

MILITARY DEVELOPMENT AUTHORITY

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Val L. Peterson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the Military Installation Development Authority's ability to petition for annexation of certain areas;
- ▶ includes the Military Installation Development Authority as a local authority for purposes of a premises that is located within a project area and licensed by the Department of Alcoholic Beverage Control;
- ▶ addresses the exchange of real property between the Military Installation Development Authority and the Department of Transportation for purposes of constructing an interchange;
- ▶ provides limitations on challenges to a project area plan or a project area;
- ▶ extends an authorization for the Military Installation Development Authority to receive a portion of the property tax allocation;
- ▶ provides that certain property owned by the Military Installation Development Authority is not subject to property tax or privilege tax;
- ▶ extends to the Military Installation Development Authority the applicability of provisions relating to tax credit incentives for economic development; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

30 None

31 **Other Special Clauses:**

32 This bill provides a coordination clause.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 10-2-402, as last amended by Laws of Utah 2017, Chapter 367

36 32B-1-102, as last amended by Laws of Utah 2018, Chapters 249 and 313

37 63H-1-102, as last amended by Laws of Utah 2018, Chapter 442

38 63H-1-202, as last amended by Laws of Utah 2015, Chapter 377

39 63H-1-302, as last amended by Laws of Utah 2018, Chapter 442

40 63H-1-403, as last amended by Laws of Utah 2013, Chapter 362

41 63H-1-501, as last amended by Laws of Utah 2018, Chapter 442

42 63N-2-103, as last amended by Laws of Utah 2016, Chapter 350

43 ENACTS:

44 63H-1-206, Utah Code Annotated 1953

45 **Utah Code Sections Affected by Coordination Clause:**

46 63N-2-103, as last amended by Laws of Utah 2016, Chapter 350



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

49 Section 1. Section 10-2-402 is amended to read:

50 **10-2-402. Annexation -- Limitations.**

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

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

54 (i) it is a contiguous area;

55 (ii) it is contiguous to the municipality;

56 (iii) annexation will not leave or create an unincorporated island or unincorporated
57 peninsula:

58 (A) except as provided in Subsection 10-2-418(3); or
59 (B) unless the county and municipality have otherwise agreed; and
60 (iv) for an area located in a specified county with respect to an annexation that occurs
61 after December 31, 2002, the area is within the proposed annexing municipality's expansion
62 area.

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

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

68 (b) A piece of real property that has more than one parcel number is considered to be a
69 single parcel for purposes of Subsection (3)(a) if owned by the same owner.

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

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

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

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

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

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

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

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

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

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

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

101 (8) (a) As used in this subsection, "project area" means a project area as defined in
102 Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by
103 the Military Installation Development Authority under Title 63H, Chapter 1, Military
104 Installation Development Authority Act.

105 (b) A municipality may not annex an unincorporated area located within a project area
106 [~~described in a project area plan adopted by the military installation development authority~~
107 ~~under Title 63H, Chapter 1, Military Installation Development Authority Act,]~~ without the
108 authority's approval.

109 [~~(b)~~] (c) (i) Except as provided in Subsection (8)[~~(b)~~](c)(ii), the Military Installation
110 Development Authority may petition for annexation of [~~a project area and contiguous~~
111 ~~surrounding land]~~ the following areas to a municipality as if it was the sole private [~~property~~
112 ~~owner of the project area and surrounding land, if the area to be annexed is entirely contained~~
113 ~~within the boundaries of a military installation.:~~] property owner within the area:

- 114 (A) an area within a project area;
- 115 (B) an area that is contiguous to a project area and within the boundaries of a military
- 116 installation;
- 117 (C) an area owned by the Military Installation Development Authority; and
- 118 (D) an area that is contiguous to an area owned by the Military Installation
- 119 Development Authority that the Military Installation Development Authority plans to add to an
- 120 existing project area.

121 ~~[(ii) Before petitioning for annexation under Subsection (8)(b)(i), the Military~~

122 ~~Installation Development Authority shall provide the military installation with a copy of the~~

123 ~~petition for annexation. The military installation may object to the petition for annexation~~

124 ~~within 14 days of receipt of the copy of the annexation petition. If the military installation~~

125 ~~objects under this Subsection (8)(b)(ii), the Military Installation Development Authority may~~

126 ~~not petition for the annexation as if it was the sole private property owner.]~~

127 ~~[(iii)]~~ (ii) If any portion of an area annexed under a petition for annexation filed by [a]

128 the Military Installation Development Authority is located in a specified county:

- 129 (A) the annexation process shall follow the requirements for a specified county; and
- 130 (B) the provisions of Subsection 10-2-402(6) do not apply.

131 Section 2. Section **32B-1-102** is amended to read:

132 **32B-1-102. Definitions.**

133 As used in this title:

- 134 (1) "Airport lounge" means a business location:
 - 135 (a) at which an alcoholic product is sold at retail for consumption on the premises; and
 - 136 (b) that is located at an international airport with a United States Customs office on the
 - 137 premises of the international airport.
- 138 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,
- 139 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- 140 (3) "Alcoholic beverage" means the following:
 - 141 (a) beer; or

- 142 (b) liquor.
- 143 (4) (a) "Alcoholic product" means a product that:
- 144 (i) contains at least .5% of alcohol by volume; and
- 145 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
- 146 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
- 147 in an amount equal to or greater than .5% of alcohol by volume.
- 148 (b) "Alcoholic product" includes an alcoholic beverage.
- 149 (c) "Alcoholic product" does not include any of the following common items that
- 150 otherwise come within the definition of an alcoholic product:
- 151 (i) except as provided in Subsection (4)(d), an extract;
- 152 (ii) vinegar;
- 153 (iii) preserved nonintoxicating cider;
- 154 (iv) essence;
- 155 (v) tincture;
- 156 (vi) food preparation; or
- 157 (vii) an over-the-counter medicine.
- 158 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 159 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 160 (5) "Alcohol training and education seminar" means a seminar that is:
- 161 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- 162 (b) described in Section [62A-15-401](#).
- 163 (6) "Banquet" means an event:
- 164 (a) that is held at one or more designated locations approved by the commission in or
- 165 on the premises of a:
- 166 (i) hotel;
- 167 (ii) resort facility;
- 168 (iii) sports center; or
- 169 (iv) convention center;

