

**INLAND PORT MODIFICATIONS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Francis D. Gibson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of "publicly owned infrastructure and improvements" within the Utah Inland Port Authority Act to include energy-related facilities;
- ▶ enacts a provision allowing an owner within the authority jurisdictional land to establish a vested development right;
- ▶ enacts a severability provision;
- ▶ provides that money from legislative appropriations is nonlapsing;
- ▶ modifies inland port authority powers and duties, including power to adjust the boundary of the authority jurisdictional land;
- ▶ repeals provisions relating to appeals to the inland port authority's appeals panel;
- ▶ modifies language relating to the policies and objectives of the inland port authority;
- ▶ authorizes the inland port authority to use funds to encourage, incentivize, or require development with reduced environmental impact and to develop and implement zero-emissions logistics;
- ▶ eliminates language relating to an agreement for a municipality to provide municipal services;
- ▶ modifies language relating to the responsibilities of the executive director;



- 28           ▶ modifies the membership of the inland port authority board;
- 29           ▶ modifies provisions relating to the inland port authority's receipt and use of property
- 30 tax differential;
- 31           ▶ modifies a provision relating to a renewable energy tariff; and
- 32           ▶ makes technical changes.

**33 Money Appropriated in this Bill:**

34           None

**35 Other Special Clauses:**

36           None

**37 Utah Code Sections Affected:****38 AMENDS:**

- 39           **10-9a-509.5**, as last amended by Laws of Utah 2019, Chapter 384
- 40           **10-9a-701**, as last amended by Laws of Utah 2019, Chapter 384
- 41           **10-9a-708**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
- 42           **11-58-102**, as last amended by Laws of Utah 2019, Chapter 399
- 43           **11-58-202**, as last amended by Laws of Utah 2019, Chapter 399
- 44           **11-58-203**, as last amended by Laws of Utah 2019, Chapter 399
- 45           **11-58-205**, as last amended by Laws of Utah 2019, Chapter 399
- 46           **11-58-301**, as enacted by Laws of Utah 2018, Chapter 179
- 47           **11-58-302**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
- 48           **11-58-303**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
- 49           **11-58-305**, as last amended by Laws of Utah 2019, Chapter 399
- 50           **11-58-505**, as last amended by Laws of Utah 2019, Chapter 399
- 51           **11-58-601**, as last amended by Laws of Utah 2019, Chapters 376 and 399
- 52           **11-58-602**, as last amended by Laws of Utah 2019, Chapter 399
- 53           **54-17-806**, as last amended by Laws of Utah 2019, Chapter 399

**54 ENACTS:**

- 55           **11-58-103**, Utah Code Annotated 1953
- 56           **11-58-104**, Utah Code Annotated 1953
- 57           **11-58-105**, Utah Code Annotated 1953

**58 REPEALS:**

59 **11-58-401**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1

60 **11-58-402**, as enacted by Laws of Utah 2018, Chapter 179

61 **11-58-402.5**, as enacted by Laws of Utah 2018, Second Special Session, Chapter 1

62 **11-58-403**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1

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

65 Section 1. Section **10-9a-509.5** is amended to read:

66 **10-9a-509.5. Review for application completeness -- Substantive application**  
67 **review -- Reasonable diligence required for determination of whether improvements or**  
68 **warranty work meets standards -- Money damages claim prohibited.**

69 (1) (a) Each municipality shall, in a timely manner, determine whether a land use  
70 application is complete for the purposes of subsequent, substantive land use authority review.

71 (b) After a reasonable period of time to allow the municipality diligently to evaluate  
72 whether all objective ordinance-based application criteria have been met, if application fees  
73 have been paid, the applicant may in writing request that the municipality provide a written  
74 determination either that the application is:

75 (i) complete for the purposes of allowing subsequent, substantive land use authority  
76 review; or

77 (ii) deficient with respect to a specific, objective, ordinance-based application  
78 requirement.

