

**Representative R. Curt Webb** proposes the following substitute bill:

**ASSESSMENT AREA ACT MODIFICATIONS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: R. Curt Webb**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to the designation of an assessment area and the levy of an assessment.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends provisions related to an action to contest an assessment;
- ▶ allows a local entity to divide an assessment area into classifications;
- ▶ prohibits an assessment area that is coextensive or substantially coterminous with

the boundaries of a local entity;

- ▶ amends notice requirements for designation of an assessment area;
- ▶ amends provisions related to a protest filed against the designation of an assessment

area;

- ▶ amends provisions related to a public hearing on a proposed assessment area;
- ▶ amends provisions related to a public meeting held to designate an assessment area;
- ▶ enacts language requiring notice for a subsequent purchaser;
- ▶ amends provisions related to an assessment levy;
- ▶ amends provisions related to a board of equalization;



- 26 ▶ amends provisions related to an assessment for economic promotion activities;
- 27 ▶ prohibits a local entity from levying an assessment unless certain criteria are met;
- 28 ▶ requires a local entity to pay for any increase in an improvement size or capacity for
- 29 service to properties outside of an assessment area with funds other than those
- 30 levied by the assessment;
- 31 ▶ authorizes a local entity to proportionally assess benefitted properties for an
- 32 unassessed benefitted government property; and
- 33 ▶ makes technical corrections.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

- 40 **11-42-102**, as last amended by Laws of Utah 2013, Chapter 246
- 41 **11-42-103**, as last amended by Laws of Utah 2013, Chapter 246
- 42 **11-42-106**, as enacted by Laws of Utah 2007, Chapter 329
- 43 **11-42-201**, as last amended by Laws of Utah 2010, Chapter 238
- 44 **11-42-202**, as last amended by Laws of Utah 2013, Chapters 246 and 265
- 45 **11-42-203**, as last amended by Laws of Utah 2013, Chapter 265
- 46 **11-42-204**, as last amended by Laws of Utah 2013, Chapter 265
- 47 **11-42-206**, as last amended by Laws of Utah 2013, Chapter 265
- 48 **11-42-207**, as last amended by Laws of Utah 2009, Chapter 246
- 49 **11-42-401**, as last amended by Laws of Utah 2013, Chapter 265
- 50 **11-42-402**, as last amended by Laws of Utah 2010, Chapters 90 and 238
- 51 **11-42-403**, as last amended by Laws of Utah 2009, Chapter 246
- 52 **11-42-404**, as last amended by Laws of Utah 2010, Chapter 238
- 53 **11-42-406**, as last amended by Laws of Utah 2010, Chapter 238
- 54 **11-42-409**, as enacted by Laws of Utah 2007, Chapter 329



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

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

58 **11-42-102. Definitions.**

59 (1) "Adequate protests" means timely filed, written protests under Section 11-42-203  
60 that represent at least ~~[50%]~~ 40% of the frontage, area, taxable value, fair market value, lots,  
61 number of connections, or equivalent residential units of the property proposed to be assessed,  
62 according to the same assessment method by which the assessment is proposed to be levied,  
63 after eliminating:

64 (a) protests relating to:

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

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

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

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

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

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

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

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

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

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

83 (a) by which an assessment is levied against benefitted property, whether by frontage,  
84 area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential  
85 unit, any combination of these methods, or any other method [that equitably reflects the benefit  
86 received from the improvement.]; and

87 (b) that, when applied to a benefitted property, accounts for an assessment that meets

88 the requirements of Section [11-42-409](#).

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

91 (8) "Assessment resolution" means a resolution adopted by a local entity under Section  
92 [11-42-404](#) that levies an assessment on benefitted property within an assessment area.

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

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

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

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

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

- 104 (i) commercial;
- 105 (ii) mining;
- 106 (iii) industrial;
- 107 (iv) manufacturing;
- 108 (v) governmental;
- 109 (vi) trade;
- 110 (vii) professional;
- 111 (viii) a private or public club;
- 112 (ix) a lodge;
- 113 (x) a business; or
- 114 (xi) a similar purpose.

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

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

118 (14) "Connection fee" means a fee charged by a local entity to pay for the costs of

119 connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or  
120 electrical system, whether or not improvements are installed on the property.

121 (15) "Contract price" means:

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

123 (b) the amount payable to one or more contractors for the design, engineering,  
124 inspection, and construction of an improvement.

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

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

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

131 (a) sponsoring festivals and markets;

132 (b) promoting business investment or activities;

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

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

136 (19) "Energy efficiency upgrade" means an improvement that is permanently affixed to  
137 commercial or industrial real property that is designed to reduce energy consumption,  
138 including:

139 (a) insulation in:

140 (i) a wall, roof, floor, or foundation; or

141 (ii) a heating and cooling distribution system;

142 (b) a window or door, including:

143 (i) a storm window or door;

144 (ii) a multiglazed window or door;

145 (iii) a heat-absorbing window or door;

146 (iv) a heat-reflective glazed and coated window or door;

147 (v) additional window or door glazing;

148 (vi) a window or door with reduced glass area; or

149 (vii) other window or door modifications;

- 150 (c) an automatic energy control system;
- 151 (d) in a building or a central plant, a heating, ventilation, or air conditioning and
- 152 distribution system;
- 153 (e) caulk or weatherstripping;
- 154 (f) a light fixture that does not increase the overall illumination of a building unless an
- 155 increase is necessary to conform with the applicable building code;
- 156 (g) an energy recovery system;
- 157 (h) a daylighting system;
- 158 (i) measures to reduce the consumption of water, through conservation or more
- 159 efficient use of water, including:
  - 160 (i) installation of low-flow toilets and showerheads;
  - 161 (ii) installation of timer or timing systems for a hot water heater; or
  - 162 (iii) installation of rain catchment systems; or
  - 163 (j) a modified, installed, or remodeled fixture that is approved as a utility cost-saving
  - 164 measure by the governing body of a local entity.

165 (20) "Environmental remediation activity" means a surface or subsurface enhancement,  
166 effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth  
167 movement, or change to grade or elevation which improves the use, function, aesthetics, or  
168 environmental condition of publically or privately owned property.

169 [~~20~~] (21) "Equivalent residential unit" means a dwelling, unit, or development that is  
170 equal to a single-family residence in terms of the nature of its use or impact on an improvement  
171 to be provided in the assessment area.

172 [~~21~~] (22) "Governing body" means:

- 173 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 174 (b) for a local district, the board of trustees of the local district;
- 175 (c) for a special service district:
  - 176 (i) the legislative body of the county, city, or town that established the special service
  - 177 district, if no administrative control board has been appointed under Section 17D-1-301; or
  - 178 (ii) the administrative control board of the special service district, if an administrative
  - 179 control board has been appointed under Section 17D-1-301; and
  - 180 (d) for the military installation development authority created in Section 63H-1-201,

181 the authority board, as defined in Section [63H-1-102](#).

182 ~~[(22)]~~ (23) "Guaranty fund" means the fund established by a local entity under Section  
183 [11-42-701](#).

184 ~~[(23)]~~ (24) "Improved property" means property [~~proposed to be assessed within an~~  
185 ~~assessment area~~] upon which a residential, commercial, or other building has been built.

186 ~~[(24)]~~ (25) "Improvement":

187 (a) (i) means a publicly owned infrastructure, system, or other facility, a publicly or  
188 privately owned energy efficiency upgrade, [~~or~~] a publicly or privately owned renewable energy  
189 system, or publically or privately owned environmental remediation activity that:

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

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

193 (C) a local entity is requested to provide through an interlocal agreement in accordance  
194 with Title 11, Chapter 13, Interlocal Cooperation Act; and

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

197 (A) can be conveniently installed at the same time as an infrastructure, system, or other  
198 facility described in Subsection ~~[(24)]~~ (25)(a)(i); and

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

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

204 ~~[(25)]~~ (26) "Improvement revenues":

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

207 (b) does not include revenue from assessments.