- 170 (b) for which there is a contract:
- 171 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
- 172 and
- 173 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
- 174 provide an alcoholic product at the event; and
- 175 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 176 (7) "Bar structure" means a surface or structure on a licensed premises if on or at any
- 177 place of the surface or structure an alcoholic product is:
 - 178 (a) stored; or
 - 179 (b) dispensed.
- 180 (8) (a) "Bar establishment license" means a license issued in accordance with Chapter
- 181 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
 - 182 (b) "Bar establishment license" includes:
 - 183 (i) a dining club license;
 - 184 (ii) an equity license;
 - 185 (iii) a fraternal license; or
 - 186 (iv) a bar license.
 - 187 (9) "Bar license" means a license issued in accordance with Chapter 5, Retail License
 - 188 Act, and Chapter 6, Part 4, Bar Establishment License.
 - 189 (10) (a) Subject to Subsection (10)(d), "beer" means a product that:
 - 190 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
 - 191 volume or 3.2% by weight; and
 - 192 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
 - 193 (b) "Beer" may or may not contain hops or other vegetable products.
 - 194 (c) "Beer" includes a product that:
 - 195 (i) contains alcohol in the percentages described in Subsection (10)(a); and
 - 196 (ii) is referred to as:
 - 197 (A) beer;

- 198 (B) ale;
- 199 (C) porter;
- 200 (D) stout;
- 201 (E) lager; or
- 202 (F) a malt or malted beverage.
- 203 (d) "Beer" does not include a flavored malt beverage.
- 204 (11) "Beer-only restaurant license" means a license issued in accordance with Chapter
- 205 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 206 (12) "Beer retailer" means a business that:
- 207 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
- 208 for consumption on or off the business premises; and
- 209 (b) is licensed as:
- 210 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
- 211 Retailer Local Authority; or
- 212 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and
- 213 Chapter 6, Part 7, On-Premise Beer Retailer License.
- 214 (13) "Beer wholesaling license" means a license:
- 215 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 216 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 217 retail licensees or off-premise beer retailers.
- 218 (14) "Billboard" means a public display used to advertise, including:
- 219 (a) a light device;
- 220 (b) a painting;
- 221 (c) a drawing;
- 222 (d) a poster;
- 223 (e) a sign;
- 224 (f) a signboard; or
- 225 (g) a scoreboard.

- 226 (15) "Brewer" means a person engaged in manufacturing:
227 (a) beer;
228 (b) heavy beer; or
229 (c) a flavored malt beverage.
- 230 (16) "Brewery manufacturing license" means a license issued in accordance with
231 Chapter 11, Part 5, Brewery Manufacturing License.
- 232 (17) "Certificate of approval" means a certificate of approval obtained from the
233 department under Section [32B-11-201](#).
- 234 (18) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
235 a bus company to a group of persons pursuant to a common purpose:
236 (a) under a single contract;
237 (b) at a fixed charge in accordance with the bus company's tariff; and
238 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
239 motor vehicle, and a driver to travel together to one or more specified destinations.
- 240 (19) "Church" means a building:
241 (a) set apart for worship;
242 (b) in which religious services are held;
243 (c) with which clergy is associated; and
244 (d) that is tax exempt under the laws of this state.
- 245 (20) "Commission" means the Alcoholic Beverage Control Commission created in
246 Section [32B-2-201](#).
- 247 (21) "Commissioner" means a member of the commission.
- 248 (22) "Community location" means:
249 (a) a public or private school;
250 (b) a church;
251 (c) a public library;
252 (d) a public playground; or
253 (e) a public park.

- 254 (23) "Community location governing authority" means:
- 255 (a) the governing body of the community location; or
- 256 (b) if the commission does not know who is the governing body of a community
- 257 location, a person who appears to the commission to have been given on behalf of the
- 258 community location the authority to prohibit an activity at the community location.
- 259 (24) "Container" means a receptacle that contains an alcoholic product, including:
- 260 (a) a bottle;
- 261 (b) a vessel; or
- 262 (c) a similar item.
- 263 (25) "Convention center" means a facility that is:
- 264 (a) in total at least 30,000 square feet; and
- 265 (b) otherwise defined as a "convention center" by the commission by rule.
- 266 (26) (a) "Counter" means a surface or structure in a dining area of a licensed premises
- 267 where seating is provided to a patron for service of food.
- 268 (b) "Counter" does not include a dispensing structure.
- 269 (27) "Department" means the Department of Alcoholic Beverage Control created in
- 270 Section [32B-2-203](#).
- 271 (28) "Department compliance officer" means an individual who is:
- 272 (a) an auditor or inspector; and
- 273 (b) employed by the department.
- 274 (29) "Department sample" means liquor that is placed in the possession of the
- 275 department for testing, analysis, and sampling.
- 276 (30) "Dining club license" means a license issued in accordance with Chapter 5, Retail
- 277 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 278 commission as a dining club license.
- 279 (31) "Director," unless the context requires otherwise, means the director of the
- 280 department.
- 281 (32) "Disciplinary proceeding" means an adjudicative proceeding permitted under this

282 title:

283 (a) against a person subject to administrative action; and

284 (b) that is brought on the basis of a violation of this title.

285 (33) (a) Subject to Subsection (33)(b), "dispense" means:

286 (i) drawing an alcoholic product; and

287 (ii) using the alcoholic product at the location from which it was drawn to mix or

288 prepare an alcoholic product to be furnished to a patron of the retail licensee.

289 (b) The definition of "dispense" in this Subsection (33) applies only to:

290 (i) a full-service restaurant license;

291 (ii) a limited-service restaurant license;

292 (iii) a reception center license; and

293 (iv) a beer-only restaurant license.

294 (34) "Dispensing structure" means a surface or structure on a licensed premises:

295 (a) where an alcoholic product is dispensed; or

296 (b) from which an alcoholic product is served.

297 (35) "Distillery manufacturing license" means a license issued in accordance with

298 Chapter 11, Part 4, Distillery Manufacturing License.

299 (36) "Distressed merchandise" means an alcoholic product in the possession of the

300 department that is saleable, but for some reason is unappealing to the public.

301 (37) "Educational facility" includes:

302 (a) a nursery school;

303 (b) an infant day care center; and

304 (c) a trade and technical school.

305 (38) "Equity license" means a license issued in accordance with Chapter 5, Retail

306 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the

307 commission as an equity license.

308 (39) "Event permit" means:

309 (a) a single event permit; or

310 (b) a temporary beer event permit.

311 (40) "Exempt license" means a license exempt under Section 32B-1-201 from being
312 considered in determining the total number of retail licenses that the commission may issue at
313 any time.

314 (41) (a) "Flavored malt beverage" means a beverage:

315 (i) that contains at least .5% alcohol by volume;

316 (ii) that is treated by processing, filtration, or another method of manufacture that is not
317 generally recognized as a traditional process in the production of a beer as described in 27
318 C.F.R. Sec. 25.55;

319 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop
320 extract; and

321 (iv) (A) for which the producer is required to file a formula for approval with the
322 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

323 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

324 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

325 (42) "Fraternal license" means a license issued in accordance with Chapter 5, Retail
326 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
327 commission as a fraternal license.

