

## SB0264S01 compared with SB0264

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inserted text shows text that was not in SB0264 but was inserted into SB0264S01.

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Senator Jerry W Stevenson proposes the following substitute bill:

### INLAND PORT AUTHORITY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jerry W Stevenson**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

#### General Description:

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

#### Highlighted Provisions:

This bill:

- ▶ makes the Utah Inland Port Authority subject to the Utah Industrial Facilities and Development Act;
- ▶ modifies limitations on board members;
- ▶ modifies notice requirements for a project area plan;
- ▶ prohibits the authority from paying certain developer costs associated with the construction of public infrastructure and improvements in a project area;
- ▶ provides that the base taxable value of project area land applies to land added to the project area;

## SB0264S01 compared with SB0264

- ▶ prohibits contaminated land or land within a remediation project area to be used for a distribution center;
- ▶ modifies requirements to qualify for a business recruitment incentive;
- ▶ modifies provisions relating to the distribution of sales tax revenue; and
- ▶ removes a condition applicable to the authority's creation of a remediation project area.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

### Utah Code Sections Affected:

#### AMENDS:

11-17-2, as last amended by Laws of Utah 2020, Chapter 354

11-17-3.5, as enacted by Laws of Utah 2009, Chapter 92

11-58-102, as last amended by Laws of Utah 2023, Chapters 16, 259

11-58-205, as last amended by Laws of Utah 2023, Chapters 16, 259

11-58-206, as last amended by Laws of Utah 2023, Chapter 259

11-58-304, as last amended by Laws of Utah 2022, Chapter 82

11-58-503, as last amended by Laws of Utah 2023, Chapter 435

11-58-504, as enacted by Laws of Utah 2018, Chapter 179

11-58-602 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapter 259

~~{11-58-602}~~ 11-58-603, as last amended by Laws of Utah 2023, Chapter 259

11-58-605, as enacted by Laws of Utah 2023, Chapter 259

59-12-205 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapters 302, 471 and 492

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

Section 1. Section 11-17-2 is amended to read:

#### **11-17-2. Definitions.**

As used in this chapter:

- (1) "Bonds" means bonds, notes, or other evidences of indebtedness.

## **SB0264S01 compared with SB0264**

(2) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, ceiling, roof, floor, or foundation; or

(ii) a heating or cooling distribution system;

(b) an insulated window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications that reduce energy loss;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulking or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of a low-flow toilet or showerhead;

(ii) installation of a timer or timing system for a hot water heater; or

(iii) installation of a rain catchment system; or

(j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.

(3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the

## SB0264S01 compared with SB0264

acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.

(4) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for the Utah Inland Port Authority created in Section 11-58-201, the board, as defined in Section 11-58-102;

~~[(b)]~~ (c) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102;

~~[(c)]~~ (d) for a state university except as provided in Subsection ~~[(4)(d)]~~ (4)(e), the board or body having the control and supervision of the state university; and

~~[(d)]~~ (e) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

(5) (a) "Industrial park" means land, including all necessary rights, appurtenances, easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) "Industrial park" includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

(6) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a financing

## **SB0264S01 compared with SB0264**

to the user or a user's designee.

(7) "Mortgage" means a mortgage, trust deed, or other security device.

(8) "Municipality" means any incorporated city, town, or metro township in the state, including cities or towns operating under home rule charters.

(9) "Pollution" means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(10) (a) "Project" means:

(i) an industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a renewable energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will

## SB0264S01 compared with SB0264

maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

(11) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

(d) a geothermal system, including:

(i) a direct-use system; or

(ii) a ground source heat pump system;

(e) a micro-hydro system; or

(f) another renewable energy system approved by the governing body.

(12) "State university" means an institution of higher education as described in Section 53B-2-101 and includes any nonprofit corporation or foundation created by and operating under their authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Section 2. Section 11-17-3.5 is amended to read:

**11-17-3.5. ~~{Powers of}~~ Utah Inland Port Authority and Military Installation Development Authority governed by chapter.**

The Utah Inland Port Authority, created in Section 11-58-201, and the military installation development authority, created in Section 63H-1-201, [is] are subject to and

## SB0264S01 compared with SB0264

governed by the provisions of this chapter to the same extent as if the Utah Inland Port Authority and military installation development authority, respectively, were a municipality.

