

MILITARY INSTALLATION DEVELOPMENT

AUTHORITY AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheldon L. Killpack

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

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

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

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

▶ authorizes the military installation development authority to issue industrial revenue bonds and provides for the authority to be subject to the Utah Industrial Facilities



28 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 "publicly owned infrastructure and improvements," and "taxing entity" and

33 eliminates the definition of "record property owner" under the Military Installation

34 Development Act;

35 ▶ modifies and clarifies the status of the military installation development authority to

36 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 board
- 62 to amend a project area budget;
- 63 ▶ provides that improvements become subject to property tax in the year during which
- 64 the military installation development authority issues a certificate of occupancy;
- 65 ▶ modifies a provision relating to the allowable uses of tax increment; and
- 66 ▶ provides that, upon the dissolution of the military installation development
- 67 authority, all title to its property vests in the state.

68 **Monies Appropriated in this Bill:**

69 None

70 **Other Special Clauses:**

71 This bill provides an immediate effective date.

72 **Utah Code Sections Affected:**

73 AMENDS:

- 74 **10-1-304**, as last amended by Laws of Utah 2004, Chapter 255
- 75 **10-1-403**, as last amended by Laws of Utah 2007, Chapter 250
- 76 **10-2-401**, as last amended by Laws of Utah 2008, Chapter 360
- 77 **10-2-402**, as last amended by Laws of Utah 2008, Chapter 167
- 78 **11-17-2**, as last amended by Laws of Utah 2001, Chapter 73
- 79 **11-42-102**, as last amended by Laws of Utah 2008, Chapter 360
- 80 **17B-1-104**, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 81 **17B-1-402**, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 82 **17D-1-104**, as enacted by Laws of Utah 2008, Chapter 360
- 83 **17D-1-401**, as enacted by Laws of Utah 2008, Chapter 360
- 84 **59-12-205**, as last amended by Laws of Utah 2008, Chapter 384
- 85 **59-12-352**, as last amended by Laws of Utah 2005, First Special Session, Chapter 10
- 86 **63H-1-102**, as enacted by Laws of Utah 2007, Chapter 23
- 87 **63H-1-201**, as last amended by Laws of Utah 2008, Chapter 120
- 88 **63H-1-301**, as enacted by Laws of Utah 2007, Chapter 23
- 89 **63H-1-302**, as enacted by Laws of Utah 2007, Chapter 23

- 90 **63H-1-303**, as enacted by Laws of Utah 2007, Chapter 23
- 91 **63H-1-401**, as enacted by Laws of Utah 2007, Chapter 23
- 92 **63H-1-402**, as enacted by Laws of Utah 2007, Chapter 23
- 93 **63H-1-403**, as enacted by Laws of Utah 2007, Chapter 23
- 94 **63H-1-501**, as enacted by Laws of Utah 2007, Chapter 23
- 95 **63H-1-502**, as last amended by Laws of Utah 2008, Chapter 120
- 96 **63H-1-801**, as enacted by Laws of Utah 2007, Chapter 23

97 ENACTS:

- 98 **11-17-3.5**, Utah Code Annotated 1953
- 99 **63H-1-405**, Utah Code Annotated 1953
- 100 **63H-1-503**, Utah Code Annotated 1953

101 RENUMBERS AND AMENDS:

- 102 **63H-1-202**, (Renumbered from 63H-1-404, as enacted by Laws of Utah 2007, Chapter
- 103 23)

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

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

107 **10-1-304. Municipality may levy tax -- Rate -- Imposition or repeal of tax -- Tax**
108 **rate change -- Effective date -- Notice requirements -- Exemptions.**

109 (1) (a) Except as provided in [~~Subsection (4)~~] Subsections (4) and (5), a municipality
110 may levy a municipal energy sales and use tax on the sale or use of taxable energy within the
111 municipality:

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

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

114 (b) The military installation development authority created in Section 63H-1-201 may
115 levy a municipal energy sales and use tax under this part within a project area described in a
116 project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation
117 Development Authority Act, as though the authority were a municipality.

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

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

122 (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part
123 4, Annexation.

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

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

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

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

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

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

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

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

135 (D) if the city or town enacts the tax or changes the rate of the tax described in
136 Subsection (3)(b)(ii)(A), the new rate of the tax.

