

**Senator Sheldon L. Killpack** proposes the following substitute bill:

**MILITARY INSTALLATION DEVELOPMENT**

**AUTHORITY AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Sheldon L. Killpack**

House Sponsor: Brad L. Dee

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**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;



- 26           ▶ authorizes the military installation development authority to issue industrial revenue  
27 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 "project area budget," "publicly owned infrastructure and improvements," and  
33 "taxing entity," eliminates the definition of "record property owner," and enacts new  
34 definitions under the Military Installation Development Authority 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           ▶ designates the authority chief financial officer as a public treasurer and requires the
- 66 chief financial officer to invest certain authority funds as provided in the State
- 67 Money Management Act;
- 68           ▶ modifies a provision relating to the allowable uses of tax increment; and
- 69           ▶ provides that, upon the dissolution of the military installation development
- 70 authority, all title to its property vests in the state.

71 **Monies Appropriated in this Bill:**

72           None

73 **Other Special Clauses:**

74           This bill provides an immediate effective date.

75 **Utah Code Sections Affected:**

76 AMENDS:

77           **10-1-304**, as last amended by Laws of Utah 2004, Chapter 255

78           **10-1-403**, as last amended by Laws of Utah 2007, Chapter 250

79           **10-2-401**, as last amended by Laws of Utah 2008, Chapter 360

80           **10-2-402**, as last amended by Laws of Utah 2008, Chapter 167

81           **11-17-2**, as last amended by Laws of Utah 2001, Chapter 73

82           **11-42-102**, as last amended by Laws of Utah 2008, Chapter 360

83           **17B-1-104**, as renumbered and amended by Laws of Utah 2007, Chapter 329

84           **17B-1-402**, as renumbered and amended by Laws of Utah 2007, Chapter 329

85           **17D-1-104**, as enacted by Laws of Utah 2008, Chapter 360

86           **17D-1-401**, as enacted by Laws of Utah 2008, Chapter 360

87           **59-12-205**, as last amended by Laws of Utah 2008, Chapter 384

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

100 ENACTS:

- 101           **11-17-3.5**, Utah Code Annotated 1953
- 102           **63H-1-203**, Utah Code Annotated 1953
- 103           **63H-1-405**, Utah Code Annotated 1953
- 104           **63H-1-503**, Utah Code Annotated 1953
- 105           **63H-1-706**, Utah Code Annotated 1953

106 RENUMBERS AND AMENDS:

- 107           **63H-1-202**, (Renumbered from 63H-1-404, as enacted by Laws of Utah 2007, Chapter
- 108           23)



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

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

112           **10-1-304. Municipality may levy tax -- Rate -- Imposition or repeal of tax -- Tax**

113 **rate change -- Effective date -- Notice requirements -- Exemptions.**

114           (1) (a) Except as provided in [~~Subsection (4)~~] Subsections (4) and (5), a municipality

115 may levy a municipal energy sales and use tax on the sale or use of taxable energy within the

116 municipality:

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

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

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

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

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

128           (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part  
129 4, Annexation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

157 (a) made under a tariff adopted by the Public Service Commission of Utah only for  
158 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy  
159 source, as designated in the tariff by the Public Service Commission of Utah; and

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

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

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

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

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

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

172 **10-1-403. Municipality may levy municipal telecommunications license tax --**  
173 **Recovery from customers -- Enactment, repeal, or change in rate of tax -- Annexation.**

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

179 (ii) Subject to Section 63H-1-203, the military installation development authority  
180 created in Section 63H-1-201 may levy and collect a municipal telecommunications license tax

181 under this part for telecommunications service provided within a project area described in a  
182 project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation  
183 Development Authority Act, as though the authority were a municipality.

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

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

191 (2) A telecommunications provider may recover the amounts paid in municipal  
192 telecommunications license taxes from the customers of the telecommunications provider  
193 within the municipality imposing the municipal telecommunications license tax through a  
194 charge that is separately identified in the statement of the transaction with the customer as the  
195 recovery of a tax.

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

197 (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part  
198 4, Annexation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

246           **10-2-401. Definitions -- Property owner provisions.**

247           (1) As used in this part:

248           (a) "Affected entity" means:

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

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

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

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

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

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

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

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

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

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

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

275 (i) "Urban development" means:

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

278 (ii) a commercial or industrial development for which cost projections exceed  
279 \$750,000 for all phases.