208 ~~[(26)]~~ (27) "Incidental refunding costs" means any costs of issuing refunding  
209 assessment bonds and calling, retiring, or paying prior bonds, including:

210 (a) legal and accounting fees;

211 (b) charges of financial advisors, escrow agents, certified public accountant verification

212 entities, and trustees;

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

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

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

217 (f) any other costs that the governing body determines are necessary [~~or desirable~~] and  
218 proper to incur in connection with the issuance of refunding assessment bonds; and

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

221 [~~(27)~~] (28) "Installment payment date" means the date on which an installment  
222 payment of an assessment is payable.

223 [~~(28)~~] (29) "Interim warrant" means a warrant issued by a local entity under Section  
224 11-42-601.

225 [~~(29)~~] (30) "Jurisdictional boundaries" means:

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

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

228 [~~(30)~~] (31) "Local district" means a local district under Title 17B, Limited Purpose  
229 Local Government Entities - Local Districts.

230 [~~(31)~~] (32) "Local entity" means a county, city, town, special service district, local  
231 district, an interlocal entity as defined in Section 11-13-103, a military installation development  
232 authority created in Section 63H-1-201, or other political subdivision of the state.

233 [~~(32)~~] (33) "Local entity obligations" means assessment bonds, refunding assessment  
234 bonds, interim warrants, and bond anticipation notes issued by a local entity.

235 [~~(33)~~] (34) "Mailing address" means:

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

238 (b) if the property is improved property:

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

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

242 [~~(34)~~] (35) "Net improvement revenues" means all improvement revenues that a local



243 entity has received since the last installment payment date, less all amounts payable by the local  
244 entity from those improvement revenues for operation and maintenance costs.

245 [~~35~~] (36) "Operation and maintenance costs":

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

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

251 [~~36~~] (37) "Overhead costs" means the actual costs incurred or the estimated costs to  
252 be incurred by a local entity in connection with an assessment area for appraisals, legal fees,  
253 filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and  
254 paying agent fees, publishing and mailing costs, costs of levying an assessment, recording  
255 costs, and all other incidental costs.

256 [~~37~~] (38) "Prior assessment ordinance" means the ordinance levying the assessments  
257 from which the prior bonds are payable.

258 [~~38~~] (39) "Prior assessment resolution" means the resolution levying the assessments  
259 from which the prior bonds are payable.

260 [~~39~~] (40) "Prior bonds" means the assessment bonds that are refunded in part or in  
261 whole by refunding assessment bonds.

262 [~~40~~] (41) "Project engineer" means the surveyor or engineer employed by or the  
263 private consulting engineer engaged by a local entity to perform the necessary engineering  
264 services for and to supervise the construction or installation of the improvements.

265 [~~41~~] (42) "Property" includes real property and any interest in real property, including  
266 water rights and leasehold rights.

267 [~~42~~] (43) "Property price" means the price at which a local entity purchases or  
268 acquires by eminent domain property to make improvements in an assessment area.

269 [~~43~~] (44) "Provide" or "providing," with reference to an improvement, includes the  
270 acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and  
271 expansion of an improvement.

272 [~~44~~] (45) "Public agency" means:

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

274 (b) a political subdivision of the state.

275 [~~(45)~~] (46) "Reduced payment obligation" means the full obligation of an owner of  
276 property within an assessment area to pay an assessment levied on the property after the  
277 assessment has been reduced because of the issuance of refunding assessment bonds, as  
278 provided in Section 11-42-608.

279 [~~(46)~~] (47) "Refunding assessment bonds" means assessment bonds that a local entity  
280 issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

281 [~~(47)~~] (48) "Renewable energy system" means a product, a system, a device, or an  
282 interacting group of devices that:

283 (a) is permanently affixed to commercial or industrial real property; and

284 (b) produces energy from renewable resources, including:

285 (i) a photovoltaic system;

286 (ii) a solar thermal system;

287 (iii) a wind system;

288 (iv) a geothermal system, including:

289 (A) a generation system;

290 (B) a direct-use system; or

291 (C) a ground source heat pump system;

292 (v) a microhydro system; or

293 (vi) other renewable sources approved by the governing body of a local entity.

294 [~~(48)~~] (49) "Reserve fund" means a fund established by a local entity under Section  
295 11-42-702.

296 [~~(49)~~] (50) "Service" means:

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

299 (b) economic promotion activities; or

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

301 [~~(50)~~] (51) "Special service district" has the same meaning as defined in Section  
302 17D-1-102.

303 (52) "Unassessed benefitted government property" means property that a local entity  
304 may not assess in accordance with Section 11-42-408 but is benefitted by an improvement,

305 operation and maintenance, or economic promotion activities.

306 [~~51~~] (53) "Unimproved property" means property upon which no residential,  
307 commercial, or other building has been built.

308 [~~52~~] (54) "Voluntary assessment area" means an assessment area that contains only  
309 property whose owners have voluntarily consented to an assessment.

310 Section 2. Section 11-42-103 is amended to read:

311 **11-42-103. Limit on effect of this chapter.**

312 (1) Nothing in this chapter may be construed to authorize a local entity to provide an  
313 improvement or service that the local entity is not otherwise authorized to provide.

314 (2) Notwithstanding Subsection (1), a local entity may provide a renewable energy  
315 system ~~[or]~~, energy efficiency upgrade, or environmental remediation activity that the local  
316 entity finds or determines to be in the public interest.

317 Section 3. Section 11-42-106 is amended to read:

318 **11-42-106. Action to contest assessment or proceeding -- Requirements --**  
319 **Exclusive remedy -- Bonds and assessment incontestable.**

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

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

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

326 (b) An action under Subsection (1) may not be commenced against and a summons  
327 relating to the action may not be served on the local entity more than ~~[30]~~ 60 days after the  
328 effective date of the:

- 329 (i) designation resolution or designation ordinance, if the challenge is to the  
330 designation of an assessment area;
- 331 (ii) assessment resolution or ordinance [or, in the case of an amendment, the], if the  
332 challenge is to an assessment; or
- 333 (iii) amended resolution or ordinance, if the challenge is to an amendment.

334 (3) (a) An action under ~~[this section]~~ Subsection (1) is the exclusive remedy of a  
335 person who:

336 (i) claims an error or irregularity in an assessment or in any proceeding to designate an  
337 assessment area or levy an assessment[-]; or

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

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

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

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

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

354 (5) After the expiration of the [~~30-day~~] 60-day period referred to in Subsection (2)(b):

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

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

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

366 (b) (i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus

367 is the sole form of relief available to a party challenging the misuse of assessment funds.

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

370 Section 4. Section **11-42-201** is amended to read:

371 **11-42-201. Resolution or ordinance designating an assessment area --**  
372 **Classifications within an assessment area -- Preconditions to adoption of a resolution or**  
373 **ordinance.**

374 (1) (a) Subject to the requirements of this part, a governing body of a local entity  
375 intending to levy an assessment on property to pay some or all of the cost of providing  
376 improvements benefitting the property, performing operation and maintenance benefitting the  
377 property, or conducting economic promotion activities benefitting the property shall adopt a  
378 resolution or ordinance designating an assessment area.

379 (b) A designation resolution or designation ordinance described in Subsection (1)(a)  
380 may divide the assessment area into [~~zones~~] multiple classifications to allow the governing  
381 body to:

382 (i) levy a different level of assessment; or

383 (ii) use a different assessment method in each [~~zone~~] classification to reflect more  
384 fairly the benefits that property within the different [~~zones~~] classifications is expected to  
385 receive because of the proposed improvement, operation and maintenance, or economic  
386 promotion activities.

