

Senator Sheldon L. Killpack proposes the following substitute bill:

MILITARY INSTALLATION DEVELOPMENT

AUTHORITY

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheldon L. Killpack

House Sponsor: Brad L. Dee

Cosponsors:
Curtis S. Bramble

Dan R. Eastman

John L. Valentine

LONG TITLE

General Description:

This bill enacts provisions related to the Military Installation Development Authority.

Highlighted Provisions:

This bill:

- ▶ creates a separate, independent, nonprofit body corporate and politic known as the Military Installation Development Authority;
- ▶ provides for an appointed board to govern the authority;
- ▶ provides for the authority's powers;
- ▶ authorizes an authority to develop military land, use tax increment, and issue bonds;
- ▶ exempts an authority from land use laws;
- ▶ provides a process for an authority to adopt a project area plan;
- ▶ provides for budgeting, auditing, and financial reports; and
- ▶ enacts provisions relating to an authority's dissolution.

Monies Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 ENACTS:

30 **63H-1-101**, Utah Code Annotated 1953

31 **63H-1-102**, Utah Code Annotated 1953

32 **63H-1-201**, Utah Code Annotated 1953

33 **63H-1-301**, Utah Code Annotated 1953

34 **63H-1-302**, Utah Code Annotated 1953

35 **63H-1-303**, Utah Code Annotated 1953

36 **63H-1-401**, Utah Code Annotated 1953

37 **63H-1-402**, Utah Code Annotated 1953

38 **63H-1-403**, Utah Code Annotated 1953

39 **63H-1-404**, Utah Code Annotated 1953

40 **63H-1-501**, Utah Code Annotated 1953

41 **63H-1-502**, Utah Code Annotated 1953

42 **63H-1-503**, Utah Code Annotated 1953

43 **63H-1-601**, Utah Code Annotated 1953

44 **63H-1-602**, Utah Code Annotated 1953

45 **63H-1-603**, Utah Code Annotated 1953

46 **63H-1-604**, Utah Code Annotated 1953

47 **63H-1-605**, Utah Code Annotated 1953

48 **63H-1-606**, Utah Code Annotated 1953

49 **63H-1-701**, Utah Code Annotated 1953

50 **63H-1-702**, Utah Code Annotated 1953

51 **63H-1-703**, Utah Code Annotated 1953

52 **63H-1-704**, Utah Code Annotated 1953

53 **63H-1-705**, Utah Code Annotated 1953

54 **63H-1-801**, Utah Code Annotated 1953



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

57 Section 1. Section **63H-1-101** is enacted to read:

58 **TITLE 63H. INDEPENDENT STATE ENTITIES**

59 **CHAPTER 1. MILITARY INSTALLATION DEVELOPMENT AUTHORITY ACT**

60 **Part 1. General Provisions**

61 **63H-1-101. Title.**

62 This chapter is known as the "Military Installation Development Authority Act."

63 Section 2. Section **63H-1-102** is enacted to read:

64 **63H-1-102. Definitions.**

65 As used in this chapter:

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

68 (2) "Base taxable value" means the taxable value of the property within a project area
69 from which tax increment will be collected, as shown upon the assessment roll last equalized
70 before the effective date of the project area plan.

71 (3) "Board" means the governing body of the authority created under Section
72 63H-1-301.

73 (4) "Development project" means a project to develop military land.

74 (5) "Military land" means land owned by the federal government that is part of an
75 active or closed federal defense and military installation.

76 (6) "Project area" means the geographic area described in a project area plan or draft
77 project area plan where the development project set forth in the project area plan or draft
78 project area plan takes place or is proposed to take place.

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

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

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

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

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

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

90 (f) if the area from which tax increment is to be collected is less than the entire project
91 area;

92 (i) the tax identification numbers of the parcels from which tax increment will be
93 collected; or

94 (ii) a legal description of the portion of the project area from which tax increment will
95 be collected; and

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

99 (8) "Project area plan" means a written plan that, after its effective date, guides and
100 controls the development within a project area.

101 (9) "Property tax" includes privilege tax and each levy on an ad valorem basis on
102 tangible or intangible personal or real property.

