

1           **PERMANENT COMMUNITY IMPACT FUND BOARD GRANTS**

2                                   2012 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Patrick Painter**

5                                   Senate Sponsor: Curtis S. Bramble

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7   **LONG TITLE**

8   **General Description:**

9           This bill authorizes the Permanent Community Impact Fund Board to make a grant to  
10 certain cities and provides that certain sales and use tax distributions shall be reduced  
11 by the amount of a grant a city receives.

12 **Highlighted Provisions:**

13           This bill:

- 14           ▶ defines terms;  
15           ▶ for fiscal year 2011-12 only, authorizes the Permanent Community Impact Fund

16 Board to make a grant to certain cities, including:

- 17           • providing the maximum amount of the grant;  
18           • providing the purposes for which a city may expend the grant; and  
19           • providing that before the Permanent Community Impact Fund Board may make  
20 the grant, the Permanent Community Impact Fund Board shall find that the city  
21 is experiencing substantial hardship in the repayment of bonded indebtedness as  
22 a result of certain sales and use tax distribution reductions;

23           ▶ provides that the amount of certain sales and use tax distributions shall be reduced  
24 by the amount of a grant;

25           ▶ provides repeal dates for certain provisions related to the grant and sales and use tax  
26 distributions; and

- 27           ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29           None

30 **Other Special Clauses:**

31       This bill provides an immediate effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

34       **9-4-302**, as last amended by Laws of Utah 2007, Chapter 303

35       **9-4-305**, as last amended by Laws of Utah 2002, Chapter 286

36       **9-4-307**, as last amended by Laws of Utah 2011, Chapter 247

37       **59-12-205**, as last amended by Laws of Utah 2011, Chapter 198

38       **63I-1-209**, as last amended by Laws of Utah 2011, Chapter 370

39       **63I-1-259**, as last amended by Laws of Utah 2011, Chapter 369

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

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

43       **9-4-302. Definitions.**

44       As used in this part:

45       (1) "Bonus payments" means that portion of the bonus payments received by the  
46 United States government under the Leasing Act paid to the state under Section 35 of the  
47 Leasing Act, 30 U.S.C. Sec. 191, together with any interest that had accrued on those  
48 payments.

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

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

53       (4) "Interlocal Agency" means a legal or administrative entity created by a subdivision  
54 or combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal  
55 Cooperation Act.

56       (5) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et  
57 seq.

58           (6) "Qualifying city" means a city:  
59           (a) of the fifth class;  
60           (b) that received a qualifying sales and use tax distribution reduction; and  
61           (c) that had located within the city for one or more days during the calendar year  
62 beginning on January 1, 2008:  
63           (i) an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS  
64 Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry  
65 Classification System of the federal Executive Office of the President, Office of Management  
66 and Budget; and  
67           (ii) at least one establishment described in Subsection (6)(c)(i) that was not the holder  
68 of a direct payment permit under Section 59-12-107.1.

69           (7) "Qualifying sales and use tax distribution reduction" means that, for the calendar  
70 year beginning on January 1, 2008, the total sales and use tax distributions a city received  
71 under Section 59-12-205 were reduced by at least 15% from the total sales and use tax  
72 distributions the city received under Section 59-12-205 for the calendar year beginning on  
73 January 1, 2007.

74           ~~[(6)]~~ (8) "Subdivision" means a county, city, town, county service area, special service  
75 district, special improvement district, water conservancy district, water improvement district,  
76 sewer improvement district, housing authority, building authority, school district, or public  
77 postsecondary institution organized under the laws of this state.

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

79           **9-4-305. Duties -- Loans -- Interest.**

80           (1) The impact board shall:  
81           (a) make grants and loans from the amounts appropriated by the Legislature out of the  
82 impact fund to state agencies, subdivisions, and interlocal agencies that are or may be socially  
83 or economically impacted, directly or indirectly, by mineral resource development for:  
84           (i) planning;  
85           (ii) construction and maintenance of public facilities; and

- 86 (iii) provision of public services;
- 87 (b) establish the criteria by which the loans and grants will be made;
- 88 (c) determine the order in which projects will be funded;
- 89 (d) in conjunction with other agencies of the state or of subdivisions or of interlocal
- 90 agencies, conduct studies, investigations, and research into the effects of proposed mineral
- 91 resource development projects upon local communities;
- 92 (e) sue and be sued in accordance with applicable law;
- 93 (f) qualify for, accept, and administer grants, gifts, loans, or other funds from the
- 94 federal government and from other sources, public or private; and
- 95 (g) perform other duties assigned to it under Sections 11-13-306 and 11-13-307.

