02.

inserted text shows text that was not in SB0192S01 but was inserted into SB0192S02.

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Senator Jerry W. Stevenson proposes the following substitute bill:

AMENDMENTS RELATING TO THE MILITARY INSTALLATION DEVELOPMENT AUTHORITY

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Val L. Peterson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ modifies the Public Infrastructure District Act to allow the military installation development authority to create a public infrastructure district by adopting a resolution creating the district with the consent of property owners;
- ▶ provides that the number, appointment, and terms of members of the board of a public infrastructure district created by the military installation development authority are governed by the governing document;

SB0192S02 compared with SB0192S01

- ▶ provides for additional powers of a public infrastructure district created by the military installation development authority;
- ▶ modifies the Assessment Area Act to:
 - allow a public infrastructure district created by the military installation development authority to designate an assessment area; and
 - modify the period for commencing an action to contest an assessment or a proceeding to designate an assessment area, and the period of allowable assessment installments, for an assessment area designated by the military installation development authority or a public infrastructure district created by the authority with the consent of all property owners;
- ▶ modifies an assessment lien foreclosure provision relating to certain assessment areas, including an assessment area created by the military installation development authority or by a public infrastructure district created by the authority;
- ▶ modifies the base year for purposes of determining the base taxable value of property added to a military installation development authority's project area by amendment;
- ▶ modifies the definitions of "military land," "publicly owned infrastructure and improvements," and "taxing entity" for purposes of the Military Installation Development Authority Act;
- ▶ adds a severability provision in the Military Installation Development Authority Act;
- ▶ modifies the powers of the military installation development authority to specify that the authority may:
 - acquire an interest in real property through a subsidiary; and
 - by itself or through a subsidiary, provide expertise to another governmental entity interested in public-private partnerships;
- ▶ provides that services provided by the authority for the military are considered to be for the authority's own needs and use;
- ▶ modifies a provision relating to a property exchange for construction of a freeway interchange;
- ▶ specifies that a project area plan adopted by the authority board becomes effective

SB0192S02 compared with SB0192S01

on the date designated by the board;

- ▶ modifies provisions relating to an amendment to a project area plan adopted by the military installation development authority and the adoption of a budget by the authority;
- ▶ authorizes the authority to designate an improved portion of a parcel as a separate parcel for property tax allocation purposes;
- ▶ enacts language relating to the recording of a notice of the payment required of a parcel owner before improvements become subject to property tax and relating to the owner's property tax obligation and provides for the prorating of the obligation upon a transfer of title;
- ▶ enacts a provision relating to the authority assuming jurisdiction over property owned by the Department of Transportation; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-42-102, as last amended by Laws of Utah 2019, Chapters 230 and 399

11-42-106, as last amended by Laws of Utah 2015, Chapter 396

11-42-202, as last amended by Laws of Utah 2018, Chapter 197

11-42-411, as last amended by Laws of Utah 2017, Chapter 470

11-42-502.1, as last amended by Laws of Utah 2018, Chapter 197

17B-2a-1202, as enacted by Laws of Utah 2019, Chapter 490

17B-2a-1204, as enacted by Laws of Utah 2019, Chapter 490

17B-2a-1205, as enacted by Laws of Utah 2019, Chapter 490

17B-2a-1206, as enacted by Laws of Utah 2019, Chapter 490

63H-1-102, as last amended by Laws of Utah 2019, Chapter 498

63H-1-201, as last amended by Laws of Utah 2017, Chapter 216

63H-1-202, as last amended by Laws of Utah 2019, Chapter 498

SB0192S02 compared with SB0192S01

63H-1-206, as enacted by Laws of Utah 2019, Chapter 498

63H-1-403, as last amended by Laws of Utah 2019, Chapter 498

63H-1-403.5, as enacted by Laws of Utah 2008, Chapter 120

63H-1-405, as last amended by Laws of Utah 2015, Chapter 377

63H-1-501, as last amended by Laws of Utah 2019, Chapter 498

63H-1-502, as last amended by Laws of Utah 2018, Chapter 442

ENACTS:

63H-1-103, Utah Code Annotated 1953

63H-1-207, Utah Code Annotated 1953

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

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

11-42-102. Definitions.