103 (10) "Public entity" means:

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

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

107 (11) "Publicly owned infrastructure and improvements" means water, sewer, storm
108 drainage, electrical, and other similar systems and lines, streets, roads, curb, gutter, sidewalk,
109 walkways, parking facilities, public transportation facilities, and other facilities, infrastructure,
110 and improvements benefitting the public and to be publicly owned or publicly maintained or
111 operated.

112 (12) "Record property owner" or "record owner of property" means the owner of real
113 property as shown on the records of the recorder of the county in which the property is located
114 and includes a purchaser under a real estate contract if the contract is recorded in the office of
115 the recorder of the county in which the property is located or the purchaser gives written notice
116 of the real estate contract to the agency.

117 (13) "Taxable value" means the value of property as shown on the last equalized
118 assessment roll as certified by the county assessor.

150 conditions of the loan or assistance;

151 (j) issue bonds to finance the undertaking of any development objectives of the

152 authority;

153 (k) hire employees;

154 (l) transact other business and exercise all other powers provided for in this chapter;

155 and

156 (m) enter into a partnership agreement with a developer of military land.

157 Section 4. Section **63H-1-301** is enacted to read:

158 **Part 3. Authority Board**

159 **63H-1-301. Authority board.**

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

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

163 Section 5. Section **63H-1-302** is enacted to read:

164 **63H-1-302. Number of board members -- Appointment.**

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

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

167 (a) one member shall be appointed from recommendations from the Utah Defense

168 Alliance;

169 (b) three members shall be appointed, each of whom is a mayor of a municipality

170 adjacent to a military installation; and

171 (c) one member shall be appointed from the Governor's Office of Economic

172 Development.

173 (3) The president of the Senate and the speaker of the House of Representatives shall

174 each appoint one board member.

175 (4) (a) Each vacancy shall be filled in the same manner under this section as the

176 appointment of the member whose vacancy is being filled.

177 (b) Each person appointed to fill a vacancy shall serve the remaining unexpired term of

178 the member whose vacancy the person is filling.

179 (c) If a mayor appointed under Subsection (2)(b) leaves office as mayor, a vacancy on

180 the board occurs and the governor shall appoint another mayor, as provided in Subsection

181 (2)(b), to fill the vacancy.

182 Section 6. Section **63H-1-303** is enacted to read:

183 **63H-1-303. Term of board members.**

184 (1) The term of board members is four years, except that the term of the members of
185 the initial board shall be staggered so that the terms of approximately half the board members
186 expires every two years.

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

188 Section 7. Section **63H-1-401** is enacted to read:

189 **Part 4. Project Area Plan**

190 **63H-1-401. Preparation of project area plan -- Required contents of project area**
191 **plan.**

192 (1) Before spending any funds or entering into any lease or development agreement and
193 subject to Section 63H-1-402, the authority board shall prepare a project area plan.

194 (2) Each project area plan under Subsection (1) shall contain:

195 (a) a legal description of the boundaries of the project area that is the subject of the
196 project area plan;

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

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

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

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

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

202 and

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

205 Section 8. Section **63H-1-402** is enacted to read:

206 **63H-1-402. Public meeting to discuss preparation of project area plan -- Notice.**

207 (1) The authority board shall hold at least one public meeting to discuss the preparation
208 of the project area plan.

209 (2) The authority board shall give notice of each public meeting under Subsection (1)
210 to affected entities.

211 (3) Upon completion of the project area plan, the board shall provide notice of the time

212 and place of the meeting at which it will consider adoption of the plan.

213 Section 9. Section **63H-1-403** is enacted to read:

214 **63H-1-403. Notice of project area plan adoption -- Effective date of plan --**

215 **Contesting the formation of the plan.**

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

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

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

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

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

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

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

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

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

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

232 Section 10. Section **63H-1-404** is enacted to read:

233 **63H-1-404. Land use laws not applicable.**

234 The authority is not subject to:

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

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

237 (3) the land use ordinances or regulations of a county or municipality.

