

1 **MILITARY INSTALLATION DEVELOPMENT**

2 **AUTHORITY AMENDMENTS**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Sheldon L. Killpack**

6 House Sponsor: Brad L. Dee

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions related to the military installation development authority.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ authorizes the military installation development authority to levy a municipal
14 energy sales and use tax, municipal telecommunications license tax, and a transient
15 room tax;

16 ▶ prohibits municipalities from levying a municipal energy sales and use tax,
17 municipal telecommunications license tax, or a transient room tax in a project area
18 described in a project area plan adopted by the military installation development
19 authority;

20 ▶ provides for a portion of sales and use tax revenues generated within a project area
21 described in a project area plan adopted by the military installation development
22 authority to be distributed to the military installation development authority;

23 ▶ prohibits municipalities, local districts, and special service districts from annexing
24 land within a military installation development authority project area without the
25 consent of the military installation development authority;

26 ▶ authorizes the military installation development authority to issue industrial
27 revenue bonds and provides for the authority to be subject to the Utah Industrial
28 Facilities and Development Act;

29 ▶ authorizes the military installation development authority to issue assessment bonds

- 30 and provides for the authority to be subject to the Assessment Area Act;
- 31 ▶ modifies the definitions of "base taxable value," "military land," "project area,"
- 32 "project area budget," "publicly owned infrastructure and improvements," and
- 33 "taxing entity," eliminates the definition of "record property owner," and enacts
- 34 new definitions under the Military Installation Development Authority Act;
- 35 ▶ modifies and clarifies the status of the military installation development authority
- 36 to provide that it has statewide jurisdiction, that its purpose is to facilitate the
- 37 development of military land, and that it is a political subdivision of the state and a
- 38 public corporation;
- 39 ▶ modifies the powers of the military installation development authority, including
- 40 giving it the power to:
- 41 • acquire an interest in property outside a project area, if the board considers it
- 42 necessary for fulfilling the authority's development objectives; and
- 43 • exercise exclusive police power within a project area;
- 44 ▶ prohibits the military installation development authority from itself providing law
- 45 enforcement or fire protection service;
- 46 ▶ provides for the distribution of some tax increment revenue;
- 47 ▶ requires some revenues to be used for municipal services within project areas;
- 48 ▶ expands the military installation development authority's exemption from county
- 49 and municipal ordinances to include an exemption from all county and municipal
- 50 ordinances and regulations, not just those related to land use;
- 51 ▶ exempts the military installation development authority from the jurisdiction of
- 52 local districts and special service districts;
- 53 ▶ requires the military installation development authority to provide notice of the
- 54 establishment of project areas;
- 55 ▶ authorizes the board of the military installation development authority to delegate
- 56 powers to its staff;
- 57 ▶ provides that board appointees serve at the pleasure of and may be removed and

58 replaced by the appointing authority;

59 ▶ modifies requirements for preparing and adopting a project area plan;

60 ▶ requires the board of the military installation development authority to adopt a

61 project area budget before receiving or using tax increment and authorizes the

62 board to amend a project area budget;

63 ▶ provides that improvements become subject to property tax in the year during

64 which the military installation development authority issues a certificate of

65 occupancy;

66 ▶ designates the authority chief financial officer as a public treasurer and requires the

67 chief financial officer to invest certain authority funds as provided in the State

68 Money Management Act;

69 ▶ modifies a provision relating to the allowable uses of tax increment; and

70 ▶ provides that, upon the dissolution of the military installation development

71 authority, all title to its property vests in the state.

72 **Monies Appropriated in this Bill:**

73 None

74 **Other Special Clauses:**

75 This bill provides an immediate effective date.

76 **Utah Code Sections Affected:**

77 AMENDS:

78 **10-1-304**, as last amended by Laws of Utah 2004, Chapter 255

79 **10-1-403**, as last amended by Laws of Utah 2007, Chapter 250

80 **10-2-401**, as last amended by Laws of Utah 2008, Chapter 360

81 **10-2-402**, as last amended by Laws of Utah 2008, Chapter 167

82 **11-17-2**, as last amended by Laws of Utah 2001, Chapter 73

83 **11-42-102**, as last amended by Laws of Utah 2008, Chapter 360

84 **17B-1-104**, as renumbered and amended by Laws of Utah 2007, Chapter 329

85 **17B-1-402**, as renumbered and amended by Laws of Utah 2007, Chapter 329

- 86 **17D-1-104**, as enacted by Laws of Utah 2008, Chapter 360
- 87 **17D-1-401**, as enacted by Laws of Utah 2008, Chapter 360
- 88 **59-12-205**, as last amended by Laws of Utah 2008, Chapter 384
- 89 **59-12-352**, as last amended by Laws of Utah 2005, First Special Session, Chapter 10
- 90 **63H-1-102**, as enacted by Laws of Utah 2007, Chapter 23
- 91 **63H-1-201**, as last amended by Laws of Utah 2008, Chapter 120
- 92 **63H-1-301**, as enacted by Laws of Utah 2007, Chapter 23
- 93 **63H-1-302**, as enacted by Laws of Utah 2007, Chapter 23
- 94 **63H-1-303**, as enacted by Laws of Utah 2007, Chapter 23
- 95 **63H-1-401**, as enacted by Laws of Utah 2007, Chapter 23
- 96 **63H-1-402**, as enacted by Laws of Utah 2007, Chapter 23
- 97 **63H-1-403**, as enacted by Laws of Utah 2007, Chapter 23
- 98 **63H-1-501**, as enacted by Laws of Utah 2007, Chapter 23
- 99 **63H-1-502**, as last amended by Laws of Utah 2008, Chapter 120
- 100 **63H-1-801**, as enacted by Laws of Utah 2007, Chapter 23

101 ENACTS:

- 102 **11-17-3.5**, Utah Code Annotated 1953
- 103 **63H-1-203**, Utah Code Annotated 1953
- 104 **63H-1-405**, Utah Code Annotated 1953
- 105 **63H-1-503**, Utah Code Annotated 1953
- 106 **63H-1-706**, Utah Code Annotated 1953

107 RENUMBERS AND AMENDS:

- 108 **63H-1-202**, (Renumbered from 63H-1-404, as enacted by Laws of Utah 2007, Chapter
- 109 23)

110

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

112 Section 1. Section **10-1-304** is amended to read:

113 **10-1-304. Municipality and military installation development authority may levy**

114 **tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice**
115 **requirements -- Exemptions.**

116 (1) (a) Except as provided in ~~Subsection (4)~~ Subsections (4) and (5), a municipality
117 may levy a municipal energy sales and use tax on the sale or use of taxable energy within the
118 municipality:

119 ~~(a)~~ (i) by ordinance as provided in Section 10-1-305; and

120 ~~(b)~~ (ii) of up to 6% of the delivered value of the taxable energy.

121 (b) Subject to Section 63H-1-203, the military installation development authority
122 created in Section 63H-1-201 may levy a municipal energy sales and use tax under this part
123 within a project area described in a project area plan adopted by the authority under Title 63H,
124 Chapter 1, Military Installation Development Authority Act, as though the authority were a
125 municipality.

126 (2) A municipal energy sales and use tax imposed under this part may be in addition to
127 any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use
128 Tax Act.

129 (3) (a) For purposes of this Subsection (3):

130 (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2,
131 Part 4, Annexation.

132 (ii) "Annexing area" means an area that is annexed into a municipality.

133 (b) (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the
134 rate of a tax under this part, the enactment, repeal, or change shall take effect:

135 (A) on the first day of a calendar quarter; and

136 (B) after a 90-day period beginning on the date the commission receives notice
137 meeting the requirements of Subsection (3)(b)(ii) from the municipality.