387 (c) The boundaries of a proposed assessment area:

388 (i) may include property that is not intended to be assessed[-]; and

389 (ii) may not be coextensive or substantially coterminous with the boundaries of the  
390 local entity.

391 (2) Before adopting a designation resolution or designation ordinance described in  
392 Subsection (1)(a), the governing body of the local entity shall:

393 (a) give notice as provided in Section **11-42-202**;

394 (b) receive and consider all protests filed under Section **11-42-203**; and

395 (c) hold a public hearing as provided in Section **11-42-204**.

396 Section 5. Section **11-42-202** is amended to read:

397 **11-42-202. Requirements applicable to a notice of a proposed assessment area**

398 **designation.**

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

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

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

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

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

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

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

411 (i) the ~~[general]~~ nature of the improvements; and

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

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

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

418 ~~[(e)]~~ (f) state that the local entity proposes to levy an assessment on benefitted property  
419 within the assessment area to pay some or all of the cost of the improvements according to the  
420 estimated ~~[direct and indirect]~~ benefits to the property from the improvements;

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

426 ~~[(f)]~~ (h) state the assessment method by which the governing body proposes to levy the  
427 assessment, including, if the local entity is a municipality or county, whether the assessment  
428 will be collected:

- 429 (i) by directly billing a property owner; or
- 430 (ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317;
- 431 ~~[(g)]~~ (i) state:
- 432 (i) the date described in Section 11-42-203 and the location at which protests against
- 433 designation of the proposed assessment area or of the proposed improvements are required to
- 434 be filed; ~~[and]~~
- 435 (ii) the method by which the governing body will determine the number of protests
- 436 required to defeat the designation of the proposed assessment area or acquisition or
- 437 construction of the proposed improvements; and
- 438 (iii) in large, boldface, and conspicuous type that a property owner must protest the
- 439 designation of the assessment area in writing if the owner objects to the area designation or
- 440 being assessed for the proposed improvements, operation and maintenance costs, or economic
- 441 promotion activities;
- 442 ~~[(h)]~~ (j) state the date, time, and place of the public hearing required in Section
- 443 11-42-204;
- 444 ~~[(i)]~~ (k) if the governing body elects to create and fund a reserve fund under Section
- 445 11-42-702, include a description of:
- 446 (i) how the reserve fund will be funded and replenished; and
- 447 (ii) how remaining money in the reserve fund is to be disbursed upon full payment of
- 448 the bonds;
- 449 ~~[(j)]~~ (l) if the governing body intends to designate a voluntary assessment area, include
- 450 a property owner consent form that:
- 451 (i) estimates the total assessment to be levied against the particular parcel of property;
- 452 (ii) describes any additional benefits that the governing body expects the assessed
- 453 property to receive from the improvements; and
- 454 (iii) designates the date and time by which the fully executed consent form is required
- 455 to be submitted to the governing body;
- 456 ~~[(k)]~~ (m) if the local entity intends to levy an assessment to pay operation and
- 457 maintenance costs or for economic promotion activities, include:
- 458 (i) a description of the operation and maintenance costs or economic promotion
- 459 activities to be paid by assessments and the initial estimated annual assessment to be levied;

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

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

462 reflect the costs of:

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

464 (B) current operation and maintenance costs;

465 (iv) a description of the method of assessment if different from the method of

466 assessment to be used for financing any improvement; and

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

468 levied for:

469 (A) operation and maintenance costs; or

470 (B) economic promotion activities; ~~and~~

471 ~~(H)~~ (n) if the governing body intends to divide the proposed assessment area into

472 ~~[zones]~~ classifications under Subsection 11-42-201(1)(b), include a description of the proposed

473 ~~[zones:]~~ classifications;

474 (o) if applicable, state the portion and value of the improvement that will be increased

475 in size or capacity to serve property outside of the assessment area and how the increases will

476 be financed; and

477 (p) state whether the improvements will be financed with a bond and, if so, the

478 currently estimated interest rate and term of financing, subject to Subsection (2), for which the

479 benefitted properties within the assessment area may be obligated.

480 (2) The estimated interest rate and term of financing in Subsection (1)(p) may not be

481 interpreted as a limitation to the actual interest rate incurred or the actual term of financing as

482 subject to the market rate at the time of the issuance of the bond.

483 ~~(2)~~ (3) A notice required under Subsection 11-42-201(2)(a) may contain other

484 information that the governing body considers to be appropriate, including:

485 (a) the amount or proportion of the cost of the improvement to be paid by the local

486 entity or from sources other than an assessment;

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

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

489 (c) provisions for any improvements described in Subsection

490 11-42-102~~(24)~~(25)(a)(ii).



491 ~~[(3)]~~ (4) Each notice required under Subsection 11-42-201(2)(a) shall:

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

495 11-42-204; or

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

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

503 (b) be mailed, postage prepaid, within 10 days after the first publication or posting of  
504 the notice under Subsection ~~[(3)]~~ (4)(a) to each owner of property to be assessed within the  
505 proposed assessment area at the property owner's mailing address.

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

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

514 (6) A local entity shall make available on the local entity's website, or, if no website is  
515 available, at the local entity's place of business, the address and type of use of each unassessed  
516 benefitted government property described in Subsection (1)(g).

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

520 (a) the property owner gives written consent;

521 (b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did

522 not object to the levy of the assessment before the final hearing of the board of equalization; or  
 523 (c) the benefitted property is conveyed to a subsequent purchaser and, before the date  
 524 of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable,  
 525 Subsection 11-42-207(1)(d)(i) are met.

526 Section 6. Section 11-42-203 is amended to read:

527 **11-42-203. Protests.**

528 (1) An owner of property that is proposed to be assessed [~~within~~] and who does not  
 529 want the property to be included in an assessment area may, within 60 days after the day of the  
 530 hearing described in Subsection 11-42-204(1), file a written protest;

531 (a) against:

532 [~~(a)~~] (i) the designation of the assessment area;

533 [~~(b)~~] (ii) the inclusion of the owner's property in the proposed assessment area;

534 [~~(c)~~] (iii) the proposed improvements to be acquired or constructed; or

535 (iv) if applicable, the inclusion of an unassessed benefitted government property, the  
 536 benefit for which the other assessed properties will collectively pay; or

537 [~~(d)~~] (b) protesting:

538 (i) whether the assessment meets the requirements of Section 11-42-409; or

539 (ii) any other aspect of the proposed designation of an assessment area.

540 (2) Each protest under [~~Subsection (1)(a)~~] Subsection (1) shall:

541 (a) describe or otherwise identify the property owned by the person filing the protest[-];

542 and

543 (b) include the signature of the owner of the property.

544 (3) An owner may withdraw a protest at any time before the expiration of the 60-day  
 545 period described in Subsection (1) by filing a written withdrawal with the governing body.

546 (4) If the governing body intends to assess property within the proposed assessment  
 547 area by type of improvement or [~~by zone,~~] classification, as described in Section 11-42-201,  
 548 and the governing body has clearly noticed its intent, the governing body shall[-];

549 (a) in determining whether adequate protests have been filed, aggregate the protests by  
 550 the type of improvement or by [~~zone,~~] classification; and

551 (b) apply to and calculate for each type of improvement or classification the threshold  
 552 requirements of adequate protests.

553 (5) The failure of an owner of property within the proposed assessment area to file a  
554 timely written protest constitutes a waiver of any objection to:

- 555 (a) the designation of the assessment area;  
556 (b) any improvement to be provided to property within the assessment area; [~~and~~]  
557 (c) the inclusion of the owner's property within the assessment area[~~;~~];  
558 (d) the fact, but not amount, of benefit to the owner's property; and  
559 (e) the inclusion of an unassessed benefitted government property in the assessment  
560 area.