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

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

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

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

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

146 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

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

148 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

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

151 (a) made under a tariff adopted by the Public Service Commission of Utah only for

152 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
153 source, as designated in the tariff by the Public Service Commission of Utah; and

154 (b) for an amount of electricity that is:

155 (i) unrelated to the amount of electricity used by the person purchasing the electricity
156 under the tariff described in Subsection (4)(a); and

157 (ii) equivalent to the number of kilowatthours specified in the tariff described in
158 Subsection (4)(a) that may be purchased under the tariff described in Subsection (4)(a).

159 (5) (a) A municipality may not levy a municipal energy sales and use tax within any
160 portion of the municipality that is within a project area described in a project area plan adopted
161 by the military installation development authority under Title 63H, Chapter 1, Military
162 Installation Development Authority Act.

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

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

166 **10-1-403. Municipality may levy municipal telecommunications license tax --**
167 **Recovery from customers -- Enactment, repeal, or change in rate of tax -- Annexation.**

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

173 (ii) The military installation development authority created in Section 63H-1-201 may
174 levy and collect a municipal telecommunications license tax under this part for
175 telecommunications service provided within a project area described in a project area plan
176 adopted by the authority under Title 63H, Chapter 1, Military Installation Development
177 Authority Act, as though the authority were a municipality.

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

181 (c) Beginning on July 1, 2007, a municipal telecommunications license tax imposed
182 under this part shall be at a rate of up to 3.5% of the telecommunications provider's gross

183 receipts from telecommunications service that are attributed to the municipality in accordance
184 with Section 10-1-407.

185 (2) A telecommunications provider may recover the amounts paid in municipal
186 telecommunications license taxes from the customers of the telecommunications provider
187 within the municipality imposing the municipal telecommunications license tax through a
188 charge that is separately identified in the statement of the transaction with the customer as the
189 recovery of a tax.

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

191 (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part
192 4, Annexation.

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

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

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

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

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

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

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

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

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

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

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

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

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

213 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the

214 rate of a tax under this part for the annexing area;

215 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

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

217 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

218 (4) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal
219 telecommunications license tax rate that takes effect on July 1, 2007, a municipality is not
220 subject to the notice requirements of Subsection (3)(b) if:

221 (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal
222 telecommunications license tax at a rate that exceeds 3.5%; and

223 (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal
224 telecommunications license tax at a rate of 3.5%.

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

228 (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal
229 telecommunications license tax at a rate that exceeds 3.5%; and

230 (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal
231 telecommunications license tax at a rate that is less than 3.5%.

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

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

239 Section 3. Section **10-2-401** is amended to read:

240 **10-2-401. Definitions -- Property owner provisions.**

241 (1) As used in this part:

242 (a) "Affected entity" means:

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

244 (ii) a local district under Title 17B, Limited Purpose Local Government Entities - Local

245 Districts, or special service district under Title 17D, Chapter 1, Special Service District Act,
246 whose boundaries include any part of an area proposed for annexation;

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

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

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

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

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

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

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

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

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

269 (i) "Urban development" means:

270 (i) a housing development with more than 15 residential units and an average density
271 greater than one residential unit per acre; or

272 (ii) a commercial or industrial development for which cost projections exceed
273 \$750,000 for all phases.

274 (2) For purposes of this part:

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

276 (i) except as provided in Subsection (2)(a)(ii), the record title owner according to the
 277 records of the county recorder on the date of the filing of the petition or protest; [and] or
 278 (ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed
 279 for annexation includes military land that is within a project area described in a project area
 280 plan adopted by the military installation development authority under Title 63H, Chapter 1,
 281 Military Installation Development Authority Act; and

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

284 (3) For purposes of each provision of this part that requires the owners of private real
 285 property covering a percentage or majority of the total private land area within an area to sign a
 286 petition or protest:

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

289 (i) except as provided in Subsection (3)(a)(ii), owners representing a majority
 290 ownership interest in that parcel; or

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

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

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

297 (ii) the person provides documentation accompanying the petition or protest that
 298 substantiates the person's representative capacity; and

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

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

302 **10-2-402. Annexation -- Limitations.**

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

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

306 (i) it is a contiguous area;

307 (ii) it is contiguous to the municipality;
308 (iii) except as provided in Subsection 10-2-418(1)(b), annexation will not leave or
309 create an unincorporated island or peninsula; and
310 (iv) for an area located in a specified county with respect to an annexation that occurs
311 after December 31, 2002, the area is within the proposed annexing municipality's expansion
312 area.

