

1 **MILITARY INSTALLATION DEVELOPMENT AUTHORITY**

2 **AMENDMENTS**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jerry W. Stevenson**

6 House Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

13 ▶ provides that the military installation development authority may provide for the
14 development of land associated with a military installation development authority
15 project area;

16 ▶ provides that certain jobs created in a project area of the military installation
17 development authority are high paying jobs or new incremental jobs for the purpose
18 of tax credit exemptions for economic development; and

19 ▶ defines the military installation development authority as a public agency for the
20 purposes of the Transportation Infrastructure Loan Fund.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **63H-1-102**, as last amended by Laws of Utah 2015, Chapter 377



28 **63H-1-201**, as last amended by Laws of Utah 2016, Chapter 371
29 **63N-2-103**, as last amended by Laws of Utah 2016, Chapter 350
30 **72-2-201**, as last amended by Laws of Utah 2008, Chapter 396

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

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

34 **63H-1-102. Definitions.**

35 As used in this chapter:

36 (1) "Authority" means the Military Installation Development Authority, created under
37 Section **63H-1-201**.

38 (2) "Base taxable value" means:

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

41 (b) for private property that is included in a project area, the taxable value of the
42 property within any portion of the project area, as designated by board resolution, from which
43 the property tax allocation will be collected, as shown upon the assessment roll last equalized
44 before the year in which the authority issues a building permit for a building within that portion
45 of the project area.

46 (3) "Board" means the governing body of the authority created under Section
47 **63H-1-301**.

48 (4) (a) "Dedicated tax collections" means the property tax that remains after the
49 authority is paid the property tax allocation it is entitled to receive under Subsection
50 **63H-1-501**(1), for a property tax levied by:

51 (i) a county, including a district the county has established under Subsection **17-34-3**(2)
52 to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated
53 Areas; or

54 (ii) an included municipality.

55 (b) "Dedicated tax collections" does not include a county additional property tax or
56 multicounty assessing and collecting levy imposed in accordance with Section **59-2-1602**.

57 (5) (a) "Development" means an activity occurring on land within a project area, or on
58 land associated with a project area, that is owned or operated by the military, the authority,

59 another public entity, or a private entity.

60 (b) "Development" includes the demolition, construction, reconstruction, modification,
61 expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or
62 recreational amenity.

63 (6) "Development project" means a project to develop land within a project area.

64 (7) "Elected member" means a member of the authority board who:

65 (a) is a mayor or member of a legislative body appointed under Subsection

66 [63H-1-302](#)(2)(b); or

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

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

69 (8) "Included municipality" means a municipality, some or all of which is included
70 within a project area.

71 (9) (a) "Military" means a branch of the armed forces of the United States, including
72 the Utah National Guard.

73 (b) "Military" includes, in relation to property, property that is occupied by the military
74 and is owned by the government of the United States or the state.

75 (10) "Military Installation Development Authority energy tax" or "MIDA energy tax"
76 means the tax levied under Section [63H-1-204](#).

77 (11) "Military land" means land or a facility, including leased land or a leased facility,
78 that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the
79 jurisdiction of the United States Department of Defense or the Utah National Guard.

80 (12) "Municipal energy tax" means a municipal energy sales and use tax under Title
81 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

82 (13) "Municipal services revenue" means revenue that the authority:

83 (a) collects from the authority's:

84 (i) levy of a municipal energy tax;

85 (ii) levy of a MIDA energy tax;

86 (iii) levy of a telecommunications tax;

87 (iv) imposition of a transient room tax; and

88 (v) imposition of a resort communities tax;

89 (b) receives under Subsection [59-12-205](#)(2)(b)(ii); and

90 (c) receives as dedicated tax collections.

91 (14) "Municipal tax" means a municipal energy tax, MIDA energy tax,
92 telecommunications tax, transient room tax, or resort communities tax.

93 (15) "Project area" means the land, including military land, whether consisting of a
94 single contiguous area or multiple noncontiguous areas, described in a project area plan or draft
95 project area plan, where the development project set forth in the project area plan or draft
96 project area plan takes place or is proposed to take place.

