

1 **COMMUNITY IMPACT ALLEVIATION -**

2 **DEFINITIONS**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Mike Dmitrich**

6 AN ACT RELATING TO COMMUNITY IMPACT MONIES; AUTHORIZING THE  
7 COMMUNITY IMPACT BOARD TO DISTRIBUTE MONIES TO ENTITIES FORMED BY  
8 CERTAIN POLITICAL SUBDIVISIONS VIA THE INTERLOCAL COOPERATION ACT; AND  
9 MAKING TECHNICAL CORRECTIONS.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12 **9-4-302**, as last amended by Chapter 326, Laws of Utah 1995

13 **9-4-305**, as last amended by Chapter 326, Laws of Utah 1995

14 **9-4-307**, as last amended by Chapter 78, Laws of Utah 1993

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

16 Section 1. Section **9-4-302** is amended to read:

17 **9-4-302. Definitions.**

18 As used in this part:

19 (1) "Bonus payments" mean that portion of the bonus payments received by the United  
20 States government under the Leasing Act paid to the state under Section 35 of the Leasing Act,  
21 together with any interest that had accrued on those payments.

22 (2) "Impact board" means the Permanent Community Impact Fund Board created under  
23 Section 9-4-304.

24 (3) "Impact fund" means the Permanent Community Impact Fund established by this  
25 chapter.

26 (4) "Interlocal Agency" means a legal or administrative entity created by a subdivision or  
27 combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal Cooperation

28 Act.

29 [(4)] (5) "Leasing Act" means the Mineral Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.,  
30 as amended.

31 [(5)] (6) "Subdivision" means any county, city, town, county service area, special service  
32 district, special improvement district, water conservancy district, water or sewer improvement  
33 district, housing authority, building authority, school district, or public postsecondary institution  
34 organized under the laws of this state.

35 Section 2. Section **9-4-305** is amended to read:

36 **9-4-305. Duties -- Loans -- Interest.**

37 (1) The impact board shall:

38 (a) make, subject to the limitations of the Leasing Act, grants and loans from the amounts  
39 appropriated by the Legislature out of the impact fund to state agencies [and to], subdivisions, and  
40 interlocal agencies that are or may be socially or economically impacted, directly or indirectly,  
41 by mineral resource development for:

42 (i) planning;

43 (ii) construction and maintenance of public facilities; and

44 (iii) provision of public services;

45 (b) establish the criteria by which the loans and grants will be made;

46 (c) determine the order in which projects will be funded;

47 (d) in conjunction with other agencies of the state or of subdivisions or of interlocal  
48 agencies, conduct studies, investigations, and research into the effects of proposed mineral  
49 resource development projects upon local communities;

50 (e) sue and be sued in accordance with applicable law;

51 (f) qualify for, accept, and administer grants, gifts, loans, or other funds from the federal  
52 government and from other sources, public or private; and

53 (g) perform other duties assigned to it under Sections 11-13-29 and 11-13-30.

54 (2) Monies, including all loan repayments and interest, in the impact fund derived from  
55 bonus payments may be used for any of the purposes set forth in Subsection (1)(a) but may only  
56 be given in the form of loans to be paid back into the impact fund by the agency [or], subdivision,  
57 or interlocal agency.

58 (3) The average annual return to the impact fund on all bonus monies may not be less than

59 one-half of the average interest rate paid by the state on general obligation bonds issued during the  
60 most recent fiscal year in which bonds were sold.

61 (4) (a) "Provision of public services" under Subsection (1)(a) includes contracts with  
62 public postsecondary institutions to fund research, education, or public service programs that:

63 (i) benefit impacted counties or political subdivisions of the counties; and  
64 (ii) are consistent with the purposes provided in Subsection 59-21-1(1)(a)(ii).

65 (b) Each contract under Subsection (4)(a) shall be:

66 (i) based on an application to the impact board from the impacted county; and  
67 (ii) approved by the county legislative body.

68 (c) For purposes of this section, a land use plan is a public service program.