(1) As used in this chapter:

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

(i) protests relating to:

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

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

(ii) protests that have been withdrawn under Subsection 11-42-203(3).

(b) "Adequate protests" means, for a proposed sewer assessment area, timely filed, written protests under Section 11-42-203 that represent at least 70% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating adequate protests under Subsection (1)(a).

(2) "Assessment area" means an area, or, if more than one area is designated, the

SB0192S02 compared with SB0192S01

aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

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

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

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

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

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

(6) "Assessment method" means the method:

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

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

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

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

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

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

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

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

(13) (a) "Commercial or industrial real property" means real property used directly or

SB0192S02 compared with SB0192S01

indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

- (i) commercial;
- (ii) mining;
- (iii) industrial;
- (iv) manufacturing;
- (v) governmental;
- (vi) trade;
- (vii) professional;
- (viii) a private or public club;
- (ix) a lodge;
- (x) a business; or
- (xi) a similar purpose.

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

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

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

(15) "Contract price" means:

- (a) the cost of acquiring an improvement, if the improvement is acquired; or
- (b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

(16) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

(17) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

(18) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

- (a) sponsoring festivals and markets;
- (b) promoting business investment or activities;

SB0192S02 compared with SB0192S01

(c) helping to coordinate public and private actions; and

(d) developing and issuing publications designed to improve the economic well-being of the commercial area.

(19) "Environmental remediation activity" means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use, function, aesthetics, or environmental condition of publicly owned property.

(20) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

(21) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

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

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

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

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

(24) "Improvement":

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

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to

SB0192S02 compared with SB0192S01

enable the local entity to provide a service that the local entity is authorized to provide; or

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

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

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

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

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

(25) "Improvement revenues":

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

(b) does not include revenue from assessments.

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

(a) legal and accounting fees;

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

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

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

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

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

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

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

SB0192S02 compared with SB0192S01

(28) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

(29) "Jurisdictional boundaries" means:

- (a) for a county, the boundaries of the unincorporated area of the county; and
- (b) for each other local entity, the boundaries of the local entity.

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

(31) "Local entity" means:

- (a) a county, city, town, special service district, or local district;
- (b) an interlocal entity as defined in Section 11-13-103;
- (c) [a] the military installation development authority, created in Section 63H-1-201;
- (d) a public infrastructure district created by the military installation development

authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act;

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

[~~(e)~~] (f) any other political subdivision of the state.

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

(33) "Mailing address" means:

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

(b) if the property is improved property:

(i) the property's street number; or

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

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

(35) "Operation and maintenance costs":

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

SB0192S02 compared with SB0192S01

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

(36) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

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

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

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

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

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

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

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

(44) "Public agency" means:

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

(b) a political subdivision of the state.

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

(46) "Refunding assessment bonds" means assessment bonds that a local entity issues

SB0192S02 compared with SB0192S01

under Section 11-42-607 to refund, in part or in whole, assessment bonds.

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

(48) "Service" means:

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

(b) economic promotion activities; or

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

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

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

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

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

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

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

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

(52) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

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

SB0192S02 compared with SB0192S01

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

11-42-106. Action to contest assessment or proceeding -- Requirements --

Exclusive remedy -- Bonds and assessment incontestable.

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

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

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

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

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

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

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

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

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

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

(3) (a) An action under Subsection (1) is the exclusive remedy of a person who:

(i) claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment; or

(ii) challenges a bondholder's right to repayment.

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

SB0192S02 compared with SB0192S01

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

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

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

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

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

(b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.

