

## SB0241S01 compared with SB0241

~~{deleted text}~~ shows text that was in SB0241 but was deleted in SB0241S01.

inserted text shows text that was not in SB0241 but was inserted into SB0241S01.

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Senator Jerry W. Stevenson proposes the following substitute bill:

### UTAH INLAND PORT AUTHORITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jerry W. Stevenson**

House Sponsor: ~~{~~ Mike Schultz

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#### LONG TITLE

##### General Description:

This bill modifies provisions relating to the Utah Inland Port Authority.

##### Highlighted Provisions:

This bill:

- ▶ modifies definitions applicable to the Utah Inland Port Authority;
- ▶ eliminates language relating to the forgiveness of a loan from the inland port infrastructure loan fund;
- ▶ enacts a provision relating to services to be provided the Authority by specified state agencies;
- ▶ requires the Authority board to adopt a procurement policy;
- ▶ modifies board quorum provisions;
- ▶ modifies provisions relating to the loan committee for loans from the inland port

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infrastructure revolving loan fund and requires the approval of the Authority board and the Executive Appropriations Committee for a loan from the fund;

▶ repeals a provision relating to projects benefitting authority jurisdictional land;

{ —————▶ modifies board quorum provisions;

- ‡ ▶ modifies the allowable uses of authority funds, including the use of funds for a conservation easement;
- ▶ eliminates the requirement for property owner approval for inclusion of the owner's property in a project area but requires the Authority to exclude property from a proposed project area if the owner requests to have the property excluded from a proposed project area;
- ▶ modifies the allowable uses of property tax differential;
- ▶ authorizes the Authority to create a remediation project area for the remediation of contaminated land and provides for property tax differential to be used to repay remediation costs;
- ▶ provides immunity for a government owner of contaminated land under certain circumstances;
- ▶ modifies provisions relating to property tax differential to be paid to the Authority from authority jurisdictional land and from areas outside authority jurisdictional land;
- ▶ modifies provisions relating to a business recruitment incentive;
- ▶ repeals obsolete language and makes other technical and conforming changes;
- ▶ modifies public infrastructure district provisions relating to the Authority;
- ▶ includes the Authority as a qualifying jurisdiction under provisions relating to the nondisclosure of certain tax information; and
- ▶ provides for the transfer of funds from the State Infrastructure Bank Fund to the inland port infrastructure revolving loan fund.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

This bill provides a special effective date.

### **Utah Code Sections Affected:**

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### AMENDS:

11-58-102, as last amended by Laws of Utah 2022, Chapter 82

11-58-106, as last amended by Laws of Utah 2022, Chapters 82 and 207

11-58-205, as last amended by Laws of Utah 2022, Chapter 82

11-58-206, as last amended by Laws of Utah 2019, Chapter 399

~~11-58-207, as enacted by Laws of Utah 2018, Chapter 179~~

11-58-302, as last amended by Laws of Utah 2022, Chapter 82

11-58-303, as last amended by Laws of Utah 2022, Chapter 82

11-58-501, as last amended by Laws of Utah 2019, Chapter 399

11-58-505, as last amended by Laws of Utah 2020, Chapter 126

11-58-601, as last amended by Laws of Utah 2022, Chapter 82

11-58-602, as last amended by Laws of Utah 2022, Chapter 82

11-58-603, as enacted by Laws of Utah 2022, Chapter 82

11-58-604, as enacted by Laws of Utah 2022, Chapter 82

17D-4-201, as renumbered and amended by Laws of Utah 2021, Chapter 314

17D-4-203, as last amended by Laws of Utah 2022, Chapter 82

59-1-403, as last amended by Laws of Utah 2022, Chapter 447

63A-3-401.5, as last amended by Laws of Utah 2022, Chapters 82 and 237

63A-3-402, as last amended by Laws of Utah 2022, Chapter 237

63B-27-101, as last amended by Laws of Utah 2022, Chapter 463

63G-7-201, as last amended by Laws of Utah 2021, Chapter 352

72-2-202, as last amended by Laws of Utah 2022, Chapter 463

### ENACTS:

11-58-600.5, Utah Code Annotated 1953

11-58-600.7, Utah Code Annotated 1953

11-58-605, Utah Code Annotated 1953

11-58-606, Utah Code Annotated 1953

78B-6-2401, Utah Code Annotated 1953

78B-6-2402, Utah Code Annotated 1953

### REPEALS:

11-58-207, as enacted by Laws of Utah 2018, Chapter 179

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

Section 1. Section **11-58-102** is amended to read:

### **11-58-102. Definitions.**

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated:

(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a) (i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in [~~Subsection 11-58-601(5)~~] Section 11-58-600.7, the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Contaminated land" means land:

(a) within a project area; and

(b) that contains hazardous materials, as defined in Section 19-6-302, ~~for~~ hazardous substances, as defined in Section 19-6-302, or landfill material on, in, or under the land.

~~[(6)] (7)~~ "Development" means:

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(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection [~~(6)~~] (7)(a).

[~~(7)~~] (8) "Development project" means a project for the development of land within a project area.

[~~(8)~~] (9) "Inland port" means one or more sites that:

(a) contain multimodal facilities, intermodal facilities, or other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

[~~(9)~~] (10) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection [~~(8)~~] (9);

(c) that complements or supports the purposes of an inland port, as stated in Subsection [~~(8)~~] (9); or

(d) that depends upon the presence of the inland port for the viability of the use.

[~~(10)~~] (11) "Intermodal facility" means a facility for transferring containerized cargo between rail, truck, air, or other transportation modes.

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(12) "Landfill material" means garbage, waste, debris, or other materials disposed of or placed in a landfill.

~~(11)~~ ~~(12)~~ 13 "Multimodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

~~(12)~~ ~~(13)~~ 14 "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(3) who does not have the power to vote on matters of authority business.

~~(13)~~ ~~(14)~~ 15 "Project area" means:

- (a) the authority jurisdictional land, subject to Section 11-58-605; or
- (b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

~~(14)~~ ~~(15)~~ 16 "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

~~(15)~~ ~~(16)~~ 17 "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

~~(16)~~ ~~(17)~~ 18 "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

~~(17)~~ ~~(18)~~ 19 "Property tax differential":

- (a) means the difference between:
    - (i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and
    - (ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and
  - (b) does not include property tax revenue from:
    - (i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;
    - (ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330;
- or
- (iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general

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obligation bond.

~~[(18)]~~ ~~(19)~~ (20) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or  
(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

~~[(19)]~~ ~~(20)~~ (21) (a) "Public infrastructure and improvements" ~~[(a)]~~ means infrastructure, improvements, facilities, or buildings that:

(i) (A) benefit the public ~~and (ii) (A) and~~ are owned by a public entity or a utility; or  
(B) benefit the public and are publicly maintained or operated by a public entity; or  
(ii) (A) are privately owned;  
(B) benefit the public;  
(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to applicable county or municipal design and safety standards.

(b) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide:  
(A) water, chilled water, or steam; or  
(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;  
(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) an inland port; and

(iv) infrastructure, improvements, facilities, or buildings that ~~[(A) are privately owned; (B) benefit the public; (C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and (D) are built according to the applicable county or municipal design and safety standards for public infrastructure.]~~ are developed as part of a remediation project.

~~(21)~~ (22) "Remediation" includes:

(a) activities for the cleanup, rehabilitation, and development of contaminated land;

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and

(b) acquiring an interest in land within a remediation project area.

(~~(22)~~23) "Remediation differential" means property tax differential generated from a remediation project area.

(~~(23)~~24) "Remediation project" means a project for the remediation of contaminated land that:

(a) is owned by:

(i) the state or a department, division, or other instrumentality of the state;

(ii) an independent entity, as defined in Section 63E-1-102; or

(iii) a political subdivision of the state; and

(b) became contaminated land before the owner described in Subsection (23)(a) obtained ownership of the land.

(~~(24)~~25) "Remediation project area" means a project area consisting of contaminated land that is or is expected to become the subject of a remediation project.