561 (6) The local entity shall post the total and percentage of the written protests it has  
562 received on the local entity's website, or, if no website is available, at the local entity's place of  
563 business at least five days before the public meeting described in Section [11-42-206](#).

564 Section 7. Section **11-42-204** is amended to read:

565 **11-42-204. Hearing.**

566 (1) On the date and at the time and place specified in the notice under Section  
567 [11-42-202](#), the governing body shall hold a public hearing.

568 (2) (a) The governing body:

569 (i) subject to Subsection (2)(a)(ii), may continue the public hearing from time to time  
570 to a fixed future date and time[~~;~~]; and

571 (ii) may not hold a public hearing that is a continuance less than five days before the  
572 deadline for filing protests described in Section [11-42-203](#).

573 (b) The continuance of a public hearing does not restart or extend the protest period  
574 described in Subsection [11-42-203](#)(1).

575 (3) At the public hearing, the governing body shall[~~;(a)~~] hear all:

576 (a) objections to the designation of the proposed assessment area or the improvements  
577 proposed to be provided in the assessment area; [~~and~~]

578 (b) objections to whether the assessment will meet the requirements of Section  
579 [11-42-409](#);

580 (c) objections to the inclusion within the assessment area of an unassessed benefitted  
581 government property, the benefit for which the other assessed properties will collectively pay;  
582 and

583 [~~(b) hear all~~] (d) persons desiring to be heard.

584 ~~[(4) The governing body may make changes in:]~~  
 585 ~~[(a) improvements proposed to be provided to the proposed assessment area; or]~~  
 586 ~~[(b) the area or areas proposed to be included within the proposed assessment area.]~~

587 Section 8. Section **11-42-206** is amended to read:

588 **11-42-206. Public meeting -- Adoption of a resolution or ordinance regarding a**  
 589 **proposed assessment area -- Designation prohibited if adequate protests filed --**  
 590 **Recording of resolution or ordinance and notice of proposed assessment.**

591 (1) (a) After holding a public hearing under Section **11-42-204** and ~~[considering~~  
 592 ~~protests filed under Section **11-42-203**, and subject to Subsection (3), the governing body shall~~  
 593 ~~hold a public meeting to adopt a resolution or ordinance:]~~ within 15 days after the day that the  
 594 protest period expires in accordance with Subsection **11-42-203**(1), the governing body shall:

595 (i) count the written protests filed or withdrawn in accordance with Section **11-42-203**  
 596 and calculate whether adequate protests have been filed; and

597 (ii) hold a public meeting to announce the protest tally and whether adequate protests  
 598 have been filed.

599 (b) If adequate protests are not filed, the governing body at the public meeting may  
 600 adopt a resolution or ordinance:

601 (i) abandoning the proposal to designate an assessment area; or

602 (ii) designating an assessment area as described in the notice under Section **11-42-202**  
 603 or with the changes made as authorized under Subsection ~~[**11-42-204**(4)]~~ (1)(d).

604 ~~[(b) In accordance with Section **11-42-203**, the governing body:]~~

605 ~~[(i) may not schedule the public meeting before the expiration of the 60-day protest~~  
 606 ~~period; and]~~

607 ~~[(ii) shall consider and report on any timely filed protests.]~~

608 (c) If adequate protests are filed, the governing body at the public meeting:

609 (i) may not adopt a resolution or ordinance designating the assessment area; and

610 (ii) may adopt a resolution or ordinance to abandon the proposal to designate the  
 611 assessment area.

612 (d) (i) In the absence of adequate protests upon the expiration of the protest period and  
 613 subject to Subsection (1)(d)(ii), the governing body may make changes to:

614 (A) an improvement proposed to be provided to the proposed assessment area; or

615 (B) the area or areas proposed to be included within the proposed assessment area.

616 (ii) A governing body may not make a change in accordance with Subsection (1)(d)(i)

617 if the change would result in:

618 (A) a change in the nature of an improvement or reduction in the estimated amount of  
619 benefit to a benefitted property, whether in size, quality, or otherwise, than that described in the  
620 notice under Subsection 11-42-202(1)(c);

621 (B) an estimated total assessment to any benefitted property within the proposed  
622 assessment area that exceeds the estimate stated in the notice under Subsection 11-42-202(1)(e)  
623 or 11-42-202(1)(l); or

624 (C) a financing term that extends beyond the estimated term of financing described in  
625 Subsection 11-42-202(1)(p).

626 (2) If the notice under Section 11-42-202 indicates that the proposed assessment area is  
627 a voluntary assessment area, the governing body shall:

628 (a) delete from the proposed assessment area all property whose owners have not  
629 submitted an executed consent form consenting to inclusion of the owner's property in the  
630 proposed assessment area; ~~and~~

631 (b) delete all improvements that solely benefit the property whose owners did not  
632 consent; and

633 ~~[(b)]~~ (c) determine whether to designate a voluntary assessment area, after considering:

634 (i) the extent of the improvements required to benefit property owners who consented;

635 ~~[(i)]~~ (ii) the amount of the proposed assessment to be levied on the property within the  
636 voluntary assessment area; ~~and~~

637 ~~[(ii)]~~ (iii) the value of the benefits that property within the voluntary assessment area  
638 will receive from improvements proposed to be financed by assessments on the property[-]; and

639 ~~[(3) If adequate protests have been filed, the governing body may not designate an~~  
640 ~~assessment area as described in the notice under Section 11-42-202.]~~

641 (iv) the extent to which the improvements may be scaled to benefit only the assessed  
642 properties.

643 ~~[(4)]~~ (3) (a) If the governing body adopts a designation resolution or ordinance  
644 designating an assessment area, the governing body shall, within 15 days after adopting the  
645 designation resolution or ordinance:

646 (i) record the original or certified copy of the designation resolution or ordinance in the  
647 office of the recorder of the county in which property within the assessment area is located; and

648 (ii) file with the recorder of the county in which property within the assessment area is  
649 located a notice of proposed assessment that:

650 (A) states that the local entity has designated an assessment area; and

651 (B) lists, by legal description and tax identification number as identified on county  
652 records, the property proposed to be assessed.

653 [~~(b) A governing body's failure to comply with the requirements of Subsection (4)(a)~~  
654 ~~does not invalidate the designation of an assessment area.~~]

655 (b) If a governing body fails to comply with the requirements of Subsection (3)(a):

656 (i) the failure does not invalidate the designation of an assessment area; and

657 (ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted  
658 property that lacked recorded notice unless:

659 (A) the subsequent purchaser gives written consent;

660 (B) the subsequent purchaser has actual notice of the assessment levy; or

661 (C) the subsequent purchaser purchased the property after a corrected notice was filed  
662 under Subsection (3)(c).

663 (c) The governing body may file a corrected notice under Subsection (3)(a)(i) or (ii) if  
664 it failed to comply with the date or other requirements for recording notice of the designation  
665 resolution or ordinance.

666 (d) If a governing body has filed a corrected notice under Subsection (3)(c), the local  
667 entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a  
668 levy that the local entity was prohibited from collecting, if applicable, under Subsection (3)(b).

669 (e) A local entity shall pay for a shortfall in assessment funds created under Subsection  
670 (3)(b) or (d) from the local entity's general fund and not by increasing or adjusting the  
671 assessment of any other property within the assessment area.

672 [~~(5)~~] (4) After the adoption of a designation resolution or ordinance under Subsection  
673 (1)[~~(a)~~](b)(ii), the local entity may begin providing the specified improvements.