138 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

139 (A) that the city or town will enact or repeal a tax or change the rate of a tax under this
140 part;

141 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

142 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and
143 (D) if the city or town enacts the tax or changes the rate of the tax described in
144 Subsection (3)(b)(ii)(A), the new rate of the tax.

145 (c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will
146 result in a change in the rate of a tax under this part for an annexing area, the change shall take
147 effect:

148 (A) on the first day of a calendar quarter; and
149 (B) after a 90-day period beginning on the date the commission receives notice
150 meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the
151 annexing area.

152 (ii) The notice described in Subsection (3)(c)(i)(B) shall state:

153 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the
154 rate of a tax under this part for the annexing area;

155 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);
156 (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and
157 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

158 (4) ~~[Notwithstanding Subsection (1), a]~~ A sale or use of electricity within a
159 municipality is exempt from the tax authorized by this section if the sale or use is:

160 (a) made under a tariff adopted by the Public Service Commission of Utah only for
161 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
162 source, as designated in the tariff by the Public Service Commission of Utah; and
163 (b) for an amount of electricity that is:

164 (i) unrelated to the amount of electricity used by the person purchasing the electricity
165 under the tariff described in Subsection (4)(a); and
166 (ii) equivalent to the number of kilowatthours specified in the tariff described in
167 Subsection (4)(a) that may be purchased under the tariff described in Subsection (4)(a).

168 (5) (a) A municipality may not levy a municipal energy sales and use tax within any
169 portion of the municipality that is within a project area described in a project area plan

170 adopted by the military installation development authority under Title 63H, Chapter 1,
171 Military Installation Development Authority Act.

172 (b) Subsection (5)(a) does not apply to the military installation development
173 authority's levy of a municipal energy sales and use tax.

174 Section 2. Section **10-1-403** is amended to read:

175 **10-1-403. Municipality and military installation development authority may levy**
176 **municipal telecommunications license tax -- Recovery from customers -- Enactment,**
177 **repeal, or change in rate of tax -- Annexation.**

178 (1) (a) (i) Subject to the provisions of this section, beginning July 1, 2004, a
179 municipality may levy on and provide that there is collected from a telecommunications
180 provider a municipal telecommunications license tax on the telecommunications provider's
181 gross receipts from telecommunications service that are attributed to the municipality in
182 accordance with Section 10-1-407.

183 (ii) Subject to Section 63H-1-203, the military installation development authority
184 created in Section 63H-1-201 may levy and collect a municipal telecommunications license
185 tax under this part for telecommunications service provided within a project area described in
186 a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation
187 Development Authority Act, as though the authority were a municipality.

188 (b) To levy and provide for the collection of a municipal telecommunications license
189 tax under this part, the municipality shall adopt an ordinance that complies with the
190 requirements of Section 10-1-404.

191 (c) Beginning on July 1, 2007, a municipal telecommunications license tax imposed
192 under this part shall be at a rate of up to 3.5% of the telecommunications provider's gross
193 receipts from telecommunications service that are attributed to the municipality in accordance
194 with Section 10-1-407.

195 (2) A telecommunications provider may recover the amounts paid in municipal
196 telecommunications license taxes from the customers of the telecommunications provider
197 within the municipality imposing the municipal telecommunications license tax through a

198 charge that is separately identified in the statement of the transaction with the customer as the
199 recovery of a tax.

200 (3) (a) For purposes of this Subsection (3):

201 (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2,
202 Part 4, Annexation.

203 (ii) "Annexing area" means an area that is annexed into a municipality.

204 (b) (i) If, on or after July 1, 2004, a municipality enacts or repeals a tax or changes the
205 rate of the tax under this part, the enactment, repeal, or change shall take effect:

206 (A) on the first day of a calendar quarter; and

207 (B) after a 90-day period beginning on the date the commission receives notice
208 meeting the requirements of Subsection (3)(b)(ii) from the municipality.

209 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

210 (A) that the municipality will enact or repeal a tax under this part or change the rate of
211 the tax;

212 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

213 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

214 (D) if the municipality enacts the municipal telecommunications license tax or
215 changes the rate of the tax, the new rate of the tax.

216 (c) (i) If, for an annexation that occurs on or after July 1, 2004, the annexation will
217 result in a change in the rate of the tax under this part for an annexing area, the change shall
218 take effect:

219 (A) on the first day of a calendar quarter; and

220 (B) after a 90-day period beginning on the date the commission receives notice
221 meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the
222 annexing area.

223 (ii) The notice described in Subsection (3)(c)(i)(B) shall state:

224 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the
225 rate of a tax under this part for the annexing area;

226 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);
227 (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and
228 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).
229 (4) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal
230 telecommunications license tax rate that takes effect on July 1, 2007, a municipality is not
231 subject to the notice requirements of Subsection (3)(b) if:

232 (a) on June 30, 2007, the municipality has in effect an ordinance that levies a
233 municipal telecommunications license tax at a rate that exceeds 3.5%; and
234 (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal
235 telecommunications license tax at a rate of 3.5%.

236 (5) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal
237 telecommunications license tax rate that takes effect on July 1, 2007, the 90-day period
238 described in Subsection (3)(b)(i)(B) is considered to be a 30-day period if:

239 (a) on June 30, 2007, the municipality has in effect an ordinance that levies a
240 municipal telecommunications license tax at a rate that exceeds 3.5%; and
241 (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal
242 telecommunications license tax at a rate that is less than 3.5%.

243 (6) (a) A municipality may not levy or collect a municipal telecommunications license
244 tax for telecommunications service provided within any portion of the municipality that is
245 within a project area described in a project area plan adopted by the military installation
246 development authority under Title 63H, Chapter 1, Military Installation Development
247 Authority Act.

248 (b) Subsection (6)(a) does not apply to the military installation development
249 authority's levy of a municipal telecommunications license tax.

250 Section 3. Section **10-2-401** is amended to read:
251 **10-2-401. Definitions -- Property owner provisions.**

252 (1) As used in this part:
253 (a) "Affected entity" means:

254 (i) a county in whose unincorporated area the area proposed for annexation is located;

255 (ii) a local district under Title 17B, Limited Purpose Local Government Entities -
256 Local Districts, or special service district under Title 17D, Chapter 1, Special Service District
257 Act, whose boundaries include any part of an area proposed for annexation;

258 (iii) a school district whose boundaries include any part of an area proposed for
259 annexation; and

260 (iv) a municipality whose boundaries are within 1/2 mile of an area proposed for
261 annexation.

262 (b) "Annexation petition" means a petition under Section 10-2-403 proposing the
263 annexation to a municipality of a contiguous, unincorporated area that is contiguous to the
264 municipality.

265 (c) "Commission" means a boundary commission established under Section 10-2-409
266 for the county in which the property that is proposed for annexation is located.

267 (d) "Expansion area" means the unincorporated area that is identified in an annexation
268 policy plan under Section 10-2-401.5 as the area that the municipality anticipates annexing in
269 the future.

270 (e) "Feasibility consultant" means a person or firm with expertise in the processes and
271 economics of local government.

272 (f) "Municipal selection committee" means a committee in each county composed of
273 the mayor of each municipality within that county.

274 (g) "Private," with respect to real property, means not owned by the United States or
275 any agency of the federal government, the state, a county, a municipality, a school district, a
276 local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a
277 special service district under Title 17D, Chapter 1, Special Service District Act, or any other
278 political subdivision or governmental entity of the state.

279 (h) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.

280 (i) "Urban development" means:

281 (i) a housing development with more than 15 residential units and an average density

282 greater than one residential unit per acre; or
283 (ii) a commercial or industrial development for which cost projections exceed
284 \$750,000 for all phases.

