

1                                   **MINERAL LEASE FUNDS AMENDMENTS**

2   2021 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Ronald M. Winterton**

5                                   House Sponsor: Francis D. Gibson

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies provisions related to the expenditure of federal mineral lease  
10 revenues.

11 **Highlighted Provisions:**

- 12           This bill:
- 13           ▶ defines terms;
  - 14           ▶ addresses the legislative intent and purpose of the Community Impact Fund Act;
  - 15           ▶ allows the Permanent Community Impact Fund Board to make a grant or loan
  - 16 regardless of whether the project results in more than one impact or outcome;
  - 17           ▶ makes the provisions of this bill retroactive; and
  - 18           ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20           None

21 **Other Special Clauses:**

22           This bill provides revisor instructions.

23 **Utah Code Sections Affected:**

24 AMENDS:

25           **17B-1-612**, as last amended by Laws of Utah 2019, Chapter 37

26           **17D-1-201**, as last amended by Laws of Utah 2020, Chapter 354

27           **35A-8-301**, as renumbered and amended by Laws of Utah 2012, Chapter 212

28           **35A-8-302**, as last amended by Laws of Utah 2019, Chapter 501

29 **35A-8-305**, as last amended by Laws of Utah 2019, Chapter 89

30 **35A-8-307**, as last amended by Laws of Utah 2014, Chapter 371

31 **59-21-1**, as last amended by Laws of Utah 2018, Chapter 28

32 ENACTS:

33 **35A-8-310**, Utah Code Annotated 1953

34 **Utah Code Sections Affected by Revisor Instructions:**

35 **35A-8-310**, Utah Code Annotated 1953



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

38 Section 1. Section **17B-1-612** is amended to read:

39 **17B-1-612. Accumulated fund balances -- Limitations -- Excess balances --**

40 **Unanticipated excess of revenues -- Reserves for capital projects.**

41 (1) (a) A local district may accumulate retained earnings or fund balances, as  
42 appropriate, in any fund.

43 (b) For the general fund only, a local district may only use an accumulated fund  
44 balance to:

45 (i) provide working capital to finance expenditures from the beginning of the budget  
46 year until general property taxes or other applicable revenues are collected, subject to

47 Subsection (1)(c);

48 (ii) provide a resource to meet emergency expenditures under Section **17B-1-623**; and

49 (iii) cover a pending year-end excess of expenditures over revenues from an  
50 unavoidable shortfall in revenues, subject to Subsection (1)(d).

51 (c) Subsection (1)(b)(i) does not authorize a local district to appropriate a fund balance  
52 for budgeting purposes, except as provided in Subsection (4).

53 (d) Subsection (1)(b)(iii) does not authorize a local district to appropriate a fund  
54 balance to avoid an operating deficit during a budget year except:

55 (i) as provided under Subsection (4); or

56 (ii) for emergency purposes under Section 17B-1-623.

57 (2) (a) Except as provided in Subsection (2)(b), the accumulation of a fund balance in  
58 the general fund may not exceed the most recently adopted general fund budget, plus 100% of  
59 the current year's property tax.

60 (b) Notwithstanding Subsection (2)(a), a local district may accumulate in the general  
61 fund mineral lease revenue that the local district receives from the United States under the  
62 Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq., through a distribution under:

63 (i) Title 35A, Chapter 8, Part 3, Community Impact [~~Alleviation~~] Fund Act; or

64 (ii) Title 59, Chapter 21, Mineral Lease Funds.

65 (3) If the fund balance at the close of any fiscal year exceeds the amount permitted  
66 under Subsection (2), the district shall appropriate the excess in accordance with Section  
67 17B-1-613.

68 (4) A local district may utilize any fund balance in excess of 5% of the total revenues  
69 of the general fund for budget purposes.

70 (5) (a) Within a capital projects fund, the board of trustees may, in any budget year,  
71 appropriate from estimated revenue or fund balance to a reserve for capital projects for the  
72 purpose of financing future specific capital projects, including new construction, capital  
73 repairs, replacement, and maintenance, under a formal long-range capital plan that the board of  
74 trustees adopts.

75 (b) A local district may allow a reserve amount under Subsection (5)(a) to accumulate  
76 from year to year until the accumulated total is sufficient to permit economical expenditure for  
77 the specified purposes.