280 (2) For purposes of this part:

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

282 (i) except as provided in Subsection (2)(a)(ii), the record title owner according to the  
283 records of the county recorder on the date of the filing of the petition or protest; [and] or

284 (ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed  
285 for annexation includes military land that is within a project area described in a project area  
286 plan adopted by the military installation development authority under Title 63H, Chapter 1,  
287 Military Installation Development Authority Act; and

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

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

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

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

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

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

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

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

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

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

308 **10-2-402. Annexation -- Limitations.**

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

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

312 (i) it is a contiguous area;

313 (ii) it is contiguous to the municipality;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

360 **11-17-2. Definitions.**

361 As used in this chapter:

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

363 (2) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or  
364 state university for the purpose of using a portion, or all or substantially all of the proceeds to  
365 pay for or to reimburse the user or its designee for the costs of the acquisition of facilities of a  
366 project, or to create funds for the project itself where appropriate, whether these costs are

367 incurred by the municipality, the county, the state university, the user, or a designee of the user.  
368 If title to or in these facilities at all times remains in the user, the bonds of the municipality or  
369 county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or  
370 unsecured debt obligations of the user, or such sinking fund or other arrangement as in the  
371 judgment of the governing body is appropriate for the purpose of assuring repayment of the  
372 bond obligations to investors in accordance with their terms.

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

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

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

379 (c) for the University of Utah and Utah State University, the board or body having the  
380 control and supervision of the University of Utah and Utah State University [and, with  
381 reference to]; and

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

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

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

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

396 (7) "Pollution" means any form of environmental pollution including, but not limited  
397 to, water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution,

398 radiation contamination, or noise pollution.

399 (8) "Project" means:

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

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

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

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

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

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

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

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

426 (i) municipal or county general fund moneys;

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

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

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

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

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

435 **11-17-3.5. Powers of Military Installation Development Authority.**

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

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

440 **11-42-102. Definitions.**

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

446 (a) protests relating to:

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

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

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

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

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

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

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

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

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

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

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

469 (8) "Assessment resolution" means a resolution adopted by a local entity under Section  
470 11-42-404 that levies an assessment on benefitted property within an assessment area.

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

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

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

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

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

481 (14) "Contract price" means:

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

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

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

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

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



- 491 (a) sponsoring festivals and markets;
- 492 (b) promoting business investment or activities;
- 493 (c) helping to coordinate public and private actions; and
- 494 (d) developing and issuing publications designed to improve the economic well-being
- 495 of the commercial area.

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

499 (19) "Governing body" means:

- 500 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 501 (b) for a local district, the board of trustees of the local district; [~~and~~]
- 502 (c) for a special service district:
  - 503 (i) the legislative body of the county, city, or town that established the special service
  - 504 district, if no administrative control board has been appointed under Section 17D-1-301; or
  - 505 (ii) the administrative control board of the special service district, if an administrative
  - 506 control board has been appointed under Section 17D-1-301[;]; and

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

509 (20) "Guaranty fund" means the fund established by a local entity under Section  
510 11-42-701.

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

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

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

518 (23) "Improvement revenues":

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

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

- 524 (a) legal and accounting fees;
- 525 (b) charges of fiscal agents, escrow agents, and trustees;
- 526 (c) underwriting discount costs, printing costs, the costs of giving notice;
- 527 (d) any premium necessary in the calling or retiring of prior bonds;
- 528 (e) fees to be paid to the local entity to issue the refunding assessment bonds and to  
529 refund the outstanding prior bonds;
- 530 (f) any other costs that the governing body determines are necessary or desirable to  
531 incur in connection with the issuance of refunding assessment bonds; and
- 532 (g) any interest on the prior bonds that is required to be paid in connection with the  
533 issuance of the refunding assessment bonds.

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

536 (26) "Interim warrant" means a warrant issued by a local entity under Section  
537 11-42-601.

538 (27) "Jurisdictional boundaries" means:

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

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

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

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

547 (31) "Mailing address" means:

- 548 (a) a property owner's last-known address using the name and address appearing on the  
549 last completed real property assessment roll of the county in which the property is located; and
- 550 (b) if the property is improved property:
  - 551 (i) the property's street number; or
  - 552 (ii) the post office box, rural route number, or other mailing address of the property, if

553 a street number has not been assigned.