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

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

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

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

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

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

326 (ii) (A) within 90 days after the county's notification of the proposed development, the
327 municipality submits to the county a written objection to the county's approval of the proposed
328 development; and

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

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

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

337 (7) (a) As used in this Subsection (7), "airport" means an area that the Federal Aviation

338 Administration has, by a record of decision, approved for the construction or operation of a
339 Class I, II, or III commercial service airport, as designated by the Federal Aviation
340 Administration in 14 C.F.R. Part 139.

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

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

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

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

354 **11-17-2. Definitions.**

355 As used in this chapter:

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

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

367 (3) "Governing body" means ~~[the board or body that the general legislative powers of~~
368 ~~the municipality or county are vested. In the case of state universities to which this chapter~~

369 applies, "governing body" means]:

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

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

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

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

379 (4) "Industrial park" means land, including all necessary rights, appurtenances,
380 easements, and franchises relating to it, acquired and developed by any municipality, county, or
381 state university for the establishment and location of a series of sites for plants and other
382 buildings for industrial, distribution, and wholesale use. There may be included as part of the
383 development of the land for any industrial park under this chapter the acquisition and provision
384 of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical
385 distribution, railroad, or docking facilities, or any combination of them, but only to the extent
386 that these facilities are incidental to the use of the land as an industrial park.

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

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

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

393 (8) "Project" means:

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

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

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

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

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

409 (b) any land, interest in land, building, structure, facility, system, fixture, improvement,
410 appurtenance, machinery, equipment, or any combination of them, used by any individual,
411 partnership, firm, company, corporation, public utility, association, trust, estate, political
412 subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns,
413 for the reduction, abatement, or prevention of pollution, including, but not limited to, the
414 removal or treatment of any substance in process material, if that material would cause
415 pollution if used without the removal or treatment;

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

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

420 (i) municipal or county general fund moneys;

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

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

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

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

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

429 **11-17-3.5. Powers of Military Installation Development Authority.**

430 The military installation development authority, created in Section 63H-1-201, is

431 subject to and governed by the provisions of this chapter to the same extent as if the military
432 installation development authority were a municipality.

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

434 **11-42-102. Definitions.**

435 (1) "Adequate protests" means timely filed, written protests under Section 11-42-203
436 that represent at least 50% of the frontage, area, taxable value, fair market value, lots, number
437 of connections, or equivalent residential units of the property proposed to be assessed,
438 according to the same assessment method by which the assessment is proposed to be levied,
439 after eliminating:

440 (a) protests relating to:

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

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

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

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

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

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

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

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

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

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

461 (7) "Assessment ordinance" means an ordinance adopted by a local entity under

462 Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

463 (8) "Assessment resolution" means a resolution adopted by a local entity under Section
464 11-42-404 that levies an assessment on benefitted property within an assessment area.

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

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

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

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

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

475 (14) "Contract price" means:

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

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

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

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

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

485 (a) sponsoring festivals and markets;

486 (b) promoting business investment or activities;

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

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

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

493 (19) "Governing body" means:
494 (a) for a county, city, or town, the legislative body of the county, city, or town;
495 (b) for a local district, the board of trustees of the local district; [~~and~~]
496 (c) for a special service district:
497 (i) the legislative body of the county, city, or town that established the special service
498 district, if no administrative control board has been appointed under Section 17D-1-301; or
499 (ii) the administrative control board of the special service district, if an administrative
500 control board has been appointed under Section 17D-1-301[~~;~~]; and
501 (d) for the military installation development authority created in Section 63H-1-201,
502 the authority board, as defined in Section 63H-1-102.

503 (20) "Guaranty fund" means the fund established by a local entity under Section
504 11-42-701.

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

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

509 (a) a local entity is authorized to provide; or
510 (b) the governing body of a local entity determines is necessary or convenient to enable
511 the local entity to provide a service that the local entity is authorized to provide.

512 (23) "Improvement revenues":

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

515 (b) does not include revenue from assessments.

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

518 (a) legal and accounting fees;
519 (b) charges of fiscal agents, escrow agents, and trustees;
520 (c) underwriting discount costs, printing costs, the costs of giving notice;
521 (d) any premium necessary in the calling or retiring of prior bonds;
522 (e) fees to be paid to the local entity to issue the refunding assessment bonds and to
523 refund the outstanding prior bonds;

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

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

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

530 (26) "Interim warrant" means a warrant issued by a local entity under Section
531 11-42-601.