### Section 3. 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 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, hazardous substances, as defined in Section 19-6-302, or landfill material on, in, or under the land.

(7) "Development" means:

## SB0264S01 compared with SB0264

(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 (7)(a).

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

(9) "Distribution center" means a building that is:

(a) used for the storage, sorting, and distribution of goods intended for sale; and

(b) not associated with or operated in conjunction with an adjacent manufacturing facility..

~~[(9)]~~ (10) "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.

~~[(10)]~~ (11) "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 (9);

(c) that complements or supports the purposes of an inland port, as stated in Subsection



## SB0264S01 compared with SB0264

(9); or

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

~~[(11)]~~ [(12)] "Intermodal facility" means a facility for transferring containerized cargo between rail, truck, air, or other transportation modes.

~~[(12)]~~ [(13)] "Landfill material" means garbage, waste, debris, or other materials disposed of or placed in a landfill.

~~[(13)]~~ [(14)] "Multimodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

~~[(14)]~~ [(15)] "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.

~~[(15)]~~ [(16)] "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.

~~[(16)]~~ [(17)] "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

~~[(17)]~~ [(18)] "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

~~[(18)]~~ [(19)] "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

~~[(19)]~~ [(20)] "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

## SB0264S01 compared with SB0264

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 obligation bond.

~~[(20)]~~ [(21)] "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, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

~~[(21)]~~ [(22)] (a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) (A) benefit the public 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 are developed as part of a remediation project.

~~[(22)]~~ [(23)] "Remediation" includes:

## SB0264S01 compared with SB0264

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

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

~~[(23)]~~ [(24)] "Remediation differential" means property tax differential generated from a remediation project area.

~~[(24)]~~ [(25)] "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 (24)(a) obtained ownership of the land.

~~[(25)]~~ [(26)] "Remediation project area" means a project area consisting of contaminated land that is or is expected to become the subject of a remediation project.

~~[(26)]~~ [(27)] "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

~~[(27)]~~ [(28)] "Taxable value" means the value of property as shown on the last equalized assessment roll.

~~[(28)]~~ [(29)] "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.

~~[(29)]~~ [(30)] "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 4. Section 11-58-205 is amended to read:

**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.**

## SB0264S01 compared with SB0264

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

(b) Notwithstanding a permitted or conditional use allowed under applicable municipal ordinances, contaminated land may not be used for a distribution center.

(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 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

## SB0264S01 compared with SB0264

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, special 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 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

## SB0264S01 compared with SB0264

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

(i) fuel dispensing and motor pool services provided by the Division of Fleet Operations;

(ii) surplus property services provided by the Division of Purchasing and General Services;

(iii) information technology services provided by the Division of Technology Services;

(iv) archive services provided by the Division of Archives and Records Service;

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

(vi) human resources services provided by the Division of Human Resource Management;

(vii) legal services provided by the Office of the Attorney General; and

(viii) 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 procurement policy.

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

Section ~~33~~5. Section **11-58-206** is amended to read:

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

(1) ~~The~~ Subject to Subsection (2), the authority may use authority funds for any purpose authorized under this chapter, including:

~~(1)~~ (a) promoting, facilitating, and advancing inland port uses;

~~(2)~~ (b) owning and operating an intermodal facility;

~~(3)~~ (c) the remediation of contaminated land within a project area; and

## SB0264S01 compared with SB0264

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

(2) (a) As used in this Subsection (2):

(i) "Affected project area" means the project area where public infrastructure and improvements are constructed or are to be constructed.

(ii) "Local legislative body" means:

(A) the legislative body of the county in which the affected project area is located; or

(B) the legislative body of the municipality in which the affected project area is located.

(b) The authority may not use authority funds to pay developer costs, as defined by the local legislative body, associated with the development and construction of public infrastructure and improvements in an affected project area.