96 (2) (a) The impact board may, for fiscal year 2011-12 only, make a grant to a  
 97 qualifying city if the impact board makes the finding required by Subsection 9-4-307(3).

98 (b) A grant under this Subsection (2):

99 (i) may not exceed \$1,100,000 for each qualifying city; and

100 (ii) shall be made from the amounts appropriated by the Legislature out of the impact  
 101 fund.

102 (c) A qualifying city may expend a grant under this Subsection (2) only to make one or  
 103 more payments on bonded indebtedness.

104 [~~2~~] (3) Money, including all loan repayments and interest, in the impact fund derived  
 105 from bonus payments may be used for any of the purposes set forth in Subsection (1)(a) but  
 106 may only be given in the form of loans to be paid back into the impact fund by the agency,  
 107 subdivision, or interlocal agency.

108 [~~3~~] (4) The average annual return to the impact fund on all bonus money may not be  
 109 less than 1/2 of the average interest rate paid by the state on general obligation bonds issued  
 110 during the most recent fiscal year in which bonds were sold.

111 [~~4~~] (5) (a) "Provision of public services" under Subsection (1)(a) includes contracts  
 112 with public postsecondary institutions to fund research, education, or public service programs  
 113 that benefit impacted counties or political subdivisions of the counties.

- 114 (b) Each contract under Subsection [~~(4)~~] (5)(a) shall be:
- 115 (i) based on an application to the impact board from the impacted county; and
- 116 (ii) approved by the county legislative body.
- 117 (c) For purposes of this section, a land use plan is a public service program.

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

119 **9-4-307. Impact fund administered by impact board -- Eligibility for assistance --**  
 120 **Review by board -- Administration costs -- Annual report.**

- 121 (1) (a) The impact board shall:
- 122 (i) administer the impact fund in a manner that will keep a portion of the impact fund
- 123 revolving;
- 124 (ii) determine provisions for repayment of loans;
- 125 (iii) establish criteria for determining eligibility for assistance under this part; and
- 126 (iv) consider recommendations from the School and Institutional Trust Lands

127 Administration when awarding a grant described in Subsection 9-4-303(6).

128 (b) (i) Criteria for awarding loans or grants made from funds described in Subsection  
129 9-4-303(5) shall be consistent with Subsection 9-4-303(5).

130 (ii) Criteria for awarding grants made from funds described in Subsection  
131 9-4-303(2)(c) shall be consistent with Subsection 9-4-303(6).

132 (c) In order to receive assistance under this part, subdivisions and interlocal agencies  
133 shall submit formal applications containing the information that the impact board requires.

134 (2) In determining eligibility for loans and grants under this part except for Subsection  
135 9-4-305(2), the impact board shall consider the following:

- 136 (a) the subdivision's or interlocal agency's current mineral lease production;
- 137 (b) the feasibility of the actual development of a resource that may impact the
- 138 subdivision or interlocal agency directly or indirectly;
- 139 (c) current taxes being paid by the subdivision's or interlocal agency's residents;
- 140 (d) the borrowing capacity of the subdivision or interlocal agency, its ability and
- 141 willingness to sell bonds or other securities in the open market, and its current and authorized

142 indebtedness;

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

145 (f) the availability of federal assistance funds;

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

148 (h) existing public facilities and services;

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

151 (j) the extent of industry participation in an impact alleviation plan, either as specified  
152 in Title 63M, Chapter 5, Resource Development Act, or otherwise.

153 (3) Before the impact board may make a grant to a city under Subsection 9-4-305(2),  
154 the impact board shall find that the city is experiencing a substantial hardship in making  
155 payments on bonded indebtedness as a result of receiving a qualifying sales and use tax  
156 distribution reduction.

157 [~~3~~] (4) The impact board may not fund any education project that could otherwise  
158 have reasonably been funded by a school district through a program of annual budgeting,  
159 capital budgeting, bonded indebtedness, or special assessments.

160 [~~4~~] (5) The impact board may restructure all or part of the agency's or subdivision's  
161 liability to repay loans for extenuating circumstances.