238 Section 11. Section **63H-1-501** is enacted to read:

239 **Part 5. Tax Increment**

240 **63H-1-501. Authority receipt and use of tax increment -- Distribution of tax**
241 **increment.**

242 (1) The authority may receive and use up to 75% of tax increment for up to 25 years, as

243 provided in this part.

244 (2) Each county that collects property tax on property within a project area shall pay
245 and distribute to the agency the tax increment that the agency is entitled to collect under this
246 title, in the manner and at the time provided in Section 59-2-1365.

247 Section 12. Section **63H-1-502** is enacted to read:

248 **63H-1-502. Allowable uses of tax increment.**

249 (1) The authority may use tax increment:

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

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

253 (c) to pay for, including financing or refinancing, all or part of the development of
254 military land;

255 (d) to pay the cost of the installation and construction of any publicly owned building,
256 facility, structure, landscaping, or other improvement within the project area from which the
257 tax increment funds were collected;

258 (e) to pay the cost of the installation of infrastructure and improvements outside the
259 project area from which the tax increment funds were collected if the authority board
260 determines by resolution that the infrastructure and improvements are of benefit to the project
261 area; and

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

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

265 Section 13. Section **63H-1-503** is enacted to read:

266 **63H-1-503. State Tax Commission and county assessor required to account for**
267 **new growth.**

268 The State Tax Commission and the assessor of each county in which a development
269 project area is located shall count as new growth the assessed value of property with respect to
270 which the taxing entity is receiving taxes or increased taxes for the first time.

271 Section 14. Section **63H-1-601** is enacted to read:

272 **Part 6. Authority Bonds**

273 **63H-1-601. Resolution authorizing issuance of authority bonds -- Characteristics**

274 **of bonds.**

275 (1) The authority may not issue bonds under this part unless the authority board first
276 adopts a resolution authorizing their issuance.

277 (2) (a) As provided in the authority resolution authorizing the issuance of bonds under
278 this part or the trust indenture under which the bonds are issued, bonds issued under this part
279 may be issued in one or more series and may be sold at public or private sale and in the manner
280 provided in the resolution or indenture.

281 (b) Bonds issued under this part shall bear the date, be payable at the time, bear interest
282 at the rate, be in the denomination and in the form, carry the conversion or registration
283 privileges, have the rank or priority, be executed in the manner, be subject to the terms of
284 redemption or tender, with or without premium, be payable in the medium of payment and at
285 the place, and have other characteristics as provided in the authority resolution authorizing
286 their issuance or the trust indenture under which they are issued.

287 Section 15. Section **63H-1-602** is enacted to read:

288 **63H-1-602. Sources from which bonds may be made payable -- Authority powers**
289 **regarding bonds.**

290 (1) The principal and interest on bonds issued by the authority may be made payable
291 from:

292 (a) the income and revenues of the projects financed with the proceeds of the bonds;

293 (b) the income and revenues of certain designated projects whether or not they were
294 financed in whole or in part with the proceeds of the bonds;

295 (c) the income, proceeds, revenues, property, and funds the authority derives from or
296 holds in connection with its undertaking and carrying out development of military land;

297 (d) tax increment funds;

298 (e) authority revenues generally;

299 (f) a contribution, loan, grant, or other financial assistance from the federal government
300 or a public entity in aid of the development of military land; or

301 (g) funds derived from any combination of the methods listed in Subsections (1)(a)
302 through (f).

303 (2) In connection with the issuance of authority bonds, the authority may:

304 (a) pledge all or any part of its gross or net rents, fees, or revenues to which its right

305 then exists or may thereafter come into existence;

306 (b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or
307 personal property, then owned or thereafter acquired; and

308 (c) make the covenants and take the action that may be necessary, convenient, or
309 desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to
310 make the bonds more marketable, even though such covenants or actions are not specifically
311 enumerated in this chapter.

312 Section 16. Section **63H-1-603** is enacted to read:

313 **63H-1-603. Authority to purchase agency bonds.**

314 (1) Any person, firm, corporation, association, political subdivision of the state, or
315 other entity or public or private officer may purchase bonds issued by an authority under this
316 part with funds owned or controlled by the purchaser.

