

Senator Ronald Winterton proposes the following substitute bill:

COMMUNITY IMPACT FUND BOARD AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronald Winterton

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to the Permanent Community Impact Fund Board and the use of mineral lease funds.

Highlighted Provisions:

This bill:

- ▶ modifies the membership of the Permanent Community Impact Fund Board;
- ▶ modifies the selection of the chair of the Permanent Community Impact Fund Board;
- ▶ directs a portion of the deposits in the Mineral Lease Account to be appropriated to the Seven County Infrastructure Coalition; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-14-308, as last amended by Laws of Utah 2011, Second Special Session, Chapter 1



26 **35A-8-304**, as renumbered and amended by Laws of Utah 2012, Chapter 212
27 **59-21-2**, as last amended by Laws of Utah 2018, Chapter 28



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

30 Section 1. Section **11-14-308** is amended to read:

31 **11-14-308. Special service district bonds secured by federal mineral lease**
32 **payments -- Use of bond proceeds -- Bond resolution -- Nonimpairment of appropriation**
33 **formula -- Issuance of bonds.**

34 (1) Special service districts may:

35 (a) issue bonds payable, in whole or in part, from federal mineral lease payments which
36 are to be deposited into the Mineral Lease Account under Section **59-21-1** and distributed to
37 special service districts under Subsection **59-21-2(2)(~~h~~)(i)**; or

38 (b) pledge all or any part of the mineral lease payments described in Subsection (1)(a)
39 as an additional source of payment for their general obligation bonds.

40 (2) The proceeds of these bonds may be used:

41 (a) to construct, repair, and maintain streets and roads;

42 (b) to fund any reserves and costs incidental to the issuance of the bonds and pay any
43 associated administrative costs; and

44 (c) for capital projects of the special service district.

45 (3) (a) The special service district board shall enact a resolution authorizing the
46 issuance of bonds which, until the bonds have been paid in full:

47 (i) shall be irrevocable; and

48 (ii) may not be amended in any manner that would:

49 (A) impair the rights of the bond holders; or

50 (B) jeopardize the timely payment of principal or interest when due.

51 (b) Notwithstanding any other provision of this chapter, the resolution described in
52 Subsection (3)(a) may contain covenants with the bond holder regarding:

53 (i) mineral lease payments, or their disposition;

54 (ii) the issuance of future bonds; or

55 (iii) other pertinent matters considered necessary by the governing body to:

56 (A) assure the marketability of the bonds; or

57 (B) insure the enforcement, collection, and proper application of mineral lease
58 payments.

59 (4) (a) Except as provided in Subsection (4)(b), the state may not alter, impair, or limit
60 the statutory appropriation formula provided in Subsection 59-21-2(2)(~~h~~)(i), in a manner that
61 reduces the amounts to be distributed to the special service district until the bonds and the
62 interest on the bonds are fully met and discharged. Each special service district may include
63 this pledge and undertaking of the state in these bonds.

64 (b) Nothing in this section:

65 (i) may preclude the alteration, impairment, or limitation of these bonds if adequate
66 provision is made by law for the protection of the bond holders; or

67 (ii) shall be construed:

68 (A) as a pledge guaranteeing the actual dollar amount ultimately received by individual
69 special service districts;

70 (B) to require the Department of Transportation to allocate the mineral lease payments
71 in a manner contrary to the general allocation method described in Subsection
72 59-21-2(2)(~~h~~)(i); or

73 (C) to limit the Department of Transportation in making rules or procedures allocating
74 mineral lease payments pursuant to Subsection 59-21-2(2)(~~h~~)(i).

75 (5) (a) The average annual installments of principal and interest on bonds to which
76 mineral lease payments have been pledged as the sole source of payment may not at any one
77 time exceed:

78 (i) 80% of the total mineral lease payments received by the issuing entity during the
79 fiscal year of the issuing entity immediately preceding the fiscal year in which the resolution
80 authorizing the issuance of bonds is adopted; or

81 (ii) if the bonds are issued during the first fiscal year the issuing entity is eligible to
82 receive funds, 60% of the amount estimated by the Department of Transportation to be
83 appropriated to the issuing entity in that fiscal year.

84 (b) The Department of Transportation is not liable for any loss or damage resulting
85 from reliance on the estimates.

86 (6) The final maturity date of the bonds may not exceed 15 years from the date of their
87 issuance.

88 (7) Bonds may not be issued under this section after December 31, 2020.

89 (8) Bonds which are payable solely from a special fund into which mineral lease
90 payments are deposited constitute a borrowing based solely upon the credit of the mineral lease
91 payments received or to be received by the special service district and do not constitute an
92 indebtedness or pledge of the general credit of the special service district or the state.

