

MILITARY INSTALLATION DEVELOPMENT

AUTHORITY MODIFICATIONS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill amends provisions of the Military Installation Development Authority Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the Military Installation Development Authority (authority) to:
 - impose a resort communities tax; and
 - contract with the federal government, a public entity, or other authorized source;
- ▶ exempts land within a project area from certain state law, ordinances, or regulations;
- ▶ authorizes certain changes to the authority board;
- ▶ authorizes the authority to include, under certain circumstances, public or private land in a project area that is noncontiguous to military land;
- ▶ amends notice requirements;
- ▶ amends the authority's receipt and use of tax increment;
- ▶ amends the authority's use of municipal services revenue;
- ▶ designates funds received by the authority as nonlapsing; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 This bill provides an immediate effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **59-12-401**, as last amended by Laws of Utah 2008, Chapter 384

34 **59-12-402**, as last amended by Laws of Utah 2009, Chapter 388

35 **63H-1-102**, as last amended by Laws of Utah 2009, Chapters 92 and 397

36 **63H-1-201**, as last amended by Laws of Utah 2009, Chapters 92 and 397

37 **63H-1-202**, as renumbered and amended by Laws of Utah 2009, Chapter 92

38 **63H-1-203**, as enacted by Laws of Utah 2009, Chapter 92

39 **63H-1-302**, as last amended by Laws of Utah 2009, Chapter 92

40 **63H-1-401**, as last amended by Laws of Utah 2009, Chapters 92 and 397

41 **63H-1-402**, as last amended by Laws of Utah 2009, Chapter 92

42 **63H-1-501**, as last amended by Laws of Utah 2009, Chapter 92

43 **63H-1-502**, as last amended by Laws of Utah 2009, Chapter 92

44 **63H-1-602**, as enacted by Laws of Utah 2007, Chapter 23

45 **63J-1-602**, as enacted by Laws of Utah 2009, Chapter 368

46 ENACTS:

47 **63H-1-504**, Utah Code Annotated 1953



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

50 Section 1. Section **59-12-401** is amended to read:

51 **59-12-401. Resort communities tax authority for cities, towns, and military**
52 **installation development authority -- Base -- Rate -- Collection fees.**

53 (1) (a) In addition to other sales and use taxes, a city or town in which the transient
54 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the
55 municipality's permanent census population may impose a sales and use tax of up to 1.1% on
56 the transactions described in Subsection 59-12-103(1) located within the city or town.

57 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
58 section on:

- 59 (i) the sale of:
- 60 (A) a motor vehicle;
- 61 (B) an aircraft;
- 62 (C) a watercraft;
- 63 (D) a modular home;
- 64 (E) a manufactured home; or
- 65 (F) a mobile home;

66 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
67 are exempt from taxation under Section 59-12-104; and

68 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
69 food ingredients.

70 (c) For purposes of this Subsection (1), the location of a transaction shall be
71 determined in accordance with Sections 59-12-211 through 59-12-215.

72 (d) A city or town imposing a tax under this section shall impose the tax on amounts
73 paid or charged for food and food ingredients if the food and food ingredients are sold as part
74 of a bundled transaction attributable to food and food ingredients and tangible personal
75 property other than food and food ingredients.

76 (2) (a) An amount equal to the total of any costs incurred by the state in connection
77 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
78 the state from its collection fees received in connection with the implementation of Subsection
79 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
80 provided for in Subsection (1).

81 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
82 those cities and towns according to the amount of revenue the respective cities and towns
83 generate in that year through imposition of that tax.

84 (3) (a) Subject to 63H-1-203, the military installation development authority created in
85 Section 63H-1-201 may impose a tax under this section on the transactions described in
86 Subsection 59-12-103(1) located within a project area described in a project area plan adopted
87 by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act,
88 as though the authority were a city or a town.

89 (b) For purposes of calculating the permanent census population within a project area,

90 the board as defined in Section 63H-1-102 shall:

91 (i) count the population;

92 (ii) adopt a resolution verifying the population number; and

93 (iii) provide the commission any information required in Section 59-12-405.

94 Section 2. Section **59-12-402** is amended to read:

95 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**

96 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**

97 **Notice requirements -- Ordinance requirements -- Prohibition of military installation**

98 **development authority.**

99 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
100 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
101 66% of the municipality's permanent census population may, in addition to the sales tax
102 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
103 amount that is less than or equal to .5% on the transactions described in Subsection
104 59-12-103(1) located within the municipality.

105 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
106 impose a tax under this section on:

107 (i) the sale of:

108 (A) a motor vehicle;

109 (B) an aircraft;

110 (C) a watercraft;

111 (D) a modular home;

112 (E) a manufactured home; or

113 (F) a mobile home;

114 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
115 are exempt from taxation under Section 59-12-104; and

116 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
117 food ingredients.

118 (c) For purposes of this Subsection (1), the location of a transaction shall be
119 determined in accordance with Sections 59-12-211 through 59-12-215.