532 (27) "Jurisdictional boundaries" means:

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

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

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

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

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

541 (31) "Mailing address" means:

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

544 (b) if the property is improved property:

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

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

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

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

- 555 (34) "Optional facilities":
556 (a) means facilities in an assessment area that:
557 (i) can be conveniently installed at the same time as improvements in the assessment
558 area; and
559 (ii) are requested by a property owner on whose property or for whose benefit the
560 improvements are being installed; and
561 (b) includes private driveways, irrigation ditches, and water turnouts.
562 (35) "Overhead costs" means the actual costs incurred or the estimated costs to be
563 incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing
564 fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying
565 agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and
566 all other incidental costs.
567 (36) "Prior bonds" means the assessment bonds that are refunded in part or in whole by
568 refunding assessment bonds.
569 (37) "Prior assessment ordinance" means the ordinance levying the assessments from
570 which the prior bonds are payable.
571 (38) "Prior assessment resolution" means the resolution levying the assessments from
572 which the prior bonds are payable.
573 (39) "Project engineer" means the surveyor or engineer employed by or private
574 consulting engineer engaged by a local entity to perform the necessary engineering services for
575 and to supervise the construction or installation of the improvements.
576 (40) "Property" includes real property and any interest in real property, including water
577 rights, leasehold rights, and personal property related to the property.
578 (41) "Property price" means the price at which a local entity purchases or acquires by
579 eminent domain property to make improvements in an assessment area.
580 (42) "Provide" or "providing," with reference to an improvement, includes the
581 acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and
582 expansion of an improvement.
583 (43) "Public agency" means:
584 (a) the state or any agency, department, or division of the state; and
585 (b) a political subdivision of the state.

586 (44) "Reduced payment obligation" means the full obligation of an owner of property
587 within an assessment area to pay an assessment levied on the property after the assessment has
588 been reduced because of the issuance of refunding assessment bonds, as provided in Section
589 11-42-608.

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

592 (46) "Reserve fund" means a fund established by a local entity under Section
593 11-42-702.

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

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

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

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

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

603 **17B-1-104. Property owner provisions.**

604 (1) For purposes of this title:

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

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

608 (ii) for a proposed annexation under Part 4, Annexation, the lessee of military land, as
609 defined in Section 63H-1-102, if the area proposed for annexation includes military land that is
610 within a project area described in a project area plan adopted by the military installation
611 development authority under Title 63H, Chapter 1, Military Installation Development
612 Authority Act; and

613 (b) the value of private real property shall be determined according to the last
614 assessment before the filing of the request or petition, as determined by:

615 (i) the county under Title 59, Chapter 2, Part 3, County Assessment, for property
616 subject to assessment by the county;

617 (ii) the State Tax Commission under Title 59, Chapter 2, Part 2, Assessment of
618 Property, for property subject to assessment by the State Tax Commission; or

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

620 (2) For purposes of each provision of this title that requires the owners of private real
621 property covering a percentage of the total private land area within the proposed local district
622 to sign a request, petition, or protest:

623 (a) a parcel of real property may not be included in the calculation of the required
624 percentage unless the request or petition is signed by:

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

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

629 (b) the signature of a person signing a request or petition in a representative capacity on
630 behalf of an owner is invalid unless:

631 (i) the person's representative capacity and the name of the owner the person represents
632 are indicated on the request or petition with the person's signature; and

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

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

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

638 **17B-1-402. Annexation of area outside local district.**

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

642 (2) The area proposed to be annexed:

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

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

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

647 (a) an unincorporated area of a county may not be annexed to the local district unless,

648 after annexation, at least a majority of the unincorporated area of the county will be included in
649 the local district; and

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

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

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

656 **17D-1-104. Property owner provisions -- Determination of registered voters.**

657 (1) For purposes of this chapter:

658 (a) the owner of real property is:

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

661 (ii) for a proposed annexation or addition of a new service under Part 4, Annexing a
662 New Area and Adding a New Service, the lessee of military land, as defined in Section
663 63H-1-102, if the area proposed to be annexed or within which a new service is proposed to be
664 added includes military land that is within a project area described in a project area plan
665 adopted by the military installation development authority under Title 63H, Chapter 1, Military
666 Installation Development Authority Act; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

694 **17D-1-401. Annexing an area or adding a service to an existing special service**
695 **district.**

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

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

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

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

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

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

709 (a) annex an area to an existing special service district if a local district provides to that

710 area the same service that the special service district is proposed to provide to the area, unless
711 the local district consents to the annexation; or

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

715 (4) A county or municipal legislative body may not annex an area to an existing special
716 service district or add a service within the area of an existing special service district if the
717 creation of a special service district including that area or providing that service would not be
718 allowed under Part 2, Creating a Special Service District.