(~~(20)~~ (~~(25)~~26) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(~~(21)~~ (~~(26)~~27) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(~~(22)~~ (~~(27)~~28) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(~~(23)~~ (~~(28)~~29) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 2. Section **11-58-106** is amended to read:

**11-58-106. Loan approval committee -- Approval of infrastructure loans.**

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section



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63A-3-401.5.

(d) "Inland port fund" means the same as that term is defined in Section 63A-3-401.5.

~~[(d)]~~ (e) "Loan approval committee" means a committee [consisting of the individuals who are the voting members of the board {

~~— (2) The loan approval committee may approve }~~ established under Subsection (2).

(2) (a) The authority shall establish a loan committee consisting of:

(i) two individuals with expertise in public finance or infrastructure development, appointed by the governor;

(ii) one individual with expertise in public finance or infrastructure development, appointed by the president of the Senate;

(iii) one individual with expertise in public finance or infrastructure development, appointed by the speaker of the House of Representatives; and

(iv) one individual with expertise in public finance or infrastructure development, appointed jointly by the president of the Senate and the speaker of the House of Representatives.

(b) A board member may not be appointed to or serve as a member of the loan committee.

~~[(2)]~~ (3) (a) The loan [approval] committee may [approve] recommend for board approval an infrastructure loan from the inland port fund ~~[, as defined in Section 63A-3-401.5.]~~ to a borrower for an infrastructure project undertaken by the borrower.

~~{3} (a) The loan approval committee shall establish }~~ b) An infrastructure loan from the inland port fund may not be made unless:

(i) the infrastructure loan is recommended by the loan committee; and

(ii) the board approves the infrastructure loan.

~~[(3)]~~ (4) (a) [The] If the loan [approval] committee recommends an infrastructure loan, the loan committee shall [establish] recommend the terms of an infrastructure loan in accordance with Section 63A-3-404.

(b) The ~~[loan approval committee]~~ board shall require the terms of an infrastructure loan secured by property tax differential to include a requirement that money from the infrastructure loan be used only for an infrastructure project within the project area that generates the property tax differential.

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~~[(c) The terms of an infrastructure loan that the loan approval committee approves may include provisions allowing for the infrastructure loan to be forgiven if:]~~

~~[(i) the infrastructure loan is to a public university in the state;]~~

~~[(ii) the infrastructure loan is to fund a vehicle electrification pilot project;]~~

~~[(iii) the amount of the infrastructure loan does not exceed \$15,000,000; and]~~

~~[(iv) the public university receives matching funds for the vehicle electrification pilot project from another source.]~~

~~[(4)]~~ (5) (a) The ~~[loan approval committee shall]~~ board may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(b) With respect to infrastructure loan requests for an infrastructure project on authority jurisdictional land, the policies and guidelines established under Subsection ~~[(4)(a)]~~ (5)(a) shall give priority to an infrastructure loan request that furthers the policies and best practices incorporated into the environmental sustainability component of the authority's business plan under Subsection 11-58-202(1)(a).

~~[(5)]~~ (6) Within 60 days after the execution of an infrastructure loan, the ~~[loan approval committee]~~ board shall report the infrastructure loan, including the loan amount, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

~~[(6)]~~ (7) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

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

Section 3. Section **11-58-205** is amended to read:

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**11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Disclosure by nonauthority governing body member -- Services from state agencies -- Procurement policy.**

(1) Except as otherwise provided in this chapter, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5) (a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

- (i) determined by the municipality; and
- (ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.

(6) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

(7) (a) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar

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zoning and a similar development level.

(b) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(8) (a) As used in this Subsection (8):

(i) "Direct financial benefit" means the same as that term is defined in Section 11-58-304.

(ii) "Nonauthority governing body member" means a member of the board or other body that has authority to make decisions for a nonauthority government owner.

(iii) "Nonauthority government owner" mean a state agency or nonauthority local government entity that owns land that is part of the authority jurisdictional land.

(iv) "Nonauthority local government entity":

(A) means a county, city, town, metro township, local district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) "State agency" means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection (8)(b) shall describe, as applicable:

(i) the nonauthority governing body member's ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection (8)(b) to submit a written disclosure shall submit the disclosure no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority

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jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection (8), if that date is later than the period described in Subsection (8)(d)(i).

(e) A written disclosure submitted under this Subsection (8) is a public record.

~~[(9) No later than December 31, 2022, a primary municipality, as defined in Section 11-58-601, shall enter into an agreement with the authority under which the primary municipality agrees to facilitate the efficient processing of land use applications, as defined in Section 10-9a-103, relating to authority jurisdictional land within the primary municipality, including providing for at least one full-time employee as a single point of contact for the processing of those land use applications.]~~

~~(9) (a) The authority may request and, upon request, shall receive:~~

~~(~~f~~~~a~~~~i~~) fuel dispensing and motor pool services provided by the Division of Fleet~~

~~Operations;~~

~~(~~f~~~~b~~~~i~~) surplus property services provided by the Division of Purchasing and General~~

~~Services;~~

~~(~~f~~~~c~~~~i~~~~i~~) information technology services provided by the Division of Technology~~

~~Services;~~

~~(~~f~~~~d~~~~i~~~~v~~) archive services provided by the Division of Archives and Records Service;~~

~~(~~f~~~~e~~~~v~~) financial services provided by the Division of Finance;~~

~~(~~f~~~~f~~~~v~~~~i~~) human resources services provided by the Division of Human Resource~~

~~Management;~~

~~(~~f~~~~g~~~~v~~~~i~~) legal services provided by the Office of the Attorney General; and~~

~~(~~f~~~~h~~~~v~~~~i~~~~i~~~~i~~) banking services provided by the Office of the State Treasurer.~~

~~(b) Nothing in Subsection (9)(a) may be construed to relieve the authority of the obligation to pay the applicable fee for the service provided.~~

~~(10) (a) To govern authority procurements, the board shall adopt a procurement policy that the board determines to be substantially consistent with applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.~~

~~(b) The board may delegate to the executive director the responsibility to adopt a~~

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procurement policy.

(c) The board's determination under Subsection (10)(a) of substantial consistency is final and conclusive.

Section 4. Section **11-58-206** is amended to read:

### **11-58-206. Port authority funds.**

The authority may use authority funds for any purpose authorized under this chapter, including:

- (1) promoting, facilitating, and advancing inland port uses;
- (2) owning and operating an intermodal facility; ~~[and]~~
- (3) the remediation of contaminated land within a project area; and

~~[(3)]~~ (4) paying any consulting fees and staff salaries and other administrative, overhead, legal, and operating expenses of the authority.

Section 5. Section ~~{11-58-207}~~; 11-58-302 is amended to read:

~~{~~ 11-58-207. Projects benefitting authority jurisdictional land.

~~———— To foster economic development within and enhance the uses of the authority jurisdictional land[- (1)]; the Department of Transportation shall:~~

~~———— (1) fund, from money designated in the Transportation Investment Fund for that purpose, the completion of 2550 South from 5600 West to 8000 West, with matching funds from the county in which the road is located; and~~

~~———— (2) [the county in which the proposed connection is located shall study a connection of] work with the authority and other stakeholders to study 7200 West between SR 201 and I-80.~~

~~———— Section 6. Section 11-58-302 is amended to read:~~

~~†~~ 11-58-302. Number of board members -- Appointment -- Vacancies.

(1) The authority's board shall consist of five voting members, as provided in Subsection (2).

(2) (a) The governor shall appoint as board members two individuals who are not elected government officials:

(i) one of whom shall be an individual engaged in statewide economic development or corporate recruitment and retention; and

(ii) one of whom shall be an individual engaged in statewide trade, import and export activities, foreign direct investment, or public-private partnerships.

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(b) The president of the Senate shall appoint as a board member one individual with relevant business expertise.

(c) The speaker of the House of Representatives shall appoint as a board member one individual with relevant business expertise.

(d) The president of the Senate and speaker of the House of Representatives shall jointly appoint as a board member one individual with relevant business expertise.