285 (2) For purposes of this part:
286 (a) the owner of real property shall be:
287 (i) except as provided in Subsection (2)(a)(ii), the record title owner according to the
288 records of the county recorder on the date of the filing of the petition or protest; [~~and~~] or
289 (ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed
290 for annexation includes military land that is within a project area described in a project area
291 plan adopted by the military installation development authority under Title 63H, Chapter 1,
292 Military Installation Development Authority Act; and

293 (b) the value of private real property shall be determined according to the last
294 assessment roll for county taxes before the filing of the petition or protest.

295 (3) For purposes of each provision of this part that requires the owners of private real
296 property covering a percentage or majority of the total private land area within an area to sign
297 a petition or protest:
298 (a) a parcel of real property may not be included in the calculation of the required
299 percentage or majority unless the petition or protest is signed by:
300 (i) except as provided in Subsection (3)(a)(ii), owners representing a majority
301 ownership interest in that parcel; or
302 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the
303 number of owners of that parcel;
304 (b) the signature of a person signing a petition or protest in a representative capacity
305 on behalf of an owner is invalid unless:
306 (i) the person's representative capacity and the name of the owner the person
307 represents are indicated on the petition or protest with the person's signature; and
308 (ii) the person provides documentation accompanying the petition or protest that
309 substantiates the person's representative capacity; and

310 (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a
311 petition or protest on behalf of a deceased owner.

312 Section 4. Section **10-2-402** is amended to read:

313 **10-2-402. Annexation -- Limitations.**

314 (1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be
315 annexed to the municipality as provided in this part.

316 (b) An unincorporated area may not be annexed to a municipality unless:

317 (i) it is a contiguous area;

318 (ii) it is contiguous to the municipality;

319 (iii) except as provided in Subsection 10-2-418(1)(b), annexation will not leave or
320 create an unincorporated island or peninsula; and

321 (iv) for an area located in a specified county with respect to an annexation that occurs
322 after December 31, 2002, the area is within the proposed annexing municipality's expansion
323 area.

324 (2) Except as provided in Section 10-2-418, a municipality may not annex an
325 unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

326 (3) An annexation under this part may not include part of a parcel of real property and
327 exclude part of that same parcel unless the owner of that parcel has signed the annexation
328 petition under Section 10-2-403.

329 (4) A municipality may not annex an unincorporated area in a specified county for the
330 sole purpose of acquiring municipal revenue or to retard the capacity of another municipality
331 to annex the same or a related area unless the municipality has the ability and intent to benefit
332 the annexed area by providing municipal services to the annexed area.

333 (5) The legislative body of a specified county may not approve urban development
334 within a municipality's expansion area unless:

335 (a) the county notifies the municipality of the proposed development; and

336 (b) (i) the municipality consents in writing to the development; or

337 (ii) (A) within 90 days after the county's notification of the proposed development, the

338 municipality submits to the county a written objection to the county's approval of the proposed
339 development; and

340 (B) the county responds in writing to the municipality's objections.

341 (6) (a) An annexation petition may not be filed under this part proposing the
342 annexation of an area located in a county that is not the county in which the proposed
343 annexing municipality is located unless the legislative body of the county in which the area is
344 located has adopted a resolution approving the proposed annexation.

345 (b) Each county legislative body that declines to adopt a resolution approving a
346 proposed annexation described in Subsection (6)(a) shall provide a written explanation of its
347 reasons for declining to approve the proposed annexation.

348 (7) (a) As used in this Subsection (7), "airport" means an area that the Federal
349 Aviation Administration has, by a record of decision, approved for the construction or
350 operation of a Class I, II, or III commercial service airport, as designated by the Federal
351 Aviation Administration in 14 C.F.R. Part 139.

352 (b) A municipality may not annex an unincorporated area within 5,000 feet of the
353 center line of any runway of an airport operated or to be constructed and operated by another
354 municipality unless the legislative body of the other municipality adopts a resolution
355 consenting to the annexation.

356 (c) A municipality that operates or intends to construct and operate an airport and does
357 not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b)
358 may not deny an annexation petition proposing the annexation of that same area to that
359 municipality.

360 (8) A municipality may not annex an unincorporated area located within a project area
361 described in a project area plan adopted by the military installation development authority
362 under Title 63H, Chapter 1, Military Installation Development Authority Act, without the
363 authority's approval.

364 Section 5. Section **11-17-2** is amended to read:

365 **11-17-2. Definitions.**

366 As used in this chapter:

367 (1) "Bonds" means bonds, notes, or other evidences of indebtedness.

368 (2) "Finance" or "financing" includes the issuing of bonds by a municipality, county,
369 or state university for the purpose of using a portion, or all or substantially all of the proceeds
370 to pay for or to reimburse the user or its designee for the costs of the acquisition of facilities of
371 a project, or to create funds for the project itself where appropriate, whether these costs are
372 incurred by the municipality, the county, the state university, the user, or a designee of the
373 user. If title to or in these facilities at all times remains in the user, the bonds of the
374 municipality or county shall be secured by a pledge of one or more notes, debentures, bonds,
375 other secured or unsecured debt obligations of the user, or such sinking fund or other
376 arrangement as in the judgment of the governing body is appropriate for the purpose of
377 assuring repayment of the bond obligations to investors in accordance with their terms.

378 (3) "Governing body" means ~~[the board or body that the general legislative powers of~~
379 ~~the municipality or county are vested. In the case of state universities to which this chapter~~
380 ~~applies, "governing body" means]:~~

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

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

384 (c) for the University of Utah and Utah State University, the board or body having the
385 control and supervision of the University of Utah and Utah State University ~~[and, with~~
386 ~~reference to]; and~~

387 (d) for a nonprofit corporation or foundation created by and operating under the
388 auspices of a state university, the board of directors or board of trustees of that corporation or
389 foundation.

390 (4) "Industrial park" means land, including all necessary rights, appurtenances,
391 easements, and franchises relating to it, acquired and developed by any municipality, county,
392 or state university for the establishment and location of a series of sites for plants and other
393 buildings for industrial, distribution, and wholesale use. There may be included as part of the

394 development of the land for any industrial park under this chapter the acquisition and
395 provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting,
396 electrical distribution, railroad, or docking facilities, or any combination of them, but only to
397 the extent that these facilities are incidental to the use of the land as an industrial park.

398 (5) "Mortgage" means a mortgage, trust deed, or other security device.

399 (6) "Municipality" means any incorporated city or town in the state, including cities or
400 towns operating under home rule charters.

401 (7) "Pollution" means any form of environmental pollution including, but not limited
402 to, water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution,
403 radiation contamination, or noise pollution.