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

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

561 (34) "Optional facilities":

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

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

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

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

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

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

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

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

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

582 (40) "Property" includes real property and any interest in real property, including water  
583 rights, leasehold rights, and personal property related to the property.

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

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

589 (43) "Public agency" means:

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

591 (b) a political subdivision of the state.

592 (44) "Reduced payment obligation" means the full obligation of an owner of property  
593 within an assessment area to pay an assessment levied on the property after the assessment has  
594 been reduced because of the issuance of refunding assessment bonds, as provided in Section  
595 11-42-608.

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

598 (46) "Reserve fund" means a fund established by a local entity under Section  
599 11-42-702.

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

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

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

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

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

609 **17B-1-104. Property owner provisions.**

610 (1) For purposes of this title:

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

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

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

615 defined in Section 63H-1-102, if the area proposed for annexation includes military land that is  
616 within a project area described in a project area plan adopted by the military installation  
617 development authority under Title 63H, Chapter 1, Military Installation Development  
618 Authority Act; and

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

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

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

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

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

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

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

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

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

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

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

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

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

644 **17B-1-402. Annexation of area outside local district.**

645 (1) An area outside the boundaries of a local district may be annexed to the local

646 district, as provided in this part, in order to provide to the area a service that the local district  
647 provides.

648 (2) The area proposed to be annexed:

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

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

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

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

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

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

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

662 **17D-1-104. Property owner provisions -- Determination of registered voters.**

663 (1) For purposes of this chapter:

664 (a) the owner of real property is;

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

667 (ii) for a proposed annexation or addition of a new service under Part 4, Annexing a  
668 New Area and Adding a New Service, the lessee of military land, as defined in Section  
669 63H-1-102, if the area proposed to be annexed or within which a new service is proposed to be  
670 added includes military land that is within a project area described in a project area plan  
671 adopted by the military installation development authority under Title 63H, Chapter 1, Military  
672 Installation Development Authority Act; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

700 **17D-1-401. Annexing an area or adding a service to an existing special service**  
701 **district.**

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

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

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

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

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

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

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

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

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

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

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

732 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**  
733 **tax revenues -- Determination of population.**

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



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

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

744 (b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from  
745 the sales and use tax authorized by this part shall be paid to each county, city, and town on the  
746 basis of the location where the transaction is consummated as determined under Sections  
747 59-12-211 through 59-12-214[-]; and

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

753 (3) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year  
754 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of  
755 the taxable sales within the boundaries of the county, city, or town.

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

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

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

763 (A) fiscal year 2002-03;

764 (B) fiscal year 2003-04; and

765 (C) fiscal year 2004-05.

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

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

769 (B) the total amount of tax revenue distributions an eligible county, city, or town

770 receives from a tax imposed in accordance with this part for fiscal year 2004-05.

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

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

776 (B) the minimum tax revenue distribution.

777 (ii) If the tax revenue distribution required by Subsection (4)(b)(i) for an eligible  
778 county, city, or town is equal to the amount described in Subsection (4)(b)(i)(A) for three  
779 consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following  
780 that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax  
781 revenue distribution equal to the payment required by Subsection (2).

782 (c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year  
783 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution  
784 for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that  
785 eligible county, city, or town is less than or equal to the product of:

786 (i) the minimum tax revenue distribution; and

787 (ii) .90.

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

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

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

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

796 **59-12-352. Transient room tax authority for municipalities and military**  
797 **installation development authority -- Purposes for which revenues may be used.**

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

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

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

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

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

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

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

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

819           **63H-1-102. Definitions.**

820           As used in this chapter:

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

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

828           (3) "Board" means the governing body of the authority created under Section  
829 63H-1-301.

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

832 (a) a county, including any district the county has established under Subsection  
 833 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to  
 834 Unincorporated Areas; or

835 (b) an included municipality.

836 ~~[(4)]~~ (5) "Development project" means a project to develop military land.

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

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

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

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

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

843 ~~[(5)]~~ (8) "Military land" means any land [owned by the federal government that is part  
 844 of an active or closed federal defense and military installation] or facility, including any leased  
 845 land or facility, that is part of a base, camp, post, station, yard, center, ~~H→~~ or ~~←H~~ installation  
 845a ~~H→~~ [, or other

846 facility] ~~←H~~ under the jurisdiction of the U.S. Department of Defense or the ~~H→~~ [state] Utah  
 846a National Guard ~~←H~~ .