69 Section 3. Section **9-4-307** is amended to read:

70 **9-4-307. Impact fund administered by impact board -- Eligibility for assistance --**  
71 **Review by board -- Administration costs -- Annual report -- Compliance with tax**  
72 **commission directives.**

73 (1) (a) The impact board shall:

74 (i) administer the impact fund in a manner [~~which~~] that will keep a portion of the impact  
75 fund revolving [~~and shall~~];

76 (ii) determine provisions for repayment of loans~~[-];~~ and

77 (iii) establish criteria for determining eligibility for assistance under this part that are  
78 consistent with the purposes of Section 35 of the Leasing Act.

79 (b) In order to receive assistance under this part, subdivisions and interlocal agencies shall  
80 submit formal applications [~~with such~~] containing the information [as] that the impact board  
81 [~~prescribes. The impact board shall establish criteria for determining eligibility for assistance under~~  
82 ~~this part which are consistent with the purposes of Section 35 of the Leasing Act]~~ requires.

83 (2) In determining eligibility for loans and grants under this part, the impact board shall  
84 consider the following:

85 (a) the subdivision's or interlocal agency's current federal mineral lease production;

86 (b) the feasibility of the actual development of a resource [~~which~~] that may impact the  
87 subdivision or interlocal agency directly or indirectly;

88 (c) current taxes being paid by the subdivision's or interlocal agency's residents;

89 (d) the borrowing capacity of the subdivision or interlocal agency, its ability and

90 willingness to sell bonds or other securities in the open market, and its current and authorized  
 91 indebtedness~~[- except that the impact board may not fund any education project which could  
 92 otherwise have reasonably been funded by a school district through a program of annual budgeting,  
 93 capital budgeting, bonded indebtedness, or special assessments];~~

94 (e) all possible additional sources of state and local revenue, including utility user charges;

95 (f) the availability of federal assistance funds;

96 (g) probable growth of population due to actual or prospective natural resource  
 97 development in an area;

98 (h) existing public facilities and services;

99 (i) the extent of the expected direct or indirect impact upon public facilities and services  
 100 of the actual or prospective natural resource development in an area; and

101 (j) the extent of industry participation in an impact alleviation plan, either as specified in  
 102 Title 63, Chapter 51, Resource Development, or otherwise.

103 (3) The impact board may not fund any education project that could otherwise have  
 104 reasonably been funded by a school district through a program of annual budgeting, capital  
 105 budgeting, bonded indebtedness, or special assessments.

106 ~~[(2)]~~ (4) The impact board may restructure all or part of the agency's or subdivision's  
 107 liability to repay loans for extenuating circumstances.

108 ~~[(3)]~~ (5) The impact board shall:

109 (a) review the proposed ~~[usages]~~ uses of the impact fund for loans or grants ~~[prior to~~  
 110 approval] before approving them and may condition its approval on ~~[such]~~ whatever assurances  
 111 ~~[as]~~ that the impact board ~~[deems]~~ considers necessary to ensure that the proceeds of the loan or  
 112 grant will be used in accordance with the provisions of the Leasing Act~~[- Any loan shall specify];~~  
 113 and

114 (b) ensure that each loan specifies the terms for repayment and ~~[shall be]~~ is evidenced by  
 115 general obligation, special assessment, or revenue bonds, notes, or other obligations of the  
 116 appropriate subdivision or interlocal agency issued to the impact board ~~[pursuant to such]~~ under  
 117 whatever authority for the issuance ~~[thereof as may exist]~~ of those bonds, notes, or obligations  
 118 exists at the time of the loan.

119 ~~[(4)]~~ (6) The impact board shall allocate from the impact fund to the department those  
 120 funds that are appropriated by the Legislature for the administration of the impact fund, but this

121 amount may not exceed 2% of the annual receipts to the impact fund.

122           [(5)] (7) The department shall make an annual report to the Legislature concerning the  
123 number and type of loans and grants made as well as a list of subdivisions [which] and interlocal  
124 agencies that received this assistance.

125           [(6)] (8) Notwithstanding anything to the contrary in this part, [no] the impact board may  
126 not make a loan or grant [may be made] to any subdivision or interlocal agency that is not in  
127 compliance [by January 1, 1983,] with the State Tax Commission's directives [of the State Tax  
128 Commission with respect to] governing factoring.

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**Legislative Review Note**  
**as of 12-3-99 9:57 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**