674 Section 9. Section 11-42-207 is amended to read:

675 **11-42-207. Adding property to an assessment area.**

676 (1) A local entity may add to a designated assessment area property to be benefitted

677 and assessed if the governing body:

678 (a) finds that the inclusion of the property will not adversely affect the owners of  
679 property already in the assessment area;

680 (b) obtains from each owner of property to be added and benefitted a written consent  
681 that contains:

682 (i) the owner's consent to:

683 (A) the owner's property being added to the assessment area; and

684 (B) the making of the proposed improvements with respect to the owner's property;

685 (ii) the legal description and tax identification number of the property to be added; and

686 (iii) the owner's waiver of any right to protest the creation of the assessment area;

687 (c) amends the designation resolution or ordinance to include the added property; and

688 (d) within 15 days after amending the designation resolution or ordinance:

689 (i) records in the office of the recorder of the county in which the added property is

690 located the original or certified copy of the amended designation resolution or ordinance

691 containing the legal description and tax identification number as identified on county records of

692 each additional parcel of property added to the assessment area and proposed to be assessed;

693 and

694 (ii) gives written notice to the property owner of the inclusion of the owner's property  
695 in the assessment area.

696 ~~[(2) The failure of a local entity's governing body to comply with the requirement of~~  
697 ~~Subsection (1)(d) does not affect the validity of the amended designation resolution or~~  
698 ~~ordinance.]~~

699 (2) (a) If a governing body fails to comply with the requirements of Subsection

700 (1)(d)(i):

701 (i) the failure does not invalidate the amended designation resolution or ordinance; and

702 (ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted

703 property that lacked recorded notice unless:

704 (A) the subsequent purchaser gives written consent;

705 (B) the subsequent purchaser has actual notice of the assessment levy; or

706 (C) the subsequent purchaser purchased the property after a corrected notice was filed

707 under Subsection (2)(c).

708 (b) The governing body may file a corrected notice under Subsection (1)(d)(i) if it  
709 failed to comply with the date or other requirements for recording notice of the amended  
710 designation resolution or ordinance.

711 (c) If a governing body has filed a corrected notice under Subsection (2)(b), the local  
712 entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a  
713 levy that the local entity was prohibited from collecting, if applicable, under Subsection (2)(a).

714 (d) A local entity shall pay for a shortfall in assessment funds created under Subsection  
715 (2)(a) or (c) from the local entity's general fund and not by increasing or adjusting the  
716 assessment of any other property within the assessment area.

717 (3) Except as provided in this section, a local entity may not add to an assessment area  
718 property not included in a notice under Section 11-42-202, or provide for making  
719 improvements that are not stated in the notice, unless the local entity gives notice as provided  
720 in Section 11-42-202 and holds a hearing as required under Section 11-42-204 as to the added  
721 property or additional improvements.

722 Section 10. Section 11-42-401 is amended to read:

723 **11-42-401. Levying an assessment -- Prerequisites -- Assessment list.**

724 (1) (a) If a local entity has designated an assessment area in accordance with Part 2,  
725 Designating an Assessment Area, the local entity may levy an assessment against property  
726 within that assessment area as provided in this part.

727 (b) If a local entity that is a municipality or county designates an assessment area in  
728 accordance with this chapter, the municipality or county may levy an assessment and collect  
729 the assessment in accordance with Subsection 11-42-202(1)(~~f~~)(h)(i) or (ii).

730 (c) An assessment billed by a municipality or county in the same manner as a property  
731 tax and included on a property tax notice in accordance with Subsection  
732 11-42-202(1)(~~f~~)(h)(ii) is enforced in accordance with, constitutes a lien in accordance with,  
733 and is subject to other penalty provisions in accordance with this chapter.

734 (2) Before a governing body may adopt a resolution or ordinance levying an  
735 assessment against property within an assessment area:

736 (a) the governing body shall:

737 (i) subject to Subsection (3), prepare an assessment list designating:

738 (A) each parcel of property proposed to be assessed; and



- 739 (B) the amount of the assessment to be levied against the property;
- 740 (ii) appoint a board of equalization as provided in Section 11-42-403; and
- 741 (iii) give notice as provided in Section 11-42-402; and
- 742 (b) the board of equalization, appointed under Section 11-42-403, shall:
- 743 (i) hold hearings[;];
- 744 (ii) determine if the assessment for each benefitted property meets the requirements of
- 745 Section 11-42-409;
- 746 (iii) make necessary corrections so that assessed properties are not assessed for benefits
- 747 conferred exclusively outside of the assessment area;
- 748 (iv) make necessary corrections so that the benefitted properties are not charged for an
- 749 increase in size or capacity of an improvement where the increased size or capacity is to serve
- 750 property outside of the assessment area;
- 751 (v) make any corrections it considers appropriate to an assessment[;]; and
- 752 (vi) report its findings to the governing body as provided in Section 11-42-403.
- 753 (3) (a) The governing body of a local entity shall prepare the assessment list described
- 754 in Subsection (2)(a)(i) at any time after:
- 755 (i) the governing body has determined the estimated or actual operation and
- 756 maintenance costs, if the assessment is to pay operation and maintenance costs;
- 757 (ii) the governing body has determined the estimated or actual economic promotion
- 758 costs described in Section 11-42-206, if the assessment is to pay for economic promotion
- 759 activities; or
- 760 (iii) for any other assessment, the governing body has determined:
- 761 (A) the estimated or actual acquisition and construction costs of all proposed
- 762 improvements within the assessment area, including overhead costs actually incurred and
- 763 authorized reasonable contingencies;
- 764 (B) the estimated or actual property price for all property to be acquired to provide the
- 765 proposed improvements; and
- 766 (C) the estimated reasonable cost of any work to be [~~done~~] performed by the local
- 767 entity.
- 768 (b) In addition to the requirements of Subsection (3)(a), the governing body of a local
- 769 entity shall prepare the assessment list described in Subsection (2)(a)(i) before:

770 (i) the light service has commenced, if the assessment is to pay for light service; or  
771 (ii) the park maintenance has commenced, if the assessment is to pay for park  
772 maintenance.

773 (4) A local entity may levy an assessment for some or all of the cost of improvements  
774 within an assessment area, including payment of:

775 (a) operation and maintenance costs of improvements constructed within the  
776 assessment area only to the extent the improvements provide benefits to the properties within  
777 the assessment area and in accordance with Section 11-42-409;

778 (b) (i) if an outside entity furnishes utility services or maintains utility improvements,  
779 the actual cost that the local entity pays for utility services or for maintenance of  
780 improvements; or

781 (ii) if the local entity itself furnishes utility service or maintains improvements, for the  
782 ~~[reasonable cost of]~~ actual costs that are reasonable, including reasonable administrative costs  
783 or reasonable costs for reimbursement of actual costs incurred by the local entity, for supplying  
784 the utility service or maintenance;

785 (c) the ~~[reasonable cost of supplying]~~ actual costs that are reasonable to supply labor,  
786 materials, or equipment in connection with improvements; and

787 (d) (i) the actual costs that are reasonable ~~[cost of]~~ for valid connection fees; or

788 (ii) the reasonable ~~[costs, as determined by the local entity governing body, if the local~~  
789 ~~entity owns or supplies any sewer, storm drainage, water, gas, electric, or communications~~  
790 ~~connections]~~ and generally applicable costs of locally provided utilities.

791 (5) A local entity may not levy an assessment for an amount donated or contributed for  
792 an improvement or part of an improvement or for anything other than the costs actually and  
793 reasonably incurred by the local entity in order to provide an improvement or conduct  
794 operation and maintenance or economic promotion activities.

795 (6) The validity of an otherwise valid assessment is not affected because the actual and  
796 reasonable cost of improvements exceeds the estimated cost.