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

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

100 (b) the projected property tax allocation expected to be generated within the project
101 area;

102 (c) the amount of the property tax allocation expected to be shared with other taxing
103 entities;

104 (d) the amount of the property tax allocation expected to be used to implement the
105 project area plan, including the estimated amount of the property tax allocation to be used for
106 land acquisition, public improvements, infrastructure improvements, and loans, grants, or other
107 incentives to private and public entities;

108 (e) the property tax allocation expected to be used to cover the cost of administering
109 the project area plan;

110 (f) if the property tax allocation is to be collected at different times or from different
111 portions of the project area, or both:

112 (i) (A) the tax identification numbers of the parcels from which the property tax
113 allocation will be collected; or

114 (B) a legal description of the portion of the project area from which the property tax
115 allocation will be collected; and

116 (ii) an estimate of when other portions of the project area will become subject to
117 collection of the property tax allocation; and

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

121 (17) "Project area plan" means a written plan that, after its effective date, guides and
122 controls the development within a project area.

123 (18) (a) "Property tax" includes a privilege tax, except as described in Subsection
124 (18)(b), and each levy on an ad valorem basis on tangible or intangible personal or real
125 property.

126 (b) "Property tax" does not include a privilege tax on the taxable value attributable to a
127 portion of a facility leased to the military for a calendar year when:

128 (i) a lessee of military land has constructed a facility on the military land that is part of
129 a project area;

130 (ii) the lessee leases space in the facility to the military for the entire calendar year; and

131 (iii) the lease rate paid by the military for the space is \$1 or less for the entire calendar
132 year, not including any common charges that are reimbursements for actual expenses.

133 (19) "Property tax allocation" means the difference between:

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

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

140 (20) "Public entity" means:

141 (a) the state, including each department or agency of the state; or

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

144 (21) (a) "Publicly owned infrastructure and improvements" means infrastructure,
145 improvements, facilities, or buildings that benefit the public and are:

146 (i) publicly owned by the military, the authority, or another public entity;

147 (ii) owned by a utility; or

148 (iii) publicly maintained or operated by the military, the authority, or another public
149 entity.

150 (b) "Publicly owned infrastructure and improvements" includes:

151 (i) facilities, lines, or systems that provide water, chilled water, steam, sewer, storm

152 drainage, natural gas, electricity, or telecommunications; and

153 (ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking
154 facilities, and public transportation facilities.

155 (22) "Remaining municipal services revenue" means municipal services revenue that
156 the authority has not spent during its fiscal year for municipal services as provided in
157 Subsection 63H-1-503(1).

158 (23) "Resort communities tax" means a sales and use tax imposed under Section
159 59-12-401.

160 (24) "Taxable value" means the value of property as shown on the last equalized
161 assessment roll as certified by the county assessor.

162 (25) "Taxing entity" means a public entity that levies a tax on property within a project
163 area.

164 (26) "Telecommunications tax" means a telecommunications license tax under Title
165 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

166 (27) "Transient room tax" means a tax under Section 59-12-352.
167 Section 2. Section 63H-1-201 is amended to read:

168 **63H-1-201. Creation of military installation development authority -- Status and**
169 **powers of authority -- Limitation.**

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

171 (2) The authority is:

172 (a) an independent, nonprofit, separate body corporate and politic, with perpetual
173 succession and statewide jurisdiction, whose purpose is to facilitate the development of
174 [military land in] land within a project area or on military land associated with a project area;

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

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

177 (3) The authority may:

178 (a) as provided in this chapter, facilitate the development of land within one or more
179 project areas, including the ongoing operation of facilities within a project area, or
180 development of military land associated with a project area;

181 (b) sue and be sued;

182 (c) enter into contracts generally;

- 183 (d) buy, obtain an option upon, or otherwise acquire any interest in real or personal
184 property:
- 185 (i) in a project area; or
186 (ii) outside a project area for publicly owned infrastructure and improvements, if the
187 board considers the purchase, option, or other interest acquisition to be necessary for fulfilling
188 the authority's development objectives;
- 189 (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or
190 personal property;
- 191 (f) enter into a lease agreement on real or personal property, either as lessee or lessor:
- 192 (i) in a project area; or
193 (ii) outside a project area, if the board considers the lease to be necessary for fulfilling
194 the authority's development objectives;
- 195 (g) provide for the development of land within a project area or military land
196 associated with the project area under one or more contracts;
- 197 (h) exercise powers and perform functions under a contract, as authorized in the
198 contract;
- 199 (i) exercise exclusive police power within a project area to the same extent as though
200 the authority were a municipality, including the collection of regulatory fees;
- 201 (j) receive the property tax allocation and other taxes and fees as provided in this
202 chapter;
- 203 (k) accept financial or other assistance from any public or private source for the
204 authority's activities, powers, and duties, and expend any funds so received for any of the
205 purposes of this chapter;
- 206 (l) borrow money, contract with, or accept financial or other assistance from the federal
207 government, a public entity, or any other source for any of the purposes of this chapter and
208 comply with any conditions of the loan, contract, or assistance;
- 209 (m) issue bonds to finance the undertaking of any development objectives of the
210 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and
211 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
- 212 (n) hire employees, including contract employees;
- 213 (o) transact other business and exercise all other powers provided for in this chapter;