120 (d) A municipality imposing a tax under this section shall impose the tax on amounts

121 paid or charged for food and food ingredients if the food and food ingredients are sold as part
122 of a bundled transaction attributable to food and food ingredients and tangible personal
123 property other than food and food ingredients.

124 (2) (a) An amount equal to the total of any costs incurred by the state in connection
125 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
126 the state from its collection fees received in connection with the implementation of Subsection
127 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
128 provided for in Subsection (1).

129 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
130 those cities and towns according to the amount of revenue the respective cities and towns
131 generate in that year through imposition of that tax.

132 (3) To impose an additional resort communities sales tax under this section, the
133 governing body of the municipality shall:

134 (a) pass a resolution approving the tax; and

135 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
136 in Subsection (4).

137 (4) To obtain voter approval for an additional resort communities sales tax under
138 Subsection (3)(b), a municipality shall:

139 (a) hold the additional resort communities sales tax election during:

140 (i) a regular general election; or

141 (ii) a municipal general election; and

142 (b) publish notice of the election:

143 (i) 15 days or more before the day on which the election is held; and

144 (ii) (A) in a newspaper of general circulation in the municipality; and

145 (B) as required in Section 45-1-101.

146 (5) An ordinance approving an additional resort communities sales tax under this
147 section shall provide an effective date for the tax as provided in Section 59-12-403.

148 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
149 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
150 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
151 Section 10-1-203.

152 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
153 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
154 one class of businesses based on gross receipts pursuant to Section 10-1-203.

155 (7) A military installation development authority authorized to impose a resort
156 communities tax under Section 59-12-401 may not impose an additional resort communities
157 sales tax under this section.

158 Section 3. Section **63H-1-102** is amended to read:

159 **63H-1-102. Definitions.**

160 As used in this chapter:

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

163 (2) "Base taxable value" means:

164 (a) for military land or other land that was exempt from a property tax at the time that a
165 project area was created that included the military land or other land, a taxable value of zero; or

166 (b) for private property that is included in a project area, the taxable value of the
167 property within any portion of the project area, as designated by board resolution, from which
168 tax increment will be collected, as shown upon the assessment roll last equalized before the
169 year in which the authority issues a [~~certificate of occupancy~~] building permit for a building
170 within that portion of the project area.

171 (3) "Board" means the governing body of the authority created under Section
172 63H-1-301.

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

175 [~~(a)~~] (i) a county, including any district the county has established under Subsection
176 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to
177 Unincorporated Areas; or

178 [~~(b)~~] (ii) an included municipality.

179 (b) "Dedicated supplemental tax increment" does not include a property tax levied by a
180 county to assess and collect property taxes under Subsections 59-2-1602(1) and (4).

181 (5) "Development project" means a project to develop land within a project area.

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

- 183 (a) is a mayor or member of a legislative body appointed under Subsection
184 63H-1-302(2)(b); or
- 185 (b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and
186 (ii) concurrently serves in an elected state, county, or municipal office.
- 187 (7) "Included municipality" means a municipality, some or all of which is included
188 within a project area.
- 189 (8) "Military land" means any land or facility, including any leased land or facility, that
190 is part of a base, camp, post, station, yard, center, or installation under the jurisdiction of the
191 U.S. Department of Defense or the Utah National Guard.
- 192 (9) "Municipal energy tax" means a municipal energy sales and use tax under Title 10,
193 Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.
- 194 (10) "Municipal services revenue" means revenue that the authority:
195 (a) collects from the authority's:
196 (i) levy of a municipal energy tax;
197 (ii) levy of a telecommunications tax; [~~and~~]
198 (iii) imposition of a transient room tax; and
199 (iv) imposition of a resort communities tax;
200 (b) receives under Subsection 59-12-205(2)(b)(ii); and
201 (c) receives as dedicated supplemental tax increment.
- 202 (11) "Municipal tax" means a municipal energy tax, telecommunications tax, [~~or~~]
203 transient room tax, or resort communities tax.
- 204 (12) "Project area" means the land, including military land, whether consisting of a
205 single contiguous area or multiple noncontiguous areas, described in a project area plan or draft
206 project area plan where the development project set forth in the project area plan or draft
207 project area plan takes place or is proposed to take place.
- 208 (13) "Project area budget" means a multiyear projection of annual or cumulative
209 revenues and expenses and other fiscal matters pertaining to a project area that includes:
210 (a) the base taxable value of property in the project area;
211 (b) the projected tax increment expected to be generated within the project area;
212 (c) the amount of tax increment expected to be shared with other taxing entities;
213 (d) the amount of tax increment expected to be used to implement the project area plan,

214 including the estimated amount of tax increment to be used for land acquisition, public
215 improvements, infrastructure improvements, and loans, grants, or other incentives to private
216 and public entities;

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

219 (f) if tax increment is to be collected at different times or from different portions of the
220 project area, or both:

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

223 (B) a legal description of the portion of the project area from which tax increment will
224 be collected; and

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

227 (g) for property that the authority owns or leases and expects to sell or sublease, the
228 expected total cost of the property to the authority and the expected selling price or lease
229 payments.