78 (c) A local district may disburse from a reserve account under Subsection (5)(a) only  
79 by a budget appropriation that the local district adopts in accordance with this part.

80 (d) A local district shall ensure that the expenditures from the appropriation budget  
81 accounts described in this Subsection (5) conform to all requirements of this part relating to  
82 execution and control of budgets.

83 Section 2. Section **17D-1-201** is amended to read:

84 **17D-1-201. Services that a special service district may be created to provide.**

85 As provided in this part, a county or municipality may create a special service district to  
86 provide any combination of the following services:

87 (1) water;

88 (2) sewerage;

89 (3) drainage;

90 (4) flood control;

91 (5) garbage collection and disposal;

92 (6) health care;

93 (7) transportation, including the receipt of federal secure rural school funds under

94 Section [51-9-603](#) for the purposes of constructing, improving, repairing, or maintaining public  
95 roads;

96 (8) recreation;

97 (9) fire protection, including:

98 (a) emergency medical services, ambulance services, and search and rescue services, if  
99 fire protection service is also provided;

100 (b) Firewise Communities programs and the development of community wildfire  
101 protection plans; and

102 (c) the receipt of federal secure rural school funds as provided under Section [51-9-603](#)  
103 for the purposes of carrying out Firewise Communities programs, developing community  
104 wildfire protection plans, and performing emergency services, including firefighting on federal  
105 land and other services authorized under this Subsection (9);

106 (10) providing, operating, and maintaining correctional and rehabilitative facilities and  
107 programs for municipal, state, and other detainees and prisoners;

108 (11) street lighting;

109 (12) consolidated 911 and emergency dispatch;

- 110 (13) animal shelter and control;
- 111 (14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease
- 112 Funds, and expending those funds to ~~[provide construction and maintenance of public~~
- 113 ~~facilities, traditional governmental services, and planning, as a means for mitigating impacts~~
- 114 ~~from extractive mineral industries]~~ be used in accordance with state and federal law;
- 115 (15) in a county of the first class, extended police protection;
- 116 (16) control or abatement of earth movement or a landslide;
- 117 (17) an energy efficiency upgrade, a renewable energy system, or electric vehicle
- 118 charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter
- 119 42a, Commercial Property Assessed Clean Energy Act; or
- 120 (18) cemetery.

121 Section 3. Section 35A-8-301 is amended to read:

122 **Part 3. Community Impact Fund Act**

123 **35A-8-301. Legislative intent -- Purpose and policy.**

124 (1) It is the intent of the Legislature to make available funds received by the state from

125 federal mineral lease revenues under Section 59-21-2, bonus payments on federal oil shale

126 lease tracts U-A and U-B, and all other bonus payments on federal mineral leases to be used for

127 ~~[the alleviation of social, economic, and public finance impacts resulting from the development~~

128 ~~of natural resources in this state]~~ planning, construction and maintenance of public facilities,

129 and provision of public service, subject to the limitations provided for in Section 35 of the

130 Mineral Leasing Act of 1920 (41 Stat. 450, 30 U.S.C. Sec. 191).

131 (2) To the extent allowed under the Mineral Leasing Act, any ambiguity as to whether

132 a particular use of the lease revenue and bonus payments described in Subsection (1) is a

133 permissible use under this part shall be resolved in favor of upholding the use.

134 ~~[(2)]~~ (3) The purpose of this part is to maximize the long term benefit of funds derived

135 from these lease revenues and bonus payments by fostering funding mechanisms which will,

136 consistent with sound financial practices, result in the greatest use of financial resources for the

137 greatest number of citizens of this state, with priority given to those communities designated as  
138 impacted by the development of natural resources covered by the Mineral Leasing Act.

139 ~~[(3)]~~ (4) The policy of this state is to promote cooperation and coordination between  
140 the state and [its] the state's agencies and political subdivisions with individuals, firms, and  
141 business organizations engaged in the development of the natural resources of this state. ~~[The~~  
142 ~~purpose of such efforts include private sector participation, financial and otherwise, in the~~  
143 ~~alleviation of impacts associated with resources development activities.]~~

144 Section 4. Section **35A-8-302** is amended to read:

145 **35A-8-302. Definitions.**

146 As used in this part:

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

151 (2) "Impact board" means the Permanent Community Impact Fund Board created under  
152 Section **35A-8-304**.