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

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

726 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
727 **tax revenues -- Determination of population.**

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

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

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

738 (b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from
739 the sales and use tax authorized by this part shall be paid to each county, city, and town on the
740 basis of the location where the transaction is consummated as determined under Sections

741 59-12-211 through 59-12-214[-]; and

742 (ii) 50% of each dollar collected from the sales and use tax authorized by this part
743 within a project area described in a project area plan adopted by the military installation
744 development authority under Title 63H, Chapter 1, Military Installation Development
745 Authority Act, shall be paid to the military installation development authority created in
746 Section 63H-1-201.

747 (3) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year
748 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of
749 the taxable sales within the boundaries of the county, city, or town.

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

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

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

757 (A) fiscal year 2002-03;

758 (B) fiscal year 2003-04; and

759 (C) fiscal year 2004-05.

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

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

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

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

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

770 (B) the minimum tax revenue distribution.

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

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

776 (c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year
777 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution
778 for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that
779 eligible county, city, or town is less than or equal to the product of:

- 780 (i) the minimum tax revenue distribution; and
- 781 (ii) .90.

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

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

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

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

790 **59-12-352. Transient room tax authority for municipalities and military**
791 **installation development authority -- Purposes for which revenues may be used.**

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

795 (b) The military installation development authority created in Section 63H-1-201 may
796 impose a tax under this section for accommodations and services described in Subsection
797 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority
798 under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the
799 authority were a municipality.

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

802 (3) A governing body of a municipality shall regulate the tax under this part by

803 ordinance.

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

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

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

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

813 **63H-1-102. Definitions.**

814 As used in this chapter:

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

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

822 (3) "Board" means the governing body of the authority created under Section
823 63H-1-301.

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

826 (a) a county, including any district the county has established under Subsection
827 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to
828 Unincorporated Areas; or

829 (b) a municipality, some or all of which is included within a project area.

830 [~~(4)~~] (5) "Development project" means a project to develop military land.

831 [~~(5)~~] (6) "Military land" means any land [~~owned by the federal government that is part~~
832 ~~of an active or closed federal defense and military installation~~] or facility, including any leased
833 land or facility, that is part of a base, camp, post, station, yard, center, installation, or other

834 facility under the jurisdiction of the U.S. Department of Defense or the state.

835 (7) "Municipal services revenue" means revenue that the authority:

836 (a) collects from the authority's:

837 (i) levy of a municipal energy sales and use tax under Title 10, Chapter 1, Part 3,

838 Municipal Energy Sales and Use Tax Act;

839 (ii) levy of a telecommunications license tax under Title 10, Chapter 1, Part 4,

840 Municipal Telecommunications License Tax Act; and

841 (iii) imposition of a tax under Section 59-12-352;

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

843 (c) receives as dedicated supplemental tax increment.

844 ~~[(6)]~~ (8) "Project area" means the ~~[geographic area]~~ military land, whether consisting
845 of a single contiguous area or multiple noncontiguous areas, described in a project area plan or
846 draft project area plan where the development project set forth in the project area plan or draft
847 project area plan takes place or is proposed to take place.

848 ~~[(7)]~~ (9) "Project area budget" means a multiyear projection of annual or cumulative
849 revenues and expenses and other fiscal matters pertaining to a project area that includes:

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

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

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

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

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

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

861 (i) ~~(A)~~ the tax identification numbers of the parcels from which tax increment will be
862 collected; or

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

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

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

870 ~~[(8)]~~ (10) "Project area plan" means a written plan that, after its effective date, guides
871 and controls the development within a project area.

872 ~~[(9)]~~ (11) "Property tax" includes privilege tax and each levy on an ad valorem basis on
873 tangible or intangible personal or real property.

874 ~~[(10)]~~ (12) "Public entity" means:

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

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

878 ~~[(11)]~~ (13) "Publicly owned infrastructure and improvements" means water, sewer,
879 storm drainage, electrical, telecommunications, and other similar systems and lines, streets,
880 roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and
881 other buildings, facilities, infrastructure, and improvements benefitting the public and to be
882 publicly owned or publicly maintained or operated.