214 (p) enter into a development agreement with a developer of land within a project area;

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

216 political subdivision provides one or more municipal services within a project area;

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

218 services within a project area;

219 (s) provide for or finance an energy efficiency upgrade, a renewable energy system, or

220 electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with

221 Title 11, Chapter 42, Assessment Area Act;

222 (t) exercise powers and perform functions that the authority is authorized by statute to

223 exercise or perform; and

224 (u) enter into an agreement with the federal government or an agency of the federal

225 government under which the federal government or agency:

226 (i) provides law enforcement services only to military land within a project area; and

227 (ii) may enter into a mutual aid or other cooperative agreement with a law enforcement

228 agency of the state or a political subdivision of the state.

229 (4) The authority may not itself provide law enforcement service or fire protection

230 service within a project area but may enter into an agreement for one or both of those services,

231 as provided in Subsection (3)(q).

232 Section 3. Section 63N-2-103 is amended to read:

233 **63N-2-103. Definitions.**

234 As used in this part:

235 (1) "Authority project area" means a project area described in a project area plan

236 adopted by the military installation development authority under Title 63H, Chapter 1, Military

237 Installation Development Authority Act.

238 [(+)] (2) "Business entity" means a person that enters into an agreement with the office

239 to initiate a new commercial project in Utah that will qualify the person to receive a tax credit

240 under Section 59-7-614.2 or 59-10-1107.

241 [(2)] (3) "Community reinvestment agency" [~~has the same meaning~~] means the same as

242 that term is defined in Section 17C-1-102.

243 [(3)] (4) "Development zone" means an economic development zone created under

244 Section 63N-2-104.

245 [(4)] (5) "High paying jobs" means:

246 (a) with respect to a business entity, the aggregate average annual gross wages, not
 247 including healthcare or other paid or unpaid benefits, of newly created full-time employment
 248 positions in a business entity that are at least 110% of the average wage of a community in
 249 which the employment positions will exist;

250 (b) with respect to a county, the aggregate average annual gross wages, not including
 251 healthcare or other paid or unpaid benefits, of newly created full-time employment positions in
 252 a new commercial project within the county that are at least 110% of the average wage of the
 253 county in which the employment positions will exist; [or]

254 (c) with respect to a city or town, the aggregate average annual gross wages, not
 255 including healthcare or other paid or unpaid benefits of newly created full-time employment
 256 positions in a new commercial project within the city or town that are at least 110% of the
 257 average wages of the city or town in which the employment positions will exist[-]; or

258 (d) with respect to the military installation development authority created in Section
 259 [63H-1-201](#), the aggregate average annual gross wages, not including health care benefits or
 260 other paid or unpaid benefits of newly created full-time employment positions in a new
 261 commercial project within ~~the city or town closest to the location of~~ the authority project area ~~the county where~~
 261a and the new commercial project are located
 262 that are at least 110% of the average wages of the ~~city or town~~ county .

263 [(5)] (6) "Local government entity" means a county, city, or town, or the military
 264 installation development authority created in Section [63H-1-201](#), that enters into an agreement
 265 with the office to have a new commercial project that:

266 (a) is initiated within the county's, city's, or town's boundaries, or within the boundaries
 267 of the authority project area; and

268 (b) qualifies the county, city, or town, or military installation development authority,
 269 to receive a tax credit under Section [59-7-614.2](#).

270 [(6)] (7) (a) "New commercial project" means an economic development opportunity
 271 that involves new or expanded industrial, manufacturing, distribution, or business services in
 272 Utah.

273 (b) "New commercial project" does not include retail business.

274 [(7)] (8) (a) "New incremental jobs" means full-time employment positions that are
 275 filled by employees who work at least 30 hours per week and that are:

276 (i) with respect to a business entity, created in addition to the baseline count of
277 employment positions that existed within the business entity before the new commercial
278 project;

279 (ii) with respect to a county, created as a result of a new commercial project with
280 respect to which the county or a community development and renewal agency seeks to claim a
281 tax credit under Section 59-7-614.2; or

282 (iii) with respect to a city or town, or to the military installation development authority,
283 created as a result of a new commercial project with respect to which the city, town, or a
284 community development and renewal agency, or the military installation development
285 authority, seeks to claim a tax credit under Section 59-7-614.2.