79 (c) Within 30 days of receipt of an applicant's request under this section, the  
80 municipality shall either:

81 (i) mail a written notice to the applicant advising that the application is deficient with  
82 respect to a specified, objective, ordinance-based criterion, and stating that the application shall  
83 be supplemented by specific additional information identified in the notice; or

84 (ii) accept the application as complete for the purposes of further substantive  
85 processing by the land use authority.

86 (d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application  
87 shall be considered complete, for purposes of further substantive land use authority review.

88 (e) (i) The applicant may raise and resolve in a single appeal any determination made  
89 under this Subsection (1) to the appeal authority, including an allegation that a reasonable

period of time has elapsed under Subsection (1)(a).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence~~[, subject to the time limit under Subsection 11-58-402.5(2) for an inland port use application, as defined in Section 11-58-401].~~

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) Within 45 days from the date of service of the written request described in Subsection (2)(b):

(i) except as provided in Subsection (2)(c)(ii), the land use authority shall take final action, approving or denying the application; and

(ii) if a landowner petitions for a land use regulation, a legislative body shall take final action by approving or denying the petition.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority is required to take final action under Subsection (2)(c).

(3) (a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the municipality's adopted standards.

(b) (i) An applicant may in writing request the land use authority to accept or reject the

applicant's installation of required subdivision improvements or performance of warranty work.

(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.

(iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.

(c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for the land use authority's determination.

(4) Subject to Section 10-9a-509, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

(5) There shall be no money damages remedy arising from a claim under this section.

Section 2. Section 10-9a-701 is amended to read:

**10-9a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.**

(1) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:

(a) requests for variances from the terms of the land use ordinances;

(b) appeals from decisions applying the land use ordinances; and

(c) appeals from a fee charged in accordance with Section 10-9a-510.

(2) As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority:

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances[~~except as provided in Title 11, Chapter 58, Part 4, Appeals to Appeals Panel, for an appeal of an inland port use appeal decision, as defined in Section 11-58-401~~]; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a municipality may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court;

(d) not require an adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of its members of any meeting or hearing of the board, body, or panel;

(b) provide each of its members with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of its members is present; and

(d) act only upon the vote of a majority of its convened members.

Section 3. Section **10-9a-708** is amended to read:

**10-9a-708. Final decision.**

(1) A decision of an appeal authority takes effect on the date when the appeal authority issues a written decision, or as otherwise provided by ordinance.

(2) A written decision, or other event as provided by ordinance, constitutes a final decision under Subsection **10-9a-801(2)(a)** or a final action under Subsection **10-9a-801(4)**;

except as provided in Title 11, Chapter 58, Part 4, Appeals to Appeals Panel, for an appeal of an inland port use appeal decision, as defined in Section ~~11-58-401~~].

Section 4. 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~~[(a)]~~ is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) ~~[may be accessed via the Utah Legislature's website]~~ 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~~~~[(1)(c)]~~(5), 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) "Development" means:

(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 publicly owned infrastructure and

improvements; and

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

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

(8) "Inland port" means one or more sites that:

(a) contain multimodal transportation assets and 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) "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);

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

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

(10) "Intermodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

(11) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(6) who does not have the power to vote on matters of authority

245 business.

246 (12) "Project area" means:

247 (a) the authority jurisdictional land; or

248 (b) land outside the authority jurisdictional land, whether consisting of a single  
249 contiguous area or multiple noncontiguous areas, described in a project area plan or draft  
250 project area plan, where the development project set forth in the project area plan or draft  
251 project area plan takes place or is proposed to take place.

252 (13) "Project area budget" means a multiyear projection of annual or cumulative  
253 revenues and expenses and other fiscal matters pertaining to the project area.

254 (14) "Project area plan" means a written plan that, after its effective date, guides and  
255 controls the development within a project area.

256 (15) "Property tax" includes a privilege tax and each levy on an ad valorem basis on  
257 tangible or intangible personal or real property.

258 (16) "Property tax differential":

259 (a) means the difference between:

260 (i) the amount of property tax revenues generated each tax year by all taxing entities  
261 from a project area, using the current assessed value of the property; and

262 (ii) the amount of property tax revenues that would be generated from that same area  
263 using the base taxable value of the property; and

264 (b) does not include property tax revenue from:

265 (i) a county additional property tax or multicounty assessing and collecting levy  
266 imposed in accordance with Section 59-2-1602;

267 (ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330;

268 or

269 (iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general  
270 obligation bond.