(3) (a) The board shall include three nonvoting board members.

(b) The board shall appoint as nonvoting board members two individuals with expertise in transportation and logistics.

(c) One of the nonvoting board members shall be a member of the Salt Lake City Council, designated by the Salt Lake City Council, who represents a council district whose boundary includes authority jurisdictional land.

(d) The board may set the term of office for nonvoting board members appointed under Subsection (3)(b).

(4) An individual required under Subsection (2) to appoint a board member shall appoint each initial board member the individual is required to appoint no later than June 1, 2022.

(5) (a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) A person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(6) A member of the board appointed under Subsection (2) serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the individual or individuals who appointed the member.

(7) Upon a vote of a majority of all [~~board~~] voting members, the board may appoint a board chair and any other officer of the board.

(8) The board may appoint one or more advisory committees that may include individuals from impacted public entities, community organizations, environmental organizations, business organizations, or other organizations or associations.

Section ~~7~~6. Section **11-58-303** is amended to read:

**11-58-303. Term of board members -- Quorum -- Compensation.**

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(1) The term of a board member appointed under Subsection 11-58-302(2) is four years, except that the initial term of one of the two members appointed under Subsection 11-58-302(2)(a) and of the member appointed under Subsection 11-58-302(2)(d) is two years.

(2) Each board member shall serve until a successor is duly appointed and qualified.

(3) A board member may serve multiple terms if duly appointed to serve each term under Subsection 11-58-302(2).

(4) A majority of [~~board~~] voting members constitutes a quorum, and the action of a majority of [~~a quorum~~] voting members constitutes action of the board.

(5) (a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member as allowed in:

(i) Sections 63A-3-106 and 63A-3-107; and

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

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section ~~8~~7. Section **11-58-501** is amended to read:

**11-58-501. Preparation of project area plan -- Required contents of project area plan.**

(1) (a) [~~The~~] Subject to Section 11-58-605, the authority jurisdictional land constitutes a single project area.

(b) The authority is not required to adopt a project area plan for a project area consisting of the authority jurisdictional land.

(2) (a) The board may adopt a project area plan for land that is outside the authority jurisdictional land, as provided in this part, if the board receives written consent to include the land in the project area described in the project area plan from[~~-(i)~~], as applicable:

[~~(A)~~] (i) the legislative body of the county in whose unincorporated area the land is located; or

[~~(B)~~] (ii) the legislative body of the municipality in which the land is located[~~;-and~~]

[~~(ii) the owner of the land.~~]

(b) (i) An owner of land proposed to be included within a project area may request that



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the owner's land be excluded from the project area.

(ii) A request under Subsection (2)(b)(i) shall be submitted to the board:

(A) in writing; and

(B) no more than 45 days after the public meeting under Subsection 11-58-502(1).

~~[(b)]~~ (c) Land included or to be included within a project area need not be contiguous or in close proximity to the authority jurisdictional land.

~~[(c)]~~ (d) In order to adopt a project area plan, the board shall:

(i) prepare a draft project area plan;

(ii) give notice as required under Subsection 11-58-502(2);

(iii) hold at least one public meeting, as required under Subsection 11-58-502(1); and

(iv) after holding at least one public meeting and subject to ~~[Subsection (2)(d)]~~

Subsections (2)(b) and (e), adopt the draft project area plan as the project area plan.

~~[(d)]~~ (e) Before adopting a draft project area plan as the project area plan, the board:

(i) shall eliminate from the proposed project area the land of any owner who requests the owner's land to be excluded from the project area under Subsection (2)(b); and

(ii) may make other modifications to the draft project area plan that the board considers necessary or appropriate.

(3) Each project area plan and draft project area plan shall contain:

(a) a legal description of the boundary of the project area;

(b) the authority's purposes and intent with respect to the project area; and

(c) the board's findings and determination that:

(i) there is a need to effectuate a public purpose;

(ii) there is a public benefit to the proposed development project;

(iii) it is economically sound and feasible to adopt and carry out the project area plan;

and

(iv) carrying out the project area plan will promote the goals and objectives stated in Subsection 11-58-203(1).

Section ~~9~~8. Section **11-58-505** is amended to read:

### **11-58-505. Project area budget.**

(1) Before the authority may use the property tax differential from a project area, the board shall prepare and adopt a project area budget.

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(2) A project area budget shall include:

(a) the base taxable value of property in the project area;

(b) the projected property tax differential expected to be generated within the project area;

(c) the amount of the property tax differential expected to be used to implement the project area plan, including the estimated amount of the property tax differential to be used for:

(i) land acquisition[;];

(ii) public [improvements,] infrastructure and improvements[;];

(iii) a remediation project, if applicable; and

(iv) loans, grants, or other incentives to private and public entities;

(d) the property tax differential expected to be used to cover the cost of administering the project area plan; ~~[and]~~

(e) the amount of property tax differential expected to be shared with other taxing entities; and

~~[(e)]~~ (f) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(3) The board may amend an adopted project area budget as and when the board considers it appropriate.

(4) For a project area that consists of the authority jurisdictional land, the budget requirements of this part are met by the authority complying with the budget requirements of Part 8, Port Authority Budget, Reporting, and Audits.

Section ~~{10}9~~. Section **11-58-600.5** is enacted to read:

### **11-58-600.5. Definitions.**

As used in this part:

(1) "General differential" means property tax differential generated by a property tax levied:

(a) on property that is not part of the authority jurisdictional land or within a remediation project area; and

(b) by all taxing entities.

(2) "Nonmunicipal differential" means property tax differential generated from a

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property tax imposed:

(a) on property that is part of the authority jurisdictional land; and

(b) by all taxing entities other than the primary municipality.

(3) "Primary municipality" means the municipality that has more authority jurisdictional land within the municipality's boundary than is included within the boundary of any other municipality.

(4) "Primary municipality differential" means property tax differential generated by a property tax levied:

(a) on property in the reduced area; and

(b) by the primary municipality.

(5) "Primary municipality's agency" means the community development and renewal agency created by a primary municipality.

(6) "Reduced area" means the authority jurisdictional land that is within a primary municipality, excluding:

(a) an area described in Subsection 11-58-600.7(1);

(b) a parcel of land described in Subsection 11-56-600.7(2); and

(c) a remediation project area, if a remediation project area is created under Section 11-58-605.

Section ~~11-58-605~~10. Section **11-58-600.7** is enacted to read:

**11-58-600.7. Limit on tax differential the authority may receive from authority jurisdictional land.**

The authority may not receive:

(1) a taxing entity's portion of property tax differential generated from an area that is part of the authority jurisdictional land and included within a community reinvestment project area under a community reinvestment project area plan, as defined in Section 17C-1-102, adopted before October 1, 2018, if the taxing entity has, before October 1, 2018, entered into a fully executed, legally binding agreement under which the taxing entity agrees to the use of the taxing entity's tax increment, as defined in Section 17C-1-102, under the community reinvestment project area plan; or

(2) property tax differential from a parcel of land:

(a) that is part of the authority jurisdictional land;

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(b) that was substantially developed before December 1, 2018;

(c) for which a certificate of occupancy was issued before December 1, 2018; and

(d) that is identified in a list that the municipality in which the land is located provides to the authority and the county assessor by April 1, 2020.

Section ~~{12}~~11. Section **11-58-601** is amended to read:

### **11-58-601. General differential and nonmunicipal differential.**

(1) As used in this section:

(a) "Designation resolution" means a resolution adopted by the board that designates a transition date for the parcel specified in the resolution.

