

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

6

7 **LONG TITLE**

8 **Committee Note:**

9 The Revenue and Taxation Interim Committee recommended this bill.

10 **General Description:**

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

14 **Highlighted Provisions:**

15 This bill:

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

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

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

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

- 27 ▶ provides repeal dates for certain provisions related to the grant and sales and use tax



28 distributions; and

29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill provides an immediate effective date.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **9-4-302**, as last amended by Laws of Utah 2007, Chapter 303

37 **9-4-305**, as last amended by Laws of Utah 2002, Chapter 286

38 **9-4-307**, as last amended by Laws of Utah 2011, Chapter 247

39 **59-12-205**, as last amended by Laws of Utah 2011, Chapter 198

40 **63I-1-209**, as last amended by Laws of Utah 2011, Chapter 370

41 **63I-1-259**, as last amended by Laws of Utah 2011, Chapter 369



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

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

45 **9-4-302. Definitions.**

46 As used in this part:

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

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

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

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

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

59 seq.

60 (6) "Qualifying city" means a city:

61 (a) of the fifth class;

62 (b) that received a qualifying sales and use tax distribution reduction; and

63 (c) that had located within the city for one or more days during the calendar year

64 beginning on January 1, 2008:

65 (i) an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS

66 Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry

67 Classification System of the federal Executive Office of the President, Office of Management

68 and Budget; and

69 (ii) at least one establishment described in Subsection (6)(c)(i) that was not the holder

70 of a direct payment permit under Section 59-12-107.1.

71 (7) "Qualifying sales and use tax distribution reduction" means that, for the calendar

72 year beginning on January 1, 2008, the total sales and use tax distributions a city received

73 under Section 59-12-205 were reduced by at least 15% from the total sales and use tax

74 distributions the city received under Section 59-12-205 for the calendar year beginning on

75 January 1, 2007.

76 ~~[(6)]~~ (8) "Subdivision" means a county, city, town, county service area, special service

77 district, special improvement district, water conservancy district, water improvement district,

78 sewer improvement district, housing authority, building authority, school district, or public

79 postsecondary institution organized under the laws of this state.

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

81 **9-4-305. Duties -- Loans -- Interest.**

82 (1) The impact board shall:

83 (a) make grants and loans from the amounts appropriated by the Legislature out of the

84 impact fund to state agencies, subdivisions, and interlocal agencies that are or may be socially

85 or economically impacted, directly or indirectly, by mineral resource development for:

86 (i) planning;

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

88 (iii) provision of public services;

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

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

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

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

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

97 (g) perform other duties assigned to it under Sections 11-13-306 and 11-13-307.

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

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

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

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

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

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

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

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

116 (b) Each contract under Subsection [~~4~~] (5)(a) shall be:

117 (i) based on an application to the impact board from the impacted county; and

118 (ii) approved by the county legislative body.

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

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

121 **9-4-307. Impact fund administered by impact board -- Eligibility for assistance --**
122 **Review by board -- Administration costs -- Annual report.**

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

124 (i) administer the impact fund in a manner that will keep a portion of the impact fund
125 revolving;

126 (ii) determine provisions for repayment of loans;

127 (iii) establish criteria for determining eligibility for assistance under this part; and

128 (iv) consider recommendations from the School and Institutional Trust Lands

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

130 (b) (i) Criteria for awarding loans or grants made from funds described in Subsection
131 9-4-303(5) shall be consistent with Subsection 9-4-303(5).

132 (ii) Criteria for awarding grants made from funds described in Subsection
133 9-4-303(2)(c) shall be consistent with Subsection 9-4-303(6).

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

136 (2) In determining eligibility for loans and grants under this part except for Subsection
137 9-4-305(2), the impact board shall consider the following:

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

139 (b) the feasibility of the actual development of a resource that may impact the
140 subdivision or interlocal agency directly or indirectly;

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

142 (d) the borrowing capacity of the subdivision or interlocal agency, its ability and
143 willingness to sell bonds or other securities in the open market, and its current and authorized
144 indebtedness;

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

147 (f) the availability of federal assistance funds;

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

150 (h) existing public facilities and services;

151 (i) the extent of the expected direct or indirect impact upon public facilities and

152 services of the actual or prospective natural resource development in an area; and

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

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

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

162 [~~4~~] (5) The impact board may restructure all or part of the agency's or subdivision's
163 liability to repay loans for extenuating circumstances.