404 (8) "Project" means:

405 (a) any industrial park, land, interest in land, building, structure, facility, system,
406 fixture, improvement, appurtenance, machinery, equipment, or any combination of them,
407 whether or not in existence or under construction:

408 (i) that is suitable for industrial, manufacturing, warehousing, research, business, and
409 professional office building facilities, commercial, shopping services, food, lodging, low
410 income rental housing, recreational, or any other business purposes;

411 (ii) that is suitable to provide services to the general public;

412 (iii) that is suitable for use by any corporation, person, or entity engaged in health care
413 services, including hospitals, nursing homes, extended care facilities, facilities for the care of
414 persons with a physical or mental disability, and administrative and support facilities; or

415 (iv) that is suitable for use by a state university for the purpose of aiding in the
416 accomplishment of its authorized academic, scientific, engineering, technical, and economic
417 development functions, but "project" does not include any property, real, personal, or mixed,
418 for the purpose of the construction, reconstruction, improvement, or maintenance of a public
419 utility as defined in Section 54-2-1, and except as provided in Subsection (8)(b);

420 (b) any land, interest in land, building, structure, facility, system, fixture,
421 improvement, appurtenance, machinery, equipment, or any combination of them, used by any

422 individual, partnership, firm, company, corporation, public utility, association, trust, estate,
423 political subdivision, state agency, or any other legal entity, or its legal representative, agent,
424 or assigns, for the reduction, abatement, or prevention of pollution, including, but not limited
425 to, the removal or treatment of any substance in process material, if that material would cause
426 pollution if used without the removal or treatment;

427 (c) facilities, machinery, or equipment, the manufacturing and financing of which will
428 maintain or enlarge domestic or foreign markets for Utah industrial products; or

429 (d) any economic development or new venture investment fund to be raised other than
430 from:

431 (i) municipal or county general fund moneys;

432 (ii) moneys raised under the taxing power of any county or municipality; or

433 (iii) moneys raised against the general credit of any county or municipality.

434 (9) "State university" means the University of Utah and Utah State University and
435 includes any nonprofit corporation or foundation created by and operating under their
436 authority.

437 (10) "User" means the person, whether natural or corporate, who will occupy, operate,
438 maintain, and employ the facilities of, or manage and administer a project after the financing,
439 acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

440 Section 6. Section **11-17-3.5** is enacted to read:

441 **11-17-3.5. Powers of Military Installation Development Authority.**

442 The military installation development authority, created in Section 63H-1-201, is
443 subject to and governed by the provisions of this chapter to the same extent as if the military
444 installation development authority were a municipality.

445 Section 7. Section **11-42-102** is amended to read:

446 **11-42-102. Definitions.**

447 (1) "Adequate protests" means timely filed, written protests under Section 11-42-203
448 that represent at least 50% of the frontage, area, taxable value, fair market value, lots, number
449 of connections, or equivalent residential units of the property proposed to be assessed,

450 according to the same assessment method by which the assessment is proposed to be levied,
451 after eliminating:

452 (a) protests relating to:

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

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

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

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

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

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

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

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

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

470 (6) "Assessment method" means the method by which an assessment is levied against
471 property, whether by frontage, area, taxable value, fair market value, lot, number of
472 connections, equivalent residential unit, or any combination of these methods.

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

475 (8) "Assessment resolution" means a resolution adopted by a local entity under Section
476 11-42-404 that levies an assessment on benefitted property within an assessment area.

477 (9) "Benefitted property" means property within an assessment area that benefits from

478 improvements, operation and maintenance, or economic promotion activities.

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

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

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

484 (13) "Connection fee" means a fee charged by a local entity to pay for the costs of
485 connecting property to a publicly owned sewer, water, gas, telecommunications, or electrical
486 system, whether or not improvements are installed on the property.

487 (14) "Contract price" means:

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

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

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

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

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

497 (a) sponsoring festivals and markets;

498 (b) promoting business investment or activities;

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

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

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

505 (19) "Governing body" means:

- 506 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 507 (b) for a local district, the board of trustees of the local district; [~~and~~]
- 508 (c) for a special service district:
 - 509 (i) the legislative body of the county, city, or town that established the special service
 - 510 district, if no administrative control board has been appointed under Section 17D-1-301; or
 - 511 (ii) the administrative control board of the special service district, if an administrative
 - 512 control board has been appointed under Section 17D-1-301[-]; and
 - 513 (d) for the military installation development authority created in Section 63H-1-201,
 - 514 the authority board, as defined in Section 63H-1-102.

515 (20) "Guaranty fund" means the fund established by a local entity under Section
516 11-42-701.

517 (21) "Improved property" means property proposed to be assessed within an
518 assessment area upon which a residential, commercial, or other building has been built.

519 (22) "Improvement" means any publicly owned infrastructure, system, or other facility
520 that:

- 521 (a) a local entity is authorized to provide; or
- 522 (b) the governing body of a local entity determines is necessary or convenient to
- 523 enable the local entity to provide a service that the local entity is authorized to provide.

524 (23) "Improvement revenues":

- 525 (a) means charges, fees, impact fees, or other revenues that a local entity receives from
- 526 improvements; and
- 527 (b) does not include revenue from assessments.

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

- 530 (a) legal and accounting fees;
- 531 (b) charges of fiscal agents, escrow agents, and trustees;
- 532 (c) underwriting discount costs, printing costs, the costs of giving notice;
- 533 (d) any premium necessary in the calling or retiring of prior bonds;

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

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

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

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

542 (26) "Interim warrant" means a warrant issued by a local entity under Section
543 11-42-601.

544 (27) "Jurisdictional boundaries" means:

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

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

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

549 (29) "Local entity" means a county, city, town, special service district, ~~or~~ local
550 district, or military installation development authority created in Section 63H-1-201.

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

553 (31) "Mailing address" means:

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

557 (b) if the property is improved property:

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

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

561 (32) "Net improvement revenues" means all improvement revenues that a local entity

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

564 (33) "Operation and maintenance costs" means the costs that a local entity incurs in
565 operating and maintaining improvements in an assessment area, including service charges,
566 administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical,
567 water, gas, or other utility usage.

568 (34) "Optional facilities":

569 (a) means facilities in an assessment area that:

570 (i) can be conveniently installed at the same time as improvements in the assessment
571 area; and

572 (ii) are requested by a property owner on whose property or for whose benefit the
573 improvements are being installed; and

574 (b) includes private driveways, irrigation ditches, and water turnouts.

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

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

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

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

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

589 (40) "Property" includes real property and any interest in real property, including

590 water rights, leasehold rights, and personal property related to the property.

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

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

596 (43) "Public agency" means:

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

598 (b) a political subdivision of the state.

599 (44) "Reduced payment obligation" means the full obligation of an owner of property
600 within an assessment area to pay an assessment levied on the property after the assessment has
601 been reduced because of the issuance of refunding assessment bonds, as provided in Section
602 11-42-608.

603 (45) "Refunding assessment bonds" means assessment bonds that a local entity issues
604 under Section 11-42-607 to refund, in part or in whole, assessment bonds.

605 (46) "Reserve fund" means a fund established by a local entity under Section
606 11-42-702.

607 (47) "Service" means water, sewer, garbage collection, library, recreation, or electric
608 service, economic promotion activities, or any other service that a local entity is required or
609 authorized to provide.

610 (48) "Special service district" has the same meaning as defined in Section 17D-1-102.

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

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

615 Section 8. Section **17B-1-104** is amended to read:

616 **17B-1-104. Property owner provisions.**

617 (1) For purposes of this title:

618 (a) the owner of real property shall be:

619 (i) except as provided in Subsection (1)(a)(ii), the fee title owner according to the

620 records of the county recorder on the date of the filing of the request or petition; [~~and~~] or

621 (ii) for a proposed annexation under Part 4, Annexation, the lessee of military land, as

622 defined in Section 63H-1-102, if the area proposed for annexation includes military land that

623 is within a project area described in a project area plan adopted by the military installation

624 development authority under Title 63H, Chapter 1, Military Installation Development

625 Authority Act; and

626 (b) the value of private real property shall be determined according to the last

627 assessment before the filing of the request or petition, as determined by:

628 (i) the county under Title 59, Chapter 2, Part 3, County Assessment, for property

629 subject to assessment by the county;

630 (ii) the State Tax Commission under Title 59, Chapter 2, Part 2, Assessment of

631 Property, for property subject to assessment by the State Tax Commission; or

632 (iii) the county, for all other property.