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

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

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

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

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

SB0192S02 compared with SB0192S01

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

(a) state that the local entity proposes to:

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

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

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

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

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

(i) the nature of the improvements; and

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

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

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

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

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

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

(i) by directly billing a property owner; or

SB0192S02 compared with SB0192S01

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

(i) state:

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

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

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

(j) state the date, time, and place of the public hearing required in Section 11-42-204;

(k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and

(iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(a)(ii)(C):

(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale; ~~and~~

(C) is binding on the property owner and all successors; and

SB0192S02 compared with SB0192S01

~~[(C)]~~ (D) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;

(m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

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

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

(B) current operation and maintenance costs;

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

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

(A) operation and maintenance costs; or

(B) economic promotion activities;

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

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

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

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

(3) A notice required under Subsection 11-42-201(2)(a) may contain other information

SB0192S02 compared with SB0192S01

that the governing body considers to be appropriate, including:

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

(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

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

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

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

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

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

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

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

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

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

SB0192S02 compared with SB0192S01

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

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

(a) the property owner gives written consent;

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

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

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

11-42-411. Installment payment of assessments.

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

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

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

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

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

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

(i) shall make a determination that:

(A) the improvement for which the assessment is made has a reasonable useful life for the full period during which installments are to be paid; or

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

(ii) may provide in the resolution or ordinance that no assessment is payable during

SB0192S02 compared with SB0192S01

some or all of the period ending three years after the effective date of the resolution or ordinance.

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

- (a) in substantially equal installments of principal; or
- (b) in substantially equal installments of principal and interest.

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

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

- (i) a local entity may charge interest only from the date each installment is due; and
- (ii) the first installment of an assessment shall be due 15 days after the effective date of

the assessment resolution or ordinance.

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

- (i) the basis upon which the rate is to be determined from time to time;
- (ii) the manner in which and schedule upon which the rate is to be adjusted; and
- (iii) a maximum rate that the assessment may bear.

(4) Interest payable on assessments may include:

- (a) interest on assessment bonds;
- (b) ongoing local entity costs incurred for administration of the assessment area; and
- (c) any costs incurred with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

- (ii) retaining a marketing agent or an indexing agent.

(5) Interest imposed in an assessment resolution or ordinance shall be paid in addition

SB0192S02 compared with SB0192S01

to the amount of each installment annually or at more frequent intervals as provided in the assessment resolution or ordinance.

(6) (a) Except for an assessment for operation and maintenance costs or for the costs of economic promotion activities, a property owner may pay some or all of the entire assessment without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

(b) After the 25-day period stated in Subsection (6)(a), a property owner may at any time prepay some or all of the assessment levied against the owner's property.

(c) A local entity may require a prepayment of an installment to include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on bonds issued in anticipation of the collection of the assessment; and

(ii) the amount necessary, in the governing body's opinion or the opinion of the officer designated by the governing body, to assure the availability of money to pay:

(A) interest that becomes due and payable on those bonds; and

(B) any premiums that become payable on bonds that are called in order to use the money from the prepaid assessment installment.

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

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

(1) (a) Except as provided in Subsection (1)(b), the provisions of this section apply to any property that is:

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

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

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

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

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

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

SB0192S02 compared with SB0192S01

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

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

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

(B) by judicial foreclosure; or

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

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

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

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

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

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

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

(4) (a) The redemption of property that is the subject of a tax sale under Subsection

SB0192S02 compared with SB0192S01

(2)(a)(ii)(A) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

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

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

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

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

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

17B-2a-1202. Definitions.

As used in this part:

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

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

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

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

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

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

(b) which a member of the board represents.

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

SB0192S02 compared with SB0192S01

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

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

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

(B) on taxable property within the district;

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

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the mill rate limit established under Section 17B-2a-1209 for any fiscal year, except as provided in Subsection 17B-2a-1207(8).

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

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

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

17B-2a-1204. Creation.

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

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

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

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

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

SB0192S02 compared with SB0192S01

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

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

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

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

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

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

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

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

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

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

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

(4) The creating entity may impose limitations on the powers of the public infrastructure district through the governing document.

SB0192S02 compared with SB0192S01

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

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

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

(B) is not borne by the creating entity [~~or any municipality, county,~~], by the state, or [~~any~~] by any municipality, county, or other political subdivision.

(ii) Notwithstanding Subsection (5)(b)(i) and Section 17B-1-216, the governing document may require:

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

(B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.

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

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

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection (5)(d)(i)(A).

(ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (5)(d)(i) in accordance with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

(6) The creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

(a) historical performance of the district applicant;

(b) compliance with the creating entity's master plan;

(c) credit worthiness of the district applicant;

(d) plan of finance of the public infrastructure district; and

(e) proposed development within the public infrastructure district.

SB0192S02 compared with SB0192S01

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

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

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

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

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

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

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

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

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

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

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

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

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

or

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

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

(c) An individual who is not a resident within the boundaries of the public

SB0192S02 compared with SB0192S01

infrastructure district may not serve as a board member unless the individual is:

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

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

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

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

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

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

(5) (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no more frequently than every four years, reestablish the boundaries of each division so that each division that has reached a milestone specified in the governing document, as described in Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.

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

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

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

(7) The governing document shall:

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

SB0192S02 compared with SB0192S01

(b) state the number of board members;

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

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

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

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

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

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

(i) before the adoption of the resolution of the creating entity described in Subsection (8)(a), the public infrastructure district to comply with the notice and public hearing requirements of Section 59-2-919, with at least one member of the governing body of the creating entity attending the public hearing required in Subsection 59-2-919(3)(a)(v) or (4)(b); or

(ii) the consent of:

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

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

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

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

(i) before any appointment or election; and

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

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

(10) Notwithstanding any other provision of this section, the governing document governs the number, appointment, and terms of board members of a public infrastructure

SB0192S02 compared with SB0192S01

district created by the development authority.

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

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

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

(1) issue negotiable bonds to pay:

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

(b) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section ~~[11-42a-401]~~ 11-42a-102;

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

(d) capital costs related to public transportation; and

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

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

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

(a) the board;

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

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

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

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

SB0192S02 compared with SB0192S01

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

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

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

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

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

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

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

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

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

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

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

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

(ii) an included municipality.

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

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

SB0192S02 compared with SB0192S01

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

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(6) "Development project" means a project to develop land within a project area.

(7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(8) "Included municipality" means a municipality, some or all of which is included within a project area.

(9) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(10) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(11) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(12) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(13) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(14) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

SB0192S02 compared with SB0192S01

- (ii) levy of a MIDA energy tax;
- (iii) levy of a telecommunications tax;
- (iv) imposition of a transient room tax; and
- (v) imposition of a resort communities tax;
- (b) receives under Subsection 59-12-205(2)(b)(ii); and
- (c) receives as dedicated tax collections.

(15) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(16) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(17) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

- (a) the base taxable value of property in the project area;
- (b) the projected property tax allocation expected to be generated within the project area;
- (c) the amount of the property tax allocation expected to be shared with other taxing entities;
- (d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;
- (e) the property tax allocation expected to be used to cover the cost of administering the project area plan;
- (f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:
 - (i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or
 - (B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

SB0192S02 compared with SB0192S01

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

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

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

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

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

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

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

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

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

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

(A) a hotel;

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

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

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

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

(b) the amount of property tax revenues that would be generated from that same area

SB0192S02 compared with SB0192S01

using the base taxable value of the property.

(21) "Public entity" means:

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

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

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

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

(ii) owned by a utility; or

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

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

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

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, [~~and~~] public transportation facilities[-], and parks, trails, and other recreational facilities;

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

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

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

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

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

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

(25) "Taxable value" means the value of property as shown on the last equalized

SB0192S02 compared with SB0192S01

assessment roll [~~as certified by the county assessor~~].

(26) "Taxing entity":

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

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

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

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

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

63H-1-103. Severability.