~~[(b) "Exempt area" means the authority jurisdictional land that is within a primary municipality, excluding areas described in Subsection (5)(a) and parcels of land described in Subsection (5)(b).]~~

~~[(c) "Exempt area property tax" means the same as that term is defined in Section 11-58-604.]~~

~~[(d) "Post-designation differential" means 75% of property tax differential generated from a post-designation parcel.]~~

~~[(e)] (b) "Post-designation parcel" means a parcel within a project area after the transition date for that parcel.~~

~~[(f) "Pre-designation differential" means 75% of property tax differential generated from all pre-designation parcels within a project area.]~~

~~[(g)] (c) "Pre-designation parcel" means a parcel within a project area before the transition date for that parcel.~~

~~[(h) "Primary municipality" means the municipality that has more authority jurisdictional land within the municipality's boundary than is included within the boundary of any other municipality.]~~

~~[(i)] (d) "Transition date" means the date indicated in a designation resolution after which the ~~[authority is to be paid post-designation differential for the parcel that is the subject of a designation resolution.]~~ parcel that is the subject of the designation resolution is a post-designation parcel.~~

(2) This section applies to nonmunicipal differential and general differential to be paid to the authority.

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~~[(2)(a)]~~ (3) The authority shall be paid ~~[pre-designation]~~ 75% of nonmunicipal differential generated [within the authority jurisdictional land] from a pre-designation parcel that is part of the authority jurisdictional land:

~~[(i)]~~ (a) for the period beginning November 2019 and ending the earlier of:

(i) the transition date for that parcel; and

(ii) November 30, 2044; and

~~[(ii)]~~ (b) for a period of 15 years following ~~[the period described in Subsection (2)(a)(i)]~~ November 2044 if, before the end of ~~[the period described in Subsection (2)(a)(i),]~~ November 2044:

(i) the parcel has not become a post-designation parcel; and

(ii) the board adopts a resolution [extending the period described in Subsection (2)(a)(i) for 15 years] approving the 15-year extension.

~~[(b) The authority shall be paid pre-designation differential generated within a project area, other than the authority jurisdictional land:]~~

~~[(i) for a period of 25 years beginning the date the board adopts a project area plan under Section 11-58-502 establishing the project area; and]~~

~~[(ii) for a period of 15 years following the period described in Subsection (2)(b)(i) if, before the end of the period described in Subsection (2)(b)(i), the board adopts a resolution extending the period described in Subsection (2)(b)(i) for 15 years.]~~

~~[(3) The]~~ (4) (a) As provided in Subsection (4)(b), the authority shall be paid [post-designation]:

(i) 75% of nonmunicipal differential generated from a post-designation parcel that is part of the authority jurisdictional land; and

(ii) 75% of general differential generated from a post-designation parcel[:] that is not part of the authority jurisdictional land.

(b) The property tax differential paid under Subsection (4)(a) from a post-designation parcel shall be paid:

~~[(a)]~~ (i) for a period of 25 years beginning on the transition date for that parcel; and

~~[(b)]~~ (ii) for a period of an additional 15 years beyond the period stated in Subsection ~~[(3)(a)]~~ (4)(b)(i) if the board determines by resolution that the additional years of ~~[post-designation]~~ nonmunicipal differential or general differential, as the case may be, from

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that parcel will produce a significant benefit.

~~[(4)]~~ (5) (a) For purposes of this section, the authority may designate an improved portion of a parcel in a project area as a separate parcel.

(b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection ~~[(4)]~~ (5)(a) does not constitute a subdivision, as defined in Section 10-9a-103 or Section 17-27a-103.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection ~~[(4)]~~ (5)(a).

~~[(5) The authority may not receive:]~~

~~[(a) a taxing entity's portion of property tax differential generated from an area included within a community reinvestment project area under a community reinvestment project area plan, as defined in Section 17C-1-102, adopted before October 1, 2018, if the taxing entity has, before October 1, 2018, entered into a fully executed, legally binding agreement under which the taxing entity agrees to the use of its tax increment, as defined in Section 17C-1-102, under the community reinvestment project area plan; or]~~

~~[(b) property tax differential from a parcel of land:]~~

~~[(i) that was substantially developed before December 1, 2018;]~~

~~[(ii) for which a certificate of occupancy was issued before December 1, 2018; and]~~

~~[(iii) that is identified in a list that the municipality in which the land is located provides to the authority and the county assessor by April 1, 2020.]~~

~~[(6)(a) Subsection (6)(b) applies if:]~~

~~[(i) the primary municipality, the primary municipality's agency, as defined in Section 11-58-604, and the authority have entered into the agreement described in Section 11-58-604; and]~~

~~[(ii) the primary municipality and the authority have entered into the agreement described in Subsection 11-58-205(9).]~~

~~[(b) If the conditions under Subsection (6)(a) have been met, beginning with the first tax year that begins on or after January 1, 2023:]~~

~~[(i) the distribution of exempt area property tax to the authority:]~~

~~[(A) is not governed by Subsections (2) and (3); and]~~

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~~[(B) is governed by Section 11-58-604; and]~~

~~[(ii) the primary municipality shall be paid, for the primary municipality's use for municipal operations, all exempt area property tax remaining after the payment of exempt area property tax as required under Section 11-58-604.]~~

~~[(7)(a) As used in this Subsection (7):]~~

~~[(i) "Agency land" means authority jurisdictional land that is within the boundary of an eligible community reinvestment agency and from which the authority is paid property tax differential.]~~

~~[(ii) "Applicable differential" means the amount of property tax differential paid to the authority that is generated from agency land.]~~

~~[(iii) "Eligible community reinvestment agency" means the community reinvestment agency in which agency land is located.]~~

~~[(b) The authority shall pay 10% of applicable differential to the eligible community reinvestment agency, to be used for affordable housing as provided in Section 17C-1-412.]~~

~~[(8)(a) Subject to Subsection (8)(b), a county that collects property tax on property within a project area shall, in the manner and at the time provided in Section 59-2-1365:]~~

~~[(i) pay and distribute to the authority the property tax differential that the authority is entitled to collect under this chapter, including exempt area property tax the authority is entitled to collect under Section 11-58-604;]~~

~~[(ii) pay and distribute to a primary municipality's agency, as defined in Section 11-58-604, the exempt area property tax that the primary municipality's agency is required to use for affordable housing, as provided in Subsection 11-58-604(4)(c); and]~~

~~[(iii) pay and distribute to a primary municipality the exempt area property tax described in Subsection (6)(b)(ii).]~~

~~[(b) For property tax differential that a county collects for tax year 2019, a county shall pay and distribute to the authority, on or before June 30, 2020, the property tax differential that the authority is entitled to collect:]~~

~~[(i) according to the provisions of this section; and]~~

~~[(ii) based on the boundary of the authority jurisdictional land as of May 31, 2020.]~~

~~[(9) Notwithstanding any other provision of this chapter, beginning with the first tax year that begins on or after January 1, 2023, the authority may not use the portion of property~~

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~~tax differential generated by a property tax levied by a primary municipality on the exempt area unless the primary municipality, the primary municipality's agency, as defined in Section 11-58-604, and the authority have entered into an agreement as provided in Section 11-58-604.]~~

Section ~~13~~12. Section **11-58-602** is amended to read:

### **11-58-602. Allowable uses of property tax differential and other funds.**

(1) (a) The authority may use money from property tax differential, money the authority receives from the state, money the authority receives under Subsection 59-12-205(2)(a)(ii)(C), and other money available to the authority:

(i) for any purpose authorized under this chapter;

(ii) for administrative, overhead, legal, consulting, and other operating expenses of the authority;

(iii) to pay for, including financing or refinancing, all or part of the development of land within a project area, including assisting the ongoing operation of a development or facility within the project area;

(iv) to pay the cost of the installation and construction of public infrastructure and improvements within the project area from which the property tax differential funds were collected;

(v) to pay the cost of the installation of public infrastructure and improvements outside a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

(vi) to pay to a community reinvestment agency for affordable housing, as provided in Subsection ~~11-58-601(7)~~ 11-58-606(2);

(vii) to pay the principal and interest on bonds issued by the authority; ~~[and]~~

(viii) to pay the cost of acquiring a conservation easement on land that is part of or adjacent to authority jurisdictional land:

(A) for the perpetual preservation of the land from development; and

(B) to provide a buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land; and

~~[(viii)]~~ (ix) subject to Subsection (1)(b), to encourage, incentivize, or require development that:



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(A) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;

(B) mitigates traffic congestion; or

(C) uses high efficiency building construction and operation.