633 (2) For purposes of each provision of this title that requires the owners of private real

634 property covering a percentage of the total private land area within the proposed local district

635 to sign a request, petition, or protest:

636 (a) a parcel of real property may not be included in the calculation of the required

637 percentage unless the request or petition is signed by:

638 (i) except as provided in Subsection (2)(a)(ii), owners representing a majority

639 ownership interest in that parcel; or

640 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the

641 number of owners of that parcel;

642 (b) the signature of a person signing a request or petition in a representative capacity

643 on behalf of an owner is invalid unless:

644 (i) the person's representative capacity and the name of the owner the person

645 represents are indicated on the request or petition with the person's signature; and

646 (ii) the person provides documentation accompanying the request or petition that
647 reasonably substantiates the person's representative capacity; and

648 (c) subject to Subsection (2)(b), a duly appointed personal representative may sign a
649 request or petition on behalf of a deceased owner.

650 Section 9. Section **17B-1-402** is amended to read:

651 **17B-1-402. Annexation of area outside local district.**

652 (1) An area outside the boundaries of a local district may be annexed to the local
653 district, as provided in this part, in order to provide to the area a service that the local district
654 provides.

655 (2) The area proposed to be annexed:

656 (a) may consist of one or more noncontiguous areas; and

657 (b) need not be adjacent to the boundaries of the proposed annexing local district.

658 (3) With respect to a local district in the creation of which an election was not required
659 under Subsection 17B-1-214(3)(c):

660 (a) an unincorporated area of a county may not be annexed to the local district unless,
661 after annexation, at least a majority of the unincorporated area of the county will be included
662 in the local district; and

663 (b) the annexation of any part of an area within a municipality shall include all of the
664 area within the municipality.

665 (4) A local district may not annex an area located within a project area described in a
666 project area plan adopted by the military installation development authority under Title 63H,
667 Chapter 1, Military Installation Development Authority Act, without the authority's approval.

668 Section 10. Section **17D-1-104** is amended to read:

669 **17D-1-104. Property owner provisions -- Determination of registered voters.**

670 (1) For purposes of this chapter:

671 (a) the owner of real property is:

672 (i) except as provided in Subsection (1)(a)(ii), the fee title owner according to the
673 records of the county recorder on the date of the filing of the petition or protest; [and] or

674 (ii) for a proposed annexation or addition of a new service under Part 4, Annexing a
675 New Area and Adding a New Service, the lessee of military land, as defined in Section
676 63H-1-102, if the area proposed to be annexed or within which a new service is proposed to be
677 added includes military land that is within a project area described in a project area plan
678 adopted by the military installation development authority under Title 63H, Chapter 1,
679 Military Installation Development Authority Act; and

680 (b) the value of private real property is determined according to the last assessment
681 before the filing of the petition or protest, as determined by:

682 (i) (A) the county under Title 59, Chapter 2, Part 3, County Assessment, for property
683 subject to assessment by the county; or

684 (B) the State Tax Commission under Title 59, Chapter 2, Part 2, Assessment of
685 Property, for property subject to assessment by the State Tax Commission; and

686 (ii) the county, for all other property.

687 (2) For purposes of each provision of this chapter that requires the owners of private
688 real property covering a percentage of the total private land area within the applicable area to
689 sign a petition or protest:

690 (a) a parcel of real property may not be included in the calculation of the required
691 percentage unless the petition or protest is signed by:

692 (i) except as provided in Subsection (2)(a)(ii), owners representing a majority
693 ownership interest in that parcel; or

694 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the
695 number of owners of that parcel;

696 (b) the signature of a person signing a petition or protest in a representative capacity
697 on behalf of an owner is invalid unless:

698 (i) the person's representative capacity and the name of the owner the person
699 represents are indicated on the petition or protest with the person's signature; and

700 (ii) the person provides documentation accompanying the petition or protest that
701 reasonably substantiates the person's representative capacity; and

702 (c) subject to Subsection (2)(b), a duly appointed personal representative may sign a
703 petition or protest on behalf of a deceased owner.

704 (3) For purposes of this chapter, registered voters shall be determined according to the
705 official register.

706 Section 11. Section **17D-1-401** is amended to read:

707 **17D-1-401. Annexing an area or adding a service to an existing special service**
708 **district.**

709 (1) Except as provided in Subsections (3) and (4), a county or municipal legislative
710 body may, as provided in this part:

711 (a) annex an area to an existing special service district to provide to that area a service
712 that the special service district is authorized to provide;

713 (b) add a service under Section 17D-1-201 within the area of an existing special
714 service district that the special service district is not already authorized to provide; or

715 (c) both annex an area under Subsection (1)(a) and add a service under Subsection
716 (1)(b).

717 (2) Except for Section 17D-1-209, the provisions of Part 2, Creating a Special Service
718 District, apply to and govern the process of annexing an area to an existing special service
719 district or adding a service that the special service district is not already authorized to provide,
720 to the same extent as if the annexation or addition were the creation of a special service
721 district.

722 (3) A county or municipal legislative body may not:

723 (a) annex an area to an existing special service district if a local district provides to
724 that area the same service that the special service district is proposed to provide to the area,
725 unless the local district consents to the annexation; or

726 (b) add a service within the area of an existing special service district if a local district
727 provides to that area the same service that is proposed to be added, unless the local district
728 consents to the addition.

729 (4) A county or municipal legislative body may not annex an area to an existing

730 special service district or add a service within the area of an existing special service district if
731 the creation of a special service district including that area or providing that service would not
732 be allowed under Part 2, Creating a Special Service District.

733 (5) A county or municipal legislative body may not annex an area to an existing
734 special service district or add a service within the area of an existing special service district if
735 the area is located within a project area described in a project area plan adopted by the military
736 installation development authority under Title 63H, Chapter 1, Military Installation
737 Development Authority Act, unless the county or municipal legislative body has first obtained
738 the authority's approval.

739 Section 12. Section **59-12-205** is amended to read:

740 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
741 **tax revenues -- Determination of population.**

742 (1) Each county, city, and town, in order to maintain in effect sales and use tax
743 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of
744 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective
745 sales and use tax ordinances to conform with the amendments to Part 1, Tax Collection,
746 insofar as they relate to sales and use taxes.

747 (2) Except as provided in Subsections (3) through (5):

748 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall
749 be paid to each county, city, and town on the basis of the percentage that the population of the
750 county, city, or town bears to the total population of all counties, cities, and towns in the state;
751 and

752 (b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from
753 the sales and use tax authorized by this part shall be paid to each county, city, and town on the
754 basis of the location where the transaction is consummated as determined under Sections
755 59-12-211 through 59-12-214[-]; and

756 (ii) 50% of each dollar collected from the sales and use tax authorized by this part
757 within a project area described in a project area plan adopted by the military installation

758 development authority under Title 63H, Chapter 1, Military Installation Development
759 Authority Act, shall be paid to the military installation development authority created in
760 Section 63H-1-201.

761 (3) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year
762 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of
763 the taxable sales within the boundaries of the county, city, or town.

764 (b) The commission shall proportionally reduce monthly distributions to any county,
765 city, or town that, but for the reduction, would receive a distribution in excess of 1% of the
766 sales and use tax revenue collected within the boundaries of the county, city, or town.

767 (4) (a) As used in this Subsection (4):

768 (i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000
769 or more in tax revenue distributions in accordance with Subsection (3) for each of the
770 following fiscal years:

771 (A) fiscal year 2002-03;

772 (B) fiscal year 2003-04; and

773 (C) fiscal year 2004-05.

774 (ii) "Minimum tax revenue distribution" means the greater of:

775 (A) the total amount of tax revenue distributions an eligible county, city, or town
776 receives from a tax imposed in accordance with this part for fiscal year 2000-01; or

777 (B) the total amount of tax revenue distributions an eligible county, city, or town
778 receives from a tax imposed in accordance with this part for fiscal year 2004-05.