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

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

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

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

(2) The authority is:

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

(b) a political subdivision of the state; and

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

(3) The authority may:

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

(b) sue and be sued;

(c) enter into contracts generally;

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

SB0192S02 compared with SB0192S01

- (i) in a project area; or
- (ii) outside a project area for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;
- (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;
- (f) enter into a lease agreement on real or personal property, either as lessee or lessor:
 - (i) in a project area; or
 - (ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;
- (g) provide for the development of land within a project area or military land associated with the project area under one or more contracts;
- (h) exercise powers and perform functions under a contract, as authorized in the contract;
- (i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;
- (j) receive the property tax allocation and other taxes and fees as provided in this chapter;
- (k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;
- (l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;
- (m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
- (n) hire employees, including contract employees;
- (o) transact other business and exercise all other powers provided for in this chapter;
- (p) enter into a development agreement with a developer of land within a project area;
- (q) enter into an agreement with a political subdivision of the state under which the

SB0192S02 compared with SB0192S01

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

(r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;

(s) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section [~~11-42-102~~] 11-42a-102, in accordance with Title 11, Chapter [~~42, Assessment Area Act~~] 42a, Commercial Property Assessed Clean Energy Act;

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

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

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

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

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

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

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

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

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

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

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

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

(c) ordinances or regulations of a county or municipality, including those relating to

SB0192S02 compared with SB0192S01

land use, health, business license, or franchise; or

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

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

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

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

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

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

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

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

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

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

(5) (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

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

SB0192S02 compared with SB0192S01

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

(a) "Highway land" means land that is:

(i) owned by the Department of Transportation, created in Section 72-1-201;

(ii) ~~{a class A road state road that is }~~ not in active use as a class A state road; and

(iii) within an authority project area that was created to provide military recreation facilities and support.

(b) "Highway land" includes a shoulder or appurtenance that is contiguous to the land described in Subsection (1)(a).

SB0192S02 compared with SB0192S01

(2) Notwithstanding any other provision of statute, the authority has jurisdiction and control over highway land, subject to Subsection (3).

(3) The executive director of the Department of Transportation may, in consultation with the authority, transfer, sell, trade, or lease the highway land or any interest in the highway land as provided in Section 72-5-111 and any applicable rules and regulations.

Section 16. Section **63H-1-403** is amended to read:

63H-1-403. Notice of project area plan adoption -- Effective date of plan --

Contesting the formation of the plan.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (1)(b) by publishing or causing to be published legal notice:

- (a) in a newspaper of general circulation within or near the project area; and
- (b) as required by Section 45-1-101.

(2) (a) Each notice under Subsection (1) shall include:

- (i) the board resolution adopting the project area plan or a summary of the resolution;

and

- (ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included in the board resolution or summary described in Subsection (2)(a)(i).

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

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

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

- (a) the State Tax Commission;
- (b) the Automated Geographic Reference Center created in Section 63F-1-506; and
- (c) the assessor and recorder of each county where the project area is located.

(6) (a) A legal action or other challenge to a project area plan or a project area

SB0192S02 compared with SB0192S01

described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

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

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

Section 17. Section **63H-1-403.5** is amended to read:

63H-1-403.5. Amendment to a project area plan.

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

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

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

Section 18. Section **63H-1-405** is amended to read:

63H-1-405. Project area budget.

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

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

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

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

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

(1) (a) The authority may:

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

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

(B) after the time period described in Subsection (1)(a)(i)(A) expires, receive up to

SB0192S02 compared with SB0192S01

75% of the property tax allocation for up to 15 years, if the board determines the additional years will produce significant benefit; and

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

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

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

(b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection (2)(a) is for purposes of Subsection (1)(b) only and does not constitute a subdivision for any other purpose.

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

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

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

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

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

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

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

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

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

SB0192S02 compared with SB0192S01

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

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

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

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

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

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

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

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

(a) a hotel;

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

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

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

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

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

(a) for any purpose authorized under this chapter;

SB0192S02 compared with SB0192S01

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

(c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax allocation or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

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

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

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

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

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

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

(h) to pay for the promotion of:

(i) a development within the project area; or

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

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

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

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

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

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

(b) resort communities tax revenue;

(c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated;

SB0192S02 compared with SB0192S01

(d) MIDA accommodations tax revenue, received under Section 63H-1-205;

(e) transient room tax revenue generated from hotels located on authority-owned or other public-entity-owned property;

(f) municipal energy tax revenue generated from hotels located on authority-owned or other public-entity-owned property; or

(g) payments received under Subsection 63H-1-501[~~(3)~~](4).

(4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

Section 21. Effective date.

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