

**MILITARY INSTALLATION DEVELOPMENT AUTHORITY**

**AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad L. Dee**

Senate Sponsor: Jerry W. Stevenson

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**LONG TITLE**

**General Description:**

This bill modifies the Military Installation Development Authority Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that if an authority levies a resort communities tax, the actual number of permanent residents within the project area shall be used as part of the tax determination;
- ▶ provides for payment by a consumer of a municipal energy tax directly to the authority, if the consumer's energy supplier is not required under federal law to collect the tax;
- ▶ allows a military installation development authority (MIDA) to levy an energy tax on an energy supplier within a project area based on the delivered value of the energy;
- ▶ allows an energy supplier to recover an amount equal to its MIDA energy tax from its customers;
- ▶ provides that a MIDA energy tax is offset by any municipal energy tax paid by that customer on the same delivered value;
- ▶ amends MIDA board membership provisions;
- ▶ amends notice provisions for a newspaper of general circulation to within or near a project area;

- 30           ▶ allows MIDA to use MIDA energy tax revenues for certain purposes, including uses
- 31 outside of the project area where the revenue was generated; and
- 32           ▶ makes technical changes.

33 **Money Appropriated in this Bill:**

34           None

35 **Other Special Clauses:**

36           This bill takes effect on July 1, 2013.

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39           **59-12-401**, as last amended by Laws of Utah 2010, Chapter 9
- 40           **63H-1-102**, as last amended by Laws of Utah 2010, Chapter 9
- 41           **63H-1-203**, as last amended by Laws of Utah 2010, Chapter 9
- 42           **63H-1-302**, as last amended by Laws of Utah 2010, Chapter 9
- 43           **63H-1-403**, as last amended by Laws of Utah 2009, Chapters 92 and 388
- 44           **63H-1-501**, as last amended by Laws of Utah 2010, Chapter 9
- 45           **63H-1-502**, as last amended by Laws of Utah 2012, Chapter 80

46 ENACTS:

47           **63H-1-204**, 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]~~ use the actual number of permanent residents within the  
92 project area as determined by the board;

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

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

95 (c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may  
96 impose the sales and use tax under this section if there are no permanent residents.

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

98 **63H-1-102. Definitions.**

99 As used in this chapter:

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

102 (2) "Base taxable value" means:

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

105 (b) for private property that is included in a project area, the taxable value of the  
106 property within any portion of the project area, as designated by board resolution, from which  
107 tax increment will be collected, as shown upon the assessment roll last equalized before the  
108 year in which the authority issues a building permit for a building within that portion of the  
109 project area.

110 (3) "Board" means the governing body of the authority created under Section  
111 63H-1-301.

112 (4) (a) "Dedicated ~~[supplemental tax increment]~~ tax collections" means ~~[supplemental~~  
113 ~~tax increment that results from]~~ the property tax that remains after the authority is paid the tax

114 increment it is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

115 (i) a county, including ~~[any]~~ a district the county has established under Subsection  
116 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to  
117 Unincorporated Areas; or

118 (ii) an included municipality.

119 (b) "Dedicated ~~[supplemental tax increment]~~ tax collections" does not include a  
120 property tax levied by a county to assess and collect property taxes under Subsections  
121 59-2-1602(1) and (4).

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

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

124 (a) is a mayor or member of a legislative body appointed under Subsection  
125 63H-1-302(2)(b); or

126 (b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and  
127 (ii) concurrently serves in an elected state, county, or municipal office.

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

130 (8) "Military Installation Development Authority energy tax" or "MIDA energy tax"  
131 means the tax levied under Section 63H-1-204.

132 ~~[(8)]~~ (9) "Military land" means ~~[any]~~ land or a facility, including ~~[any]~~ leased land or a  
133 leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or  
134 installation under the jurisdiction of the U.S. Department of Defense or the Utah National  
135 Guard.