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

888 (14) "Remaining municipal services revenue" means municipal service revenue that the
889 authority has not spent during its fiscal year for municipal services as provided in Subsection
890 63H-1-503(1).

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

893 ~~[(13)]~~ (16) "Taxable value" means the value of property as shown on the last equalized
894 assessment roll as certified by the county assessor.

895 ~~[(14)]~~ (17) "Tax increment" means the difference between:

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

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

901 ~~[(15)]~~ (18) "Taxing entity" means a public entity that levies a tax on property within a
 902 ~~[community]~~ project area.

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

904 **63H-1-201. Creation of military installation development authority -- Status and**
 905 **powers of authority -- Limitation.**

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

907 (2) The authority is:

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

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

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

913 (3) The authority may:

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

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

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

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

920 (i) on military land; or

921 (ii) outside military land, if the board considers the purchase, option, or other interest
 922 acquisition to be necessary for fulfilling the authority's development objectives;

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

925 ~~[(e)]~~ (f) enter into a lease agreement on real or personal property, either as lessee or
 926 lessor[~~, within the boundaries of a military installation;]~~;

927 (i) on military land; or
928 (ii) outside military land, if the board considers the lease to be necessary for fulfilling
929 the authority's development objectives;
930 ~~[(f)]~~ (g) provide for the development of military land under contracts with the federal
931 government;
932 ~~[(g)]~~ (h) exercise powers and perform functions under a contract with the federal
933 government, as authorized in that contract;
934 (i) exercise exclusive police power within a project area to the same extent as though
935 the authority were a municipality, including the collection of regulatory fees;
936 ~~[(h)]~~ (j) receive tax increment and other taxes and fees as provided in this chapter;
937 ~~[(i)]~~ (k) accept financial or other assistance from any public or private source for the
938 authority's activities, powers, and duties, and expend any funds so received for any of the
939 purposes of this chapter;
940 ~~[(j)]~~ (l) borrow money or accept financial or other assistance from the federal
941 government, a public entity, or any other source for any of the purposes of this chapter and
942 comply with any conditions of the loan or assistance;
943 ~~[(k)]~~ (m) issue bonds to finance the undertaking of any development objectives of the
944 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and
945 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
946 ~~[(l)]~~ (n) hire employees, including contract employees;
947 ~~[(m)]~~ (o) transact other business and exercise all other powers provided for in this
948 chapter;
949 ~~[(n)]~~ (p) enter into a ~~[partnership]~~ development agreement with a developer of military
950 land; ~~[and]~~
951 ~~[(o)]~~ (q) enter into an agreement with a political subdivision of the state under which
952 the political subdivision provides one or more municipal services within a project area[-];
953 (r) enter into an agreement with a private contractor to provide one or more municipal
954 services within a project area; and
955 (s) exercise powers and perform functions that the authority is authorized by statute to
956 exercise or perform.
957 (4) The authority may not itself provide law enforcement service or fire protection

958 service within a project area but may enter into an agreement for one or both of those services,
959 as provided in Subsection (3)(q).

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

962 ~~[63H-1-404].~~ **63H-1-202. Applicability of other law.**

963 (1) The authority is not subject to:

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

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

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

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

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

974 (2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107,
975 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed
976 by Title 63E, Independent Entities Code.

977 Section 17. Section **63H-1-301** is amended to read:

978 **63H-1-301. Authority board.**

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

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

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

983 Section 18. Section **63H-1-302** is amended to read:

984 **63H-1-302. Number of board members -- Appointment.**

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

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

987 (a) one member shall be appointed from recommendations from the Utah Defense
988 Alliance;

989 (b) three members shall be appointed, each of whom is a mayor of a municipality
990 adjacent to [a] military [~~installation~~] land; and

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

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

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

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

999 (c) If a mayor appointed under Subsection (2)(b) leaves office as mayor, a vacancy on
1000 the board occurs and the governor shall appoint another mayor, as provided in Subsection
1001 (2)(b), to fill the vacancy.

1002 (d) A member of the board appointed by the governor, president of the Senate, or
1003 speaker of the House of Representatives serves at the pleasure of and may be removed and
1004 replaced at any time, with or without cause, by the governor, president of the Senate, or speaker
1005 of the House of Representatives, respectively.