(b) (i) (A) The authority shall establish minimum mitigation and environmental standards that a landowner is required to meet to qualify for the use of property tax differential under Subsection (1)(a)~~(viii)~~(ix) in the landowner's development.

(B) Minimum mitigation and environmental standards established under Subsection (1)(b)(i)(A) shall include a standard prohibiting the use of property tax differential [as a business recruitment incentive, as defined in Section 11-58-603](#), for new commercial or industrial development or an expansion of existing commercial or industrial development within the authority jurisdictional land if the new or expanded development will consume on an annual basis more than 200,000 gallons of potable water per day.

(ii) In establishing minimum mitigation and environmental standards, the authority shall consult with:

(A) the municipality in which the development is expected to occur, for development expected to occur within a municipality; or

(B) the county in whose unincorporated area the development is expected to occur, for development expected to occur within the unincorporated area of a county.

(iii) The authority may not use property tax differential under Subsection (1)(a)~~(viii)~~ for a landowner's development in a project area unless the minimum mitigation and environmental standards are followed with respect to that landowner's development.

(2) The authority may use revenue generated from the operation of public infrastructure operated by the authority or improvements, including an intermodal facility, operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) The determination of the board under Subsection (1)(a)~~(v)~~ regarding benefit to the project area is final.

(4) The authority may not use property tax differential revenue collected from one

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project area for a development project within another project area.

~~[(5) Until the authority adopts a business plan under Subsection 11-58-202(1)(a), the authority may not spend property tax differential revenue collected from authority jurisdictional land.]~~

(5) The authority may use up to 10% of the general differential revenue generated from a project area to pay for affordable housing within or near the project area.

(6) The authority may share general differential funds with a taxing entity that levies a property tax on land within the project area from which the general differential is generated.

(7) The authority may use nonmunicipal differential funds or primary municipality differential funds to pay the cost of acquiring water shares or water rights to provide water to the Great Salt Lake.

~~[(6)]~~ (8) (a) As used in this Subsection ~~[(6)]~~ (8):

(i) "Authority sales and use tax revenue" means money distributed to the authority under Subsection 59-12-205(2)(a)(ii)(C).

(ii) "Eligible county" means a county that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C).

(iii) "Eligible municipality" means a municipality that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C).

(iv) "Point of sale portion" means:

(A) for an eligible county, the amount of sales and use tax revenue the eligible county would have received under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C), excluding the retail sales portion; and

(B) for an eligible municipality, the amount of sales and use tax revenue the eligible municipality would have received under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C), excluding the retail sales portion.

(v) "Retail sales portion" means the amount of sales and use tax revenue collected under Subsection 59-12-205(2)(a)(ii)(A) from retail sales transactions that occur on authority jurisdictional land.

(b) Within 45 days after receiving authority sales and use tax revenue, the authority

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shall:

(i) distribute half of the point of sale portion to each eligible county and eligible municipality; and

(ii) distribute all of the retail sales portion to each eligible county and eligible municipality.

Section ~~{14}~~13. Section **11-58-603** is amended to read:

### **11-58-603. Use of authority money for business recruitment incentive.**

(1) As used in this section:

(a) "Business recruitment incentive" means the post-performance payment of property tax differential as an incentive for ~~[a capital expenditure or for the creation of high-paying jobs]~~ development within a project area, as provided in this section.

~~[(b) "Capital expenditure" means an expenditure of money, other than property tax differential:]~~

~~[(i) by an applicant under an incentive application; and]~~

~~[(ii) for the development of capital facilities that are:]~~

~~[(A) constructed within a project area; and]~~

~~[(B) focused on value-added manufacturing that optimizes the use of rail facilities.]~~

~~[(c) "High-paying job" means a job:]~~

~~[(i) created because of development activity within a project area; and]~~

~~[(ii) that pays at least 130% of the average for all wages within the county in which the project area is located for the year during which an incentive application is submitted.]~~

~~[(d)]~~ (b) "Incentive application" means an application for a business recruitment incentive.

~~[(e)]~~ (c) "Tax differential parcel" means a parcel of land ~~[(i) on which capital facilities are constructed from a capital expenditure; or (ii)]~~ where development activity occurs ~~[that results in the creation of high-paying jobs]~~.

(2) The authority may use property tax differential as a business recruitment incentive as provided in this section.

(3) The board shall establish:

(a) the requirements for a person to qualify for a business recruitment incentive;

(b) the application timeline, documentation requirements, and approval criteria

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applicable to an incentive application; and

~~(c) the standards and criteria for approval of an incentive application[, consistent with this section].~~

(4) (a) Subject to Subsection (4)(b), a person may qualify for a business recruitment incentive if:

(i) the person submits an incentive application according to requirements established by the board;

(ii) the person meets the requirements [~~under Subsection (5) or (6)~~] established by the board for a business recruitment incentive; and

(iii) the board approves the incentive application.

(b) A person may not qualify for a business recruitment incentive if the person's development project relates primarily to retail operations or the distribution of goods.

(5) The authority may pay a person, on a post-performance basis[:] and as determined by the board, a percentage of property tax differential:

(a) generated from a tax differential parcel and paid to the authority; and

(b) for a specified period of time.

~~[(a) up to 20% of the property tax differential generated from a tax differential parcel for a period of 20 years, if the person demonstrates that at least \$1,000,000,000 of capital expenditure will occur on the tax differential parcel due to the person's development project;]~~

~~[(b) up to 15% of the property tax differential generated from a tax differential parcel for a period of 15 years, if the person demonstrates that at least \$500,000,000 of capital expenditure will occur on the tax differential parcel due to the person's development project; or]~~

~~[(c) up to 10% of the property tax differential generated from a tax differential parcel for a period of 10 years, if the person demonstrates that at least \$100,000,000 of capital expenditure will occur on the tax differential parcel due to the person's development project.]~~

~~[(6) The authority may pay a person, on a post-performance basis:]~~

~~[(a) up to 10% of the property tax differential generated from a tax differential parcel for a period of 20 years, if the person demonstrates that the person's development activity on the tax differential parcel will result in the creation of at least 1,000 high-paying jobs;]~~

~~[(b) up to 8% of the property tax differential generated from a tax differential parcel for~~

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~~a period of 15 years, if the person demonstrates that the person's development activity on the tax differential parcel will result in the creation of at least 500 high-paying jobs; or]~~

~~[(c) up to 5% of the property tax differential generated from a tax differential parcel for a period of 10 years, if the person demonstrates that the person's development activity on the tax differential parcel will result in the creation of at least 250 high-paying jobs.]~~

~~[(7) Subject to the limits stated in Subsections (5) and (6), the amount of property tax differential to be paid under this section and the timing of any payment are at the discretion of the board.]~~

~~[(8) A person may not receive a business recruitment incentive under both Subsection (5) and Subsection (6).]~~

Section ~~{15}~~14. Section **11-58-604** is amended to read:

### **11-58-604. Distribution and use of primary municipality differential.**

~~[(1) As used in this section:]~~

~~[(a) "Exempt area" means the same as that term is defined in Section 11-58-601.]~~

~~[(b) "Exempt area property tax" means the portion of property tax differential generated by a property tax levied by a primary municipality on property in the exempt area.]~~

~~[(c) "Mitigation money" means the exempt area property tax required to be used as provided in Subsections (6)(a) and (b).]~~

~~[(d) "Participating entities" means a primary municipality, the primary municipality's agency, and the authority.]~~

~~[(e) "Primary municipality" means the same as that term is defined in Section 11-58-601.]~~

~~[(f) "Primary municipality's agency" means the community development and renewal agency created by a primary municipality.]~~

~~[(2)(a) No later than December 31, 2022, participating entities shall enter into an agreement as provided in this section.]~~

~~[(b) An agreement under Subsection (2)(a) shall:]~~

~~[(i) provide:]~~

~~[(A) how the authority is to spend mitigation money; or]~~

~~[(B) a process for determining how the authority is to spend mitigation money;]~~

~~[(ii) include a requirement that the authority consult with the primary municipality in~~