136 ~~[(9)]~~ (10) "Municipal energy tax" means a municipal energy sales and use tax under  
137 Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

138 ~~[(10)]~~ (11) "Municipal services revenue" means revenue that the authority:

139 (a) collects from the authority's:

140 (i) levy of a municipal energy tax;

141 (ii) levy of a MIDA energy tax;

142            [~~(ii)~~] (iii) levy of a telecommunications tax;  
 143            [~~(iii)~~] (iv) imposition of a transient room tax; and  
 144            [~~(iv)~~] (v) imposition of a resort communities tax;  
 145            (b) receives under Subsection 59-12-205(2)(b)(ii); and  
 146            (c) receives as dedicated [~~supplemental tax increment~~] tax collections.

147            [~~(H)~~] (12) "Municipal tax" means a municipal energy tax, MIDA energy tax,  
 148 telecommunications tax, transient room tax, or resort communities tax.

149            [~~(I2)~~] (13) "Project area" means the land, including military land, whether consisting  
 150 of a single contiguous area or multiple noncontiguous areas, described in a project area plan or  
 151 draft project area plan, where the development project set forth in the project area plan or draft  
 152 project area plan takes place or is proposed to take place.

153            [~~(I3)~~] (14) "Project area budget" means a multiyear projection of annual or cumulative  
 154 revenues and expenses and other fiscal matters pertaining to a project area that includes:

- 155            (a) the base taxable value of property in the project area;
- 156            (b) the projected tax increment expected to be generated within the project area;
- 157            (c) the amount of the tax increment expected to be shared with other taxing entities;
- 158            (d) the amount of the tax increment expected to be used to implement the project area  
 159 plan, including the estimated amount of the tax increment to be used for land acquisition,  
 160 public improvements, infrastructure improvements, and loans, grants, or other incentives to  
 161 private and public entities;
- 162            (e) the tax increment expected to be used to cover the cost of administering the project  
 163 area plan;
- 164            (f) if the tax increment is to be collected at different times or from different portions of  
 165 the project area, or both:
  - 166            (i) (A) the tax identification numbers of the parcels from which the tax increment will  
 167 be collected; or
  - 168            (B) a legal description of the portion of the project area from which the tax increment  
 169 will be collected; and

170 (ii) an estimate of when other portions of the project area will become subject to  
171 collection of the tax increment [~~collection~~]; and

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

175 [(14)] (15) "Project area plan" means a written plan that, after its effective date, guides  
176 and controls the development within a project area.

177 [(15)] (16) "Property tax" includes a privilege tax and each levy on an ad valorem basis  
178 on tangible or intangible personal or real property.

179 [(16)] (17) "Public entity" means:

180 (a) the state, including [~~any of its departments or agencies~~] each department or agency  
181 of the state; or

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

184 [(17)] (18) "Publicly owned infrastructure and improvements" means water, sewer,  
185 storm drainage, electrical, telecommunications, and other similar systems and lines, streets,  
186 roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and  
187 other buildings, facilities, infrastructure, and improvements that:

188 (a) benefit the public; and

189 (b) are:

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

191 (ii) [~~publicly owned or~~] publicly maintained or operated by the authority or another  
192 public entity.

193 [(18)] (19) "Remaining municipal services revenue" means municipal services revenue  
194 that the authority has not spent during its fiscal year for municipal services as provided in  
195 Subsection 63H-1-503(1).

196 [(19)] (20) "Resort communities tax" means a sales and use tax imposed under Section  
197 59-12-401.

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

200            (21) "Taxable value" means the value of property as shown on the last equalized  
201 assessment roll as certified by the county assessor.

202            (22) "Tax increment" means the difference between:

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

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

208            (23) "Taxing entity" means a public entity that levies a tax on property within a project  
209 area.

210            (24) "Telecommunications tax" means a telecommunications license tax under Title  
211 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

212            (25) "Transient room tax" means a tax under Section 59-12-352.