Section ~~(4)~~6. Section **11-58-304** is amended to read:

### **11-58-304. Limitations on board members and executive director.**

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money;

and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) (a) An individual [~~may not serve as a voting member of the board or as executive director~~] is subject to Subsection (2)(b) if:

~~(a)~~ (i) the individual owns real property, other than a personal residence in which the individual resides, within a project area, whether or not the ownership interest is a recorded interest;

~~(b)~~ (ii) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located within a project area; or

~~(c)~~ (iii) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other

## SB0264S01 compared with SB0264

private entity that the individual reasonably believes is likely to:

~~[(i)]~~ (A) participate in or receive a direct financial benefit from the development of the authority jurisdictional land; or

~~[(ii)]~~ (B) acquire an interest in or locate a facility within a project area.

(b) An individual described in Subsection (2)(a):

(i) may not serve as executive director; or

(ii) may not, if the individual is a board member, participate in the consideration or vote on any matter affecting the individual or family member's interest or affiliation described in Subsection (2)(a).

(3) Before taking office as a voting member of the board or accepting employment as executive director, an individual shall submit to the authority a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).

(4) (a) An individual may not, at any time during the individual's service as a voting member or employment with the authority, acquire, or take any action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property located within a project area, if:

(i) the acquisition is in the individual's personal capacity or in the individual's capacity as an employee or officer of a private firm, private company, or other private entity; and

(ii) the acquisition will enable the individual to receive a direct financial benefit as a result of the development of the project area.

(b) Subsection (4)(a) does not apply to an individual's acquisition of, or action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property that is a personal residence in which the individual will reside upon acquisition of the real property.

(5) (a) A voting member or nonvoting member of the board or an employee of the authority may not receive a direct financial benefit from the development of a project area.

(b) For purposes of Subsection (5)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the authority.

(6) Nothing in this section may be construed to affect the application or effect of any



## SB0264S01 compared with SB0264

other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section ~~5~~7. Section **11-58-503** is amended to read:

### **11-58-503. Notice of project area plan adoption -- Effective date of plan -- Time for challenging a project area plan or project area.**

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (2) by publishing or causing to be published legal notice~~[-~~5~~]~~

~~[(a)]~~ for the project area, as a class A notice under Section 63G-30-102, for at least 30 days~~[-and]~~.

~~[(b) as required by Section 45-1-101.]~~

(2) (a) Each notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution;  
and

(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included within the board resolution adopting the project area plan or within the summary of the resolution.

(3) The project area plan shall become effective on the date designated in the board resolution.

(4) The authority shall make the adopted project area plan available to the general public at the authority's offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Utah Geospatial Resource Center created in Section 63A-16-505; and

(c) the assessor and recorder of each county where the project area is located.

(6) (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

## SB0264S01 compared with SB0264

(b) A legal action or other challenge to a project area that consists of authority jurisdictional land is barred unless brought within 30 days after the board adopts a business plan under Subsection 11-58-202(1)(a) for the authority jurisdictional land.

Section ~~{6}~~8. Section **11-58-504** is amended to read:

### **11-58-504. Amendment to a project area plan.**

(1) The authority may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.

(2) The provisions of this part apply to the authority's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.

(3) If an amendment to a project area plan results in land being included in the project area that was not included in the project area before the amendment, the base taxable value applicable to the project area before the amendment applies to the land added to the project area by amendment.

Section ~~{7}~~9. Section **11-58-602** (Effective 07/01/24) is amended to read:

### **11-58-602** (Effective 07/01/24). **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;

## **SB0264S01 compared with SB0264**

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

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

(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

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

(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)(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

## SB0264S01 compared with SB0264

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 project area for a development project within another project area.

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

~~[(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.]~~

## SB0264S01 compared with SB0264

~~[(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 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 ~~{8}~~10. Section ~~{11-58-605}~~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 development within a project area, as provided in this section.

(b) "Incentive application" means an application for a business recruitment incentive.

(c) "Tax differential parcel" means a parcel of land where development activity occurs.

(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 applicable to an incentive application; and

(c) the standards and criteria for approval of an incentive application.

(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 established by the board for a business recruitment incentive; and

(iii) the board approves the incentive application.

## SB0264S01 compared with SB0264

(b) A person may not qualify for a business recruitment incentive if the person's development project:

(i) is on authority jurisdictional land; and

(ii) 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.

Section 11. Section 11-58-605 is amended 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) (a) 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~~].