779 (b) (i) Notwithstanding Subsection (2) and except as provided in Subsection (4)(b)(ii),
780 beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county,
781 city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this
782 part equal to the greater of:

783 (A) the payment required by Subsection (2); or

784 (B) the minimum tax revenue distribution.

785 (ii) If the tax revenue distribution required by Subsection (4)(b)(i) for an eligible

786 county, city, or town is equal to the amount described in Subsection (4)(b)(i)(A) for three
787 consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following
788 that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax
789 revenue distribution equal to the payment required by Subsection (2).

790 (c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year
791 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution
792 for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that
793 eligible county, city, or town is less than or equal to the product of:

794 (i) the minimum tax revenue distribution; and

795 (ii) .90.

796 (5) (a) Population figures for purposes of this section shall be based on the most recent
797 official census or census estimate of the United States Census Bureau.

798 (b) If a needed population estimate is not available from the United States Census
799 Bureau, population figures shall be derived from the estimate from the Utah Population
800 Estimates Committee created by executive order of the governor.

801 (6) The population of a county for purposes of this section shall be determined solely
802 from the unincorporated area of the county.

803 Section 13. Section **59-12-352** is amended to read:

804 **59-12-352. Transient room tax authority for municipalities and military**
805 **installation development authority -- Purposes for which revenues may be used.**

806 (1) ~~[The]~~ (a) Except as provided in Subsection (5), the governing body of a
807 municipality may impose a tax of not to exceed 1% on charges for the accommodations and
808 services described in Subsection 59-12-103(1)(i).

809 (b) Subject to Section 63H-1-203, the military installation development authority
810 created in Section 63H-1-201 may impose a tax under this section for accommodations and
811 services described in Subsection 59-12-103(1)(i) within a project area described in a project
812 area plan adopted by the authority under Title 63H, Chapter 1, Military Installation
813 Development Authority Act, as though the authority were a municipality.

814 (2) Subject to the limitations of Subsection (1), a governing body of a municipality
815 may, by ordinance, increase or decrease the tax under this part.

816 (3) A governing body of a municipality shall regulate the tax under this part by
817 ordinance.

818 (4) A municipality may use revenues generated by the tax under this part for general
819 fund purposes.

820 (5) (a) A municipality may not impose a tax under this section for accommodations
821 and services described in Subsection 59-12-103(1)(i) within a project area described in a
822 project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation
823 Development Authority Act.

824 (b) Subsection (5)(a) does not apply to the military installation development
825 authority's imposition of a tax under this section.

826 Section 14. Section **63H-1-102** is amended to read:

827 **63H-1-102. Definitions.**

828 As used in this chapter:

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

831 (2) "Base taxable value" means the taxable value of the property within [~~a~~] any portion
832 of the project area, as designated by board resolution, from which tax increment will be
833 collected, as shown upon the assessment roll last equalized before the [~~effective date~~] year in
834 which the authority issues a certificate of occupancy for a building within that portion of the
835 project area [~~plan~~].

836 (3) "Board" means the governing body of the authority created under Section
837 63H-1-301.

838 (4) "Dedicated supplemental tax increment" means supplemental tax increment that
839 results from a property tax levied by:

840 (a) a county, including any district the county has established under Subsection
841 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to

842 Unincorporated Areas; or

843 (b) an included municipality.

844 [~~(4)~~] (5) "Development project" means a project to develop military land.

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

846 (a) is a mayor appointed under Subsection 63H-1-302(2)(b); or

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

848 and

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

850 (7) "Included municipality" means a municipality, some or all of which is included

851 within a project area.

852 [~~(5)~~] (8) "Military land" means any land [owned by the federal government that is part
853 of an active or closed federal defense and military installation] or facility, including any leased
854 land or facility, that is part of a base, camp, post, station, yard, center, or installation under the
855 jurisdiction of the U.S. Department of Defense or the Utah National Guard.

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

858 (10) "Municipal services revenue" means revenue that the authority:

859 (a) collects from the authority's:

860 (i) levy of a municipal energy tax;

861 (ii) levy of a telecommunications tax; and

862 (iii) imposition of a transient room tax;

863 (b) receives under Subsection 59-12-205(2)(b)(ii); and

864 (c) receives as dedicated supplemental tax increment.

865 (11) "Municipal tax" means a municipal energy tax, telecommunications tax, or
866 transient room tax.

867 [~~(6)~~] (12) "Project area" means the [geographic area] military land, whether consisting
868 of a single contiguous area or multiple noncontiguous areas, described in a project area plan or
869 draft project area plan where the development project set forth in the project area plan or draft

870 project area plan takes place or is proposed to take place.

871 ~~[(7)]~~ (13) "Project area budget" means a multiyear projection of annual or cumulative
872 revenues and expenses and other fiscal matters pertaining to a project area that includes:

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

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

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

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

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

882 (f) if ~~[the area from which]~~ tax increment is to be collected ~~[is less than the entire]~~ at
883 different times or from different portions of the project area, or both:

884 (i) (A) the tax identification numbers of the parcels from which tax increment will be
885 collected; or

886 ~~[(ii)]~~ (B) a legal description of the portion of the project area from which tax
887 increment will be collected; and

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

890 (g) for property that the ~~[agency]~~ authority owns or leases and expects to sell or
891 sublease, the expected total cost of the property to the ~~[agency]~~ authority and the expected
892 selling price or lease payments.

893 ~~[(8)]~~ (14) "Project area plan" means a written plan that, after its effective date, guides
894 and controls the development within a project area.

895 ~~[(9)]~~ (15) "Property tax" includes privilege tax and each levy on an ad valorem basis
896 on tangible or intangible personal or real property.

897 ~~[(10)]~~ (16) "Public entity" means:

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

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

901 ~~[(11)]~~ (17) "Publicly owned infrastructure and improvements" means water, sewer,
902 storm drainage, electrical, telecommunications, and other similar systems and lines, streets,
903 roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and
904 other buildings, facilities, infrastructure, and improvements benefitting the public and to be
905 publicly owned or publicly maintained or operated.

906 ~~[(12) "Record property owner" or "record owner of property" means the owner of real~~
907 ~~property as shown on the records of the recorder of the county in which the property is located~~
908 ~~and includes a purchaser under a real estate contract if the contract is recorded in the office of~~
909 ~~the recorder of the county in which the property is located or the purchaser gives written notice~~
910 ~~of the real estate contract to the agency.]~~

911 (18) "Remaining municipal services revenue" means municipal services revenue that
912 the authority has not spent during its fiscal year for municipal services as provided in
913 Subsection 63H-1-503(1).

914 (19) "Supplemental tax increment" means tax increment remaining after the authority
915 is paid the tax increment it is entitled to receive under Subsection 63H-1-501(1).

916 ~~[(13)]~~ (20) "Taxable value" means the value of property as shown on the last equalized
917 assessment roll as certified by the county assessor.

918 ~~[(14)]~~ (21) "Tax increment" means the difference between:

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

922 (b) the amount of property tax revenues that would be generated from that same area
923 using the base taxable value of the property.

924 ~~[(15)]~~ (22) "Taxing entity" means a public entity that levies a tax on property within a
925 ~~[community]~~ project area.