230 (14) "Project area plan" means a written plan that, after its effective date, guides and
231 controls the development within a project area.

232 (15) "Property tax" includes privilege tax and each levy on an ad valorem basis on
233 tangible or intangible personal or real property.

234 (16) "Public entity" means:

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

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

238 (17) "Publicly owned infrastructure and improvements" means water, sewer, storm
239 drainage, electrical, telecommunications, and other similar systems and lines, streets, roads,
240 curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and other
241 buildings, facilities, infrastructure, and improvements [~~benefitting the public and to be~~] that:

242 (a) benefit the public; and

243 (b) are:

244 (i) publicly owned or owned by a utility; or

245 (ii) publicly owned or publicly maintained or operated by the authority or another
246 public entity.

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

250 (19) "Resort communities tax" means a sales and use tax imposed under Section
251 59-12-401.

252 [~~(19)~~] (20) "Supplemental tax increment" means tax increment remaining after the
253 authority is paid the tax increment it is entitled to receive under Subsection 63H-1-501(1).

254 [~~(20)~~] (21) "Taxable value" means the value of property as shown on the last equalized
255 assessment roll as certified by the county assessor.

256 [~~(21)~~] (22) "Tax increment" means the difference between:

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

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

262 [~~(22)~~] (23) "Taxing entity" means a public entity that levies a tax on property within a
263 project area.

264 [~~(23)~~] (24) "Telecommunications tax" means a telecommunications license tax under
265 Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

266 [~~(24)~~] (25) "Transient room tax" means a tax under Section 59-12-352.

267 Section 4. Section **63H-1-201** is amended to read:

268 **63H-1-201. Creation of military installation development authority -- Status and**
269 **powers of authority -- Limitation.**

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

271 (2) The authority is:

272 (a) an independent, nonprofit, separate body corporate and politic, with perpetual
273 succession and statewide jurisdiction, whose purpose is to facilitate the development of
274 military land in a project area;

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

- 276 (c) a public corporation, as defined in Section 63E-1-102.
- 277 (3) The authority may:
- 278 (a) as provided in this chapter, facilitate the development of [~~military~~] land within one
- 279 or more project areas, [~~as provided in this chapter~~] including the ongoing operation of facilities
- 280 within a project area;
- 281 (b) sue and be sued;
- 282 (c) enter into contracts generally;
- 283 (d) buy, obtain an option upon, or otherwise acquire any interest in real or personal
- 284 property:
- 285 [~~(i) on military land; or~~]
- 286 (i) in a project area; or
- 287 (ii) outside [~~military land~~] a project area for publicly owned infrastructure and
- 288 improvements, if the board considers the purchase, option, or other interest acquisition to be
- 289 necessary for fulfilling the authority's development objectives;
- 290 (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or
- 291 personal property;
- 292 (f) enter into a lease agreement on real or personal property, either as lessee or lessor:
- 293 [~~(i) on military land; or~~]
- 294 (i) in a project area; or
- 295 (ii) outside [~~military land~~] a project area, if the board considers the lease to be
- 296 necessary for fulfilling the authority's development objectives;
- 297 (g) provide for the development of land within a project area under one or more
- 298 contracts;
- 299 (h) exercise powers and perform functions under a contract, as authorized in the
- 300 contract;
- 301 (i) exercise exclusive police power within a project area to the same extent as though
- 302 the authority were a municipality, including the collection of regulatory fees;
- 303 (j) receive tax increment and other taxes and fees as provided in this chapter;
- 304 (k) accept financial or other assistance from any public or private source for the
- 305 authority's activities, powers, and duties, and expend any funds so received for any of the
- 306 purposes of this chapter;

307 (l) borrow money, contract with, or accept financial or other assistance from the federal
308 government, a public entity, or any other source for any of the purposes of this chapter and
309 comply with any conditions of the loan, contract, or assistance;

310 (m) issue bonds to finance the undertaking of any development objectives of the
311 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and
312 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

313 (n) hire employees, including contract employees;

314 (o) transact other business and exercise all other powers provided for in this chapter;

315 (p) enter into a development agreement with a developer of [~~military~~] land within a
316 project area;

317 (q) enter into an agreement with a political subdivision of the state under which the
318 political subdivision provides one or more municipal services within a project area;

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

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

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

326 Section 5. Section **63H-1-202** is amended to read:

327 **63H-1-202. Applicability of other law.**

328 (1) The authority or land within a project area is not subject to:

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

330 (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

331 (c) any ordinances or regulations of a county or municipality, including those relating
332 to land use, health, business license, or franchise; or

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

336 (2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107,
337 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed

338 by Title 63E, Independent Entities Code.