213            Section 3. Section **63H-1-203** is amended to read:

214            **63H-1-203. Levy of a municipal tax -- Direct tax payment to MIDA.**

215            [~~Any~~] (1) A levy of a municipal energy tax, [~~a~~] MIDA energy tax, telecommunications  
216 tax, [~~a~~] transient room tax, or [~~a~~] resort communities tax, including [~~any~~] an increase in the  
217 applicable tax rate, requires the affirmative vote of:

218            [~~(1)~~] (a) the authority board; and

219            [~~(2)~~] (b) a majority of all elected members of the authority board.

220            (2) If the authority board levies a municipal energy tax, a consumer who acquires  
221 taxable energy shall pay the tax directly to the authority on a monthly basis if the consumer's  
222 energy supplier is not required under federal law to collect the tax in the manner described in  
223 Section 10-1-307.

224            Section 4. Section **63H-1-204** is enacted to read:

225            **63H-1-204. MIDA energy tax.**



226           (1) By ordinance, an authority board may levy a MIDA energy tax, within a project  
227 area, on an energy supplier as defined in Section 10-1-303.

228           (2) The maximum rate of the MIDA energy tax is 6% of the delivered value as defined  
229 in Section 10-1-303, except that delivered value does not include the amount of a tax paid  
230 under this section.

231           (3) (a) An energy supplier may recover an amount equal to the MIDA energy tax from  
232 its customers, if the energy supplier includes the amount as a separate billing line item.

233           (b) The MIDA energy tax levied under this section is in addition to the rate approved  
234 by the Public Service Commission and charged to the customer.

235           (4) If the authority has levied a municipal energy tax in the project area, the MIDA  
236 energy tax paid by a customer is reduced by any municipal energy tax paid by that customer on  
237 the same delivered value.

238           (5) (a) The MIDA energy tax is payable by the energy supplier to MIDA on a monthly  
239 basis as described by the ordinance levying the tax.

240           (b) The ordinance shall allow the energy supplier to retain 1% of the tax remittance  
241 each month to offset the energy supplier's costs of collecting and remitting the tax.

242           Section 5. Section **63H-1-302** is amended to read:

243           **63H-1-302. Number of board members -- Appointment.**

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

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

246           (a) one member shall be appointed who is interested in supporting military efforts in  
247 the state;

248           (b) subject to Subsection (4)(d), three members shall be appointed, each of whom is a  
249 mayor or member of the legislative body of a municipality or county that is adjacent or in close  
250 proximity to a project area or proposed project area; and

251           (c) one member shall be appointed from the ~~[governor's office of Economic~~  
252 ~~Development]~~ executive branch or a state agency that is involved with military issues.

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

254 each appoint one board member.

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

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

259 (c) If a mayor or member of a legislative body appointed under Subsection (2)(b)  
260 leaves office as mayor or a member of the legislative body, a vacancy on the board occurs and  
261 the governor shall appoint another mayor or member of a legislative body, as provided in  
262 Subsection (2)(b), to fill the vacancy.

263 (d) If there are more than three project areas located in different counties or  
264 municipalities, at the expiration of a member's term who is appointed under Subsection (2)(b),  
265 the governor shall appoint:

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

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

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

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

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

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

272 (e) A member of the board appointed by the governor, president of the Senate, or  
273 speaker of the House of Representatives serves at the pleasure of and may be removed and  
274 replaced at any time, with or without cause, by the governor, president of the Senate, or speaker  
275 of the House of Representatives, respectively.

276 (5) The authority may:

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

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

279 Section 6. Section **63H-1-403** is amended to read:

280 **63H-1-403. Notice of project area plan adoption -- Effective date of plan --**  
281 **Contesting the formation of the plan.**

282 (1) ~~(a)~~ Upon the board's adoption of a project area plan, the board shall provide  
283 notice as provided in Subsection (1)(b) by ~~(i)~~ publishing or causing to be published ~~a~~ legal  
284 notice:

285 ~~(A)~~ (a) in a newspaper of general circulation within or near the ~~authority's~~  
286 ~~boundaries~~ project area; and

287 ~~(B)~~ (b) as required ~~in~~ by Section 45-1-101 ~~;~~ or.