328 (43) "Full-service restaurant license" means a license issued in accordance with
329 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

330 (44) (a) "Furnish" means by any means to provide with, supply, or give an individual
331 an alcoholic product, by sale or otherwise.

332 (b) "Furnish" includes to:

333 (i) serve;

334 (ii) deliver; or

335 (iii) otherwise make available.

336 (45) "Guest" means an individual who meets the requirements of Subsection
337 32B-6-407(9).

- 338 (46) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.
- 339 (47) "Health care practitioner" means:
- 340 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 341 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 342 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 343 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
- 344 Act;
- 345 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
- 346 Nurse Practice Act;
- 347 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
- 348 Practice Act;
- 349 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
- 350 Therapy Practice Act;
- 351 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 352 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
- 353 Professional Practice Act;
- 354 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 355 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
- 356 Practice Act;
- 357 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
- 358 Hygienist Practice Act; and
- 359 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- 360 (48) (a) "Heavy beer" means a product that:
- 361 (i) contains more than 4% alcohol by volume; and
- 362 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 363 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 364 (49) "Hotel" is as defined by the commission by rule.
- 365 (50) "Hotel license" means a license issued in accordance with Chapter 5, Retail

366 License Act, and Chapter 8b, Hotel License Act.

367 (51) "Identification card" means an identification card issued under Title 53, Chapter 3,
368 Part 8, Identification Card Act.

369 (52) "Industry representative" means an individual who is compensated by salary,
370 commission, or other means for representing and selling an alcoholic product of a
371 manufacturer, supplier, or importer of liquor.

372 (53) "Industry representative sample" means liquor that is placed in the possession of
373 the department for testing, analysis, and sampling by a local industry representative on the
374 premises of the department to educate the local industry representative of the quality and
375 characteristics of the product.

376 (54) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
377 of an alcoholic product is prohibited by:

378 (a) law; or

379 (b) court order.

380 (55) "Intoxicated" means that a person:

381 (a) is significantly impaired as to the person's mental or physical functions as a result of
382 the use of:

383 (i) an alcoholic product;

384 (ii) a controlled substance;

385 (iii) a substance having the property of releasing toxic vapors; or

386 (iv) a combination of Subsections (55)(a)(i) through (iii); and

387 (b) exhibits plain and easily observed outward manifestations of behavior or physical
388 signs produced by the overconsumption of an alcoholic product.

389 (56) "Investigator" means an individual who is:

390 (a) a department compliance officer; or

391 (b) a nondepartment enforcement officer.

392 (57) "Invitee" means the same as that term is defined in Section [32B-8-102](#).

393 (58) "License" means:

- 394 (a) a retail license;
- 395 (b) a license issued in accordance with Chapter 11, Manufacturing and Related
- 396 Licenses Act;
- 397 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 398 or
- 399 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.
- 400 (59) "Licensee" means a person who holds a license.
- 401 (60) "Limited-service restaurant license" means a license issued in accordance with
- 402 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- 403 (61) "Limousine" means a motor vehicle licensed by the state or a local authority, other
- 404 than a bus or taxicab:
- 405 (a) in which the driver and a passenger are separated by a partition, glass, or other
- 406 barrier;
- 407 (b) that is provided by a business entity to one or more individuals at a fixed charge in
- 408 accordance with the business entity's tariff; and
- 409 (c) to give the one or more individuals the exclusive use of the limousine and a driver
- 410 to travel to one or more specified destinations.
- 411 (62) (a) (i) "Liquor" means a liquid that:
- 412 (A) is:
- 413 (I) alcohol;
- 414 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 415 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 416 (IV) other drink or drinkable liquid; and
- 417 (B) (I) contains at least .5% alcohol by volume; and
- 418 (II) is suitable to use for beverage purposes.
- 419 (ii) "Liquor" includes:
- 420 (A) heavy beer;
- 421 (B) wine; and

- 422 (C) a flavored malt beverage.
- 423 (b) "Liquor" does not include beer.
- 424 (63) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).
- 425 (64) "Liquor warehousing license" means a license that is issued:
- 426 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- 427 (b) to a person, other than a licensed manufacturer, who engages in the importation for
- 428 storage, sale, or distribution of liquor regardless of amount.
- 429 (65) "Local authority" means:
- 430 (a) for premises that are located in an unincorporated area of a county, the governing
- 431 body of a county; ~~[or]~~
- 432 (b) for premises that are located in an incorporated city, town, or metro township, the
- 433 governing body of the city, town, or metro township~~[-];~~ or
- 434 (c) for premises that are located in a project area as defined in Section [63H-1-201](#) and
- 435 in a project area plan adopted by the Military Installation Development Authority under Title
- 436 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation
- 437 Development Authority.
- 438 (66) "Lounge or bar area" is as defined by rule made by the commission.
- 439 (67) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
- 440 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 441 (68) "Member" means an individual who, after paying regular dues, has full privileges
- 442 in an equity licensee or fraternal licensee.
- 443 (69) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
- 444 or homeport facility for a ship:
- 445 (i) (A) under the control of the United States Department of Defense; or
- 446 (B) of the National Guard;
- 447 (ii) that is located within the state; and
- 448 (iii) including a leased facility.
- 449 (b) "Military installation" does not include a facility used primarily for:

- 450 (i) civil works;
- 451 (ii) a rivers and harbors project; or
- 452 (iii) a flood control project.
- 453 (70) "Minor" means an individual under the age of 21 years.
- 454 (71) "Nondepartment enforcement agency" means an agency that:
- 455 (a) (i) is a state agency other than the department; or
- 456 (ii) is an agency of a county, city, town, or metro township; and
- 457 (b) has a responsibility to enforce one or more provisions of this title.
- 458 (72) "Nondepartment enforcement officer" means an individual who is:
- 459 (a) a peace officer, examiner, or investigator; and
- 460 (b) employed by a nondepartment enforcement agency.
- 461 (73) (a) "Off-premise beer retailer" means a beer retailer who is:
- 462 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
- 463 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 464 premises.
- 465 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 466 (74) "Off-premise beer retailer state license" means a state license issued in accordance
- 467 with Chapter 7, Part 4, Off-premise Beer Retailer State License.
- 468 (75) "On-premise banquet license" means a license issued in accordance with Chapter
- 469 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 470 (76) "On-premise beer retailer" means a beer retailer who is:
- 471 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 472 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
- 473 Retailer License; and
- 474 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 475 premises:
- 476 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 477 premises; and