926 (23) "Telecommunications tax" means a telecommunications license tax under Title
927 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

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

929 Section 15. Section **63H-1-201** is amended to read:

930 **Part 2. Authority Creation and Powers**

931 **63H-1-201. Creation of military installation development authority -- Status and**
932 **powers of authority -- Limitation.**

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

934 (2) The authority is:

935 (a) an independent, nonprofit, separate body corporate and politic, with perpetual
936 succession[-] and statewide jurisdiction, whose purpose is to facilitate the development of
937 military land in a project area;

938 (b) a political subdivision of the state; and

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

940 (3) The authority may:

941 (a) facilitate the development of military land within one or more project areas, as
942 provided in this chapter;

943 ~~[(a)]~~ (b) sue and be sued;

944 ~~[(b)]~~ (c) enter into contracts generally;

945 ~~[(c)]~~ (d) buy, obtain an option upon, or otherwise acquire any interest in real or
946 personal property [within the boundaries of a military installation];

947 (i) on military land; or

948 (ii) outside military land for publicly owned infrastructure and improvements, if the
949 board considers the purchase, option, or other interest acquisition to be necessary for fulfilling
950 the authority's development objectives;

951 ~~[(d)]~~ (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in
952 real or personal property;

953 ~~[(e)]~~ (f) enter into a lease agreement on real or personal property, either as lessee or

954 lessor~~[, within the boundaries of a military installation;]~~;

955 ~~(i)~~ (g) on military land; or

956 ~~(ii)~~ (h) outside military land, if the board considers the lease to be necessary for fulfilling

957 the authority's development objectives;

958 ~~(f)~~ (g) provide for the development of military land under contracts with the federal

959 government;

960 ~~(g)~~ (h) exercise powers and perform functions under a contract with the federal

961 government, as authorized in that contract;

962 ~~(i)~~ (i) exercise exclusive police power within a project area to the same extent as though

963 the authority were a municipality, including the collection of regulatory fees;

964 ~~(h)~~ (j) receive tax increment and other taxes and fees as provided in this chapter;

965 ~~(i)~~ (k) accept financial or other assistance from any public or private source for the

966 authority's activities, powers, and duties, and expend any funds so received for any of the

967 purposes of this chapter;

968 ~~(j)~~ (l) borrow money or accept financial or other assistance from the federal

969 government, a public entity, or any other source for any of the purposes of this chapter and

970 comply with any conditions of the loan or assistance;

971 ~~(k)~~ (m) issue bonds to finance the undertaking of any development objectives of the

972 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and

973 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

974 ~~(l)~~ (n) hire employees, including contract employees;

975 ~~(m)~~ (o) transact other business and exercise all other powers provided for in this

976 chapter;

977 ~~(n)~~ (p) enter into a ~~[partnership]~~ development agreement with a developer of military

978 land; ~~[and]~~

979 ~~(o)~~ (q) enter into an agreement with a political subdivision of the state under which

980 the political subdivision provides one or more municipal services within a project area~~[-];~~;

981 ~~(r)~~ (r) enter into an agreement with a private contractor to provide one or more municipal

982 services within a project area; and

983 (s) exercise powers and perform functions that the authority is authorized by statute to
984 exercise or perform.

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

988 Section 16. Section **63H-1-202**, which is renumbered from Section 63H-1-404 is
989 renumbered and amended to read:

990 ~~[63H-1-404].~~ **63H-1-202. Applicability of other law.**

991 (1) The authority is not subject to:

992 ~~[(1)]~~ (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management
993 Act;

994 ~~[(2)]~~ (b) Title 17, Chapter 27a, County Land Use, Development, and Management
995 Act; [or]

996 ~~[(3) the land use]~~

997 (c) any ordinances or regulations of a county or municipality[-], including those
998 relating to land use, health, business license, or franchise; or

999 (d) the jurisdiction of any local district under Title 17B, Limited Purpose Local
1000 Government Entities - Local Districts, or special service district under Title 17D, Chapter 1,
1001 Special Service District Act.

1002 (2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107,
1003 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed
1004 by Title 63E, Independent Entities Code.

1005 Section 17. Section **63H-1-203** is enacted to read:

1006 **63H-1-203. Levy of a municipal tax.**

1007 Any levy of a municipal energy tax, a telecommunications tax, or a transient room tax,
1008 including any increase in the applicable tax rate, requires the affirmative vote of:

1009 (1) the authority board; and

1010 (2) a majority of all elected members of the authority board.

1011 Section 18. Section **63H-1-301** is amended to read:

1012 **63H-1-301. Authority board -- Delegation of power.**

1013 (1) The authority shall be governed by a board which shall manage and conduct the
1014 business and affairs of the authority and shall determine all questions of authority policy.

1015 (2) All powers of the authority are exercised through the board.

1016 (3) The board may by resolution delegate powers to authority staff.

1017 Section 19. Section **63H-1-302** is amended to read:

1018 **63H-1-302. Number of board members -- Appointment.**

1019 (1) The authority's board shall consist of seven members.

1020 (2) Five members of the board shall be appointed by the governor as follows:

1021 (a) one member shall be appointed from recommendations from the Utah Defense
1022 Alliance;

1023 (b) three members shall be appointed, each of whom is a mayor or member of the
1024 legislative body of a municipality that is adjacent or in close proximity to a [~~military~~
1025 ~~installation~~] project area or proposed project area; and

1026 (c) one member shall be appointed from the Governor's Office of Economic
1027 Development.

1028 (3) The president of the Senate and the speaker of the House of Representatives shall
1029 each appoint one board member.

1030 (4) (a) Each vacancy shall be filled in the same manner under this section as the
1031 appointment of the member whose vacancy is being filled.

1032 (b) Each person appointed to fill a vacancy shall serve the remaining unexpired term
1033 of the member whose vacancy the person is filling.

1034 (c) If a mayor appointed under Subsection (2)(b) leaves office as mayor, a vacancy on
1035 the board occurs and the governor shall appoint another mayor, as provided in Subsection
1036 (2)(b), to fill the vacancy.

1037 (d) A member of the board appointed by the governor, president of the Senate, or

1038 speaker of the House of Representatives serves at the pleasure of and may be removed and
1039 replaced at any time, with or without cause, by the governor, president of the Senate, or
1040 speaker of the House of Representatives, respectively.

1041 Section 20. Section **63H-1-303** is amended to read:

1042 **63H-1-303. Term of board members.**

1043 (1) The term of board members is four years, except that the term of the members of
1044 the initial board shall be staggered so that the ~~[terms]~~ term of approximately half the board
1045 members expires every two years.

1046 (2) Each board member shall serve until a successor is duly appointed and qualified.

1047 Section 21. Section **63H-1-401** is amended to read:

1048 **Part 4. Project Area Plan and Budget**

1049 **63H-1-401. Preparation of project area plan -- Required contents of project area**
1050 **plan.**

1051 (1) (a) Before spending any funds in a project area or entering into any lease or
1052 development agreement [~~and subject to Section 63H-1-402~~], the authority board shall
1053 [~~prepare~~] adopt a project area plan[~~;~~] as provided in this part.

1054 (b) In order to adopt a project area plan, the authority board shall:

1055 (i) prepare a draft project area plan;

1056 (ii) give notice as required under Subsection 63H-1-402(2);

1057 (iii) hold at least one public meeting, as required under Subsection 63H-1-402(1); and

1058 (iv) after holding at least one public meeting and subject to Subsection (1)(c), adopt
1059 the draft project area plan as the project area plan.

1060 (c) Before adopting a draft project area plan as the project area plan, the authority
1061 board may make modifications to the draft project area plan that the board considers necessary
1062 or appropriate.

1063 (d) The authority board may not adopt a project area plan unless at least one of the
1064 board members appointed under Subsection 63I-1-302(2)(b) is a mayor or member of the
1065 legislative body of a municipality that is adjacent or in close proximity to the project area

1066 described in the project area plan proposed to be adopted.