339 Section 6. Section **63H-1-203** is amended to read:

340 **63H-1-203. Levy of a municipal tax.**

341 Any levy of a municipal energy tax, a telecommunications tax, ~~[or]~~ a transient room
342 tax, or a resort communities tax, including any increase in the applicable tax rate, requires the
343 affirmative vote of:

- 344 (1) the authority board; and
- 345 (2) a majority of all elected members of the authority board.

346 Section 7. Section **63H-1-302** is amended to read:

347 **63H-1-302. Number of board members -- Appointment.**

- 348 (1) The authority's board shall consist of seven members.
- 349 (2) Five members of the board shall be appointed by the governor as follows:
 - 350 (a) one member shall be appointed ~~[from recommendations from the Utah Defense~~
351 Alliance] who is interested in supporting military efforts in the state;
 - 352 (b) subject to Subsection (4)(d), three members shall be appointed, each of whom is a
353 mayor or member of the legislative body of a municipality or county that is adjacent or in close
354 proximity to a project area or proposed project area; and
 - 355 (c) one member shall be appointed from the Governor's Office of Economic
356 Development.
 - 357 (3) The president of the Senate and the speaker of the House of Representatives shall
358 each appoint one board member.
 - 359 (4) (a) Each vacancy shall be filled in the same manner under this section as the
360 appointment of the member whose vacancy is being filled.
 - 361 (b) Each person appointed to fill a vacancy shall serve the remaining unexpired term of
362 the member whose vacancy the person is filling.
 - 363 (c) If a mayor or member of a legislative body appointed under Subsection (2)(b)
364 leaves office as mayor or a member of the legislative body, a vacancy on the board occurs and
365 the governor shall appoint another mayor or member of a legislative body, as provided in
366 Subsection (2)(b), to fill the vacancy.
 - 367 (d) If there are more than three project areas located in different counties or
368 municipalities, at the expiration of a member's term who is appointed under Subsection (2)(b),

369 the governor shall appoint:

370 (i) a mayor of a municipality or county that:

371 (A) is adjacent to or in close proximity to a project area; and

372 (B) is not already represented on the board; or

373 (ii) a member of a legislative body of a municipality or county that:

374 (A) is adjacent to or in close proximity to a project area; and

375 (B) is not already represented on the board.

376 [~~(d)~~] (e) A member of the board appointed by the governor, president of the Senate, or
 377 speaker of the House of Representatives serves at the pleasure of and may be removed and
 378 replaced at any time, with or without cause, by the governor, president of the Senate, or speaker
 379 of the House of Representatives, respectively.

380 (5) The authority may:

381 (a) appoint nonvoting members of the board; and

382 (b) set terms for nonvoting members appointed under Subsection (5)(a).

383 Section 8. Section **63H-1-401** is amended to read:

384 **63H-1-401. Preparation of project area plan -- Required contents of project area**
 385 **plan.**

386 (1) (a) Before spending any funds in a project area or entering into any lease or
 387 development agreement, the authority board shall adopt a project area plan as provided in this
 388 part.

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

390 (i) prepare a draft project area plan;

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

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

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

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

398 [~~(d)~~] ~~The authority board may not adopt a project area plan unless at least one of the~~
 399 ~~board members appointed under Subsection 63I-1-302(2)(b) is a mayor or member of the~~

400 legislative body of a municipality that is adjacent or in close proximity to the project area
 401 described in the project area plan proposed to be adopted.]

402 (2) Each project area plan and draft project area plan shall contain:

403 (a) a legal description of the boundary of the project area that is the subject of the
 404 project area plan;

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

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

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

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

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

410 and

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

413 (3) (a) A project area described in a project area plan:

414 (i) shall include military land; and

415 (ii) may include ~~private~~ one or all of the following:

416 (A) private land if:

417 ~~[(A)]~~ (I) the owner of the private land consents to the inclusion of the land within the
 418 project area;

419 ~~[(B)]~~ (II) subject to Subsection (3)(b), the private land included within the project area
 420 is contiguous to the military land included within the project area;

421 ~~[(C)]~~ (III) the total size of the project area does not exceed 100 acres; and

422 ~~[(D)]~~ (IV) the project area is located within a county of the third, fourth, fifth, or sixth
 423 class[-];

424 (B) up to an additional 150 acres of public or private land that is not contiguous to
 425 military land if:

426 (I) the land is included in a project area that will include a hotel facility for current and
 427 retired military personnel at a military discount rate; ~~§~~ → [and] ← ~~§~~

428 (II) the owner of the public or private land consents to the inclusion of the land in the
 429 project area; ~~§~~ → [or] and

429a (III) 50 or more acres of the 150 acres was jointly owned by a municipality and a county
 429b on January 1, 2010; or ← ~~§~~

430 (C) public or private land ~~§~~ → [that is not contiguous] , whether or not it is contiguous ← ~~§~~ to
 430a military land ~~§~~ → , ← ~~§~~ if:

431 (I) the legislative body of the county in which the public or private land is located
 432 passes a resolution consenting to the inclusion of the land in the project area;

433 (II) the legislative body of an included municipality passes a resolution consenting to
 434 the inclusion of the land in the project area; and

435 (III) the owner of the public or private land consents to the inclusion of the land in the
 436 project area.