1006 Section 19. Section **63H-1-303** is amended to read:

1007 **63H-1-303. Term of board members.**

1008 (1) The term of board members is four years, except that the term of the members of
1009 the initial board shall be staggered so that the [~~terms~~] term of approximately half the board
1010 members expires every two years.

1011 (2) Each board member shall serve until a successor is duly appointed and qualified.

1012 Section 20. Section **63H-1-401** is amended to read:

1013 **Part 4. Project Area Plan and Budget**

1014 **63H-1-401. Preparation of project area plan -- Required contents of project area**
1015 **plan.**

1016 (1) (a) Before spending any funds in a project area or entering into any lease or
1017 development agreement [~~and subject to Section 63H-1-402~~], the authority board shall [~~prepare~~]
1018 adopt a project area plan[-] as provided in this part.

1019 (b) In order to adopt a project area plan, the authority board shall:

- 1020 (i) prepare a draft project area plan;
- 1021 (ii) give notice as required under Subsection 63H-1-402(2);
- 1022 (iii) hold at least one public meeting, as required under Subsection 63H-1-402(1); and
- 1023 (iv) after holding at least one public meeting and subject to Subsection (1)(c), adopt the
- 1024 draft project area plan as the project area plan.

1025 (c) Before adopting a draft project area plan as the project area plan, the authority
 1026 board may make modifications to the draft project area plan that the board considers necessary
 1027 or appropriate.

1028 (2) Each project area plan [~~under Subsection (1)~~] and draft project area plan shall
 1029 contain:

1030 (a) a legal description of the boundaries of the project area that is the subject of the
 1031 project area plan;

1032 (b) the authority's purposes and intent with respect to the project area; and

1033 (c) the board's findings and determination that:

1034 (i) there is a need to effectuate a public purpose;

1035 (ii) there is a public benefit to the proposed development project;

1036 (iii) it is economically sound and feasible to adopt and carry out the project area plan;

1037 and

1038 (iv) carrying out the project area plan will promote the public peace, health, safety, and
 1039 welfare of the community in which the project area is located.

1040 Section 21. Section **63H-1-402** is amended to read:

1041 **63H-1-402. Public meeting to discuss preparation of project area plan -- Notice.**

1042 (1) The authority board shall hold at least one public meeting to consider and discuss
 1043 the [~~preparation of the~~] draft project area plan.

1044 (2) [~~The~~] At least ten days before holding a public meeting under Subsection (1), the
 1045 authority board shall give notice of [each] the public meeting [under Subsection (1)] to
 1046 [affected] taxing entities.

1047 (3) [~~Upon completion~~] Following consideration and discussion of the project area plan,
 1048 the board [~~shall provide notice of the time and place of the meeting at which it will consider~~
 1049 ~~adoption of the plan~~] may adopt the draft project area plan as the project area plan.

1050 Section 22. Section **63H-1-403** is amended to read:

1051 **63H-1-403. Notice of project area plan adoption -- Effective date of plan --**
1052 **Contesting the formation of the plan.**

1053 (1) (a) Upon the board's adoption of a project area plan, the board shall provide notice
1054 as provided in Subsection (1)(b) by:

1055 (i) publishing or causing to be published a notice in a newspaper of general circulation
1056 within the authority's boundaries; or

1057 (ii) if there is no newspaper of general circulation within the authority's boundaries,
1058 causing a notice to be posted in at least three public places within the authority's boundaries.

1059 (b) Each notice under Subsection (1)(a) shall:

1060 (i) set forth the board resolution adopting the project area plan or a summary of the
1061 resolution; and

1062 (ii) include a statement that the project area plan is available for general public
1063 inspection and the hours for inspection.

1064 (2) The project area plan shall become effective on the date of:

1065 (a) if notice was published under Subsection (1)(a), publication of the notice; or

1066 (b) if notice was posted under Subsection (1)(a), posting of the notice.

1067 (3) The authority shall make the adopted project area plan available to the general
1068 public at its offices during normal business hours.

1069 (4) Within ten days after adopting a project area plan that establishes a project area, or
1070 after adopting an amendment to a project area plan under which the boundary of a project area
1071 is modified, the authority shall send notice of the establishment or modification of the project
1072 area and an accurate map or plat of the project area to:

1073 (a) the State Tax Commission;

1074 (b) the Automated Geographic Reference Center created in Section 63F-1-506; and

1075 (c) the assessor and recorder of each county in which the project area is located.