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determining how to spend mitigation money; and]

~~[(iii) require the primary municipality's agency to spend money the primary municipality's agency receives under Subsection (4)(c) for affordable housing, as provided in Section 17C-1-412.]~~

~~[(3) If participating entities enter into an agreement under this section, beginning January 1, 2023:]~~

~~[(a) Subsections 11-58-601(2) and (3) do not apply to exempt area property tax; and]~~

~~[(b) exempt area property tax shall be paid and distributed as provided in Subsection 11-58-601(8) and in accordance with Subsections (4) and (5).]~~

~~[(4) If participating entities enter into an agreement under this section, beginning]~~

~~(1) This section applies to the payment and use of primary municipality differential.~~

~~(2) Beginning the first tax year that begins on or after January 1, 2023:~~

~~(a) the authority shall be paid 25% of [the exempt area property tax] primary municipality differential:~~

~~(i) for the authority's use as provided in Subsection [(6)] (4); and~~

~~(ii) (A) for a period of 25 years beginning January 1, 2023; and~~

~~(B) for a period of time not exceeding an additional 15 years beyond the period stated in Subsection [(4)] (2)(a)(ii)(A) if the board determines by resolution, adopted before the expiration of the 25-year period under Subsection [(4)] (2)(a)(ii)(A), that the additional years will produce a significant benefit to the uses described in Subsection [(6)] (4) and if the primary municipality and the authority agree to the additional period of time;~~

~~(b) the authority shall be paid, in addition to the amounts under Subsection [(4)] (2)(a), a percentage, as defined in Subsection [(5)] (3), of [the exempt area property tax] primary municipality differential for the authority's use as provided in Subsection [(6)] (4); and~~

~~[(c) the primary municipality's agency shall be paid, for the same period of time that the authority is paid exempt area property tax under Subsection (4)(a), 10% of exempt area property tax, to be used for affordable housing as provided in Section 17C-1-412.]~~

~~(c) the primary municipality shall be paid, for the primary municipality's use for municipal operations, all primary municipality differential remaining after the payment of primary municipality differential to the authority as required under Subsections (2)(a) and (b).~~

~~[(5)] (3) The percentage of [the exempt area property tax] primary municipality~~

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differential paid to the authority as provided in Subsection ~~[(4)]~~ (2)(b):

- (a) shall be 40% for the first tax year that begins on or after January 1, 2023, decreasing 2% each year after the 2023 tax year, so that in 2029 the percentage is 28;
- (b) beginning January 1, 2030, and for a period of seven years, shall be 10%;
- (c) beginning January 1, 2037, and for a period of 11 years, shall be 8%; and
- (d) after 2047, shall be 0%.

~~[(6)]~~ (4) Of the ~~[exempt area property tax]~~ primary municipality differential the authority receives, the authority shall use:

- (a) 40% for environmental mitigation projects within the authority jurisdictional land;
- (b) 40% for mitigation projects, which may include a regional traffic study and an environmental impact mitigation analysis, for communities that are:
  - (i) within the primary municipality;
  - (ii) adjacent to the authority jurisdictional land; and
  - (iii) west of the east boundary of the right of way of a fixed guideway used, as of January 1, 2022, for commuter rail within the primary municipality; and
- (c) 20% for economic development activities on the authority jurisdictional land.

Section ~~11-58-15~~15. Section **11-58-605** is enacted to read:

**11-58-605. Creation of remediation project area and payment of remediation differential.**

(1) As used in this section:

(a) "Remedial action plan" means a plan for the cleanup of contaminated land under a voluntary cleanup agreement under Title 19, Chapter 8, Voluntary Cleanup Program.

(b) "Subsidiary district" means a public infrastructure district that is a subsidiary of the authority.

(2) This section applies to a remediation project area and to remediation differential.

(3) The authority may adopt a resolution creating a remediation project area if the authority and the owner of contaminated land to be included in the remediation project area enter an agreement governing a remediation project within the remediation project area.

(4) If the authority adopts a resolution creating a remediation project area, the authority shall reconfigure the boundary of the project area that consists of the authority jurisdictional land to exclude the remediation project area.

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(5) The authority may pay the costs of a remediation project from funds available to the authority, including funds of a subsidiary district.

(6) (a) If the authority pays some or all the costs of a remediation project, the authority shall be paid 100% of the remediation differential, subject to Subsection (6)(b), until the authority is fully reimbursed for the costs the authority paid for the remediation project.

(b) (i) Subject to Subsection (6)(b)(iii), the authority's use of remediation differential paid to the authority under Subsection (6)(a) is subject to any bonds of a subsidiary district issued before May 3, 2023 pledging property tax differential funds generated from the contaminated land.

(ii) Before using remediation differential to pay subsidiary district bonds described in Subsection (6)(b)(i), the authority shall use other funds available to the authority to pay the bonds.

(iii) A pledge of property tax differential under subsidiary district bonds issued before May 3, 2023 may be satisfied if:

(A) the authority or the subsidiary district pledges additional property tax differential, other than remediation differential, or other authority or subsidiary district funds to offset any decrease in property tax differential resulting from the payment under Subsection (6)(a) of remediation differential funds that would otherwise have been available to pay the subsidiary district bonds; and

(B) the pledge described in Subsection (6)(b)(iii)(A) is senior in right to any pledge of remediation differential for a commitment the authority makes in connection with a remediation project.

(7) If a remediation project is conducted pursuant to a remedial action plan, the use of the land that is the subject of the remediation project shall be consistent with the remedial action plan unless ~~fa change of the use~~ the change of use:

(a) occurs after the government owner, as defined in Subsection 63G-7-201(3)(b), is environmentally compliant, as defined in Subsection 63G-7-201(3)(b), with respect to the land that is the subject of the remediation project; and

(b) is approved by the board following a public hearing on the proposed change of use.

(8) (a) Upon the authority receiving full reimbursement for the authority's payment of costs for a remediation project, the remediation project area is automatically and immediately



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dissolved and the land within the remediation project area automatically and immediately becomes part of the project area consisting of the authority jurisdictional land.

(b) The board shall take any action necessary to effectuate and reflect in authority project area records and any other applicable records the reincorporation of the remediation project area under Subsection (8)(a) into the project area consisting of the authority jurisdictional land.

Section ~~{17}~~16. Section **11-58-606** is enacted to read:

### **11-58-606. Distribution of property tax differential.**

(1) A county that collects property tax on property within a project area shall, in the manner and at the time provided in Section 59-2-1365:

(a) pay and distribute to the authority the property tax differential that the authority is entitled to be paid under this chapter; and

(b) pay and distribute to the primary municipality the primary municipality differential described in Subsection 11-58-604(2)(c).

(2) The authority shall pay to the primary municipality's agency, to be used for affordable housing as provided in Section 17C-1-412, 10% of all property tax differential that is:

(a) paid to the authority; and

(b) generated within the reduced area.

### **Section 17. Section 17D-4-201 is amended to read:**

#### **17D-4-201. Creation -- Annexation or withdrawal of property.**

(1) (a) Except as provided in Subsection (1)(b), Subsection (2), and in addition to the provisions regarding creation of a local district in Title 17B, Chapter 1, Provisions Applicable to All Local Districts, a public infrastructure district may not be created unless:

(i) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.

(b) (i) Notwithstanding Title 17B, Chapter 1, Part 2, Creation of a Local District, and

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any other provision of this chapter, the a development authority may adopt a resolution creating a public infrastructure district ~~[as a subsidiary of the development authority]~~ if all owners of surface property proposed to be included within the public infrastructure district consent in writing to the creation of the public infrastructure district.

(ii) A public infrastructure district created under Subsection (1)(b)(i) may be created as a subsidiary of the development authority that adopts the resolution creating the public infrastructure district.

(2) (a) The following do not apply to the creation of a public infrastructure district:

- (i) Section 17B-1-203;
- (ii) Section 17B-1-204;
- (iii) Subsection 17B-1-208(2);
- (iv) Section 17B-1-212; or
- (v) Section 17B-1-214.