437 (b) Private land does not lose its contiguousness to military land because of the
 438 presence of a road or right-of-way.

439 Section 9. Section **63H-1-402** is amended to read:

440 **63H-1-402. Public meeting to consider and discuss draft project area plan --**
 441 **Notice -- Adoption of plan.**

442 (1) The authority board shall hold at least one public meeting to consider and discuss
 443 the draft project area plan.

444 (2) At least 10 days before holding a public meeting under Subsection (1), the authority
 445 board shall give notice of the public meeting to [~~taxing entities~~]:

446 (a) a taxing entity; and

447 (b) a municipality that is located within one-half mile of the proposed project area.

448 (3) Following consideration and discussion of the project area plan, the board may
 449 adopt the draft project area plan as the project area plan.

450 Section 10. Section **63H-1-501** is amended to read:

451 **63H-1-501. Authority receipt and use of tax increment -- Distribution of tax**
 452 **increment.**

453 (1) ~~(a)~~ The authority may [~~receive and use~~]:

454 (i) subject to Subsection (1)(b), receive up to 75% of tax increment for up to 25 years,
 455 as provided in this part[-]; and

456 (ii) use tax increment during and after the period described in Subsection (1)(a)(i).

457 (b) With respect to a parcel located within a project area, the 25-year period described
 458 in Subsection (1)(a)(i) shall begin on the day on which the authority receives the first tax
 459 increment from that parcel.

460 (2) Improvements on a parcel within a project area become subject to property tax [~~in~~
 461 ~~the year during which~~] on January 1 immediately following the day on which the authority

462 issues a certificate of occupancy with respect to those improvements.

463 (3) Each county that collects property tax on property within a project area shall pay
464 and distribute to the authority the tax increment and dedicated supplemental tax increment that
465 the authority is entitled to collect under this title, in the manner and at the time provided in
466 Section 59-2-1365.

467 (4) (a) The board shall determine by resolution when the entire project area or an
468 individual parcel within a project area is subject to tax increment.

469 (b) The board shall amend the project area budget to reflect whether a parcel within a
470 project area is subject to tax increment.

471 Section 11. Section **63H-1-502** is amended to read:

472 **63H-1-502. Allowable uses of tax increment and other funds.**

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

475 (a) for any [~~of the purposes for which the use of tax increment is~~] purpose authorized
476 under this chapter;

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

478 (c) to pay for, including financing or refinancing, all or part of the development of
479 [~~military~~] land within the project area from which the tax increment funds or other funds were
480 collected, including assisting the ongoing operation of any development or facility within the
481 project area;

482 (d) to pay the cost of the installation and construction of any publicly owned
483 infrastructure and improvements within the project area from which the tax increment funds
484 were collected;

485 (e) to pay the cost of the installation of publicly owned infrastructure and
486 improvements outside the project area ~~§→ [from which the tax increment funds were collected] ←§~~
486a if the

487 authority board determines by resolution that the infrastructure and improvements are of
488 benefit to the project area; and

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

490 (2) The authority may use revenue generated from the operation of publicly owned
491 infrastructure operated by the authority or improvements operated by the authority to:

492 (a) operate and maintain the infrastructure or improvements; and

493 (b) pay for authority operating expenses, including administrative, overhead, and legal
494 expenses.

495 (3) For purposes of Subsection (1), the authority may use:

496 (a) tax revenues received under Subsection 59-12-205(2)(b)(ii); and

497 (b) resort communities tax revenues generated from a project area that contains private
498 land.

499 [~~2~~] (4) The determination of the authority board under Subsection (1)(e) regarding
500 benefit to the project area shall be final and conclusive.

501 Section 12. Section **63H-1-504** is enacted to read:

502 **63H-1-504. Authority funds nonlapsing.**

503 All funds received by the authority are nonlapsing.

504 Section 13. Section **63H-1-602** is amended to read:

505 **63H-1-602. Sources from which bonds may be made payable -- Authority powers**
506 **regarding bonds.**

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

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

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

512 (c) the income, proceeds, revenues, property, and funds the authority derives from or
513 holds in connection with its undertaking and carrying out development of [~~military land~~] a
514 project area;

515 (d) tax increment funds;

516 (e) authority revenues generally;

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

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

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

522 (a) pledge all or any part of its gross or net rents, fees, or revenues to which its right
523 then exists or may thereafter come into existence;

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

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

530 Section 14. Section **63J-1-602** is amended to read:

531 **63J-1-602. Nonlapsing accounts and funds.**

532 (1) The following revenue collections, appropriations from a fund or account, and
533 appropriations to a program are nonlapsing:

- 534 (a) appropriations made to the Legislature and its committees;
- 535 (b) funds collected by the grain grading program, as provided in Section 4-2-2;
- 536 (c) the Salinity Offset Fund created in Section 4-2-8.5;
- 537 (d) the Invasive Species Mitigation Fund created in Section 4-2-8.7;
- 538 (e) funds collected by pesticide dealer license registration fees, as provided in Section
539 4-14-3;

540 (f) funds collected by pesticide applicator business registration fees, as provided in
541 Section 4-14-13;

542 (g) the Rangeland Improvement Fund created in Section 4-20-2;

543 (h) funds deposited as dedicated credits under the Insect Infestation Emergency Control
544 Act, as provided in Section 4-35-6;

545 (i) the Percent-for-Art Program created in Section 9-6-404;

546 (j) the Centennial History Fund created in Section 9-8-604;

547 (k) the Uintah Basin Revitalization Fund, as provided in Section 9-10-108;

548 (l) the Navajo Revitalization Fund created in Section 9-11-104;

549 (m) the LeRay McAllister Critical Land Conservation Program created in Section
550 11-38-301;

551 (n) the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403;

552 (o) fees deposited as dedicated credits for hazardous waste plan reviews, as provided in
553 Section 19-6-120;

554 (p) an appropriation made to the Division of Wildlife Resources for the appraisal and

555 purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6;
556 (q) award monies under the Crime Reduction Assistance Program, as provided under
557 Section 24-1-19;
558 (r) funds collected from the emergency medical services grant program, as provided in
559 Section 26-8a-207;
560 (s) fees and other funding available to purchase training equipment and to administer
561 tests and conduct quality assurance reviews, as provided in Section 26-8a-208;
562 (t) funds collected as a result of a sanction under Section 1919 of Title XIX of the
563 federal Social Security Act, as provided in Section 26-18-3;
564 (u) the Utah Health Care Workforce Financial Assistance Program created in Section
565 26-46-102;
566 (v) monies collected from subscription fees for publications prepared or distributed by
567 the insurance commissioner, as provided in Section 31A-2-208;
568 (w) monies received by the Insurance Department for administering, investigating
569 under, and enforcing the Insurance Fraud Act, as provided in Section 31A-31-108;
570 (x) certain monies received for penalties paid under the Insurance Fraud Act, as
571 provided in Section 31A-31-109;
572 (y) the fund for operating the state's Federal Health Care Tax Credit Program, as
573 provided in Section 31A-38-104;
574 (z) certain funds in the Department of Workforce Services' program for the education,
575 training, and transitional counseling of displaced homemakers, as provided in Section
576 35A-3-114;
577 (aa) the Employment Security Administration Fund created in Section 35A-4-505;
578 (bb) the Special Administrative Expense Fund created in Section 35A-4-506;
579 (cc) funding for a new program or agency that is designated as nonlapsing under
580 Section 36-24-101;
581 (dd) the Oil and Gas Conservation Account created in Section 40-6-14.5;
582 (ee) funds available to the State Tax Commission for purchase and distribution of
583 license plates and decals, as provided in Section 41-1a-1201;
584 (ff) certain fees for the cost of electronic payments under the Motor Vehicle Act, as
585 provided in Section 41-1a-1221;

586 (gg) certain fees collected for administering and enforcing the Motor Vehicle Business
587 Regulation Act, as provided in Section 41-3-601;

588 (hh) certain fees for the cost of electronic payments under the Motor Vehicle Business
589 Regulation Act, as provided in Section 41-3-604;

590 (ii) the Off-Highway Access and Education Restricted Account created in Section
591 41-22-19.5;

592 (jj) certain fees for the cost of electronic payments under the Motor Vehicle Act, as
593 provided in Section 41-22-36;

594 (kk) monies collected under the Notaries Public Reform Act, as provided under
595 46-1-23;

596 (ll) certain funds associated with the Law Enforcement Operations Account, as
597 provided in Section 51-9-411;

598 (mm) the Public Safety Honoring Heroes Restricted Account created in Section
599 53-1-118;

600 (nn) funding for the Search and Rescue Financial Assistance Program, as provided in
601 Section 53-2-107;

602 (oo) appropriations made to the Department of Public Safety from the Department of
603 Public Safety Restricted Account, as provided in Section 53-3-106;

604 (pp) appropriations to the Motorcycle Rider Education Program, as provided in Section
605 53-3-905;

606 (qq) fees collected by the State Fire Marshal Division under the Utah Fire Prevention
607 and Safety Act, as provided in Section 53-7-314;

608 (rr) the DNA Specimen Restricted Account created in Section 53-10-407;

609 (ss) the minimum school program, as provided in Section 53A-17a-105;

610 (tt) certain funds appropriated from the Uniform School Fund to the State Board of
611 Education for new teacher bonus and performance-based compensation plans, as provided in
612 Section 53A-17a-148;

613 (uu) certain funds appropriated from the Uniform School Fund to the State Board of
614 Education for implementation of proposals to improve mathematics achievement test scores, as
615 provided in Section 53A-17a-152;