162 [~~5~~] (6) The impact board shall:

163 (a) review the proposed uses of the impact fund for loans or grants before approving  
164 them and may condition its approval on whatever assurances that the impact board considers to  
165 be necessary to ensure that the proceeds of the loan or grant will be used in accordance with the  
166 Leasing Act and this part; and

167 (b) ensure that each loan specifies the terms for repayment and is evidenced by general  
168 obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate  
169 subdivision or interlocal agency issued to the impact board under whatever authority for the

170 issuance of those bonds, notes, or obligations exists at the time of the loan.

171        ~~[(6)]~~ (7) The impact board shall allocate from the impact fund to the department those  
172 funds that are appropriated by the Legislature for the administration of the impact fund, but this  
173 amount may not exceed 2% of the annual receipts to the impact fund.

174        ~~[(7)]~~ (8) The department shall make an annual report to the Legislature concerning the  
175 number and type of loans and grants made as well as a list of subdivisions and interlocal  
176 agencies that received this assistance.

177        Section 4. Section **59-12-205** is amended to read:

178        **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**  
179 **tax revenues -- Determination of population.**

180        (1) A county, city, or town, in order to maintain in effect sales and use tax ordinances  
181 adopted pursuant to Section 59-12-204, shall, within 30 days of an amendment to an applicable  
182 provision of Part 1, Tax Collection, adopt amendments to the county's, city's, or town's sales  
183 and use tax ordinances as required to conform to the amendments to Part 1, Tax Collection.

184        (2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

185        (a) 50% of each dollar collected from the sales and use tax authorized by this part shall  
186 be distributed to each county, city, and town on the basis of the percentage that the population  
187 of the county, city, or town bears to the total population of all counties, cities, and towns in the  
188 state; and

189        (b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from  
190 the sales and use tax authorized by this part shall be distributed to each county, city, and town  
191 on the basis of the location of the transaction as determined under Sections 59-12-211 through  
192 59-12-215; and

193        (ii) 50% of each dollar collected from the sales and use tax authorized by this part  
194 within a project area described in a project area plan adopted by the military installation  
195 development authority under Title 63H, Chapter 1, Military Installation Development  
196 Authority Act, shall be distributed to the military installation development authority created in  
197 Section 63H-1-201.

198 (3) (a) [~~Beginning~~] Except as provided in Subsection (3)(e), beginning on July 1, 2011,  
199 and ending on June 30, 2016, the commission shall each year distribute to a county, city, or  
200 town the distribution required by this Subsection (3) if:

201 (i) the county, city, or town is a:

202 (A) county of the third, fourth, fifth, or sixth class;

203 (B) city of the fifth class; or

204 (C) town;

205 (ii) the county, city, or town received a distribution under this section for the calendar  
206 year beginning on January 1, 2008, that was less than the distribution under this section that the  
207 county, city, or town received for the calendar year beginning on January 1, 2007;

208 (iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located  
209 within the unincorporated area of the county for one or more days during the calendar year  
210 beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121,  
211 Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North  
212 American Industry Classification System of the federal Executive Office of the President,  
213 Office of Management and Budget; or

214 (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection  
215 (3)(a)(i)(C), the city or town had located within the city or town for one or more days during  
216 the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry  
217 Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the  
218 2002 North American Industry Classification System of the federal Executive Office of the  
219 President, Office of Management and Budget; and

220 (iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment  
221 described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for  
222 one more days during the calendar year beginning on January 1, 2008, was not the holder of a  
223 direct payment permit under Section 59-12-107.1; or

224 (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection  
225 (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a



226 city or town for one or more days during the calendar year beginning on January 1, 2008, was  
227 not the holder of a direct payment permit under Section 59-12-107.1.

228 (b) The commission shall make the distribution required by this Subsection (3) to a  
229 county, city, or town described in Subsection (3)(a):

230 (i) from the distribution required by Subsection (2)(a); and

231 (ii) before making any other distribution required by this section.

232 (c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by  
233 multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.

234 (ii) For purposes of Subsection (3)(c)(i):

235 (A) the numerator of the fraction is the difference calculated by subtracting the  
236 distribution a county, city, or town described in Subsection (3)(a) received under this section  
237 for the calendar year beginning on January 1, 2008, from the distribution under this section that  
238 the county, city, or town received for the calendar year beginning on January 1, 2007; and

239 (B) the denominator of the fraction is \$333,583.