317 (2) Nothing in this section may be construed to relieve a purchaser of authority bonds
318 of any duty to exercise reasonable care in selecting securities.

319 Section 17. Section **63H-1-604** is enacted to read:

320 **63H-1-604. Those executing bonds not personally liable -- Limitation of**
321 **obligations under bonds -- Negotiability.**

322 (1) A member of the authority board or other person executing an authority bond is not
323 liable personally on the bond.

324 (2) (a) A bond issued by the authority is not a general obligation or liability of the state
325 or any of its political subdivisions and does not constitute a charge against their general credit
326 or taxing powers.

327 (b) A bond issued by the authority is not payable out of any funds or properties other
328 than those of the authority.

329 (c) The community, the state, and its political subdivisions may not be liable on a bond
330 issued by the authority.

331 (d) A bond issued by the authority does not constitute indebtedness within the meaning
332 of any constitutional or statutory debt limitation.

333 (3) A bond issued by the authority under this part is fully negotiable.

334 Section 18. Section **63H-1-605** is enacted to read:

335 **63H-1-605. Obligee rights -- Board may confer other rights.**

336 (1) In addition to all other rights that are conferred on an obligee of a bond issued by
337 the authority under this part and subject to contractual restrictions binding on the obligee, an
338 obligee may:

339 (a) by mandamus, suit, action, or other proceeding, compel an authority and its board,
340 officers, agents, or employees to perform every term, provision, and covenant contained in any
341 contract of the authority with or for the benefit of the obligee, and require the authority to carry
342 out the covenants and agreements of the authority and to fulfill all duties imposed on the
343 authority by this part; and

344 (b) by suit, action, or proceeding in equity, enjoin any acts or things that may be
345 unlawful or violate the rights of the obligee.

346 (2) (a) In a board resolution authorizing the issuance of bonds or in a trust indenture,
347 mortgage, lease, or other contract, an authority board may confer upon an obligee holding or
348 representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue
349 upon the happening of an event or default prescribed in the resolution, indenture, mortgage,
350 lease, or other contract, and to be exercised by suit, action, or proceeding in any court of
351 competent jurisdiction.

352 (b) (i) The rights that the board may confer under Subsection (2)(a) are the rights to:

353 (A) cause possession of all or part of a development project to be surrendered to an
354 obligee;

355 (B) obtain the appointment of a receiver of all or part of an authority's development
356 project and of the rents and profits from it; and

357 (C) require the authority and its board and employees to account as if the authority and
358 the board and employees were the trustees of an express trust.

359 (ii) If a receiver is appointed through the exercise of a right granted under Subsection
360 (2)(b)(i)(B), the receiver:

361 (A) may enter and take possession of the development project or any part of it, operate
362 and maintain it, and collect and receive all fees, rents, revenues, or other charges arising from it
363 after the receiver's appointment; and

364 (B) shall keep money collected as receiver for the authority in separate accounts and
365 apply it pursuant to the authority obligations as the court directs.

366 Section 19. Section **63H-1-606** is enacted to read:

367 **63H-1-606. Bonds exempt from taxes -- Authority may purchase its own bonds.**

368 (1) A bond issued by the authority under this part is issued for an essential public and
369 governmental purpose and is, together with interest on the bond and income from it, exempt
370 from all state taxes except the corporate franchise tax.

371 (2) The authority may purchase its own bonds at a price that its board determines.

372 (3) Nothing in this section may be construed to limit the right of an obligee to pursue a
373 remedy for the enforcement of a pledge or lien given under this part by the authority on its
374 rents, fees, grants, properties, or revenues.

375 Section 20. Section **63H-1-701** is enacted to read:

376 **Part 7. Authority Budget and Reports**

377 **63H-1-701. Annual authority budget -- Fiscal year -- Public hearing required --**
378 **Auditor forms -- Requirement to file form.**

379 (1) The authority shall prepare and its board adopt an annual budget of revenues and
380 expenditures for the authority for each fiscal year.

381 (2) Each annual authority budget shall be adopted before June 22.

382 (3) The authority's fiscal year shall be the period from July 1 to the following June 30.