286 (b) "New incremental jobs" may include full-time equivalent positions that are filled by
287 more than one employee, if each employee who works less than 30 hours per week is provided
288 benefits comparable to a full-time employee.

289 (c) "New incremental jobs" does not include jobs that are shifted from one jurisdiction
290 in the state to another jurisdiction in the state.

291 ~~[(8)]~~ (9) "New state revenues" means:

292 (a) with respect to a business entity:

293 (i) incremental new state sales and use tax revenues that a business entity pays under
294 Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a
295 development zone;

296 (ii) incremental new state tax revenues that a business entity pays as a result of a new
297 commercial project in a development zone under:

298 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

299 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
300 Information;

301 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

302 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

303 (E) a combination of Subsections ~~[(8)]~~ (9)(a)(ii)(A) through (D);

304 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,
305 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
306 employees of a new or expanded industrial, manufacturing, distribution, or business service

307 within a new commercial project as evidenced by payroll records that indicate the amount of
308 employee income taxes withheld and transmitted to the State Tax Commission by the new or
309 expanded industrial, manufacturing, distribution, or business service within the new
310 commercial project; or

311 (iv) a combination of Subsections [~~(8)~~] (9)(a)(i) through (iii); or

312 (b) with respect to a local government entity:

313 (i) incremental new state sales and use tax revenues that are collected under Title 59,
314 Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development
315 zone;

316 (ii) incremental new state tax revenues that are collected as a result of a new
317 commercial project in a development zone under:

318 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

319 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
320 Information;

321 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

322 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

323 (E) a combination of Subsections [~~(8)~~] (9)(b)(ii)(A) through (D);

324 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,
325 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
326 employees of a new or expanded industrial, manufacturing, distribution, or business service
327 within a new commercial project as evidenced by payroll records that indicate the amount of
328 employee income taxes withheld and transmitted to the State Tax Commission by the new or
329 expanded industrial, manufacturing, distribution, or business service within the new
330 commercial project; or

331 (iv) a combination of Subsections [~~(8)~~] (9)(b)(i) through (iii).

332 [~~(9)~~] (10) "Significant capital investment" means an amount of at least \$10,000,000 to
333 purchase capital or fixed assets, which may include real property, personal property, and other
334 fixtures related to a new commercial project:

335 (a) that represents an expansion of existing operations in the state; or

336 (b) that maintains or increases the business entity's existing work force in the state.

337 [~~(10)~~] (11) "Tax credit" means an economic development tax credit created by Section

338 [59-7-614.2](#) or [59-10-1107](#).

339 ~~[(11)]~~ (12) "Tax credit amount" means the amount the office lists as a tax credit on a
340 tax credit certificate for a taxable year.

341 ~~[(12)]~~ (13) "Tax credit certificate" means a certificate issued by the office that:

342 (a) lists the name of the business entity, local government entity, or community
343 development and renewal agency to which the office authorizes a tax credit;

344 (b) lists the business entity's, local government entity's, or community development and
345 renewal agency's taxpayer identification number;

346 (c) lists the amount of tax credit that the office authorizes the business entity, local
347 government entity, or community development and renewal agency for the taxable year; and

348 (d) may include other information as determined by the office.

349 Section 4. Section **72-2-201** is amended to read:

350 **72-2-201. Definitions.**

351 As used in this part:

352 (1) "Fund" means the Transportation Infrastructure Loan Fund created under Section
353 [72-2-202](#).

354 (2) "Infrastructure assistance" means any use of fund money, except an infrastructure
355 loan, to provide financial assistance for transportation projects, including:

356 (a) capital reserves and other security for bond or debt instrument financing; or

357 (b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by
358 a public entity to finance transportation projects.

359 (3) "Infrastructure loan" means a loan of fund money to finance a transportation
360 project.

361 (4) "Public entity" means a state agency, county, municipality, local district, special
362 service district, ~~[or]~~ an intergovernmental entity organized under state law~~[-]~~, or the military
363 installation development authority created in Section [63H-1-201](#).

364 (5) "Transportation project":

365 (a) means a project to improve a state or local highway; and

366 (b) includes the costs of acquisition, construction, reconstruction, rehabilitation,
367 equipping, and fixturing.

Legislative Review Note
Office of Legislative Research and General Counsel