

SB0152S01 compared with SB0152

~~deleted text~~ shows text that was in SB0152 but was deleted in SB0152S01.

Inserted text shows text that was not in SB0152 but was inserted into SB0152S01.

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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 ~~receipts of~~ deposits in the ~~Permanent Community Impact Fund~~ Mineral Lease Account to be ~~directed~~ appropriated to the Seven County Infrastructure Coalition; and
- ▶ makes technical changes.

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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

35A-8-304, as renumbered and amended by Laws of Utah 2012, Chapter 212

~~35A-8-307~~59-21-2, as last amended by Laws of Utah ~~2014~~2018, Chapter ~~371~~28

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

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

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

(1) Special service districts may:

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

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

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

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

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

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

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

(i) shall be irrevocable; and

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

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

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

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

(i) mineral lease payments, or their disposition;

(ii) the issuance of future bonds; or

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

(A) assure the marketability of the bonds; or

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

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

(b) Nothing in this section:

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

(ii) shall be construed:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(c)~~ (b) the executive director of the department or the executive director's designee; ~~(d)~~

~~(d)~~ (c) the state treasurer; ~~(e)~~

~~(e)~~ (a) (d) the chair of the Transportation Commission or the chair's designee;

~~(b)~~ the director of the School and Institutional Trust Lands Administration or the director's designee;

~~(c)~~ a member of the Senate, appointed by the president of the Senate;

~~(d)~~ a member of the House of Representatives, appointed by the speaker of the House of Representatives;

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

~~(g)~~ (f) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute,

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or Wayne County;

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

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

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

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

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

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

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

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

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

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

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

(3) The ~~[terms]~~ term of office for ~~[the members]~~ each member of the impact board

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specified under Subsections (1)(a) ~~{f}~~ through ~~[(1)(e)]~~ ~~{fan}~~~~(d)~~~~(b)~~ shall run concurrently with the ~~[terms]~~ term of office for the ~~[councils, boards, committees, commission, departments, or offices]~~ entity from which the ~~[members come]~~ member comes.

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

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

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

~~{5}~~ (6) A member ~~{who is not a legislator}~~ may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section ~~{2}~~3. Section ~~{35A-8-307}~~59-21-2 is amended to read:

~~{35A-8-307. Impact fund administered by impact board -- Eligibility for assistance -- Review by board -- Administration costs -- Annual report.~~

~~—— (1) (a) The impact board shall:~~

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

~~—— (ii) determine provisions for repayment of loans;~~

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

~~—— (iv) consider recommendations}~~59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of money from Mineral Lease Account.

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

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

(c) The Legislature shall make appropriations from the ~~{School and Institutional Trust~~

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~~Lands Administration when awarding a grant described in Subsection 35A-8-303(6).~~

~~—— (b) (i) The criteria for awarding loans or grants made from funds described in Subsection 35A-8-303(5) shall be consistent with the requirements of Subsection 35A-8-303(5).~~

~~—— (ii) The criteria for awarding grants made from funds described in Subsection 35A-8-303(2)(c) shall be consistent with the requirements of Subsection 35A-8-303(6).~~

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

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

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

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

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

~~—— (d) the borrowing capacity of the subdivision or interlocal agency, including:~~

~~—— (i) its ability and willingness to sell bonds or other securities in the open market; and~~

~~—— (ii) its current and authorized indebtedness;~~

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

~~—— (f) the availability of federal assistance funds;~~

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

~~—— (h) existing public facilities and services;~~

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

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

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

~~—— (4) The impact board may restructure all or part of the agency's or subdivision's~~

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~~liability to repay loans for extenuating circumstances.~~

~~—— (5) The impact board shall:~~

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

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

~~—— [(6) The impact board shall allocate from the impact fund to the department those funds that are appropriated by} Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.~~

(d) The state treasurer shall:

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

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

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

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

(b) The Mineral Lease Account consists of federal mineral lease money deposited pursuant to Subsection 59-21-1(1).

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

(d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), the Legislature {for the administration of the impact fund, but this amount may not exceed 2% of the annual receipts to

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~~the impact fund.~~

~~_____ (6) Subject to appropriation by~~ shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

(ii) For fiscal year 2016-17 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature ~~{, the impact board}~~ shall ~~{allocate from the impact fund:~~

~~_____ (a) to the department an amount that may not exceed 2% of the annual receipts to the impact fund for the administration of the impact fund; and~~

~~_____ (b)}~~ appropriate \$26,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.

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

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

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

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

(h) The Legislature shall annually appropriate 1.5% of all deposits made to the Mineral Lease Account to the Seven County Infrastructure Coalition ~~{an amount equal to 2.5% of the annual receipts to the impact fund}~~ to be used for the alleviation of social, economic, and public finance impacts from the development of natural resources in the state ~~{and in~~

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accordance with this part.

~~(7) The department shall include in the annual written report described in Section 35A-1-109, the number and type of loans and grants made as well as a list of subdivisions and interlocal agencies that received this assistance.~~

1:

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

(A) counties;

(B) special service districts established:

(I) by counties;

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

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

(C) special service districts established:

(I) by counties;

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

(III) for other purposes authorized by statute.

~~(ii) The Division of Finance shall allocate the funds specified in Subsection (2)~~(f)~~(i)(i):~~

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17D, Chapter 1, Special Service District Act, as determined by the county legislative body.

~~(f)~~ (j) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Workforce Services to be distributed to:

(A) special service districts established:

(I) by counties;

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

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

(B) special service districts established:

(I) by counties;

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

(III) for other purposes authorized by statute.

(ii) The Department of Workforce Services may distribute the amounts described in Subsection (2)[(†)](j)(i) only to special service districts established under Title 17D, Chapter 1, Special Service District Act, by counties:

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

(B) in which 4.5% or less of the mineral lease money within the state is generated; and

(C) that are significantly socially or economically impacted as provided in Subsection (2)[(†)](j)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

(iii) The significant social or economic impact required under Subsection (2)[(†)](j)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

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

(C) a combination of Subsections (2)[(†)](j)(iii)(A) and (B).

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

(A) (I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (2)[(†)](j)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of each county meeting the requirements of Subsections (2)[(†)](j)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (2)[(†)](j)(ii) and (iii); and

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

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

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

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

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

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

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

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

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

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

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

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

(I) \$1,000; and

(II) the number of residences described in Subsection (2)[(j)](k)(iv) that are located within the county.

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

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

(B) school districts; or

(C) public institutions of higher education.

(iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (2)[(j)](k)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

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

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

(A) owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

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

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

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

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

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