(b) The protest period described in Section 17B-1-213 may be waived in whole or in part with the consent of:

(i) 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) 100% of the surface property owners within the applicable area approving the creation of the public infrastructure district.

(c) If the protest period is waived under Subsection (2)(b), a resolution approving the creation of the public infrastructure district may be adopted in accordance with Subsection 17B-1-213(5).

(d) A petition meeting the requirements of Subsection (1):

(i) may be certified under Section 17B-1-209; and

(ii) shall be filed with the lieutenant governor in accordance with Subsection 17B-1-215(1)(b)(iii).

(3) (a) Notwithstanding Title 17B, Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district if the following requirements are met:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the annexation; or

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(B) adoption of a resolution of the board to annex the area, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to annex an area outside of the boundaries of the public infrastructure district without future consent of the creating entity;

(i) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the annexation into the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be annexed, demonstrating the surface property owners' consent to the annexation into the public infrastructure district.

(b) Within 30 days of meeting the requirements of Subsection (3)(a), the board shall file with the lieutenant governor:

(i) a copy of a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(4) (a) Notwithstanding Title 17B, Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district if the following requirements are met:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the withdrawal; or

(B) adoption of a resolution of the board to withdraw the property, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to withdraw property from the public infrastructure district without further consent from the creating entity;

(ii) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the withdrawal from the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn, demonstrating that the surface property owners consent to the withdrawal from the public infrastructure district.

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(b) If any bonds that the public infrastructure district issues are allocable to the area to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.

(c) Upon meeting the requirements of Subsections (4)(a) and (b), the board shall comply with the requirements of Section 17B-1-512.

(5) A creating entity may impose limitations on the powers of a public infrastructure district through the governing document.

(6) (a) A public infrastructure district is separate and distinct from the creating entity.

(b) (i) Except as provided in Subsection (6)(b)(ii), any financial burden of a public infrastructure district:

(A) is borne solely by the public infrastructure district; and

(B) is not borne by the creating entity, by the state, or by any municipality, county, or other political subdivision.

(ii) Notwithstanding Subsection (6)(b)(i) and Section 17B-1-216, the governing document may require:

(A) the district applicant to bear the initial costs of the public infrastructure district; and

(B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.

(c) Any liability, judgment, or claim against a public infrastructure district:

(i) is the sole responsibility of the public infrastructure district; and

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection (6)(d)(i)(A).

(ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (6)(d)(i) in accordance with

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Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

(7) A creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

- (a) historical performance of the district applicant;
- (b) compliance with the creating entity's master plan;
- (c) credit worthiness of the district applicant;
- (d) plan of finance of the public infrastructure district; and
- (e) proposed development within the public infrastructure district.

(8) (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.

(b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

Section 18. Section **17D-4-203** is amended to read:

### **17D-4-203. Public infrastructure district powers.**

A public infrastructure district [~~shall have~~]:

(1) has all of the authority conferred upon a local district under Section 17B-1-103[; ~~and in addition a public infrastructure district may~~]; and

(2) may:

~~(+)~~ (a) issue negotiable bonds to pay:

~~(+)~~ (i) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

~~(+)~~ (ii) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-102;

~~(+)~~ (iii) public improvements related to the provision of housing;

~~(+)~~ (iv) capital costs related to public transportation; [~~and~~]

~~(+)~~ (v) for a public infrastructure district created by a development authority, the cost of acquiring or financing public infrastructure and improvements; and

(vi) for a public infrastructure district that is a subsidiary of the Utah Inland Port

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Authority, the costs associated with a remediation project, as defined in Section 11-58-102;

~~[(2)]~~ (b) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

~~[(3)]~~ (c) acquire completed or partially completed improvements for fair market value as reasonably determined by:

~~[(a)]~~ (i) the board;

~~[(b)]~~ (ii) the creating entity, if required in the governing document; or

~~[(c)]~~ (iii) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;

~~[(4)]~~ (d) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and

~~[(5)]~~ (e) for a public infrastructure district created by a development authority:

~~[(a)]~~ (i) (A) operate and maintain public infrastructure and improvements the district acquires or finances; and

~~[(ii)]~~ (B) use fees, assessments, or taxes to pay for the operation and maintenance of those public infrastructure and improvements; and

~~[(b)]~~ (ii) issue bonds under Title 11, Chapter 42, Assessment Area Act[-]; and

~~(f) for a public infrastructure district that is a subsidiary of the Utah Inland Port~~

Authority, pay for costs associated with a remediation project, as defined in Section 11-58-102, of the Utah Inland Port Authority.

Section 19. Section **59-1-403** is amended to read:

### **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

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- (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- (D) Section 19-6-805;
- (E) Section 63H-1-205; or
- (F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;

and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

- (i) a county, city, town, or metro township; ~~[or]~~
- (ii) the military installation development authority created in Section 63H-1-201~~[-];~~ or
- (iii) the Utah Inland Port Authority created in Section 11-58-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

- (i) a tax commissioner;
- (ii) an agent, clerk, or other officer or employee of the commission; or
- (iii) a representative, agent, clerk, or other officer or employee of any county, city, or

town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
  - (A) this title; or
  - (B) other law under which persons are required to file returns with the commission;
- (iii) on behalf of the commission in any action or proceeding to which the commission

is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically

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pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as



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requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

- (A) reported to the commission under Section 59-14-212; or
- (B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period

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specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the

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GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

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(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of

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amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic

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Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 20. Section 63A-3-401.5 is amended to read:

### **63A-3-401.5. Definitions.**

As used in this part:

(1) "Borrower" means a person who borrows money from an infrastructure fund for an infrastructure project.

(2) "Independent political subdivision" means:

(a) the Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201; or

(c) the Military Installation Development Authority created in Section 63H-1-201.

(3) "Infrastructure fund" means a fund created in Subsection 63A-3-402(1).

(4) "Infrastructure loan" means a loan of infrastructure fund money to finance an infrastructure project.

(5) "Infrastructure project" means a project to acquire, construct, reconstruct, rehabilitate, equip, or improve public infrastructure and improvements:

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- (a) within a project area; or
- (b) outside a project area, if the respective loan approval body determines by resolution that the public infrastructure and improvements are of benefit to the project area.
- (6) "Inland port" means the same as that term is defined in Section 11-58-102.
- (7) "Inland port fund" means the infrastructure fund created in Subsection 63A-3-402(1)(a).
- (8) "Military development fund" means the infrastructure fund created in Subsection 63A-3-402(1)(c).
- (9) "Point of the mountain fund" means the infrastructure fund created in Subsection 63A-3-402(1)(b).
- (10) "Project area" means:
  - (a) the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;
  - (b) the point of the mountain state land, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; and
  - (c) the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.
- (11) "Property tax revenue" means:
  - (a) property tax differential, as defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund; or
  - (b) property tax allocation, as defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.
- (12) "Public infrastructure and improvements":
  - (a) means the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;
  - (b) means publicly owned infrastructure and improvements, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; and
  - (c) means the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.
- (13) "Respective loan approval body" means:
  - (a) the committee board created in Section ~~11-58-106~~ 11-58-301, for purposes of an

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infrastructure loan from the inland port fund;

(b) the board created in Section 11-59-301, for purposes of an infrastructure loan from the point of the mountain fund; and

(c) the committee created in Section 63H-1-104, for purposes of an infrastructure loan from the military development fund.

### Section 21. Section 63A-3-402 is amended to read:

**63A-3-402. Infrastructure funds established -- Purpose of funds -- Use of money in funds.**

(1) There are created, as enterprise revolving loan funds:

(a) the inland port infrastructure revolving loan fund;

(b) the point of the mountain infrastructure revolving loan fund; and

(c) the military development infrastructure revolving loan fund.

(2) The purpose of each infrastructure fund is to provide funding, through infrastructure loans, for infrastructure projects undertaken by a borrower.

(3) (a) Money in an infrastructure fund may be used only to provide loans for infrastructure projects.