93 Section 2. Section **35A-8-304** is amended to read:

94 **35A-8-304. Permanent Community Impact Fund Board created -- Members --**
95 **Terms -- Chair -- Expenses.**

96 (1) There is created within the department the Permanent Community Impact Fund
97 Board composed of 11 members as follows:

98 (a) the chair of the Board of Water Resources or the chair's designee;

99 ~~[(b) the chair of the Water Quality Board or the chair's designee;]~~

100 ~~[(c)]~~ (b) the executive director of the department or the executive director's designee;

101 ~~[(d)]~~ (c) the state treasurer;

102 ~~[(e)]~~ (d) the chair of the Transportation Commission or the chair's designee;

103 ~~[(f)]~~ (e) a locally elected official who resides in Carbon, Emery, Grand, or San Juan
104 County;

105 ~~[(g)]~~ (f) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute,
106 or Wayne County;

107 ~~[(h)]~~ (g) a locally elected official who resides in Duchesne, Daggett, or Uintah County;

108 ~~[(i)]~~ (h) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or
109 Kane County; ~~[and]~~

110 ~~[(j)]~~ (i) a locally elected official from ~~[each of the two counties]~~ the county that
111 produced the most mineral lease money related to oil extraction during the previous four-year
112 period~~;~~ prior to the term of appointment~~[, as determined by the department.];~~

113 (j) a locally elected official from the county that produced the most mineral lease
114 money related to natural gas extraction during the previous four-year period prior to the term of
115 appointment; and

116 (k) a locally elected official from the county that produced the most mineral lease
117 money related to coal extraction during the previous four-year period prior to the term of
118 appointment.

119 (2) (a) The members specified under Subsections (1)~~[(f) through (j)]~~(e) through (k)
120 may not reside in the same county and shall be:

121 (i) nominated by the Board of Directors of the Southeastern Association of
122 Governments, Central Utah Association of Governments, Uintah Basin Association of
123 Governments, and Southwestern Association of Governments, respectively, except that a
124 member under ~~[Subsection (1)(j)]~~ Subsections (1)(i) through (k) shall each be nominated by the
125 Board of Directors of the Association of Governments from the region of the state in which the
126 county is located; and

127 (ii) appointed by the governor with the consent of the Senate.

128 (b) Except as required by Subsection (2)(c), as terms of current board members expire,
129 the governor shall appoint each new member or reappointed member to a four-year term.

130 (c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the
131 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
132 board members are staggered so that approximately half of the board is appointed every two
133 years.

134 (d) When a vacancy occurs in the membership for any reason, the replacement shall be
135 appointed for the unexpired term.

136 (3) The ~~[terms]~~ term of office for ~~[the members]~~ each member of the impact board
137 specified under Subsections (1)(a) through ~~[(1)(e)]~~ (d) shall run concurrently with the ~~[terms]~~
138 term of office for the ~~[councils, boards, committees, commission, departments, or offices]~~
139 entity from which the ~~[members come]~~ member comes.

140 ~~[(4) The executive director of the department, or the executive director's designee, is~~
141 ~~the chair of the impact board.]~~

142 (4) The members of the impact board shall elect a chair of the impact board for a
143 two-year term.

144 (5) The department shall provide staff support to the impact board.

145 ~~[(5)]~~ (6) A member may not receive compensation or benefits for the member's service,
146 but may receive per diem and travel expenses in accordance with:

147 (a) Section [63A-3-106](#);

148 (b) Section [63A-3-107](#); and

149 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and

150 [63A-3-107](#).

151 Section 3. Section **59-21-2** is amended to read:

152 **59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus**
153 **Account money -- Mineral Lease Account created -- Contents -- Appropriation of money**
154 **from Mineral Lease Account.**

155 (1) (a) There is created a restricted account within the General Fund known as the
156 "Mineral Bonus Account."

157 (b) The Mineral Bonus Account consists of federal mineral lease bonus payments
158 deposited pursuant to Subsection [59-21-1\(3\)](#).

159 (c) The Legislature shall make appropriations from the Mineral Bonus Account in
160 accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

161 (d) The state treasurer shall:

162 (i) invest the money in the Mineral Bonus Account by following the procedures and
163 requirements of Title 51, Chapter 7, State Money Management Act; and

164 (ii) deposit all interest or other earnings derived from the account into the Mineral
165 Bonus Account.

166 (e) The Division of Finance shall, beginning on July 1, 2017, annually deposit 30% of
167 mineral lease bonus payments deposited under Subsection (1)(b) from the previous fiscal year
168 into the Wildland Fire Suppression Fund created in Section [65A-8-204](#), up to \$2,000,000 but
169 not to exceed 20% of the amount expended in the previous fiscal year from the Wildland Fire
170 Suppression Fund.