- 478 (ii) on and after March 1, 2012, operating:
- 479 (A) as a tavern; or
- 480 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 481 (77) "Opaque" means impenetrable to sight.
- 482 (78) "Package agency" means a retail liquor location operated:
- 483 (a) under an agreement with the department; and
- 484 (b) by a person:
- 485 (i) other than the state; and
- 486 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
- 487 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 488 (79) "Package agent" means a person who holds a package agency.
- 489 (80) "Patron" means an individual to whom food, beverages, or services are sold,
- 490 offered for sale, or furnished, or who consumes an alcoholic product including:
- 491 (a) a customer;
- 492 (b) a member;
- 493 (c) a guest;
- 494 (d) an attendee of a banquet or event;
- 495 (e) an individual who receives room service;
- 496 (f) a resident of a resort;
- 497 (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#);
- 498 or
- 499 (h) an invitee.
- 500 (81) "Permittee" means a person issued a permit under:
- 501 (a) Chapter 9, Event Permit Act; or
- 502 (b) Chapter 10, Special Use Permit Act.
- 503 (82) "Person subject to administrative action" means:
- 504 (a) a licensee;
- 505 (b) a permittee;

- 506 (c) a manufacturer;
- 507 (d) a supplier;
- 508 (e) an importer;
- 509 (f) one of the following holding a certificate of approval:
 - 510 (i) an out-of-state brewer;
 - 511 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - 512 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
 - 513 (g) staff of:
 - 514 (i) a person listed in Subsections (82)(a) through (f); or
 - 515 (ii) a package agent.
- 516 (83) "Premises" means a building, enclosure, or room used in connection with the
- 517 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
- 518 unless otherwise defined in this title or rules made by the commission.
- 519 (84) "Prescription" means an order issued by a health care practitioner when:
 - 520 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
 - 521 to prescribe a controlled substance, other drug, or device for medicinal purposes;
 - 522 (b) the order is made in the course of that health care practitioner's professional
 - 523 practice; and
 - 524 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 525 (85) (a) "Private event" means a specific social, business, or recreational event:
 - 526 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
 - 527 group; and
 - 528 (ii) that is limited in attendance to people who are specifically designated and their
 - 529 guests.
- 530 (b) "Private event" does not include an event to which the general public is invited,
- 531 whether for an admission fee or not.
- 532 (86) (a) "Proof of age" means:
 - 533 (i) an identification card;

- 534 (ii) an identification that:
- 535 (A) is substantially similar to an identification card;
- 536 (B) is issued in accordance with the laws of a state other than Utah in which the
- 537 identification is issued;
- 538 (C) includes date of birth; and
- 539 (D) has a picture affixed;
- 540 (iii) a valid driver license certificate that:
- 541 (A) includes date of birth;
- 542 (B) has a picture affixed; and
- 543 (C) is issued:
- 544 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- 545 (II) in accordance with the laws of the state in which it is issued;
- 546 (iv) a military identification card that:
- 547 (A) includes date of birth; and
- 548 (B) has a picture affixed; or
- 549 (v) a valid passport.
- 550 (b) "Proof of age" does not include a driving privilege card issued in accordance with
- 551 Section [53-3-207](#).
- 552 (87) (a) "Public building" means a building or permanent structure that is:
- 553 (i) owned or leased by:
- 554 (A) the state; or
- 555 (B) a local government entity; and
- 556 (ii) used for:
- 557 (A) public education;
- 558 (B) transacting public business; or
- 559 (C) regularly conducting government activities.
- 560 (b) "Public building" does not include a building owned by the state or a local
- 561 government entity when the building is used by a person, in whole or in part, for a proprietary

562 function.

563 (88) "Public conveyance" means a conveyance that the public or a portion of the public
564 has access to and a right to use for transportation, including an airline, railroad, bus, boat, or
565 other public conveyance.

566 (89) "Reception center" means a business that:

567 (a) operates facilities that are at least 5,000 square feet; and

568 (b) has as its primary purpose the leasing of the facilities described in Subsection
569 (89)(a) to a third party for the third party's event.

570 (90) "Reception center license" means a license issued in accordance with Chapter 5,
571 Retail License Act, and Chapter 6, Part 8, Reception Center License.

572 (91) (a) "Record" means information that is:

573 (i) inscribed on a tangible medium; or

574 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

575 (b) "Record" includes:

576 (i) a book;

577 (ii) a book of account;

578 (iii) a paper;

579 (iv) a contract;

580 (v) an agreement;

581 (vi) a document; or

582 (vii) a recording in any medium.

583 (92) "Residence" means a person's principal place of abode within Utah.

584 (93) "Resident," in relation to a resort, means the same as that term is defined in
585 Section [32B-8-102](#).

586 (94) "Resort" means the same as that term is defined in Section [32B-8-102](#).

587 (95) "Resort facility" is as defined by the commission by rule.

588 (96) "Resort license" means a license issued in accordance with Chapter 5, Retail
589 License Act, and Chapter 8, Resort License Act.

590 (97) "Responsible alcohol service plan" means a written set of policies and procedures
591 that outlines measures to prevent employees from:

- 592 (a) over-serving alcoholic beverages to customers;
- 593 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
594 intoxicated; and
- 595 (c) serving alcoholic beverages to minors.

596 (98) "Restaurant" means a business location:

- 597 (a) at which a variety of foods are prepared;
- 598 (b) at which complete meals are served; and
- 599 (c) that is engaged primarily in serving meals.

600 (99) "Retail license" means one of the following licenses issued under this title:

- 601 (a) a full-service restaurant license;
- 602 (b) a master full-service restaurant license;
- 603 (c) a limited-service restaurant license;
- 604 (d) a master limited-service restaurant license;
- 605 (e) a bar establishment license;
- 606 (f) an airport lounge license;
- 607 (g) an on-premise banquet license;
- 608 (h) an on-premise beer license;
- 609 (i) a reception center license;
- 610 (j) a beer-only restaurant license;
- 611 (k) a resort license; or
- 612 (l) a hotel license.

613 (100) "Room service" means furnishing an alcoholic product to a person in a guest
614 room of a:

- 615 (a) hotel; or
- 616 (b) resort facility.

617 (101) (a) "School" means a building used primarily for the general education of minors.

618 (b) "School" does not include an educational facility.

619 (102) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
620 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
621 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
622 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
623 made by the commission.

624 (103) "Serve" means to place an alcoholic product before an individual.

625 (104) "Sexually oriented entertainer" means a person who while in a state of
626 seminudity appears at or performs:

627 (a) for the entertainment of one or more patrons;

628 (b) on the premises of:

629 (i) a bar licensee; or

630 (ii) a tavern;

631 (c) on behalf of or at the request of the licensee described in Subsection (104)(b);

632 (d) on a contractual or voluntary basis; and

633 (e) whether or not the person is designated as:

634 (i) an employee;

635 (ii) an independent contractor;

636 (iii) an agent of the licensee; or

637 (iv) a different type of classification.