797 (7) (a) Subject to Subsection (7)(b), an assessment levied to pay for operation and  
798 maintenance costs may not be levied over a period of time exceeding five years beginning on  
799 the day on which the local entity adopts the assessment ordinance or assessment resolution for  
800 the operation and maintenance costs assessment.

801 (b) A local entity may levy an additional assessment described in Subsection (7)(a) in  
802 the assessment area designated for the assessment described in Subsection (7)(a) if, after the  
803 five-year period expires, the local entity;

804 (i) gives notice in accordance with Section 11-42-402 of the new five-year term of the  
805 assessment; and

806 (ii) complies with the applicable levy provisions of this part.

807 Section 11. Section **11-42-402** is amended to read:

808 **11-42-402. Notice of assessment and board of equalization hearing.**

809 Each notice required under Subsection 11-42-401(2)(a)(iii) shall:

810 (1) state:

811 (a) that an assessment list is completed and available for examination at the offices of  
812 the local entity;

813 (b) the total estimated or actual cost of the improvements;

814 (c) the amount of the total estimated or actual cost of the proposed improvements to be  
815 paid by the local entity;

816 (d) the amount of the assessment to be levied against benefitted property within the  
817 assessment area;

818 (e) the assessment method used to calculate the proposed assessment;

819 (f) the unit cost used to calculate the assessments shown on the assessment list, based  
820 on the assessment method used to calculate the proposed assessment; and

821 (g) the dates, times, and place of the board of equalization hearings under Subsection  
822 11-42-401(2)(b)(i);

823 (2) (a) beginning at least 20 but not more than 35 days before the day on which the first  
824 hearing of the board of equalization is held:

825 (i) be published at least once in a newspaper of general circulation within the local  
826 entity's jurisdictional boundaries; or

827 (ii) if there is no newspaper of general circulation within the local entity's jurisdictional  
828 boundaries, be posted in at least three public places within the local entity's jurisdictional  
829 boundaries; and

830 (b) be published on the Utah Public Notice Website created in Section 63F-1-701 for  
831 35 days immediately before the day on which the first hearing of the board of equalization is

832 held; and

833 (3) be mailed, postage prepaid, within 10 days after the first publication or posting of  
834 the notice under Subsection (2) to each owner of property to be assessed within the proposed  
835 assessment area at the property owner's mailing address.

836 Section 12. Section **11-42-403** is amended to read:

837 **11-42-403. Board of equalization -- Hearings -- Corrections to proposed**  
838 **assessment list -- Report to governing body -- Appeal -- Board findings final -- Waiver of**  
839 **objections.**

840 (1) After preparing an assessment list under Subsection **11-42-401(2)(a)(i)**, the  
841 governing body shall appoint a board of equalization.

842 (2) Each board of equalization under this section shall, at the option of the governing  
843 body, consist of:

844 (a) three or more members of the governing body;

845 (b) (i) two members of the governing body; and

846 (ii) (A) a representative of the treasurer's office of the local entity; or

847 (B) a representative of the office of the local entity's engineer or the project engineer;

848 or

849 (c) (i) (A) one member of the governing body; or

850 (B) a representative of the governing body, whether or not a member of the governing  
851 body, appointed by the governing body;

852 (ii) a representative of the treasurer's office of the local entity; and

853 (iii) a representative of the office of the local entity's engineer or the project engineer.

854 (3) (a) The board of equalization shall hold hearings on at least three consecutive days  
855 for at least one hour per day between 9 a.m. and 9 p.m., as specified in the notice under Section  
856 **11-42-402**.

857 (b) The board of equalization may continue a hearing from time to time to a specific  
858 place and a specific hour and day until the board's work is completed.

859 (c) At each hearing, the board of equalization shall hear arguments from any person  
860 who claims to be aggrieved, including arguments relating to:

861 (i) the [~~direct or indirect~~] amount of benefits accruing to a tract, block, lot, or parcel of  
862 property in the assessment area; or

863 (ii) the amount of the proposed assessment against the tract, block, lot, or parcel.  
864 (4) (a) After the hearings under Subsection (3) are completed, the board of equalization  
865 shall:

- 866 (i) consider all facts and arguments presented at the hearings; and
- 867 (ii) make any corrections to the proposed assessment list [~~that the board considers just~~  
868 ~~and equitable~~] necessary to ensure that the assessment meets the requirements of Section  
869 11-42-409.

870 (b) A correction under Subsection (4)(a)(ii) may:

- 871 (i) eliminate one or more pieces of property from the assessment list; or
- 872 (ii) increase or decrease the amount of the assessment proposed to be levied against a  
873 parcel of property.

874 (c) (i) If the board of equalization makes a correction under Subsection (4)(a)(ii) that  
875 results in an increase of a proposed assessment, the board shall, before approving a corrected  
876 assessment list:

- 877 (A) give notice as provided in Subsection (4)(c)(ii);
- 878 (B) hold a hearing at which the owner whose assessment is proposed to be increased  
879 may appear and object, in person or in writing, to the proposed increase; and
- 880 (C) after holding a hearing, make any further corrections that the board considers [~~just~~  
881 ~~and equitable with respect to~~] necessary to make the proposed increased assessment meet the  
882 requirements of Section 11-42-409.

883 (ii) Each notice required under Subsection (4)(c)(i)(A) shall:

- 884 (A) state:
  - 885 (I) that the property owner's assessment is proposed to be increased;
  - 886 (II) the amount of the proposed increased assessment;
  - 887 (III) that a hearing will be held at which the owner may appear and object to the  
888 increase; and
  - 889 (IV) the date, time, and place of the hearing; and
- 890 (B) be mailed, at least 15 days before the date of the hearing, to each owner of property  
891 as to which the assessment is proposed to be increased at the property owner's mailing address.

892 (5) (a) After the board of equalization has held all hearings required by this section and  
893 has made all corrections the board considers [~~just and equitable~~] necessary to comply with

894 Section 11-42-409, the board shall report to the governing body its findings that:

895 (i) each [~~parcel of~~] assessed property within the assessment area will be [~~directly or~~  
896 ~~indirectly benefitted in an amount not less than the assessment to be levied against the~~  
897 ~~property~~] assessed in a manner that meets the requirements of Section 11-42-409; and

898 (ii) except as provided in Subsection 11-42-409~~(6)~~(5), no parcel of property on the  
899 assessment list will bear more than its [~~proportionate share~~] equitable portion of the [~~cost~~]  
900 actual costs that are reasonable of the improvements benefitting the property in accordance  
901 with Subsection 11-42-409.

902 (b) The board of equalization shall, within 10 days after submitting its report to the  
903 governing body, mail a copy of the board's final report to each property owner who objected at  
904 the board hearings to the assessment proposed to be levied against the property owner's  
905 property at the property owner's mailing address.

906 (6) (a) If a board of equalization includes members other than the governing body of  
907 the local entity, a property owner may appeal a decision of the board to the governing body by  
908 filing with the governing body a written notice of appeal within 15 days after the board's final  
909 report is mailed to property owners under Subsection (5)(b).

910 (b) Except as provided in Subsection (6)(a), no appeal may be taken from the findings  
911 of a board of equalization.

912 (7) The findings of a board of equalization are final:

913 (a) when approved by the governing body, if no appeal is allowed under Subsection  
914 (6); or

915 (b) after the time for appeal under Subsection (6) is passed, if an appeal is allowed  
916 under that subsection.

917 (8) (a) If a governing body has levied an assessment to pay operation and maintenance  
918 costs within an assessment area, the governing body may periodically appoint a new board of  
919 equalization to review assessments for operation and maintenance costs.

920 (b) Each board of equalization appointed under Subsection (8)(a) shall comply with the  
921 requirements of Subsections (3) through (6).