383 (4) (a) Before adopting an annual budget, the authority board shall hold a public
384 hearing on the annual budget.

385 (b) The authority shall provide notice of the public hearing on the annual budget by:

386 (i) publishing at least one notice in a newspaper of general circulation within the
387 authority boundaries, one week before the public hearing; or

388 (ii) if there is no newspaper of general circulation within the authority boundaries,
389 posting a notice of the public hearing in at least three public places within the authority
390 boundaries.

391 (c) The authority shall make the annual budget available for public inspection at least
392 three days before the date of the public hearing.

393 (5) The state auditor shall prescribe the budget forms and the categories to be contained
394 in each authority budget, including:

395 (a) revenues and expenditures for the budget year;

396 (b) legal fees; and

397 (c) administrative costs, including rent, supplies, and other materials, and salaries of

398 authority personnel.

399 (6) (a) Within 30 days after adopting an annual budget, the authority board shall file a
400 copy of the annual budget with the auditor of the county in which the authority is located, the
401 State Tax Commission, the state auditor, the State Board of Education, and each taxing entity
402 that levies a tax on property from which the authority collects tax increment.

403 (b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the
404 state as a taxing entity is met if the authority files a copy with the State Tax Commission and
405 the state auditor.

406 Section 21. Section **63H-1-702** is enacted to read:

407 **63H-1-702. Amending the authority annual budget.**

408 (1) The authority board may by resolution amend an annual authority budget.

409 (2) An amendment of the annual authority budget that would increase the total
410 expenditures may be made only after public hearing by notice published as required for initial
411 adoption of the annual budget.

412 (3) The authority may not make expenditures in excess of the total expenditures
413 established in the annual budget as it is adopted or amended.

414 Section 22. Section **63H-1-703** is enacted to read:

415 **63H-1-703. Authority report.**

416 (1) (a) On or before November 1 of each year, the authority shall prepare and file a
417 report with the county auditor, the State Tax Commission, the State Board of Education, and
418 each taxing entity that levies a tax on property from which the authority collects tax increment.

419 (b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a
420 taxing entity is met if the authority files a copy with the State Tax Commission and the state
421 auditor.

422 (2) Each report under Subsection (1) shall contain:

423 (a) an estimate of the tax increment to be paid to the authority for the calendar year
424 ending December 31; and

425 (b) an estimate of the tax increment to be paid to the authority for the calendar year
426 beginning the next January 1.

427 Section 23. Section **63H-1-704** is enacted to read:

428 **63H-1-704. Audit requirements.**

429 The authority shall comply with the audit requirements of Title 51, Chapter 2a,
430 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local
431 Entities Act.

432 Section 24. Section **63H-1-705** is enacted to read:

433 **63H-1-705. Audit report.**

434 (1) The authority shall, within 180 days after the end of the authority's fiscal year, file a
435 copy of the audit report with the county auditor, the State Tax Commission, the State Board of
436 Education, and each taxing entity that levies a tax on property from which the authority collects
437 tax increment.

438 (2) Each audit report under Subsection (1) shall include:

439 (a) the tax increment collected by the authority for each project area;

440 (b) the outstanding principal amount of bonds issued or other loans incurred to finance
441 the costs associated with the authority's project areas; and

442 (c) the actual amount expended for:

443 (i) acquisition of property;

444 (ii) site improvements or site preparation costs;

445 (iii) installation of public utilities or other public improvements; and

446 (iv) administrative costs of the authority.

447 Section 25. Section **63H-1-801** is enacted to read:

448 **Part 8. Authority Dissolution**

449 **63H-1-801. Dissolution of authority -- Restrictions -- Filing copy of ordinance --**
450 **Authority records -- Dissolution expenses.**

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

454 (2) Upon the dissolution of the authority, the Governor's Office of Economic
455 Development shall publish a notice of dissolution in a newspaper of general circulation in the
456 county in which the dissolved authority is located.

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

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

S.B. 232 1st Sub. (Green) - Military Installation Development Authority

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Impact to individuals, businesses, local governments and school districts is undeterminable at this time.