164 [~~5~~] (6) The impact board shall:

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

169 (b) ensure that each loan specifies the terms for repayment and is evidenced by general
170 obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate
171 subdivision or interlocal agency issued to the impact board under whatever authority for the
172 issuance of those bonds, notes, or obligations exists at the time of the loan.

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

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

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

180 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
181 **tax revenues -- Determination of population.**

182 (1) A county, city, or town, in order to maintain in effect sales and use tax ordinances

183 adopted pursuant to Section 59-12-204, shall, within 30 days of an amendment to an applicable
184 provision of Part 1, Tax Collection, adopt amendments to the county's, city's, or town's sales
185 and use tax ordinances as required to conform to the amendments to Part 1, Tax Collection.

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

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

191 (b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from
192 the sales and use tax authorized by this part shall be distributed to each county, city, and town
193 on the basis of the location of the transaction as determined under Sections 59-12-211 through
194 59-12-215; and

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

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

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

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

205 (B) city of the fifth class; or

206 (C) town;

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

210 (iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located
211 within the unincorporated area of the county for one or more days during the calendar year
212 beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121,
213 Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North

214 American Industry Classification System of the federal Executive Office of the President,
215 Office of Management and Budget; or

216 (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection
217 (3)(a)(i)(C), the city or town had located within the city or town for one or more days during
218 the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry
219 Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the
220 2002 North American Industry Classification System of the federal Executive Office of the
221 President, Office of Management and Budget; and

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

226 (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection
227 (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a
228 city or town for one or more days during the calendar year beginning on January 1, 2008, was
229 not the holder of a direct payment permit under Section 59-12-107.1.

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

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

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

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

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

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

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

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

244 (e) For fiscal year 2011-12 only, a distribution required by this Subsection (3) to a

245 qualifying city, as defined in Section 9-4-302, shall be reduced:

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

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

250 (4) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year
251 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of
252 the taxable sales within the boundaries of the county, city, or town.

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

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

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

260 (A) fiscal year 2002-03;

261 (B) fiscal year 2003-04; and

262 (C) fiscal year 2004-05.

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

264 (A) 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 2000-01; or

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

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

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

272 (B) the minimum tax revenue distribution.

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

276 that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax
277 revenue distribution equal to the payment required by Subsection (2).

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

282 (i) the minimum tax revenue distribution; and

283 (ii) .90.

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

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

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

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

292 **63I-1-209. Repeal dates, Title 9.**

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

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

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

298 (4) The language in Subsection 9-4-307(2) that reads "except for Subsection
299 9-4-305(2)" is repealed January 1, 2013.

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

303 ~~(6)~~ (6) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1,
304 2016.

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

306 **63I-1-259. Repeal dates, Title 59.**

- 307 (1) Subsection 59-2-924(3)(g) is repealed on December 31, 2016.
- 308 (2) Section 59-2-924.3 is repealed on December 31, 2016.
- 309 (3) Section 59-9-102.5 is repealed December 31, 2020.
- 310 (4) The language in Subsection 59-12-205(3)(a) that reads "Except as provided in
- 311 Subsection (3)(e)," is repealed January 1, 2013.
- 312 (5) Subsection 59-12-205(3)(e), requiring a distribution to a qualifying city to be
- 313 reduced, is repealed January 1, 2013.
- 314 Section 7. **Effective date.**
- 315 If approved by two-thirds of all the members elected to each house, this bill takes effect
- 316 upon approval by the governor, or the day following the constitutional time limit of Utah
- 317 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
- 318 the date of veto override.

Legislative Review Note
as of 11-17-11 1:58 PM

Office of Legislative Research and General Counsel