922 [~~(9) The failure of an owner of property within the assessment area to appear before the~~  
923 ~~board of equalization to object to the levy of the assessment constitutes a waiver of all~~  
924 ~~objections to the levy, except an objection that the governing body failed to obtain jurisdiction~~

925 ~~to order that the improvements which the assessment is intended to pay be provided to the~~  
 926 ~~assessment area.]~~

927 (9) (a) An owner who fails to make an objection setting forth all claims, in accordance  
 928 with Subsection (9)(b), to the board of equalization waives all objections, except as provided in  
 929 Subsection (10), to the levy.

930 (b) An owner may set forth a claim and object to a levy by:

931 (i) appearing before the board of equalization in person or through a designated agent;

932 or

933 (ii) submitting the objection in writing if the objection is received by the board of  
 934 equalization before:

935 (A) the first hearing as described in Subsection (3)(a); or

936 (B) if applicable to the owner, a subsequent hearing described in Subsection

937 (4)(c)(i)(B).

938 (10) The provisions of Subsection (9)(a) do not prohibit an owner's objection that the  
 939 governing body failed to obtain jurisdiction to order that the improvements which the  
 940 assessment is intended to pay be provided to the assessment area.

941 (11) (a) This section may not be interpreted to insulate a local entity from a claim of  
 942 misuse of assessment funds.

943 (b) (i) Except as provided in Subsection (11)(b)(ii), an action in the nature of  
 944 mandamus is the sole form of relief available to a party challenging the misuse of assessment  
 945 funds.

946 (ii) The limitation in Subsection (11)(b)(i) does not prohibit the filing of criminal  
 947 charges against or the prosecution of a party for the misuse of assessment funds.

948 Section 13. Section **11-42-404** is amended to read:

949 **11-42-404. Adoption of a resolution or ordinance levying an assessment -- Notice**  
 950 **of the adoption -- Effective date of resolution or ordinance -- Notice of assessment**  
 951 **interest.**

952 (1) (a) After receiving a final report from a board of equalization under Subsection  
 953 **11-42-403(5)** or, if applicable, after the time for filing an appeal under Subsection  
 954 **11-42-403(6)** has passed, the governing body may adopt a resolution or ordinance levying an  
 955 assessment against benefitted property within the assessment area designated in accordance

956 with Part 2, Designating an Assessment Area.

957 (b) ~~[(†)]~~ Except as provided in Subsection (1)~~[(b)(ii)]~~(c), a local entity may not levy  
958 more than one assessment under this chapter for an assessment area designated in accordance  
959 with Part 2, Designating an Assessment Area.

960 ~~[(†)]~~ (c) A local entity may levy more than one assessment in an assessment area  
961 designated in accordance with Part 2, Designating an Assessment Area, if:

962 ~~[(A)]~~ (i) the local entity has adopted a designation resolution or designation ordinance  
963 for each assessment in accordance with Section 11-42-201; and

964 ~~[(B)]~~ (ii) the assessment is levied to pay:

965 ~~[(†)]~~ (A) subject to Section 11-42-401, operation and maintenance costs; ~~[or]~~

966 ~~[(†)]~~ (B) subject to Section 11-42-406, the costs of economic promotion activities~~[-]~~;

967 or

968 (C) the costs of environmental remediation activities.

969 ~~[(c)]~~ (d) An assessment resolution or ordinance adopted under Subsection (1)(a):

970 (i) need not describe each tract, block, lot, part of block or lot, or parcel of property to  
971 be assessed;

972 (ii) need not include the legal description or tax identification number of the parcels of  
973 property assessed in the assessment area; and

974 (iii) is adequate for purposes of identifying the property to be assessed within the  
975 assessment area if the assessment resolution or ordinance incorporates by reference the  
976 corrected assessment list that describes the property assessed by legal description and tax  
977 identification number.

978 (2) (a) A local entity that adopts an assessment resolution or ordinance shall give notice  
979 of the adoption by:

980 (i) (A) publishing a copy of the resolution or ordinance, or a summary of the resolution  
981 or ordinance, once in a newspaper of general circulation within the local entity's jurisdictional  
982 boundaries; or

983 (B) if there is no newspaper of general circulation with the local entity's jurisdictional  
984 boundaries as described in Subsection (2)(a)(i), posting a copy of the resolution or ordinance in  
985 at least three public places within the local entity's jurisdictional boundaries for at least 21  
986 days; and



987 (ii) publishing, in accordance with Section 45-1-101, a copy of the resolution or  
988 ordinance for at least 21 days.

989 (b) No other publication or posting of the resolution or ordinance is required.

990 (3) Notwithstanding any other statutory provision regarding the effective date of a  
991 resolution or ordinance, each assessment resolution or ordinance takes effect:

992 (a) on the date of publication or posting of the notice under Subsection (2); or

993 (b) at a later date provided in the resolution or ordinance.

994 (4) (a) The governing body of each local entity that has adopted an assessment  
995 resolution or ordinance under Subsection (1) shall, within five days after the day on which the  
996 25-day prepayment period under Subsection 11-42-411(6) has passed, file a notice of  
997 assessment interest with the recorder of the county in which the assessed property is located.

998 (b) Each notice of assessment interest under Subsection (4)(a) shall:

999 (i) state that the local entity has an assessment interest in the assessed property;

1000 (ii) if the assessment is to pay operation and maintenance costs or for economic  
1001 promotion activities, state the maximum number of years over which an assessment will be  
1002 payable; and

1003 (iii) describe the property assessed by legal description and tax identification number.

1004 (c) A local entity's failure to file a notice of assessment interest under this Subsection  
1005 (4) has no affect on the validity of an assessment levied under an assessment resolution or  
1006 ordinance adopted under Subsection (1).

1007 Section 14. Section 11-42-406 is amended to read:

1008 **11-42-406. Assessment for economic promotion activities -- Duration --**

1009 **Reporting.**

1010 (1) (a) If the governing body of a local entity designates an assessment area in  
1011 accordance with Part 2, Designating an Assessment Area, for economic promotion activities,  
1012 the governing body:

1013 (i) subject to Subsection (1)(a)(ii), may levy an assessment to pay for economic  
1014 promotion activities by adopting an assessment resolution or ordinance in accordance with  
1015 Section 11-42-404; and

1016 [~~(ii) subject to Subsection (1)(b), may levy an additional assessment for economic~~  
1017 ~~promotion activities for the designated assessment area described in Subsection (1)(a):]~~

1018 ~~[(A) by adopting an assessment resolution or an ordinance in accordance with Section~~  
1019 ~~11-42-404; and]~~

1020 ~~[(B) for a period of five years, beginning on the day on which the local entity adopts~~  
1021 ~~the initial assessment resolution or ordinance described in Subsection (1)(a)(i).]~~

1022 (ii) except as provided in Subsection (1)(b), may not levy the assessment for a period  
1023 longer than five years.

1024 (b) A governing body may ~~[not]~~ levy ~~[an]~~ additional ~~[assessment]~~ assessments to pay  
1025 for economic promotion activities after the five-year period described in Subsection  
1026 (1)(a)(ii)~~[(B) unless]~~ if the governing body:

1027 (i) designates a new assessment area in accordance with Part 2, Designating an  
1028 Assessment Area; ~~[and]~~

1029 (ii) adopts a new assessment resolution or ordinance in accordance with Section  
1030 ~~11-42-404~~~~[-];~~

1031 (iii) limits each additional assessment to a five-year period; and

1032 (iv) complies with Subsections (1)(b)(i) through (iii) for each additional assessment.