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

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

850 (a) collects from the authority's:

851 (i) levy of a municipal energy tax;

852 (ii) levy of a telecommunications tax; and

853 (iii) imposition of a transient room tax;

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

855 (c) receives as dedicated supplemental tax increment.

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

858 ~~[(6)]~~ (12) "Project area" means the [geographic area] military land, whether consisting  
 859 of a single contiguous area or multiple noncontiguous areas, described in a project area plan or  
 860 draft project area plan where the development project set forth in the project area plan or draft  
 861 project area plan takes place or is proposed to take place.

862 ~~[(7)]~~ (13) "Project area budget" means a multiyear projection of annual or cumulative

863 revenues and expenses and other fiscal matters pertaining to a project area that includes:

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

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

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

867 (d) the amount of tax increment expected to be used to implement the project area plan,

868 including the estimated amount of tax increment to be used for land acquisition, public

869 improvements, infrastructure improvements, and loans, grants, or other incentives to private

870 and public entities;

871 (e) the tax increment expected to be used to cover the cost of administering the project

872 area plan;

873 (f) if ~~[the area from which]~~ tax increment is to be collected ~~[is less than the entire]~~ at

874 different times or from different portions of the project area, or both:

875 (i) (A) the tax identification numbers of the parcels from which tax increment will be

876 collected; or

877 ~~[(i)]~~ (B) a legal description of the portion of the project area from which tax increment

878 will be collected; and

879 (ii) an estimate of when other portions of the project area will become subject to tax

880 increment collection; and

881 (g) for property that the ~~[agency]~~ authority owns or leases and expects to sell or

882 sublease, the expected total cost of the property to the ~~[agency]~~ authority and the expected

883 selling price or lease payments.

884 ~~[(8)]~~ (14) "Project area plan" means a written plan that, after its effective date, guides

885 and controls the development within a project area.

886 ~~[(9)]~~ (15) "Property tax" includes privilege tax and each levy on an ad valorem basis on

887 tangible or intangible personal or real property.

888 ~~[(10)]~~ (16) "Public entity" means:

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

890 (b) a political subdivision of the state, including a county, city, town, school district,

891 local district, special service district, or interlocal cooperation entity.

892 ~~[(11)]~~ (17) "Publicly owned infrastructure and improvements" means water, sewer,

893 storm drainage, electrical, telecommunications, and other similar systems and lines, streets,

894 roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and  
 895 other buildings, facilities, infrastructure, and improvements benefitting the public and to be  
 896 publicly owned or publicly maintained or operated.

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

902 (18) "Remaining municipal services revenue" means municipal service revenue that the  
 903 authority has not spent during its fiscal year for municipal services as provided in Subsection  
 904 63H-1-503(1).

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

907 ~~[(13)]~~ (20) "Taxable value" means the value of property as shown on the last equalized  
 908 assessment roll as certified by the county assessor.

909 ~~[(14)]~~ (21) "Tax increment" means the difference between:

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

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

915 ~~[(15)]~~ (22) "Taxing entity" means a public entity that levies a tax on property within a  
 916 [community] project area.

917 (23) "Telecommunications tax" means a telecommunications license tax under Title  
 918 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

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

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

**Part 2. Authority Creation and Powers**

922 **63H-1-201. Creation of military installation development authority -- Status and**  
 923 **powers of authority -- Limitation.**

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

925 (2) The authority is:

926 (a) an independent, nonprofit, separate body corporate and politic, with perpetual

927 succession[-] and statewide jurisdiction, whose purpose is to facilitate the development of

928 military land in a project area;

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

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

931 (3) The authority may:

932 (a) facilitate the development of military land within one or more project areas, as

933 provided in this chapter;

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

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

936 [~~(c)~~] (d) buy, obtain an option upon, or otherwise acquire any interest in real or

937 personal property [~~within the boundaries of a military installation;];~~

938 (i) on military land; or

939 (ii) outside military land for publicly owned infrastructure and improvements, if the

940 board considers the purchase, option, or other interest acquisition to be necessary for fulfilling

941 the authority's development objectives;

942 [~~(d)~~] (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in

943 real or personal property;

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

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

946 (i) on military land; or

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

948 the authority's development objectives;

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

950 government;

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

952 government, as authorized in that contract;