171 (2) (a) There is created a restricted account within the General Fund known as the
172 "Mineral Lease Account."

173 (b) The Mineral Lease Account consists of federal mineral lease money deposited
174 pursuant to Subsection [59-21-1\(1\)](#).

175 (c) The Legislature shall make appropriations from the Mineral Lease Account as
176 provided in Subsection [59-21-1\(1\)](#) and this Subsection (2).

177 (d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), the Legislature shall
178 annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the
179 Permanent Community Impact Fund established by Section [35A-8-303](#).

180 (ii) For fiscal year 2016-17 only and from the amount required to be deposited under

181 Subsection (2)(d)(i), the Legislature shall appropriate \$26,000,000 of the deposits made to the
182 Mineral Lease Account to the Impacted Communities Transportation Development Restricted
183 Account established by Section 72-2-128.

184 (iii) For fiscal year 2017-18 only and from the amount required to be deposited under
185 Subsection (2)(d)(i), the Legislature shall appropriate \$27,000,000 of the deposits made to the
186 Mineral Lease Account to the Impacted Communities Transportation Development Restricted
187 Account established by Section 72-2-128.

188 (e) The Legislature shall annually appropriate 2.25% of all deposits made to the
189 Mineral Lease Account to the State Board of Education, to be used for education research and
190 experimentation in the use of staff and facilities designed to improve the quality of education in
191 Utah.

192 (f) The Legislature shall annually appropriate 2.25% of all deposits made to the
193 Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by
194 the survey having as a purpose the development and exploitation of natural resources in the
195 state.

196 (g) The Legislature shall annually appropriate 2.25% of all deposits made to the
197 Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used
198 for activities carried on by the laboratory having as a purpose the development and exploitation
199 of water resources in the state.

200 (h) The Legislature shall annually appropriate 1.5% of all deposits made to the Mineral
201 Lease Account to the Seven County Infrastructure Coalition to be used for the alleviation of
202 social, economic, and public finance impacts from the development of natural resources in the
203 state.

204 ~~(h)~~ (i) (i) The Legislature shall annually appropriate to the Division of Finance 40%
205 of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection
206 (2)~~(h)~~(i)(ii) to:

207 (A) counties;

208 (B) special service districts established:

209 (I) by counties;

210 (II) under Title 17D, Chapter 1, Special Service District Act; and

211 (III) for the purpose of constructing, repairing, or maintaining roads; or

212 (C) special service districts established:
213 (I) by counties;
214 (II) under Title 17D, Chapter 1, Special Service District Act; and
215 (III) for other purposes authorized by statute.
216 (ii) The Division of Finance shall allocate the funds specified in Subsection
217 (2)[~~(h)~~](i)(i):
218 (A) in amounts proportionate to the amount of mineral lease money generated by each
219 county; and
220 (B) to a county or special service district established by a county under Title 17D,
221 Chapter 1, Special Service District Act, as determined by the county legislative body.
222 [~~(f)~~] (j) (i) The Legislature shall annually appropriate 5% of all deposits made to the
223 Mineral Lease Account to the Department of Workforce Services to be distributed to:
224 (A) special service districts established:
225 (I) by counties;
226 (II) under Title 17D, Chapter 1, Special Service District Act; and
227 (III) for the purpose of constructing, repairing, or maintaining roads; or
228 (B) special service districts established:
229 (I) by counties;
230 (II) under Title 17D, Chapter 1, Special Service District Act; and
231 (III) for other purposes authorized by statute.
232 (ii) The Department of Workforce Services may distribute the amounts described in
233 Subsection (2)[~~(f)~~](j)(i) only to special service districts established under Title 17D, Chapter 1,
234 Special Service District Act, by counties:
235 (A) of the third, fourth, fifth, or sixth class;
236 (B) in which 4.5% or less of the mineral lease money within the state is generated; and
237 (C) that are significantly socially or economically impacted as provided in Subsection
238 (2)[~~(f)~~](j)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C.
239 Sec. 181 et seq.
240 (iii) The significant social or economic impact required under Subsection
241 (2)[~~(f)~~](j)(ii)(C) shall be as a result of:
242 (A) the transportation within the county of hydrocarbons, including solid hydrocarbons

243 as defined in Section 59-5-101;

244 (B) the employment of persons residing within the county in hydrocarbon extraction,
245 including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

246 (C) a combination of Subsections (2)(f)(j)(iii)(A) and (B).