1033 (2) If a local entity designates an assessment area for economic promotion activities,  
1034 the local entity:

1035 (a) shall spend on economic promotion activities at least 70% of the money generated  
1036 from an assessment levied in the assessment area and from improvement revenues;

1037 (b) may not spend more than 30% of the money generated from the assessment levied  
1038 in the assessment area and from improvement revenues on administrative costs, including  
1039 salaries, benefits, rent, travel, and costs incidental to publications; and

1040 (c) in accordance with Subsection (3), shall publish a detailed report including the  
1041 following:

1042 (i) an account of money deposited into the assessment fund described in Section  
1043 ~~11-42-412~~;

1044 (ii) an account of expenditures from the fund described in Section ~~11-42-412~~; and

1045 (iii) a detailed account of whether each expenditure described in Subsection (2)(c)(ii)  
1046 was made for economic promotion activities described in Subsection (2)(a) or for  
1047 administrative costs described in Subsection (2)(b).

1048 (3) A local entity shall publish a report required in Subsection (2)(c):

- 1049 (a) on:
- 1050 (i) if available, the local entity's public web site; and
- 1051 (ii) if the local entity is not a county or municipality, on the public web site of any
- 1052 county or municipality in which the local entity has jurisdiction;
- 1053 (b) (i) within one year after the day on which the local entity adopts a new assessment
- 1054 resolution or ordinance for economic promotion activities; and
- 1055 (ii) each subsequent year that the economic promotion activities levy is assessed by
- 1056 updating the information described in Subsection (2)(c); and
- 1057 (c) for six months on a web site described in Subsection (3)(a) after the day on which
- 1058 the report is initially published under Subsection (3)(b) or updated under Subsection (3)(b)(ii).

1059 Section 15. Section **11-42-409** is amended to read:

1060 **11-42-409. Assessment requirements and prohibitions -- Economic promotion**

1061 **activities assessment requirements and prohibitions -- Allocation for unassessed**

1062 **benefitted government property.**

1063 (1) (a) Each local entity that levies an assessment under this chapter [~~shall levy the~~

1064 ~~assessment on each block, lot, tract, or parcel of property that borders, is adjacent to, or~~

1065 ~~benefits from an improvement]:~~

- 1066 [~~(i) to the extent that the improvement directly or indirectly benefits the property; and]~~
- 1067 [~~(ii) to whatever depth on the parcel of property that the governing body determines,~~
- 1068 ~~including the full depth.]~~

1069 (i) except for an appropriate allocation for an unassessed benefitted government

1070 property, may not assess a property for more than the amount that the property benefits by the

1071 improvement, operation and maintenance, or economic promotion activities;

1072 (ii) may levy an assessment only for the actual costs that are reasonable; and

1073 (iii) shall levy an assessment on a benefitted property in an amount that reflects an

1074 equitable portion, subject to Subsection (1)(b), of the benefit the property will receive from an

1075 improvement, operation and maintenance, or economic promotion activities for which the

1076 assessment is levied.

1077 (b) The local entity, in accounting for a property's benefit or portion of a benefit

1078 received from an improvement, operation and maintenance, or economic promotion activities,

1079 shall consider:

1080 (i) any benefit that can be directly identified with the property; and  
 1081 (ii) the property's roughly equivalent portion of the benefit that is collectively shared by  
 1082 all the assessed properties in the entire assessment area or classification.

1083 ~~[(b)]~~ (c) The validity of an otherwise valid assessment is not affected by the fact that  
 1084 the benefit to the property from the improvement~~[- (i) is only indirect, or (ii)]~~ does not increase  
 1085 the fair market value of the property.

1086 (2) The assessment method a governing body uses to calculate an assessment may be  
 1087 according to frontage, area, taxable value, fair market value, lot, parcel, number of connections,  
 1088 equivalent residential unit, or any combination of these methods, or any other method as the  
 1089 governing body considers ~~[fair and equitable]~~ appropriate to comply with Subsections (1)(a)  
 1090 and (b).

1091 ~~[(3) In calculating assessments, a governing body may:]~~

1092 (3) A local entity that levies an assessment under this chapter for an improvement:

1093 (a) shall:

1094 (i) (A) levy the assessment on each block, lot, tract, or parcel of property that benefits  
 1095 from the improvement; and

1096 (B) to whatever depth, including full depth, on the parcel of property that the governing  
 1097 body determines but that still complies with Subsections (1)(a) and (b);

1098 (ii) make an allowance for each corner lot receiving the same improvement on both  
 1099 sides so that the property is not assessed at the full rate on both sides; and

1100 (iii) pay for any increase in size or capacity that serves property outside of the  
 1101 assessment area with funds other than those levied by an assessment;

1102 (b) may:

1103 ~~[(a)]~~ (i) use different methods for different improvements in an assessment area; [and]

1104 ~~[(b)]~~ (ii) assess different amounts in different [zones] classifications, even when using  
 1105 the same method, if acquisition or construction costs differ from [zone to zone:] classification  
 1106 to classification;

1107 ~~[(4) (a) Each local entity shall make an allowance for each corner lot receiving the~~  
 1108 ~~same improvement on both sides so that the property is not assessed at the full rate on both~~  
 1109 ~~sides.]~~

1110 ~~[(b) A local entity may]~~

1111 (iii) allocate a corner lot allowance under Subsection [(4)(a)] (3)(a)(ii) to all other  
 1112 benefitted property within the assessment area by increasing the assessment levied against the  
 1113 other assessed property[.] in the same proportion as the improvement is assessed;

1114 ~~[(5) (a) Assessments shall be fair and equitable according to the benefit to the~~  
 1115 ~~benefitted property from the improvement.]~~

1116 ~~[(b) To] (iv) to comply with Subsection [(5)] (1)(a), [a local entity may levy~~  
 1117 ~~assessments within zones.]~~ levy an assessment within classifications; and

1118 (v) assess property to replace improvements that are approaching or have exceeded  
 1119 their useful life or to increase the level of service of an existing improvement; and

1120 (c) may not:

1121 (i) consider the costs of the additional size or capacity of an improvement that will be  
 1122 increased in size or capacity to serve property outside of the assessment area when calculating  
 1123 an assessment or determining an assessment method; or

1124 (ii) except for in a voluntary assessment area or as provided in Subsection (3)(b)(v),  
 1125 assess a property for an improvement that would duplicate or provide a reasonably similar  
 1126 service that is already provided to the property.

1127 (4) A local entity that levies an assessment under this chapter for economic promotion  
 1128 activities:

1129 (a) may:

1130 (i) levy an assessment only on commercial or industrial real property; and

1131 (ii) create classifications based on property use, or other distinguishing factors, to  
 1132 determine the estimated benefit to the assessed property;

1133 (b) may rely on, in addition to the assessment methods described in Subsection (2),  
 1134 estimated benefits from an increase in:

1135 (i) office lease rates;

1136 (ii) retail sales rates;

1137 (iii) customer base;

1138 (iv) public perception;

1139 (v) hotel room rates and occupancy levels;

1140 (vi) property values;

1141 (vii) the commercial environment from enhanced services;

1142           (viii) another articulable method of estimating benefits; or  
1143           (ix) a combination of the methods described in Subsections (4)(b)(i) through (viii);  
1144           (c) subject to Subsection (4)(d), shall use an assessment method that, when applied to a  
1145 benefitted property, meets the requirements of Subsection (1)(a); and  
1146           (d) may not use taxable value, fair market value, or any other assessment method based  
1147 on the value of the property as the sole assessment method.  
1148           ~~[(6)]~~ (5) A local entity may levy an assessment that would otherwise violate a  
1149 provision of this chapter if the owners of all property to be assessed voluntarily enter into a  
1150 written agreement with the local entity consenting to the assessment.  
1151           (6) A local entity may allocate the cost of a benefit received by an unassessed  
1152 benefitted government property to all other benefitted property within the assessment area by  
1153 increasing the assessment levied against the other assessed property in the same proportion as  
1154 the improvement, operation and maintenance, or economic promotion activities are assessed.