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

155 (4) "Interlocal agency" means a legal or administrative entity created by a subdivision  
156 or combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal  
157 Cooperation Act.

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

160 (6) "Qualifying sales and use tax distribution reduction" means that, for the calendar  
161 year beginning on January 1, 2008, the total sales and use tax distributions a city received  
162 under Section **59-12-205** were reduced by at least 15% from the total sales and use tax  
163 distributions the city received under Section **59-12-205** for the calendar year beginning on

164 January 1, 2007.

165 (7) (a) "Planning" means any of the following performed by or on behalf of the state, a  
166 subdivision, or an interlocal entity:

167 (i) a study, analysis, plan, or survey; or

168 (ii) activities necessary to obtain a permit or land use approval, including review to  
169 determine the need, cost, or feasibility of obtaining a permit or land use approval.

170 (b) "Planning" includes:

171 (i) the preparation of maps and guidelines;

172 (ii) land use planning;

173 (iii) a study or analysis of:

174 (A) the social or economic impacts associated with natural resource development;

175 (B) the demand for the transportation of individuals or goods;

176 (C) state, regional, and local development and growth;

177 (D) population and employment;

178 (E) development related to natural resources; and

179 (F) as related to any other activity described in this Subsection (7), engineering,

180 financial analysis, legal analysis, or any other analysis helpful to the state, subdivision, or

181 interlocal agency; and

182 (iv) any activity described in this Subsection (7) regardless of whether the activity is  
183 for a public facility or a public service.

184 (8) "Public facility" means a facility:

185 (a) in whole or in part, owned, controlled, or operated by the state, a subdivision, or an  
186 interlocal agency; and

187 (b) that serves a public purpose.

188 (9) (a) "Public service" means a service that:

189 (i) is provided, in whole or in part, by or on behalf of the state, a subdivision, or an  
190 interlocal agency; and

- 191 (ii) serves a public purpose.
- 192 (b) "Public service" includes:
- 193 (i) a service described in Subsection (9)(a) regardless of whether the service is  
194 provided in connection with a public facility;
- 195 (ii) the cost of providing a service described in Subsection (9)(a), including  
196 administrative costs, wages, and legal fees; and
- 197 (iii) a contract with a public postsecondary institution to fund research, education, or a  
198 public service program.
- 199 ~~[(7)]~~ (10) "Subdivision" means a county, city, town, county service area, special  
200 service district, special improvement district, water conservancy district, water improvement  
201 district, sewer improvement district, housing authority, building authority, school district, or  
202 public postsecondary institution organized under the laws of this state.
- 203 ~~[(8)]~~ (11) (a) "Throughput infrastructure project" means the following facilities,  
204 whether located within, partially within, or outside of the state:
- 205 (i) a bulk commodities ocean terminal;
- 206 (ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;
- 207 (iii) electric transmission lines and ancillary facilities;
- 208 (iv) a shortline freight railroad and ancillary facilities;
- 209 (v) a plant or facility for storing, distributing, or producing hydrogen, including the  
210 liquification of hydrogen, for use as a fuel in zero emission motor vehicles, for electricity  
211 generation, or for industrial use; or
- 212 (vi) a plant for the production of zero emission hydrogen fueled trucks.
- 213 (b) "Throughput infrastructure project" includes:
- 214 (i) an ownership interest or a joint or undivided ownership interest in a facility;
- 215 (ii) a membership interest in the owner of a facility; or
- 216 (iii) a contractual right, whether secured or unsecured, to use all or a portion of the  
217 throughput, transportation, or transmission capacity of a facility.



218 Section 5. Section **35A-8-305** is amended to read:

219 **35A-8-305. Duties -- Loans -- Interest.**

220 (1) The impact board shall:

221 (a) make grants and loans from the amounts appropriated by the Legislature out of the  
222 impact fund to state agencies, subdivisions, and interlocal agencies that are or may be socially  
223 or economically impacted, directly or indirectly, by mineral resource development for:

224 (i) planning;

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

226 (iii) provision of public services;

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

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

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

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

233 (f) qualify for, accept, and administer grants, gifts, loans, or other funds from:

234 (i) the federal government; and

235 (ii) other sources, public or private; and

236 (g) perform other duties assigned to it under Sections [11-13-306](#) and [11-13-307](#).