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

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

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

956            [(†)] (k) accept financial or other assistance from any public or private source for the  
 957 authority's activities, powers, and duties, and expend any funds so received for any of the  
 958 purposes of this chapter;

959            [(†)] (l) borrow money or accept financial or other assistance from the federal  
 960 government, a public entity, or any other source for any of the purposes of this chapter and  
 961 comply with any conditions of the loan or assistance;

962            [(†)] (m) issue bonds to finance the undertaking of any development objectives of the  
 963 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and  
 964 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

965            [(†)] (n) hire employees, including contract employees;

966            [(†)] (o) transact other business and exercise all other powers provided for in this  
 967 chapter;

968            [(†)] (p) enter into a [~~partnership~~] development agreement with a developer of military  
 969 land; [~~and~~]

970            [(†)] (q) enter into an agreement with a political subdivision of the state under which  
 971 the political subdivision provides one or more municipal services within a project area[-];

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

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

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

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

981            [~~63H-1-404~~].            **63H-1-202. Applicability of other law.**

982            (1) The authority is not subject to:

983            [(†)] (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management  
 984 Act;

985            [(†)] (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;  
 986 [~~or~~]



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

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

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

993 (2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107,  
 994 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed  
 995 by Title 63E, Independent Entities Code.

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

997 **63H-1-203. Levy of a municipal tax.**

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

1000 (1) the authority board; and

1001 (2) a majority of all elected members of the authority board.

1002 Section 18. Section **63H-1-301** is amended to read:

1003 **63H-1-301. Authority board.**

1004 (1) The authority shall be governed by a board which shall manage and conduct the  
 1005 business and affairs of the authority and shall determine all questions of authority policy.

1006 (2) All powers of the authority are exercised through the board.

1007 (3) The board may by resolution delegate powers to authority staff.

1008 Section 19. Section **63H-1-302** is amended to read:

1009 **63H-1-302. Number of board members -- Appointment.**

1010 (1) The authority's board shall consist of seven members.

1011 (2) Five members of the board shall be appointed by the governor as follows:

1012 (a) one member shall be appointed from recommendations from the Utah Defense  
 1013 Alliance;

1014 (b) three members shall be appointed, each of whom is a mayor ~~H→~~ **or member of the**  
 1014a **legislative body ←H** of a municipality ~~H→~~ **that is ←H**

1015 adjacent ~~H→~~ **or in close proximity ←H** to ~~H→~~ [F] a [F] ~~←H~~ **[military] ←H [installation]**  
 1015a ~~H→~~ **[hand] project area or proposed project area ←H** ; and

1016 (c) one member shall be appointed from the Governor's Office of Economic  
 1017 Development.

1018 (3) The president of the Senate and the speaker of the House of Representatives shall  
1019 each appoint one board member.

1020 (4) (a) Each vacancy shall be filled in the same manner under this section as the  
1021 appointment of the member whose vacancy is being filled.

1022 (b) Each person appointed to fill a vacancy shall serve the remaining unexpired term of  
1023 the member whose vacancy the person is filling.

1024 (c) If a mayor appointed under Subsection (2)(b) leaves office as mayor, a vacancy on  
1025 the board occurs and the governor shall appoint another mayor, as provided in Subsection  
1026 (2)(b), to fill the vacancy.

1027 (d) A member of the board appointed by the governor, president of the Senate, or  
1028 speaker of the House of Representatives serves at the pleasure of and may be removed and  
1029 replaced at any time, with or without cause, by the governor, president of the Senate, or speaker  
1030 of the House of Representatives, respectively.

1031 Section 20. Section **63H-1-303** is amended to read:

1032 **63H-1-303. Term of board members.**

1033 (1) The term of board members is four years, except that the term of the members of  
1034 the initial board shall be staggered so that the ~~[terms]~~ term of approximately half the board  
1035 members expires every two years.

1036 (2) Each board member shall serve until a successor is duly appointed and qualified.

1037 Section 21. Section **63H-1-401** is amended to read:

1038 **Part 4. Project Area Plan and Budget**

1039 **63H-1-401. Preparation of project area plan -- Required contents of project area**  
1040 **plan.**

1041 (1) (a) Before spending any funds in a project area or entering into any lease or  
1042 development agreement [~~and subject to Section 63H-1-402~~], the authority board shall [~~prepare~~]  
1043 adopt a project area plan[-] as provided in this part.