1067 (2) Each project area plan [~~under Subsection (1)~~] and draft project area plan shall
1068 contain:

1069 (a) a legal description of the boundaries of the project area that is the subject of the
1070 project area plan;

1071 (b) the authority's purposes and intent with respect to the project area; and

1072 (c) the board's findings and determination that:

1073 (i) there is a need to effectuate a public purpose;

1074 (ii) there is a public benefit to the proposed development project;

1075 (iii) it is economically sound and feasible to adopt and carry out the project area plan;

1076 and

1077 (iv) carrying out the project area plan will promote the public peace, health, safety,
1078 and welfare of the community in which the project area is located.

1079 Section 22. Section **63H-1-402** is amended to read:

1080 **63H-1-402. Public meeting to consider and discuss draft project area plan --**

1081 **Notice -- Adoption of plan.**

1082 (1) The authority board shall hold at least one public meeting to consider and discuss
1083 the [~~preparation of the~~] draft project area plan.

1084 (2) [~~The~~] At least ten days before holding a public meeting under Subsection (1), the
1085 authority board shall give notice of [~~each~~] the public meeting [~~under Subsection (1)~~] to
1086 [~~affected~~] taxing entities.

1087 (3) [~~Upon completion~~] Following consideration and discussion of the project area
1088 plan, the board [~~shall provide notice of the time and place of the meeting at which it will~~
1089 ~~consider adoption of the plan~~] may adopt the draft project area plan as the project area plan.

1090 Section 23. Section **63H-1-403** is amended to read:

1091 **63H-1-403. Notice of project area plan adoption -- Effective date of plan --**

1092 **Contesting the formation of the plan.**

1093 (1) (a) Upon the board's adoption of a project area plan, the board shall provide notice

1094 as provided in Subsection (1)(b) by:

1095 (i) publishing or causing to be published a notice in a newspaper of general circulation
1096 within the authority's boundaries; or

1097 (ii) if there is no newspaper of general circulation within the authority's boundaries,
1098 causing a notice to be posted in at least three public places within the authority's boundaries.

1099 (b) Each notice under Subsection (1)(a) shall:

1100 (i) set forth the board resolution adopting the project area plan or a summary of the
1101 resolution; and

1102 (ii) include a statement that the project area plan is available for general public
1103 inspection and the hours for inspection.

1104 (2) The project area plan shall become effective on the date of:

1105 (a) if notice was published under Subsection (1)(a), publication of the notice; or

1106 (b) if notice was posted under Subsection (1)(a), posting of the notice.

1107 (3) The authority shall make the adopted project area plan available to the general
1108 public at its offices during normal business hours.

1109 (4) Within ten days after adopting a project area plan that establishes a project area, or
1110 after adopting an amendment to a project area plan under which the boundary of a project area
1111 is modified, the authority shall send notice of the establishment or modification of the project
1112 area and an accurate map or plat of the project area to:

1113 (a) the State Tax Commission;

1114 (b) the Automated Geographic Reference Center created in Section 63F-1-506; and

1115 (c) the assessor and recorder of each county in which the project area is located.

1116 Section 24. Section **63H-1-405** is enacted to read:

1117 **63H-1-405. Project area budget.**

1118 (1) Before the authority may receive or use tax increment, the authority board shall
1119 prepare and adopt a project area budget.

1120 (2) The authority board may amend an adopted project area budget as and when the
1121 authority board considers it appropriate.

1122 Section 25. Section **63H-1-501** is amended to read:

1123 **63H-1-501. Authority receipt and use of tax increment -- Distribution of tax**
1124 **increment.**

1125 (1) The authority may receive and use up to 75% of tax increment for up to 25 years,
1126 as provided in this part.

1127 (2) Improvements on a parcel within a project area become subject to property tax in
1128 the year during which the authority issues a certificate of occupancy with respect to those
1129 improvements.

1130 [~~2~~] (3) Each county that collects property tax on property within a project area shall
1131 pay and distribute to the [agency] authority the tax increment and dedicated supplemental tax
1132 increment that the [agency] authority is entitled to collect under this title, in the manner and at
1133 the time provided in Section 59-2-1365.

1134 Section 26. Section **63H-1-502** is amended to read:

1135 **63H-1-502. Allowable uses of tax increment and other funds.**

1136 (1) The authority may use tax increment and other funds available to the authority,
1137 other than municipal services revenue:

1138 (a) for any of the purposes for which the use of tax increment is authorized under this
1139 chapter;

1140 (b) for administrative, overhead, legal, and other operating expenses of the authority;

1141 (c) to pay for, including financing or refinancing, all or part of the development of
1142 military land within the project area from which the tax increment funds were collected;

1143 (d) to pay the cost of the installation and construction of any publicly owned
1144 [~~building, facility, structure, landscaping, or other improvement~~] infrastructure and
1145 improvements within the project area from which the tax increment funds were collected;

1146 (e) to pay the cost of the installation of publicly owned infrastructure and
1147 improvements outside the project area from which the tax increment funds were collected if
1148 the authority board determines by resolution that the infrastructure and improvements are of
1149 benefit to the project area; and

1150 (f) to pay the principal of and interest on bonds issued by the authority.

1151 (2) The determination of the authority board under Subsection (1)(e) regarding benefit
1152 to the project area shall be final and conclusive.

1153 Section 27. Section **63H-1-503** is enacted to read:

1154 **63H-1-503. Use of municipal services revenue.**

1155 (1) The authority may use municipal services revenue to pay for:

1156 (a) administrative, overhead, legal, and other operating expenses of the authority; and

1157 (b) municipal services within the project area from which the revenue was collected.

1158 (2) Unless otherwise provided by agreement between the authority and each county
1159 and municipality levying a property tax on property within a project area, the authority shall
1160 distribute any remaining municipal services revenue equally among all counties and
1161 municipalities that levy a property tax on property within a project area.

1162 Section 28. Section **63H-1-706** is enacted to read:

1163 **63H-1-706. Authority chief financial officer is a public treasurer -- Certain**
1164 **authority funds are public funds.**

1165 (1) The authority's chief financial officer:

1166 (a) is a public treasurer, as defined in Section 51-7-3; and

1167 (b) shall invest the authority funds specified in Subsection (2) as provided in that
1168 subsection.

1169 (2) Notwithstanding Subsection 63E-2-110(2)(a), tax increment funds, municipal
1170 services revenue, and appropriations that the authority receives from the state:

1171 (a) are public funds; and

1172 (b) shall be invested as provided in Title 51, Chapter 7, State Money Management
1173 Act.

1174 Section 29. Section **63H-1-801** is amended to read:

1175 **63H-1-801. Dissolution of authority -- Restrictions -- Filing copy of ordinance --**
1176 **Authority records -- Dissolution expenses.**

1177 (1) The authority may not be dissolved unless the authority has no outstanding bonded

1178 indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding
1179 contractual obligations with persons or entities other than the state.

1180 (2) Upon the dissolution of the authority[?];

1181 (a) the Governor's Office of Economic Development shall publish a notice of
1182 dissolution in a newspaper of general circulation in the county in which the dissolved
1183 authority is located[?]; and

1184 (b) all title to property owned by the authority vests in the state.

1185 (3) The books, documents, records, papers, and seal of each dissolved authority shall
1186 be deposited for safekeeping and reference with the state auditor.

1187 (4) The authority shall pay all expenses of the deactivation and dissolution.

1188 Section 30. **Effective date.**

1189 If approved by two-thirds of all the members elected to each house, this bill takes effect
1190 upon approval by the governor, or the day following the constitutional time limit of Utah
1191 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
1192 the date of veto override.