616 (vv) the School Building Revolving Account created in Section 53A-21-401;

617 (ww) monies received by the State Office of Rehabilitation for the sale of certain
618 products or services, as provided in Section 53A-24-105;

619 (xx) the State Board of Regents, as provided in Section 53B-6-104;

620 (yy) certain funds appropriated from the General Fund to the State Board of Regents
621 for teacher preparation programs, as provided in Section 53B-6-104;

622 (zz) a certain portion of monies collected for administrative costs under the School
623 Institutional Trust Lands Management Act, as provided under Section 53C-3-202;

624 (aaa) certain surcharges on residence and business telecommunications access lines
625 imposed by the Public Service Commission, as provided in Section 54-8b-10;

626 (bbb) certain fines collected by the Division of Occupational and Professional
627 Licensing for violation of unlawful or unprofessional conduct that are used for education and
628 enforcement purposes, as provided in Section 58-17b-505;

629 (ccc) the Nurse Education and Enforcement Fund created in Section 58-31b-103;

630 (ddd) funding of the controlled substance database, as provided in Section 58-37-7.7;

631 (eee) the Certified Nurse Midwife Education and Enforcement Fund created in Section
632 58-44a-103;

633 (fff) funding for the building inspector's education program, as provided in Section
634 58-56-9;

635 (ggg) certain fines collected by the Division of Occupational and Professional
636 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
637 provided in Section 58-63-103;

638 (hhh) the Professional Geologist Education and Enforcement Fund created in Section
639 58-76-103;

640 (iii) certain monies in the Water Resources Conservation and Development Fund, as
641 provided in Section 59-12-103;

642 (jjj) funds paid to the Division of Real Estate for the cost of a criminal background
643 check for broker and sales agent licenses, as provided in Section 61-2-9;

644 (kkk) the Utah Housing Opportunity Restricted Account created in Section 61-2-28;

645 (lll) funds paid to the Division of Real Estate for the cost of a criminal background
646 check for a mortgage loan license, as provided in Section 61-2c-202;

647 (mmm) funds paid to the Division of Real Estate in relation to examination of records

648 in an investigation, as provided in Section 61-2c-401;
649 (nnn) certain funds donated to the Department of Human Services, as provided in
650 Section 62A-1-111;
651 (ooo) certain funds donated to the Division of Child and Family Services, as provided
652 in Section 62A-4a-110;
653 (ppp) the Mental Health Therapist Grant and Scholarship Program, as provided in
654 Section 62A-13-109;
655 (qqq) assessments for DUI violations that are forwarded to an account created by a
656 county treasurer, as provided in Section 62A-15-503;
657 (rrr) appropriations to the Division of Services for People with Disabilities, as provided
658 in Section 62A-5-102;
659 (sss) certain donations to the Division of Substance Abuse and Mental Health, as
660 provided in Section 62A-15-103;
661 (ttt) certain funds received by the Division of Parks and Recreation from the sale or
662 disposal of buffalo, as provided under Section 63-11-19.2;
663 (uuu) revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
664 Park, or Jordan River State Park, as provided under Section 63-11-19.5;
665 (vvv) revenue for golf user fees at the Green River State Park, as provided under
666 Section 63-11-19.6;
667 (www) the Centennial Nonmotorized Paths and Trail Crossings Program created under
668 Section 63-11a-503;
669 (xxx) the Bonneville Shoreline Trail Program created under Section 63-11a-504;
670 (yyy) the account for the Utah Geological Survey, as provided in Section 63-73-10;
671 (zzz) the Risk Management Fund created under Section 63A-4-201;
672 (aaaa) the Child Welfare Parental Defense Fund created in Section 63A-11-203;
673 (bbbb) the Constitutional Defense Restricted Account created in Section 63C-4-103;
674 (cccc) a portion of the funds appropriated to the Utah Seismic Safety Commission, as
675 provided in Section 63C-6-104;
676 (dddd) funding for the Medical Education Program administered by the Medical
677 Education Council, as provided in Section 63C-8-102;
678 (eeee) certain monies payable for commission expenses of the Pete Suazo Utah