1076 Section 23. Section **63H-1-405** is enacted to read:

1077 **63H-1-405. Project area budget.**

1078 (1) Before the authority may receive or use tax increment, the authority board shall
1079 prepare and adopt a project area budget.

1080 (2) The authority board may amend an adopted project area budget as and when the
1081 authority board considers it appropriate.

1082 Section 24. Section **63H-1-501** is amended to read:

1083 **63H-1-501. Authority receipt and use of tax increment -- Distribution of tax**
1084 **increment.**

1085 (1) The authority may receive and use up to 75% of tax increment for up to 25 years, as
1086 provided in this part.

1087 (2) Improvements on a parcel within a project area become subject to property tax in
1088 the year during which the authority issues a certificate of occupancy with respect to those
1089 improvements.

1090 [~~2~~] (3) Each county that collects property tax on property within a project area shall
1091 pay and distribute to the [agency] authority the tax increment and dedicated supplemental tax
1092 increment that the [agency] authority is entitled to collect under this title, in the manner and at
1093 the time provided in Section 59-2-1365.

1094 Section 25. Section **63H-1-502** is amended to read:

1095 **63H-1-502. Allowable uses of tax increment and other funds.**

1096 (1) The authority may use tax increment and other funds available to the authority,
1097 other than municipal services revenue:

1098 (a) for any of the purposes for which the use of tax increment is authorized under this
1099 chapter;

1100 (b) for administrative, overhead, legal, and other operating expenses of the authority;

1101 (c) to pay for, including financing or refinancing, all or part of the development of
1102 military land within the project area from which the tax increment funds were collected;

1103 (d) to pay the cost of the installation and construction of any publicly owned [~~building,~~
1104 ~~facility, structure, landscaping, or other improvement~~] infrastructure and improvements within
1105 the project area from which the tax increment funds were collected;

1106 (e) to pay the cost of the installation of publicly owned infrastructure and
1107 improvements outside the project area from which the tax increment funds were collected if the
1108 authority board determines by resolution that the infrastructure and improvements are of
1109 benefit to the project area; and

1110 (f) to pay the principal of and interest on bonds issued by the authority.

1111 (2) The determination of the authority board under Subsection (1)(e) regarding benefit
1112 to the project area shall be final and conclusive.

1113 Section 26. Section **63H-1-503** is enacted to read:

1114 **63H-1-503. Use of municipal services revenue.**

1115 (1) The authority may use municipal services revenue to pay for:

1116 (a) administrative, overhead, legal, and other operating expenses of the authority; and

1117 (b) municipal services within the project area from which the revenue was collected.

1118 (2) Unless otherwise provided by agreement between the authority and each county and

1119 municipality levying a property tax on property within a project area, the authority shall

1120 distribute any remaining municipal services revenue equally among all counties and

1121 municipalities that levy a property tax on property within a project area.

1122 Section 27. Section **63H-1-801** is amended to read:

1123 **63H-1-801. Dissolution of authority -- Restrictions -- Filing copy of ordinance --**

1124 **Authority records -- Dissolution expenses.**

1125 (1) The authority may not be dissolved unless the authority has no outstanding bonded
1126 indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual
1127 obligations with persons or entities other than the state.

1128 (2) Upon the dissolution of the authority[;]:

1129 (a) the Governor's Office of Economic Development shall publish a notice of
1130 dissolution in a newspaper of general circulation in the county in which the dissolved authority
1131 is located[;]; and

1132 (b) all title to property owned by the authority vests in the state.

1133 (3) The books, documents, records, papers, and seal of each dissolved authority shall
1134 be deposited for safekeeping and reference with the state auditor.

1135 (4) The authority shall pay all expenses of the deactivation and dissolution.

1136 Section 28. **Effective date.**

1137 If approved by two-thirds of all the members elected to each house, this bill takes effect
1138 upon approval by the governor, or the day following the constitutional time limit of Utah
1139 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
1140 the date of veto override.

Legislative Review Note

as of 1-30-09 10:10 AM

Office of Legislative Research and General Counsel

S.B. 56 - Military Installation Development Authority Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill would have no impact of current revenue. However, the bill authorizes a diversion of 50 percent of the sales tax revenue collected in the designated Military Authority zone. This could have an impact on future General Fund revenues once the zone is established.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses. Local governments could see a shift in property tax revenue between tax types as a result of the property tax increments established in the bill.