237 (2) Money, including all loan repayments and interest, in the impact fund derived from  
238 bonus payments may be used for any of the purposes set forth in Subsection (1)(a) but may  
239 only be given in the form of interest bearing loans to be paid back into the impact fund by the  
240 agency, subdivision, or interlocal agency.

241 ~~[(3)(a) "Provision of public services" under Subsection (1)(a) includes contracts with~~  
242 ~~public postsecondary institutions to fund research, education, or public service programs that~~  
243 ~~benefit impacted counties or political subdivisions of the counties.]~~

244 ~~[(b) Each contract under Subsection (3)(a) shall be:]~~

245 ~~[(i) based on an application to the impact board from the impacted county; and]~~

246 ~~[(ii) approved by the county legislative body.]~~

247 ~~[(c) For purposes of this section, a land use plan is a public service program.]~~

248 (3) The impact board may make a grant or loan under Subsection (1) regardless of  
249 whether the activity results in more than one impact or outcome, including an increase in  
250 natural resource development or an increase in economic development.

251 (4) If the public service described in Subsection (1)(a) is a contract with a public  
252 postsecondary institution described in Subsection 35A-3-302(9)(b)(iii), the contract shall be:

253 (a) based on an application to the impact board from the impacted county; and

254 (b) approved by the county legislative body.

255 Section 6. Section 35A-8-307 is amended to read:

256 **35A-8-307. Impact fund administered by impact board -- Eligibility for**  
257 **assistance -- Review by board -- Administration costs -- Annual report.**

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

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

261 (ii) determine provisions for repayment of loans;

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

263 (iv) consider recommendations from the School and Institutional Trust Lands  
264 Administration when awarding a grant described in Subsection 35A-8-303(6).

265 (b) (i) The criteria for awarding loans or grants made from funds described in  
266 Subsection 35A-8-303(5) shall be consistent with the requirements of Subsection  
267 35A-8-303(5).

268 (ii) The criteria for awarding grants made from funds described in Subsection  
269 35A-8-303(2)(c) shall be consistent with the requirements of Subsection 35A-8-303(6).

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

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

- 274 (a) the subdivision's or interlocal agency's current mineral lease production;
- 275 (b) the feasibility of the actual development or the increased development of a resource  
276 that may impact the subdivision or interlocal agency directly or indirectly;
- 277 (c) current taxes being paid by the subdivision's or interlocal agency's residents;
- 278 (d) the borrowing capacity of the subdivision or interlocal agency, including:
  - 279 (i) [~~its~~] the subdivision's or interlocal agency's ability and willingness to sell bonds or  
280 other securities in the open market; and
  - 281 (ii) [~~its~~] the subdivision's or interlocal agency's current and authorized indebtedness;
- 282 (e) all possible additional sources of state and local revenue, including utility user  
283 charges;
- 284 (f) the availability of federal assistance funds;
- 285 (g) probable growth of population due to actual or prospective natural resource  
286 development in an area;
- 287 (h) existing public facilities and services;
- 288 (i) the extent of the expected direct or indirect impact upon public facilities and public  
289 services of the actual or prospective natural resource development in an area; and
- 290 (j) the extent of industry participation in an impact alleviation plan, either as specified  
291 in Title 63M, Chapter 5, Resource Development Act, or otherwise.

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

295 (4) The impact board may restructure all or part of the agency's or subdivision's  
296 liability to repay loans for extenuating circumstances.

297 (5) The impact board shall:

- 298 (a) review the proposed uses of the impact fund for loans or grants before approving

299 them and may condition its approval on whatever assurances the impact board considers  
300 necessary to ensure that proceeds of the loan or grant will be used in accordance with the  
301 Leasing Act and this part; and

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

306 (6) The impact board shall allocate from the impact fund to the department those funds  
307 that are appropriated by the Legislature for the administration of the impact fund, but this  
308 amount may not exceed 2% of the annual receipts to the impact fund.

309 (7) The department shall include in the annual written report described in Section  
310 [35A-1-109](#), the number and type of loans and grants made as well as a list of subdivisions and  
311 interlocal agencies that received this assistance.

312 Section 7. Section **35A-8-310** is enacted to read:

313 **35A-8-310. Application -- Retroactivity.**

314 (1) The provisions of this bill apply to any claim for which a court of competent  
315 jurisdiction has not issued a final unappealable judgment or order.