638 (105) "Single event permit" means a permit issued in accordance with Chapter 9, Part
639 3, Single Event Permit.

640 (106) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
641 beer, heavy beer, and flavored malt beverages per year.

642 (107) "Special use permit" means a permit issued in accordance with Chapter 10,
643 Special Use Permit Act.

644 (108) (a) "Spirituous liquor" means liquor that is distilled.

645 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by

646 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

647 (109) "Sports center" is as defined by the commission by rule.

648 (110) (a) "Staff" means an individual who engages in activity governed by this title:

649 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
650 holder;

651 (ii) at the request of the business, including a package agent, licensee, permittee, or
652 certificate holder; or

653 (iii) under the authority of the business, including a package agent, licensee, permittee,
654 or certificate holder.

655 (b) "Staff" includes:

656 (i) an officer;

657 (ii) a director;

658 (iii) an employee;

659 (iv) personnel management;

660 (v) an agent of the licensee, including a managing agent;

661 (vi) an operator; or

662 (vii) a representative.

663 (111) "State of nudity" means:

664 (a) the appearance of:

665 (i) the nipple or areola of a female human breast;

666 (ii) a human genital;

667 (iii) a human pubic area; or

668 (iv) a human anus; or

669 (b) a state of dress that fails to opaquely cover:

670 (i) the nipple or areola of a female human breast;

671 (ii) a human genital;

672 (iii) a human pubic area; or

673 (iv) a human anus.

674 (112) "State of seminudity" means a state of dress in which opaque clothing covers no
675 more than:

676 (a) the nipple and areola of the female human breast in a shape and color other than the
677 natural shape and color of the nipple and areola; and

678 (b) the human genitals, pubic area, and anus:

679 (i) with no less than the following at its widest point:

680 (A) four inches coverage width in the front of the human body; and

681 (B) five inches coverage width in the back of the human body; and

682 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

683 (113) (a) "State store" means a facility for the sale of packaged liquor:

684 (i) located on premises owned or leased by the state; and

685 (ii) operated by a state employee.

686 (b) "State store" does not include:

687 (i) a package agency;

688 (ii) a licensee; or

689 (iii) a permittee.

690 (114) (a) "Storage area" means an area on licensed premises where the licensee stores
691 an alcoholic product.

692 (b) "Store" means to place or maintain in a location an alcoholic product.

693 (115) "Sublicense" means the same as that term is defined in Section [32B-8-102](#) or
694 [32B-8b-102](#).

695 (116) "Supplier" means a person who sells an alcoholic product to the department.

696 (117) "Tavern" means an on-premise beer retailer who is:

697 (a) issued a license by the commission in accordance with Chapter 5, Retail License
698 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

699 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
700 On-Premise Beer Retailer License.

701 (118) "Temporary beer event permit" means a permit issued in accordance with

702 Chapter 9, Part 4, Temporary Beer Event Permit.

703 (119) "Temporary domicile" means the principal place of abode within Utah of a
704 person who does not have a present intention to continue residency within Utah permanently or
705 indefinitely.

706 (120) "Translucent" means a substance that allows light to pass through, but does not
707 allow an object or person to be seen through the substance.

708 (121) "Unsaleable liquor merchandise" means a container that:

709 (a) is unsaleable because the container is:

710 (i) unlabeled;

711 (ii) leaky;

712 (iii) damaged;

713 (iv) difficult to open; or

714 (v) partly filled;

715 (b) (i) has faded labels or defective caps or corks;

716 (ii) has contents that are:

717 (A) cloudy;

718 (B) spoiled; or

719 (C) chemically determined to be impure; or

720 (iii) contains:

721 (A) sediment; or

722 (B) a foreign substance; or

723 (c) is otherwise considered by the department as unfit for sale.

724 (122) (a) "Wine" means an alcoholic product obtained by the fermentation of the
725 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
726 another ingredient is added.

727 (b) "Wine" includes:

728 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.
729 4.10; and

730 (ii) hard cider.

731 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided
732 in this title.

733 (123) "Winery manufacturing license" means a license issued in accordance with
734 Chapter 11, Part 3, Winery Manufacturing License.

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

736 **63H-1-102. Definitions.**

737 As used in this chapter:

738 (1) "Authority" means the Military Installation Development Authority, created under
739 Section [63H-1-201](#).

740 (2) "Base taxable value" means:

741 (a) for military land or other land that was exempt from a property tax at the time that a
742 project area was created that included the military land or other land, a taxable value of zero; or
743 (b) for private property that is included in a project area, the taxable value of the
744 property within any portion of the project area, as designated by board resolution, from which
745 the property tax allocation will be collected, as shown upon the assessment roll last equalized
746 before the year in which the authority creates the project area.

747 (3) "Board" means the governing body of the authority created under Section
748 [63H-1-301](#).

749 (4) (a) "Dedicated tax collections" means the property tax that remains after the
750 authority is paid the property tax allocation the authority is entitled to receive under Subsection
751 [63H-1-501](#)(1), for a property tax levied by:

752 (i) a county, including a district the county has established under Subsection [17-34-3](#)(2)
753 to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated
754 Areas; or

755 (ii) an included municipality.

756 (b) "Dedicated tax collections" does not include a county additional property tax or
757 multicounty assessing and collecting levy imposed in accordance with Section [59-2-1602](#).

- 758 (5) (a) "Development" means an activity occurring:
759 (i) on land within a project area that is owned or operated by the military, the authority,
760 another public entity, or a private entity; or
761 (ii) on military land associated with a project area.
- 762 (b) "Development" includes the demolition, construction, reconstruction, modification,
763 expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or
764 recreational amenity.
- 765 (6) "Development project" means a project to develop land within a project area.
- 766 (7) "Elected member" means a member of the authority board who:
767 (a) is a mayor or member of a legislative body appointed under Subsection
768 [63H-1-302\(2\)\(b\)](#); or
769 (b) (i) is appointed to the authority board under Subsection [63H-1-302\(2\)\(a\)](#) or (3); and
770 (ii) concurrently serves in an elected state, county, or municipal office.
- 771 (8) "Included municipality" means a municipality, some or all of which is included
772 within a project area.
- 773 (9) (a) "Military" means a branch of the armed forces of the United States, including
774 the Utah National Guard.
775 (b) "Military" includes, in relation to property, property that is occupied by the military
776 and is owned by the government of the United States or the state.
- 777 (10) "Military Installation Development Authority accommodations tax" or "MIDA
778 accommodations tax" means the tax imposed under Section [63H-1-205](#).
- 779 (11) "Military Installation Development Authority energy tax" or "MIDA energy tax"
780 means the tax levied under Section [63H-1-204](#).
- 781 (12) "Military land" means land or a facility, including leased land or a leased facility,
782 that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the
783 jurisdiction of the United States Department of Defense or the Utah National Guard.
- 784 (13) "Municipal energy tax" means a municipal energy sales and use tax under Title
785 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

786 (14) "Municipal services revenue" means revenue that the authority:

787 (a) collects from the authority's:

788 (i) levy of a municipal energy tax;

789 (ii) levy of a MIDA energy tax;

790 (iii) levy of a telecommunications tax;

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

792 (v) imposition of a resort communities tax;

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

794 (c) receives as dedicated tax collections.