1044 (b) In order to adopt a project area plan, the authority board shall:

1045 (i) prepare a draft project area plan;

1046 (ii) give notice as required under Subsection 63H-1-402(2);

1047 (iii) hold at least one public meeting, as required under Subsection 63H-1-402(1); and

1048 (iv) after holding at least one public meeting and subject to Subsection (1)(c), adopt the

1049 draft project area plan as the project area plan.

1050 (c) Before adopting a draft project area plan as the project area plan, the authority  
 1051 board may make modifications to the draft project area plan that the board considers necessary  
 1052 or appropriate.

1052a **H→ (d) The authority board may not adopt a project area plan unless at least one of the**  
 1052b **board members appointed under Subsection 63I-1-302(2)(b) is a mayor or member of the**  
 1052c **legislative body of a municipality that is adjacent or in close proximity to the project area**  
 1052d **described in the project area plan proposed to be adopted. ←H**

1053 (2) Each project area plan [~~under Subsection (1)~~] and draft project area plan shall  
 1054 contain:

1055 (a) a legal description of the boundaries of the project area that is the subject of the  
 1056 project area plan;

1057 (b) the authority's purposes and intent with respect to the project area; and

1058 (c) the board's findings and determination that:

1059 (i) there is a need to effectuate a public purpose;

1060 (ii) there is a public benefit to the proposed development project;

1061 (iii) it is economically sound and feasible to adopt and carry out the project area plan;

1062 and

1063 (iv) carrying out the project area plan will promote the public peace, health, safety, and  
 1064 welfare of the community in which the project area is located.

1065 Section 22. Section **63H-1-402** is amended to read:

1066 **63H-1-402. Public meeting to discuss preparation of project area plan -- Notice.**

1067 (1) The authority board shall hold at least one public meeting to consider and discuss  
 1068 the [~~preparation of the~~] draft project area plan.

1069 (2) [~~The~~] At least ten days before holding a public meeting under Subsection (1), the  
 1070 authority board shall give notice of [each] the public meeting [under Subsection (1)] to  
 1071 [affected] taxing entities.

1072 (3) [~~Upon completion~~] Following consideration and discussion of the project area plan,  
 1073 the board [~~shall provide notice of the time and place of the meeting at which it will consider~~  
 1074 ~~adoption of the plan~~] may adopt the draft project area plan as the project area plan.

1075 Section 23. Section **63H-1-403** is amended to read:

1076 **63H-1-403. Notice of project area plan adoption -- Effective date of plan --**  
 1077 **Contesting the formation of the plan.**

1078 (1) (a) Upon the board's adoption of a project area plan, the board shall provide notice  
 1079 as provided in Subsection (1)(b) by:

1080 (i) publishing or causing to be published a notice in a newspaper of general circulation  
1081 within the authority's boundaries; or

1082 (ii) if there is no newspaper of general circulation within the authority's boundaries,  
1083 causing a notice to be posted in at least three public places within the authority's boundaries.

1084 (b) Each notice under Subsection (1)(a) shall:

1085 (i) set forth the board resolution adopting the project area plan or a summary of the  
1086 resolution; and

1087 (ii) include a statement that the project area plan is available for general public  
1088 inspection and the hours for inspection.

1089 (2) The project area plan shall become effective on the date of:

1090 (a) if notice was published under Subsection (1)(a), publication of the notice; or

1091 (b) if notice was posted under Subsection (1)(a), posting of the notice.

1092 (3) The authority shall make the adopted project area plan available to the general  
1093 public at its offices during normal business hours.

1094 (4) Within ten days after adopting a project area plan that establishes a project area, or  
1095 after adopting an amendment to a project area plan under which the boundary of a project area  
1096 is modified, the authority shall send notice of the establishment or modification of the project  
1097 area and an accurate map or plat of the project area to:

1098 (a) the State Tax Commission;

1099 (b) the Automated Geographic Reference Center created in Section 63F-1-506; and

1100 (c) the assessor and recorder of each county in which the project area is located.

1101 Section 24. Section **63H-1-405** is enacted to read:

1102 **63H-1-405. Project area budget.**

1103 (1) Before the authority may receive or use tax increment, the authority board shall  
1104 prepare and adopt a project area budget.

1105 (2) The authority board may amend an adopted project area budget as and when the  
1106 authority board considers it appropriate.