679 Athletic Commission, as provided under Section 63C-11-301;
680 (ffff) funds collected for publishing the Division of Administrative Rules' publications,
681 as provided in Section 63G-3-402;
682 (gggg) monies received by the military installation development authority, as provided
683 in Section 63H-1-504;
684 [~~(gggg)~~] (hhhh) the appropriation to fund the Governor's Office of Economic
685 Development's Enterprise Zone Act, as provided in Section 63M-1-416;
686 [~~(hhhh)~~] (iiii) the Tourism Marketing Performance Account, as provided in Section
687 63M-1-1406;
688 [~~(iiii)~~] (jjjj) certain funding for rural development provided to the Office of Rural
689 Development in the Governor's Office of Economic Development, as provided in Section
690 63M-1-1604;
691 [~~(jjjj)~~] (kkkk) certain monies in the Development for Disadvantaged Rural
692 Communities Restricted Account, as provided in Section 63M-1-2003;
693 [~~(kkkk)~~] (llll) appropriations to the Utah Science Technology and Research Governing
694 Authority, created under Section 63M-2-301, as provided under Section 63M-3-302;
695 [~~(llll)~~] (mmmm) certain monies in the Rural Broadband Service Fund, as provided in
696 Section 63M-1-2303;
697 [~~(mmmm)~~] (nnnn) funds collected from monthly offender supervision fees, as provided
698 in Section 64-13-21.2;
699 [~~(nnnn)~~] (oooo) funds collected by the housing of state probationary inmates or state
700 parole inmates, as provided in Subsection 64-13e-104(2);
701 [~~(oooo)~~] (pppp) the Sovereign Lands Management account created in Section 65A-5-1;
702 [~~(pppp)~~] (qqqq) certain forestry and fire control funds utilized by the Division of
703 Forestry, Fire, and State Lands, as provided in Section 65A-8-103;
704 [~~(qqqq)~~] (rrrr) the Department of Human Resource Management user training program,
705 as provided in Section 67-19-6;
706 [~~(rrrr)~~] (ssss) funds for the University of Utah Poison Control Center program, as
707 provided in Section 69-2-5.5;
708 [~~(ssss)~~] (tttt) appropriations to the Transportation Corridor Preservation Revolving
709 Loan Fund, as provided in Section 72-2-117;

710 [~~(tttt)~~] (uuuu) appropriations to the Local Transportation Corridor Preservation Fund,
711 as provided in Section 72-2-117.5;

712 [~~(uuuu)~~] (vvvv) appropriations to the Tollway Restricted Special Revenue Fund, as
713 provided in Section 77-2-120;

714 [~~(vvvv)~~] (www) appropriations to the Aeronautics Construction Revolving Loan
715 Fund, as provided in Section 77-2-122;

716 [~~(www)~~] (xxxx) appropriations to the State Park Access Highways Improvement
717 Program, as provided in Section 72-3-207;

718 [~~(xxxx)~~] (yyyy) the Traffic Noise Abatement Program created in Section 72-6-112;

719 [~~(yyyy)~~] (zzzz) certain funds received by the Office of the State Engineer for well
720 drilling fines or bonds, as provided in Section 73-3-25;

721 [~~(zzzz)~~] (aaaa) certain monies appropriated to increase the carrying capacity of the
722 Jordan River that are transferred to the Division of Parks and Recreation, as provided in
723 Section 73-10e-1;

724 [~~(aaaa)~~] (bbbb) certain fees for the cost of electronic payments under the State
725 Boating Act, as provided in Section 73-18-25;

726 [~~(bbbb)~~] (cccc) certain monies appropriated from the Water Resources Conservation
727 and Development Fund, as provided in Section 73-23-2;

728 [~~(cccc)~~] (dddd) the Lake Powell Pipeline Project Operation and Maintenance Fund
729 created in Section 73-28-404;

730 [~~(ddd)~~] (eeee) certain funds in the Water Development and Flood Mitigation
731 Reserve Account, as provided in Section 73-103-1;

732 [~~(eeee)~~] (ffff) certain funds appropriated for compensation for special prosecutors, as
733 provided in Section 77-10a-19;

734 [~~(ffff)~~] (gggg) the Indigent Aggravated Murder Defense Trust Fund created in
735 Section 77-32-601;

736 [~~(gggg)~~] (hhhh) the Indigent Felony Defense Trust Fund created in Section
737 77-32-701;

738 [~~(hhhh)~~] (iiii) funds donated or paid to a juvenile court by private sources, as
739 provided in Subsection 78A-6-203(1)(c);

740 [~~(iiii)~~] (jjjj) a state rehabilitative employment program, as provided in Section

741 78A-6-210; and
742 [(jjjj)] (kkkk) fees from the issuance and renewal of licenses for certified court
743 interpreters, as provided in Section 78B-1-146.

744 (2) No revenue collection, appropriation from a fund or account, or appropriation to a
745 program may be treated as nonlapsing unless:

- 746 (a) it is expressly referenced by this section;
 - 747 (b) it is designated in a condition of appropriation in the appropriations bill; or
 - 748 (c) nonlapsing authority is granted under Section 63J-1-603.
- 749 (3) Each legislative appropriations subcommittee shall review the accounts and funds
750 that have been granted nonlapsing authority under this section or Section 63J-1-603.

751 Section 15. **Effective date.**

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

Legislative Review Note
as of 1-28-10 3:01 PM

Office of Legislative Research and General Counsel

S.B. 124 - Military Installation Development Authority Modifications

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill may result in increased sales tax revenue for certain entities. It may also shift property tax burden from those entities to other taxable properties. The impact of such additional revenue and/or tax burden cannot be estimated until such time as a qualifying entity is defined and established.