288 ~~(ii) if there is no newspaper of general circulation within the authority's boundaries~~  
289 ~~as described in Subsection (1)(a)(i)(A), causing a notice to be posted in at least three public~~  
290 ~~places within the authority's boundaries.]~~

291 ~~(b)~~ (2) Each notice under Subsection (1) ~~(a)~~ shall include:

292 ~~(i)~~ (a) ~~set forth~~ the board resolution adopting the project area plan or a summary of  
293 the resolution; and

294 ~~(ii)~~ (b) ~~include~~ a statement that the project area plan is available for general public  
295 inspection and the hours for inspection.

296 ~~(2)~~ (3) The project area plan shall become effective on the date of ~~(i)~~ publication of  
297 the notice.

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

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

300 ~~(3)~~ (4) The authority shall make the adopted project area plan available to the general  
301 public at its offices during normal business hours.

302 ~~(4)~~ (5) Within 10 days after ~~adopting~~ the day on which a project area plan is  
303 adopted that establishes a project area, or after ~~adopting~~ an amendment to a project area plan  
304 is adopted under which the boundary of a project area is modified, the authority shall send  
305 notice of the establishment or modification of the project area and an accurate map or plat of  
306 the project area to:

307 (a) the State Tax Commission;

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

309 (c) the assessor and recorder of each county ~~in which the~~ where the project area is

310 located.

311 Section 7. Section **63H-1-501** is amended to read:

312 **63H-1-501. Authority receipt and use of tax increment -- Distribution of tax**  
313 **increment.**

314 (1) (a) The authority may:

315 (i) subject to Subsection (1)(b), receive up to 75% of the tax increment for up to 25  
316 years, as provided in this part; and

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

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

321 (2) Improvements on a parcel within a project area become subject to property tax on  
322 January 1 immediately following the day on which the authority issues a certificate of  
323 occupancy with respect to those improvements.

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

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

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

332 Section 8. Section **63H-1-502** is amended to read:

333 **63H-1-502. Allowable uses of tax increment and other funds.**

334 (1) [~~The~~] Other than municipal services revenue, the authority may use tax increment  
335 and other funds available to the authority[~~, other than municipal services revenue~~]:

336 (a) for any purpose authorized under this chapter;

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

338 (c) to pay for, including financing or refinancing, all or part of the development of land  
339 within the project area from which the tax increment [~~fund~~s] or other funds were collected,  
340 including assisting the ongoing operation of [~~any~~] a development or facility within the project  
341 area;

342 (d) to pay the cost of the installation and construction of [~~any~~] publicly owned  
343 infrastructure and improvements within the project area from which the tax increment funds  
344 were collected;

345 (e) to pay the cost of the installation of publicly owned infrastructure and  
346 improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the  
347 project area if:

348 (i) the authority board determines by resolution that the infrastructure and  
349 improvements are of benefit to the project area; and

350 (ii) for a passenger ropeway, at least one end of the ropeway is located within the  
351 project area[~~;~~]; and

352 (f) to pay the principal [~~of~~] and interest on bonds issued by the authority.

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

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

356 (b) pay for authority operating expenses, including administrative, overhead, and legal  
357 expenses.

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

359 (a) tax revenues received under Subsection 59-12-205(2)(b)(ii); [~~and~~]

360 (b) resort communities tax revenues generated from a project area that contains private  
361 land[~~;~~]; and

362 (c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have  
363 to be used in the project area where the revenue was generated.

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

366           Section 9. **Effective date.**

367           This bill takes effect on July 1, 2013.