795 (15) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA
796 accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

797 (16) "Project area" means the land, including military land, whether consisting of a
798 single contiguous area or multiple noncontiguous areas, described in a project area plan or draft
799 project area plan, where the development project set forth in the project area plan or draft
800 project area plan takes place or is proposed to take place.

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

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

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

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

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

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

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

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

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

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

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

825 (18) "Project area plan" means a written plan that, after the plan's effective date, guides
826 and controls the development within a project area.

827 (19) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4,
828 Privilege Tax, except as described in Subsection (19)(b), and each levy on an ad valorem basis
829 on tangible or intangible personal or real property.

830 (b) "Property tax" does not include a privilege tax on the taxable value:

831 (i) attributable to a portion of a facility leased to the military for a calendar year when:

832 (A) a lessee of military land has constructed a facility on the military land that is part of
833 a project area;

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

835 (C) the lease rate paid by the military for the space is \$1 or less for the entire calendar
836 year, not including any common charges that are reimbursements for actual expenses; or

837 (ii) of [~~a hotel that is~~] the following property owned by the authority, regardless of
838 whether the authority enters into a long-term operating agreement with a privately owned entity

839 [~~in~~] under which the privately owned entity agrees to operate the [~~hotel~~] property:

840 (A) a hotel;

841 (B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3;

842 and

843 (C) a commercial condominium unit in a condominium project, as defined in Section
844 57-8-3.

845 (20) "Property tax allocation" means the difference between:

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

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

852 (21) "Public entity" means:

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

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

856 (22) (a) "Publicly owned infrastructure and improvements" means infrastructure,
857 improvements, facilities, or buildings that benefit the public and are:

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

859 (ii) owned by a utility; or

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

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

863 (i) facilities, lines, or systems that provide water, chilled water, steam, sewer, storm
864 drainage, natural gas, electricity, or telecommunications; and

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

867 (23) "Remaining municipal services revenue" means municipal services revenue that
868 the authority has not:

869 (a) spent during the authority's fiscal year for municipal services as provided in

870 Subsection 63H-1-503(1); or

871 (b) redirected to use in accordance with Subsection 63H-1-502(3).

872 (24) "Resort communities tax" means a sales and use tax imposed under Section
873 59-12-401.

874 (25) "Taxable value" means the value of property as shown on the last equalized
875 assessment roll as certified by the county assessor.

876 (26) "Taxing entity" means a public entity that levies a tax on property within a project
877 area.

878 (27) "Telecommunications tax" means a telecommunications license tax under Title
879 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

880 (28) "Transient room tax" means a tax under Section 59-12-352.

881 Section 4. Section 63H-1-202 is amended to read:

882 **63H-1-202. Applicability of other law.**

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

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

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

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

888 (d) the jurisdiction of a local district under Title 17B, Limited Purpose Local
889 Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1,
890 Special Service District Act.

891 (2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107,
892 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed
893 by Title 63E, Independent Entities Code.

894 (3) (a) The definitions in Section 57-8-3 apply to this Subsection (3).

895 (b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership
896 Act, or any other provision of law:

897 (i) if the military is the owner of land in a project area on which a condominium project

898 is constructed, the military is not required to sign, execute, or record a declaration of a
 899 condominium project; and

900 (ii) if a condominium unit in a project area is owned by the military or owned by the
 901 authority and leased to the military for \$1 or less per calendar year, not including any common
 902 charges that are reimbursements for actual expenses:

903 (A) the condominium unit is not subject to any liens under Title 57, Chapter 8,
 904 Condominium Ownership Act;

905 (B) condominium unit owners within the same building or commercial condominium
 906 project may agree on any method of allocation and payment of common area expenses,
 907 regardless of the size or par value of each unit; and

908 (C) the condominium project may not be dissolved without the consent of all the
 909 condominium unit owners.

910 (4) Notwithstanding any other provision, when a law requires the consent of a local
 911 government, the authority is the consenting entity for a project area.

912 Section 5. Section **63H-1-206** is enacted to read:

913 **63H-1-206. Property exchange -- Freeway interchange construction.**

914 (1) If the authority receives title to real property from a military installation for
 915 construction of an interchange by the Department of Transportation, the authority shall
 916 exchange the real property intended for the interchange with the Department of Transportation
 917 for any unused remainder of real property that the Department of Transportation does not need
 918 for the freeway after the interchange is complete.

919 (2) An exchange described in Subsection (1) shall occur at no cost to the authority or
 920 the Department of Transportation, regardless of the value of the real property.

921 Section 6. Section **63H-1-302** is amended to read:

922 **63H-1-302. Number of board members -- Appointment.**

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

924 (2) The governor shall appoint five members of the board as follows:

925 (a) one member shall be appointed who is interested in supporting military efforts in

926 the state;

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

930 (c) one member shall be appointed from the executive branch or a state agency that is
931 involved with military issues.

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

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

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

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

942 (d) If there are more than three project areas where development is actively occurring
943 located in different counties or municipalities, the governor:

944 (i) shall appoint at least one member under Subsection (2)(b) who represents a
945 municipality or county that is adjacent to or in close proximity to the highest-value project area,
946 as measured by the planned taxable value of the land within the project area to be developed by
947 the private sector;

948 (ii) shall appoint at least one member under Subsection (2)(b) who represents a
949 municipality or county that is adjacent to or in close proximity to the second-highest-value
950 project area, as measured by the planned taxable value of the land within the project area to be
951 developed by the private sector; and

952 (iii) may appoint one member under Subsection (2)(b) who represents a municipality or
953 county that is adjacent to or in close proximity to a project area where development is actively

954 occurring for which there is no representation on the board.

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

959 (5) The authority may:

960 (a) appoint nonvoting members of the board, including a member from a municipality
961 or county that is adjacent to or in close proximity to a project area for which there is no
962 representation on the board under Subsection (2)(b); and

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

964 Section 7. Section **63H-1-403** is amended to read:

965 **63H-1-403. Notice of project area plan adoption -- Effective date of plan --**
966 **Contesting the formation of the plan.**

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

969 (a) in a newspaper of general circulation within or near the project area; and

970 (b) as required by Section [45-1-101](#).