1107 Section 25. Section **63H-1-501** is amended to read:

1108 **63H-1-501. Authority receipt and use of tax increment -- Distribution of tax**  
1109 **increment.**

1110 (1) The authority may receive and use up to 75% of tax increment for up to 25 years, as

1111 provided in this part.

1112 (2) Improvements on a parcel within a project area become subject to property tax in  
1113 the year during which the authority issues a certificate of occupancy with respect to those  
1114 improvements.

1115 ~~[(2)]~~ (3) Each county that collects property tax on property within a project area shall  
1116 pay and distribute to the [agency] authority the tax increment and dedicated supplemental tax  
1117 increment that the [agency] authority is entitled to collect under this title, in the manner and at  
1118 the time provided in Section 59-2-1365.

1119 Section 26. Section **63H-1-502** is amended to read:

1120 **63H-1-502. Allowable uses of tax increment and other funds.**

1121 (1) The authority may use tax increment and other funds available to the authority,  
1122 other than municipal services revenue:

1123 (a) for any of the purposes for which the use of tax increment is authorized under this  
1124 chapter;

1125 (b) for administrative, overhead, legal, and other operating expenses of the authority;

1126 (c) to pay for, including financing or refinancing, all or part of the development of  
1127 military land within the project area from which the tax increment funds were collected;

1128 (d) to pay the cost of the installation and construction of any publicly owned [~~building,~~  
1129 ~~facility, structure, landscaping, or other improvement~~] infrastructure and improvements within  
1130 the project area from which the tax increment funds were collected;

1131 (e) to pay the cost of the installation of publicly owned infrastructure and  
1132 improvements outside the project area from which the tax increment funds were collected if the  
1133 authority board determines by resolution that the infrastructure and improvements are of  
1134 benefit to the project area; and

1135 (f) to pay the principal of and interest on bonds issued by the authority.

1136 (2) The determination of the authority board under Subsection (1)(e) regarding benefit  
1137 to the project area shall be final and conclusive.

1138 Section 27. Section **63H-1-503** is enacted to read:

1139 **63H-1-503. Use of municipal services revenue.**

1140 (1) The authority may use municipal services revenue to pay for:

1141 (a) administrative, overhead, legal, and other operating expenses of the authority; and

1142 (b) municipal services within the project area from which the revenue was collected.

1143 (2) Unless otherwise provided by agreement between the authority and each county and

1144 municipality levying a property tax on property within a project area, the authority shall

1145 distribute any remaining municipal services revenue equally among all counties and

1146 municipalities that levy a property tax on property within a project area.

1147 Section 28. Section **63H-1-706** is enacted to read:

1148 **63H-1-706. Authority chief financial officer is a public treasurer -- Certain**

1149 **authority funds are public funds.**

1150 (1) The authority's chief financial officer:

1151 (a) is a public treasurer, as defined in Section 51-7-3; and

1152 (b) shall invest the authority funds specified in Subsection (2) as provided in that

1153 subsection.

1154 (2) Notwithstanding Subsection 63E-2-110(2)(a), tax increment funds, municipal

1155 services revenue, and appropriations that the authority receives from the state:

1156 (a) are public funds; and

1157 (b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

1158 Section 29. Section **63H-1-801** is amended to read:

1159 **63H-1-801. Dissolution of authority -- Restrictions -- Filing copy of ordinance --**

1160 **Authority records -- Dissolution expenses.**

1161 (1) The authority may not be dissolved unless the authority has no outstanding bonded

1162 indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual

1163 obligations with persons or entities other than the state.

1164 (2) Upon the dissolution of the authority[;]:

1165 (a) the Governor's Office of Economic Development shall publish a notice of

1166 dissolution in a newspaper of general circulation in the county in which the dissolved authority

1167 is located[-]; and

1168 (b) all title to property owned by the authority vests in the state.

1169 (3) The books, documents, records, papers, and seal of each dissolved authority shall

1170 be deposited for safekeeping and reference with the state auditor.

1171 (4) The authority shall pay all expenses of the deactivation and dissolution.

1172 Section 30. **Effective date.**

1173           If approved by two-thirds of all the members elected to each house, this bill takes effect  
1174 upon approval by the governor, or the day following the constitutional time limit of Utah  
1175 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
1176 the date of veto override.

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**Fiscal Note****S.B. 56 2nd Sub. (Salmon) - Military Installation Development Authority  
Amendments**

2009 General Session

State of Utah

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**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.

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**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.

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