247 (iv) For purposes of distributing the appropriations under this Subsection (2)(f)(j) to
248 special service districts established by counties under Title 17D, Chapter 1, Special Service
249 District Act, the Department of Workforce Services shall:

250 (A) (I) allocate 50% of the appropriations equally among the counties meeting the
251 requirements of Subsections (2)(f)(j)(ii) and (iii); and

252 (II) allocate 50% of the appropriations based on the ratio that the population of each
253 county meeting the requirements of Subsections (2)(f)(j)(ii) and (iii) bears to the total
254 population of all of the counties meeting the requirements of Subsections (2)(f)(j)(ii) and (iii);
255 and

256 (B) after making the allocations described in Subsection (2)(f)(j)(iv)(A), distribute the
257 allocated revenues to special service districts established by the counties under Title 17D,
258 Chapter 1, Special Service District Act, as determined by the executive director of the
259 Department of Workforce Services after consulting with the county legislative bodies of the
260 counties meeting the requirements of Subsections (2)(f)(j)(ii) and (iii).

261 (v) The executive director of the Department of Workforce Services:

262 (A) shall determine whether a county meets the requirements of Subsections
263 (2)(f)(j)(ii) and (iii);

264 (B) shall distribute the appropriations under Subsection (2)(f)(j)(i) to special service
265 districts established by counties under Title 17D, Chapter 1, Special Service District Act, that
266 meet the requirements of Subsections (2)(f)(j)(ii) and (iii); and

267 (C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
268 may make rules:

269 (I) providing a procedure for making the distributions under this Subsection (2)(f)(j)
270 to special service districts; and

271 (II) defining the term "population" for purposes of Subsection (2)(f)(j)(iv).

272 (k) (i) The Legislature shall annually make the following appropriations from the
273 Mineral Lease Account:

274 (A) an amount equal to 52 cents multiplied by the number of acres of school or
275 institutional trust lands, lands owned by the Division of Parks and Recreation, and lands owned
276 by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each
277 county in which those lands are located;

278 (B) to each county in which school or institutional trust lands are transferred to the
279 federal government after December 31, 1992, an amount equal to the number of transferred
280 acres in the county multiplied by a payment per acre equal to the difference between 52 cents
281 per acre and the per acre payment made to that county in the most recent payment under the
282 federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal
283 payment was equal to or exceeded the 52 cents per acre, in which case a payment under this
284 Subsection (2)(f)(k)(i)(B) may not be made for the transferred lands;

285 (C) to each county in which federal lands, which are entitlement lands under the federal
286 in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to
287 the number of transferred acres in the county multiplied by a payment per acre equal to the
288 difference between the most recent per acre payment made under the federal payment in lieu of
289 taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52
290 cents per acre, in which case a payment under this Subsection (2)(f)(k)(i)(C) may not be made
291 for the transferred land; and

292 (D) to a county of the fifth or sixth class, an amount equal to the product of:

293 (I) \$1,000; and

294 (II) the number of residences described in Subsection (2)(f)(k)(iv) that are located
295 within the county.

296 (ii) A county receiving money under Subsection (2)(f)(k)(i) may, as determined by
297 the county legislative body, distribute the money or a portion of the money to:

298 (A) special service districts established by the county under Title 17D, Chapter 1,
299 Special Service District Act;

300 (B) school districts; or

301 (C) public institutions of higher education.

302 (iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the
303 Division of Finance shall increase or decrease the amounts per acre provided for in Subsections
304 (2)(f)(k)(i)(A) through (C) by the average annual change in the Consumer Price Index for all

305 urban consumers published by the Department of Labor.

306 (B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance
307 shall increase or decrease the amount described in Subsection (2)[(j)](k)(i)(D)(I) by the average
308 annual change in the Consumer Price Index for all urban consumers published by the
309 Department of Labor.

310 (iv) Residences for purposes of Subsection (2)[(j)](k)(i)(D)(II) are residences that are:

311 (A) owned by:

312 (I) the Division of Parks and Recreation; or

313 (II) the Division of Wildlife Resources;

314 (B) located on lands that are owned by:

315 (I) the Division of Parks and Recreation; or

316 (II) the Division of Wildlife Resources; and

317 (C) are not subject to taxation under:

318 (I) Chapter 2, Property Tax Act; or

319 (II) Chapter 4, Privilege Tax.

320 (k) The Legislature shall annually appropriate to the Permanent Community Impact
321 Fund all deposits remaining in the Mineral Lease Account after making the appropriations
322 provided for in Subsections (2)(d) through [(j)] (k).

323 (3) (a) Each agency, board, institution of higher education, and political subdivision
324 receiving money under this chapter shall provide the Legislature, through the Office of the
325 Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual
326 basis.

327 (b) The accounting required under Subsection (3)(a) shall:

328 (i) include actual expenditures for the prior fiscal year, budgeted expenditures for the
329 current fiscal year, and planned expenditures for the following fiscal year; and

330 (ii) be reviewed by the Business, Economic Development, and Labor Appropriations
331 Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary
332 Procedures Act.