(b) The division may not loan money in an infrastructure fund without the approval of:

(i) the respective loan approval body; and

(ii) the Executive Appropriations Committee of the Legislature, for a loan from the

inland port fund or the point of the mountain fund.

Section ~~{20}~~22. Section **63B-27-101** is amended to read:

**63B-27-101. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.**

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed \$1,000,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$1,010,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(7) have been met and certifies the amount of bond proceeds that the commission needs to provide funding for the projects described in Subsection



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(2) for the current or next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed 1% of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

(a) state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304, giving priority consideration for projects with a regional significance or that support economic development within the state, including:

(i) projects that are prioritized but exceed available cash flow beyond the normal programming horizon; or

(ii) projects prioritized in the state highway construction program; and

(b) \$100,000,000 to be used by the Department of Transportation for transportation improvements as prioritized by the Transportation Commission for projects that:

(i) have a significant economic development impact associated with recreation and tourism within the state; and

(ii) address significant needs for congestion mitigation.

(3) (a) Forty-six million dollars of the bond proceeds issued under this section shall be provided to the State Infrastructure Bank Fund created by Section 72-2-202 to make funds available for a transportation infrastructure loan or transportation infrastructure assistance under Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, including the amounts as follows:

(i) subject to Subsection (3)(b), \$14,000,000 to the military installation development authority created in Section 63H-1-201;

(ii) \$5,000,000 to the Inland Port Authority created in Section 11-58-201, for highway,

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infrastructure, and rail right-of-way acquisition, design, engineering, and construction, to be repaid through tax differential; and

(iii) \$7,000,000 to Midvale City for a parking structure in proximity to an intermodal transportation facility that enhances economic development within the city.

(b) When the loan described in Subsection (3)(a)(i) is transferred in accordance with Section 72-2-202, the bond proceeds for the loan shall be provided to the military development infrastructure revolving loan fund created in Section 63A-3-402.

(c) When the funds described in Subsection (3)(a)(ii) are transferred in accordance with Subsection 72-2-2(8), the funds shall be provided to the inland port infrastructure revolving loan fund created in Section 63A-3-402.

(4) (a) Four million dollars of the bond proceeds issued under this section shall be used for a public transit fixed guideway rail station associated with or adjacent to an institution of higher education.

(b) Nineteen million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for the design, engineering, construction, or reconstruction of underpasses under a state highway connecting a state park and a project area created by a military installation development authority created in Section 63H-1-201.

(c) Nine million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for infrastructure improvements related to the Provo Airport.

(d) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in this section, the Department of Transportation may use available funding to study, design, engineer, and construct rail access through I-80 in western Salt Lake County.

(5) The bond proceeds issued under this section shall be provided to the Department of Transportation.

(6) The costs under Subsection (2) may include the costs of studies necessary to make transportation infrastructure improvements, the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of improving sites, and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on

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any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(8) The Department of Transportation may enter into agreements related to the projects described in Subsection (2) before the receipt of proceeds of bonds issued under this section.

Section ~~{21}~~23. Section **63G-7-201** is amended to read:

### **63G-7-201. Immunity of governmental entities and employees from suit.**

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to

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verify the identity of the individuals they serve.

(3) (a) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

~~[(a)]~~ (i) a latent dangerous or latent defective condition of:

~~[(i)]~~ (A) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

~~[(ii)]~~ (B) another structure located on any of the items listed in Subsection (3)(a)(i); or

~~[(b)]~~ (ii) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(b) (i) As used in this Subsection (3)(b):

(A) "Contaminated land" means the same as that term is defined in Section 11-58-102.

(B) "Contamination" means the condition of land that results from the placement, disposal, or release of hazardous matter on, in, or under the land, including any seeping or escaping of the hazardous matter from the land.

(C) "Damage" means any property damage, personal injury, or other injury or any loss of any kind, however denominated.

(D) "Environmentally compliant" means, as applicable, obtaining a certificate of completion from the ~~{Utah}~~ Department of Environmental Quality under Section 19-8-111 following participation in a voluntary cleanup ~~{program under Section 19-8-111}~~ under Title 19, Chapter 8, Voluntary Cleanup Program, obtaining an administrative letter from the Department of Environmental Quality for a discrete phase of a voluntary cleanup that is conducted under a remedial action plan as defined in Section 11-58-605, or complying with the terms of an environmental covenant, as defined in Section 57-25-102, signed by an agency, as defined in Section 57-25-102, and duly recorded in the office of the recorder of the county in which the contaminated land is located.

(E) "Government owner" means a governmental entity, including an independent entity, as defined in Section 63E-1-102, that acquires an ownership interest in land that was contaminated land before the governmental entity or independent entity acquired an ownership interest in the land.

(F) "Hazardous matter" means hazardous materials, as defined in Section 19-6-302,

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~~for~~ hazardous substances, as defined in Section 19-6-302, or landfill material, as defined in Section 11-58-102.

(G) "Remediation" means the same as that term is defined in Section 11-58-102.

(ii) (A) A government owner and the government owner's officers and employees are immune from suit, and immunity is not waived, for any claim for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(B) A government owner's ownership of contaminated land may not be the basis of a claim against the government owner for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(iii) Subsection (3)(b)(ii) does not limit or affect:

(A) the liability of a person that placed, disposed of, or released hazardous matter on, in, or under the land; or

(B) a worker compensation claim of an employee of an entity that conducts work on or related to contaminated land.

(iv) Immunity under Subsection (3)(b)(ii)(A) is not affected by a government owner's remediation of contaminated land if the government owner is environmentally compliant.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if

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malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the

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requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity;

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road; or

(w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-101.

Section ~~72-2-202~~24. Section **72-2-202** is amended to read:

### **72-2-202. State Infrastructure Bank Fund -- Creation -- Use of money.**

(1) There is created a revolving loan fund entitled the State Infrastructure Bank Fund.

(2) (a) The fund consists of money generated from the following revenue sources:

(i) appropriations made to the fund by the Legislature;

(ii) federal money and grants that are deposited in the fund;

(iii) money transferred to the fund by the commission from other money available to the department;

(iv) state grants that are deposited in the fund;

(v) contributions or grants from any other private or public sources for deposit into the

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fund; and

(vi) subject to Subsection (2)(b), all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.

(b) When a loan from the fund is repaid, the department may request and the Legislature may transfer from the fund to the source from which the money originated an amount equal to the repaid loan.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Money in the fund shall be used by the department, as prioritized by the commission, only to:

(a) provide infrastructure loans or infrastructure assistance; and

(b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects and publicly owned infrastructure projects, and obtaining repayments of infrastructure loans or infrastructure assistance.

(5) (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.

(6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

(7) Before July 1, 2022, the department shall transfer the loan described in Subsection 63B-27-101(3)(a)(i) from the State Infrastructure Bank Fund to the military development infrastructure revolving loan fund created in Section 63A-3-402.

(8) Before July 1, 2023, the department shall transfer the funds described in Subsection 63B-27-101(3)(a)(ii) from the State Infrastructure Bank Fund to the inland port infrastructure revolving loan fund created in Section 63A-3-402.

Section ~~23~~25. Section **78B-6-2401** is enacted to read:



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## Part 24. Claims to Which Immunity Applies

### **78B-6-2401. Definitions.**

As used in this part:

(1) "Contamination claim" means a claim for which a government owner and the government owner's officers and employees have immunity under Subsection 63G-7-201(3)(b).

(2) "Government owner" means the same as that term is defined in Subsection 63G-7-201(3).

Section ~~{24}~~26. Section **78B-6-2402** is enacted to read:

### **78B-6-2402. Award of double attorney fees and costs.**

If a person asserts a contamination claim against a government owner or an officer or employee of the government owner for which the government owner or officer or employee are found to be immune under Subsection 63G-7-201(3)(b), the court shall award the government owner or officer or employee double the attorney fees and costs incurred by the government owner or officer or employee in defending the claim.

### **Section 27. Repealer.**

This bill repeals:

**Section 11-58-207, Projects benefitting authority jurisdictional land.**

Section ~~{25}~~28. **Effective date.**

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