971 (2) (a) Each notice under Subsection (1) shall include:

972 [~~(a)~~] (i) the board resolution adopting the project area plan or a summary of the
973 resolution; and

974 [~~(b)~~] (ii) a statement that the project area plan is available for general public inspection
975 and the hours for inspection.

976 (b) The statement required under Subsection (2)(a)(ii) may be included in the board
977 resolution or summary described in Subsection (2)(a)(i).

978 (3) The project area plan shall become effective on the date of publication of the
979 notice.

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

982 (5) Within 10 days after the day on which a project area plan is adopted that establishes
983 a project area, or after an amendment to a project area plan is adopted under which the
984 boundary of a project area is modified, the authority shall send notice of the establishment or
985 modification of the project area and an accurate map or plat of the project area to:

- 986 (a) the State Tax Commission;
- 987 (b) the Automated Geographic Reference Center created in Section 63F-1-506; and
- 988 (c) the assessor and recorder of each county where the project area is located.

989 (6) (a) A legal action or other challenge to a project area plan or a project area
990 described in a project area plan is barred unless brought within 30 days after the effective date
991 of the project area plan.

992 (b) For a project area created before December 1, 2018, a legal action or other
993 challenge is barred.

994 (c) For a project area created after December 1, 2018, and before May 14, 2019, a legal
995 action or other challenge is barred after July 1, 2019.

996 Section 8. Section 63H-1-501 is amended to read:

997 **63H-1-501. Authority receipt and use of property tax allocation -- Contractual**
998 **annual payment -- Distribution of property tax allocation.**

999 (1) (a) The authority may:

1000 (i) subject to Subsection (1)(b)[~~7~~]:

1001 (A) receive up to 75% of the property tax allocation for up to 25 years, as provided in
1002 this part; and

1003 (B) after the time period described in Subsection (1)(a)(i)(A) expires, receive up to
1004 75% of the property tax allocation for up to 15 years, if the board determines the additional
1005 years will produce significant benefit; and

1006 (ii) use the property tax allocation before, during, and after the period described in
1007 Subsection (1)(a)(i).

1008 (b) With respect to a parcel located within a project area, the 25-year period described
1009 in Subsection (1)(a)(i)(A) shall begin on the day on which the authority receives the first

1010 property tax allocation from that parcel.

1011 (2) Improvements on a parcel within a project area become subject to property tax on
1012 January 1 immediately following the day on which the authority or an entity designated by the
1013 authority issues a certificate of occupancy with respect to those improvements.

1014 (3) (a) If the authority or an entity designated by the authority has not issued a
1015 certificate of occupancy for a private parcel within a project area, the private parcel owner shall
1016 enter into a contract with the authority to make an annual payment to the authority:

1017 (i) that is equal to 1.2% of the taxable value of the parcel above the base taxable value
1018 of the parcel; and

1019 (ii) until the parcel becomes subject to the property tax described in Subsection (2).

1020 (b) The authority may use the revenue from payments described in Subsection (3)(a)
1021 for any purpose described in Subsection [63H-1-502\(1\)](#).

1022 (4) Each county that collects property tax on property within a project area shall pay
1023 and distribute to the authority the property tax allocation and dedicated tax collections that the
1024 authority is entitled to collect under this title, in the manner and at the time provided in Section
1025 [59-2-1365](#).

1026 (5) (a) The board shall determine by resolution when the entire project area or an
1027 individual parcel within a project area is subject to property tax allocation.

1028 (b) The board shall amend the project area budget to reflect whether a parcel within a
1029 project area is subject to property tax allocation.

1030 (6) The following property owned by the authority is not subject to any property tax
1031 under Title 59, Chapter 2, Property Tax Act, or any privilege tax under Title 59, Chapter 4,
1032 Privilege Tax, regardless of whether the authority enters into a long-term operating agreement
1033 with a privately owned entity under which the privately owned entity agrees to operate the
1034 property:

1035 (a) a hotel;

1036 (b) a hotel condominium unit in a condominium project, as defined in Section [57-8-3](#);
1037 and

1038 (c) a commercial condominium unit in a condominium project, as defined in Section
1039 57-8-3.

1040 Section 9. Section 63N-2-103 is amended to read:

1041 **63N-2-103. Definitions.**

1042 As used in this part:

1043 (1) "Authority project area" means a project area of the Military Installation
1044 Development Authority, created in Section 63H-1-201.

1045 [(1)] (2) "Business entity" means a person that enters into an agreement with the office
1046 to initiate a new commercial project in Utah that will qualify the person to receive a tax credit
1047 under Section 59-7-614.2 or 59-10-1107.

1048 [(2)] (3) "Community reinvestment agency" [has] means the same [meaning] as that
1049 term is defined in Section 17C-1-102.

1050 [(3)] (4) "Development zone" means an economic development zone created under
1051 Section 63N-2-104.

1052 (5) "Gross wages" does not include health care or other paid or unpaid benefits.

1053 [(4)] (6) "High paying jobs" means:

1054 (a) with respect to a business entity, the aggregate average annual gross wages[~~, not~~
1055 ~~including healthcare or other paid or unpaid benefits;~~];

1056 (i) of newly created full-time employment positions in a business entity; and

1057 (ii) that are at least 110% of the average wage of a community in which the
1058 employment positions will exist;

1059 (b) with respect to a county, the aggregate average annual gross wages[~~, not including~~
1060 ~~healthcare or other paid or unpaid benefits;~~];

1061 (i) of newly created full-time employment positions in a new commercial project
1062 within the county; and

1063 (ii) that are at least 110% of the average wage of the county in which the employment
1064 positions will exist; [~~or~~]

1065 (c) with respect to a city or town, the aggregate average annual gross wages[~~, not~~

1066 ~~including healthcare or other paid or unpaid benefits]:~~

1067 (i) of newly created full-time employment positions in a new commercial project
1068 within the city or town; and

1069 (ii) that are at least 110% of the average wages of the city or town in which the
1070 employment positions will exist[-]; or

1071 (d) with respect to the Military Installation Development Authority, the aggregate
1072 average annual gross wages:

1073 (i) of newly created full-time employment positions in a new commercial project
1074 within the city or town that is closest to the location of the authority project area; and

1075 (ii) that are at least 110% of the average wages of the city or town.

1076 ~~[(5)]~~ (7) "Local government entity" means:

1077 (a) a county, city, or town that enters into an agreement with the office to have a new
1078 commercial project that:

1079 ~~[(a)]~~ (i) is initiated within the county's, city's, or town's boundaries; and

1080 ~~[(b)]~~ (ii) qualifies the county, city, or town to receive a tax credit under Section
1081 59-7-614.2[-]; or

1082 (b) the Military Installation Development Authority, if the Military Installation
1083 Development Authority enters into an agreement described in Subsection (7)(a).