(b) Land within a remediation project area may not be used for a distribution center.

(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.

(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

## SB0264S01 compared with SB0264

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 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 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 ~~9~~12. Section **59-12-205 (Effective 07/01/24)** is amended to read:

## SB0264S01 compared with SB0264

### 59-12-205 (Effective 07/01/24). Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a)

(b)

~~(a)(c)~~ within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

~~(b)~~ (d) as required to conform to the amendments to Part 1, Tax Collection.

(2) (a) Except as provided in Subsections (3) and (4) and subject to Subsection (5):

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

(ii) (A) except as provided in Subsections (2)(a)(ii)(B), (C), and (D), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

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

(C) beginning July 1, ~~[2022]~~ 2024, ~~[50%]~~ 20% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201; and

(D) 50% of each dollar collected from the sales and use tax authorized by this part within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter



## SB0264S01 compared with SB0264

following the creation of the Utah Lake Authority.

(b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.

(3) (a) As used in this Subsection (3):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (3)(b) equal to the amount described in Subsection (3)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(4) (a) For purposes of this Subsection (4):

(i) "Annual local contribution" means the lesser of \$275,000 or an amount equal to 2.55% of the participating local government's tax revenue distribution amount under Subsection (2)(a)(i) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality certified in accordance with Section 35A-16-404.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a)(i) to a participating local government, shall:

(i) adjust a participating local government's tax revenue distribution under Subsection (2)(a)(i) by:

(A) subtracting an amount equal to one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution; and

## **SB0264S01 compared with SB0264**

(B) if applicable, reducing the amount described in Subsection (4)(b)(i)(A) by \$250 for each bed that is available at all homeless shelters located within the boundaries of the participating local government, as reported to the commission by the Office of Homeless Services in accordance with Section 35A-16-405; and

(ii) deposit the resulting amount described in Subsection (4)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3), the commission shall apply the provisions of this Subsection (4) after the commission applies the provisions of Subsection (3).

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

(i) "Annual dedicated sand and gravel sales tax revenue" means an amount equal to the total revenue an establishment described in NAICS Code 327320, Ready-Mix Concrete Manufacturing, of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, collects and remits under this part for a calendar year.

(ii) "Sand and gravel" means sand, gravel, or a combination of sand and gravel.

(iii) "Sand and gravel extraction site" means a pit, quarry, or deposit that:

(A) contains sand and gravel; and

(B) is assessed by the commission in accordance with Section 59-2-201.

(iv) "Ton" means a short ton of 2,000 pounds.

(v) "Tonnage ratio" means the ratio of:

(A) the total amount of sand and gravel, measured in tons, sold during a calendar year from all sand and gravel extraction sites located within a county, city, or town; to

(B) the total amount of sand and gravel, measured in tons, sold during the same calendar year from sand and gravel extraction sites statewide.

(b) For purposes of calculating the ratio described in Subsection (5)(a)(v), the commission shall:

(i) use the gross sales data provided to the commission as part of the commission's property tax valuation process; and

(ii) if a sand and gravel extraction site operates as a unit across municipal or county lines, apportion the reported tonnage among the counties, cities, or towns based on the

## SB0264S01 compared with SB0264

percentage of the sand and gravel extraction site located in each county, city, or town, as approximated by the commission.

(c) (i) Beginning July 2023, and each July thereafter, the commission shall distribute from total collections under this part an amount equal to the annual dedicated sand and gravel sales tax revenue for the preceding calendar year to each county, city, or town in the same proportion as the county's, city's, or town's tonnage ratio for the preceding calendar year.

(ii) The commission shall ensure that the revenue distributed under this Subsection (5)(c) is drawn from each jurisdiction's collections in proportion to the jurisdiction's share of total collections for the preceding 12-month period.

(d) A county, city, or town shall use revenue described in Subsection (5)(c) for class B or class C roads.

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

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

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

Section ~~{10}~~13. **Effective date.**

~~{This}~~(1) (a) Except as provided in Subsection (1)(b), this bill takes effect on May 1, 2024.

(b) 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 if the case of a veto, the date of veto override.

(2) Notwithstanding Subsection (1), the actions affecting Sections 11-58-602 and 59-12-205 take effect on July 1, 2024.