316 (2) The Legislature finds that the provisions of this bill:

317 (a) do not enlarge, eliminate, or destroy vested rights; and

318 (b) clarify legislative intent.

319 Section 8. Section **59-21-1** is amended to read:

320 **59-21-1. Disposition of federal mineral lease money -- Priority to political**  
321 **subdivisions impacted by mineral development -- Disposition of mineral bonus payments**  
322 **-- Appropriation of money attributable to royalties from extraction of minerals on federal**  
323 **land located within boundaries of Grand Staircase-Escalante National Monument.**

324 (1) Except as provided in Subsections (2) through (4), all money received from the  
325 United States under the provisions of the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et

326 seq., shall:

327 (a) be deposited in the Mineral Lease Account of the General Fund; and

328 (b) be appropriated by the Legislature giving priority to those subdivisions of the state  
329 socially or economically impacted by development of minerals leased under the Mineral Lands  
330 Leasing Act, for:

331 (i) planning;

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

333 (iii) provision of public services.

334 (2) Seventy percent of money received from federal mineral lease bonus payments  
335 shall be deposited into the Permanent Community Impact Fund and shall be used as provided  
336 in Title 35A, Chapter 8, Part 3, Community Impact ~~[Alleviation]~~ Fund Act.

337 (3) Thirty percent of money received from federal mineral lease bonus payments shall  
338 be deposited in the Mineral Bonus Account created by Subsection 59-21-2(1) and appropriated  
339 as provided in that subsection.

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

341 (i) the "boundaries of the Grand Staircase-Escalante National Monument" means the  
342 boundaries:

343 (A) established by Presidential Proclamation No. 6920, 61 Fed. Reg. 50,223 (1996);

344 and

345 (B) modified by:

346 (I) Pub. L. No. 105-335, 112 Stat. 3139; and

347 (II) Pub. L. No. 105-355, 112 Stat. 3247; and

348 (ii) a special service district, school district, or federal land is considered to be located  
349 within the boundaries of the Grand Staircase-Escalante National Monument if a portion of the  
350 special service district, school district, or federal land is located within the boundaries  
351 described in Subsection (4)(a)(i).

352 (b) Beginning on July 1, 1999, the Legislature shall appropriate, as provided in

353 Subsections (4)(c) through (g), money received from the United States that is attributable to  
354 royalties from the extraction of minerals on federal land that, on September 18, 1996, was  
355 located within the boundaries of the Grand Staircase-Escalante National Monument.

356 (c) The Legislature shall annually appropriate 40% of the money described in  
357 Subsection (4)(b) to the Division of Finance to be distributed by the Division of Finance to  
358 special service districts that are:

359 (i) established by counties under Title 17D, Chapter 1, Special Service District Act;

360 (ii) socially or economically impacted by the development of minerals under the  
361 Mineral Lands Leasing Act; and

362 (iii) located within the boundaries of the Grand Staircase-Escalante National  
363 Monument.

364 (d) The Division of Finance shall distribute the money described in Subsection (4)(c)  
365 in amounts proportionate to the amount of federal mineral lease money generated by the county  
366 in which a special service district is located.

367 (e) The Legislature shall annually appropriate 40% of the money described in  
368 Subsection (4)(b) to the State Board of Education to be distributed equally to school districts  
369 that are:

370 (i) socially or economically impacted by the development of minerals under the  
371 Mineral Lands Leasing Act; and

372 (ii) located within the boundaries of the Grand Staircase-Escalante National  
373 Monument.

374 (f) The Legislature shall annually appropriate 2.25% of the money described in  
375 Subsection (4)(b) to the Utah Geological Survey to facilitate the development of energy and  
376 mineral resources in counties that are:

377 (i) socially or economically impacted by the development of minerals under the  
378 Mineral Lands Leasing Act; and

379 (ii) located within the boundaries of the Grand Staircase-Escalante National

380 Monument.

381 (g) Seventeen and three-fourths percent of the money described in Subsection (4)(b)  
382 shall be deposited annually into the State School Fund established by Utah Constitution Article  
383 X, Section 5.

384 Section 9. **Revisor instructions.**

385 The Legislature intends that the Office of Legislative Research and General Counsel, in  
386 preparing the Utah Code database for publication, replace the phrase "this bill" in Subsections  
387 [35A-8-310](#)(1) and (2) with this bill's designated chapter number in the Laws of Utah.