1084 ~~[(6)]~~ (8) (a) "New commercial project" means an economic development opportunity
1085 that involves new or expanded industrial, manufacturing, distribution, or business services in
1086 Utah.

1087 (b) "New commercial project" does not include retail business.

1088 ~~[(7)]~~ (9) (a) "New incremental jobs" means full-time employment positions that are
1089 filled by employees who work at least 30 hours per week and that are:

1090 (i) with respect to a business entity, created in addition to the baseline count of
1091 employment positions that existed within the business entity before the new commercial
1092 project;

1093 (ii) with respect to a county, created as a result of a new commercial project with

1094 respect to which the county or a community development and renewal agency seeks to claim a
1095 tax credit under Section 59-7-614.2; or

1096 (iii) with respect to a city or town or the Military Installation Development Authority,
1097 created as a result of a new commercial project with respect to which the city, town, [~~or a~~]
1098 community development and renewal agency, or Military Installation Development Authority
1099 seeks to claim a tax credit under Section 59-7-614.2.

1100 (b) "New incremental jobs" may include full-time equivalent positions that are filled by
1101 more than one employee, if each employee who works less than 30 hours per week is provided
1102 benefits comparable to a full-time employee.

1103 (c) "New incremental jobs" does not include jobs that are shifted from one jurisdiction
1104 in the state to another jurisdiction in the state.

1105 [~~(8)~~] (10) "New state revenues" means:

1106 (a) with respect to a business entity:

1107 (i) incremental new state sales and use tax revenues that a business entity pays under
1108 Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a
1109 development zone;

1110 (ii) incremental new state tax revenues that a business entity pays as a result of a new
1111 commercial project in a development zone under:

1112 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

1113 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
1114 Information;

1115 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

1116 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

1117 (E) a combination of Subsections [~~(8)~~] (10)(a)(ii)(A) through (D);

1118 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,
1119 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
1120 employees of a new or expanded industrial, manufacturing, distribution, or business service
1121 within a new commercial project as evidenced by payroll records that indicate the amount of

1122 employee income taxes withheld and transmitted to the State Tax Commission by the new or
1123 expanded industrial, manufacturing, distribution, or business service within the new
1124 commercial project; or
1125 (iv) a combination of Subsections [~~8~~] (10)(a)(i) through (iii); or
1126 (b) with respect to a local government entity:
1127 (i) incremental new state sales and use tax revenues that are collected under Title 59,
1128 Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development
1129 zone;
1130 (ii) incremental new state tax revenues that are collected as a result of a new
1131 commercial project in a development zone under:
1132 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
1133 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
1134 Information;
1135 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;
1136 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; or
1137 (E) a combination of Subsections [~~8~~] (10)(b)(ii)(A) through (D);
1138 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,
1139 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
1140 employees of a new or expanded industrial, manufacturing, distribution, or business service
1141 within a new commercial project as evidenced by payroll records that indicate the amount of
1142 employee income taxes withheld and transmitted to the State Tax Commission by the new or
1143 expanded industrial, manufacturing, distribution, or business service within the new
1144 commercial project; or
1145 (iv) a combination of Subsections [~~8~~] (10)(b)(i) through (iii).
1146 [~~9~~] (11) "Significant capital investment" means an amount of at least \$10,000,000 to
1147 purchase capital or fixed assets, which may include real property, personal property, and other
1148 fixtures related to a new commercial project:
1149 (a) that represents an expansion of existing operations in the state; or

1150 (b) that maintains or increases the business entity's existing work force in the state.

1151 [~~(10)~~] (12) "Tax credit" means an economic development tax credit created by Section
1152 [59-7-614.2](#) or [59-10-1107](#).

1153 [~~(11)~~] (13) "Tax credit amount" means the amount the office lists as a tax credit on a
1154 tax credit certificate for a taxable year.

1155 [~~(12)~~] (14) "Tax credit certificate" means a certificate issued by the office that:

1156 (a) lists the name of the business entity, local government entity, or community
1157 development and renewal agency to which the office authorizes a tax credit;

1158 (b) lists the business entity's, local government entity's, or community development and
1159 renewal agency's taxpayer identification number;

1160 (c) lists the amount of tax credit that the office authorizes the business entity, local
1161 government entity, or community development and renewal agency for the taxable year; and

1162 (d) may include other information as determined by the office.

1163 Section 10. **Coordinating S.B. 269 with H.B. 433 -- Superseding technical and**
1164 **substantive amendments.**

1165 If this S.B. 269 and H.B. 433, Inland Port Amendments, both pass and become law, it is
1166 the intent of the Legislature that the Office of Legislative Research and General Counsel shall
1167 prepare the Utah Code database for publication by modifying Section [63N-2-103](#) as follows:

1168 (1) insert a definition of "authority" that reads:

1169 "(1) "Authority" means:

1170 (a) the Utah Inland Port Authority, created in Section [11-58-201](#); or

1171 (b) the Military Installation Development Authority, created in Section [63H-1-201](#)."

1172 (2) amend the definition of "authority project area" to read:

1173 "Authority project area" means a project area of:

1174 (a) the Utah Inland Port Authority, created in Section [11-58-201](#); or

1175 (b) the Military Installation Development Authority, created in Section [63H-1-201](#)."

1176 (3) amend Subsection (6)(d) of the definition of "high paying jobs" to read:

1177 "(d) with respect to an authority, the aggregate average annual gross wages:

1178 (i) of newly created full-time employment positions in a new commercial project
1179 within the city or town that is closest to the location of the authority project area; and
1180 (ii) that are 110% of the average wages of the city or town.";
1181 (4) delete Subsection (7), the definition of "inland port authority";
1182 (5) amend the definition of "local government entity" to read:
1183 "Local government entity" means a county, a city, a town, or an authority that enters
1184 into an agreement with the office to have a new commercial project that:
1185 (a) is initiated within:
1186 (i) the boundary of the county, city, or town; or
1187 (ii) an authority project area; and
1188 (b) qualifies the county, city, town, or authority to receive a tax credit under Section
1189 [59-7-614.2.](#)";
1190 (6) amend Subsection (9)(a)(iii) in the definition of "new incremental jobs" to read:
1191 "(iii) with respect to a city, a town, or an authority, created as a result of a new
1192 commercial project with respect to which the city, town, authority, or a community
1193 development and renewal agency seeks to claim a tax credit under Section [59-7-614.2.](#)"; and
1194 (7) renumber the remaining subsections and cross references to those subsections
1195 accordingly.