240 (d) A distribution required by this Subsection (3) is in addition to any other distribution  
241 required by this section.

242 (e) For fiscal year 2011-12 only, a distribution required by this Subsection (3) to a  
243 qualifying city, as defined in Section 9-4-302, shall be reduced:

244 (i) by the amount of a grant the Permanent Community Impact Fund Board makes to  
245 the qualifying city in accordance with Subsection 9-4-305(2); and

246 (ii) by an amount that does not exceed the distribution that the qualifying city would  
247 otherwise receive under this Subsection (3) but for this Subsection (3)(e).

248 (4) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year  
249 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of  
250 the taxable sales within the boundaries of the county, city, or town.

251 (b) The commission shall proportionally reduce monthly distributions to any county,  
252 city, or town that, but for the reduction, would receive a distribution in excess of 1% of the  
253 sales and use tax revenue collected within the boundaries of the county, city, or town.

254 (5) (a) As used in this Subsection (5):

255 (i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or  
256 more in tax revenue distributions in accordance with Subsection (4) for each of the following  
257 fiscal years:

258 (A) fiscal year 2002-03;

259 (B) fiscal year 2003-04; and

260 (C) fiscal year 2004-05.

261 (ii) "Minimum tax revenue distribution" means the greater of:

262 (A) the total amount of tax revenue distributions an eligible county, city, or town  
263 receives from a tax imposed in accordance with this part for fiscal year 2000-01; or

264 (B) the total amount of tax revenue distributions an eligible county, city, or town  
265 receives from a tax imposed in accordance with this part for fiscal year 2004-05.

266 (b) (i) Except as provided in Subsection (5)(b)(ii), beginning with fiscal year 2006-07  
267 and ending with fiscal year 2012-13, an eligible county, city, or town shall receive a tax  
268 revenue distribution for a tax imposed in accordance with this part equal to the greater of:

269 (A) the payment required by Subsection (2); or

270 (B) the minimum tax revenue distribution.

271 (ii) If the tax revenue distribution required by Subsection (5)(b)(i) for an eligible  
272 county, city, or town is equal to the amount described in Subsection (5)(b)(i)(A) for three  
273 consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following  
274 that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax  
275 revenue distribution equal to the payment required by Subsection (2).

276 (c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year  
277 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution  
278 for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that  
279 eligible county, city, or town is less than or equal to the product of:

280 (i) the minimum tax revenue distribution; and

281 (ii) .90.

282 (6) (a) Population figures for purposes of this section shall be based on the most recent  
283 official census or census estimate of the United States Census Bureau.

284 (b) If a needed population estimate is not available from the United States Census  
285 Bureau, population figures shall be derived from the estimate from the Utah Population  
286 Estimates Committee created by executive order of the governor.

287 (c) The population of a county for purposes of this section shall be determined only  
288 from the unincorporated area of the county.

289 Section 5. Section **63I-1-209** is amended to read:

290 **63I-1-209. Repeal dates, Title 9.**

291 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is  
292 repealed July 1, 2014.

293 (2) Subsection 9-4-302(6), defining "qualifying city," is repealed January 1, 2013.

294 (3) Subsection 9-4-305(2), related to a grant for fiscal year 2011-12 only, is repealed  
295 January 1, 2013.

296 (4) The language in Subsection 9-4-307(2) that reads "except for Subsection  
297 9-4-305(2)" is repealed January 1, 2013.

298 (5) Subsection 9-4-307(3), requiring the Permanent Community Impact Fund Board to  
299 make a finding before making a grant to a city under Subsection 9-4-305(2), is repealed  
300 January 1, 2013.

301 [~~2~~] (6) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1,  
302 2016.

303 Section 6. Section **63I-1-259** is amended to read:

304 **63I-1-259. Repeal dates, Title 59.**

305 (1) Subsection 59-2-924(3)(g) is repealed on December 31, 2016.

306 (2) Section 59-2-924.3 is repealed on December 31, 2016.

307 (3) Section 59-9-102.5 is repealed December 31, 2020.

308 (4) The language in Subsection 59-12-205(3)(a) that reads "Except as provided in  
309 Subsection (3)(e)," is repealed January 1, 2013.

310           (5) Subsection 59-12-205(3)(e), requiring a distribution to a qualifying city to be  
311 reduced, is repealed January 1, 2013.

312           Section 7. **Effective date.**

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