271 (17) "Public entity" means:

272 (a) the state, including each department, division, or other agency of the state; or

273 (b) a county, city, town, metro township, school district, local district, special service  
274 district, interlocal cooperation entity, community reinvestment agency, or other political  
275 subdivision of the state.

(18) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) 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; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(19) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(20) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

(21) "Taxing entity" means a public entity that levies a tax on property within a project area.

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

Section 5. Section **11-58-103** is enacted to read:

**11-58-103. Vested right of landowner.**

(1) As used in this section:

(a) "Municipal inland port regulations" means a municipality's land use ordinances and regulations relating to the use of land within the authority jurisdictional land for an inland port use.

(b) "Vested development right" means a right:

(i) to use or develop land located within the authority jurisdictional land for an inland port use in accordance with municipal inland port regulations in effect on December 31, 2018; and

(ii) that may not be affected by later changes to municipal ordinances or regulations.

307 (c) "Vested right notice" means a notice that complies with the requirements of  
308 Subsection (3).

309 (2) An owner of land located within the boundary of the authority jurisdictional land  
310 may establish a vested development right on that land by causing a notice to be recorded in the  
311 office of the recorder of the county in which the land is located.

312 (3) A notice under Subsection (2) shall:

313 (a) state that the owner elects to establish a vested development right on the owner's  
314 land to use or develop the land for an inland port use in accordance with municipal inland port  
315 regulations in effect on December 31, 2018;

316 (b) state that the owner's election is made under Title 11, Chapter 58, Utah Inland Port  
317 Authority Act;

318 (c) describe the land in a way that complies with applicable requirements for the  
319 recording of an instrument affecting land;

320 (d) indicate the zoning district in which the land is located, including any overlay  
321 district;

322 (e) bear the signature of each owner of the land;

323 (f) be accompanied by the applicable recording fee; and

324 (g) include the following acknowledgment:

325 "I/we acknowledge that:

326 • the land identified in this notice is situated within the authority jurisdictional land of  
327 the Utah Inland Port Authority, established under Utah Code Title 11, Chapter 58, Utah Inland  
328 Port Authority Act, and is eligible for this election of a vested right;

329 • this vested right allows the land described in this notice to be used or developed in the  
330 manner allowed by applicable land use regulations in effect on December 31, 2018;

331 • all development activity must comply with those land use regulations;

332 • the right to use and develop the land described in this notice in accordance with those  
333 land use regulations continues for 40 years from the date this notice is recorded, unless a land  
334 use application is submitted to the applicable land use authority that proposes a use or  
335 development activity that is not allowed under the land use regulations in effect on December  
336 31, 2018, or all record owners of the land record a rescission of the election of a vested  
337 development right for this land."

(4) (a) An owner of land against which a vested right notice is recorded has a vested development right with respect to that land for 40 years from the date the vested right notice is recorded, or, if earlier, until the vested development right is rescinded by the recording of a rescission of the election of the vested development right signed by all record owners of the land.

(b) A vested development right may not be affected by changes to municipal ordinances or regulations that occur after a vested right notice is recorded.

(5) Within 10 days after the recording of a vested right notice under this section, the owner of the land shall provide a copy of the vested right notice, with recording information, to the applicable local land use authority.

(6) A vested development right may not be affected by an action under Subsection 17-27a-508(1)(a)(ii)(A) or (B) or Subsection 10-9a-509(1)(a)(ii)(A) or (B).

Section 6. Section **11-58-104** is enacted to read:

**11-58-104. Severability.**

If a court determines that any provision of this chapter, or the application of any provision of this chapter, is invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

Section 7. Section **11-58-105** is enacted to read:

**11-58-105. Nonlapsing funds.**

Money the authority receives from legislative appropriations is nonlapsing.

Section 8. Section **11-58-202** is amended to read:

**11-58-202. Port authority powers and duties.**

(1) The authority has exclusive jurisdiction, responsibility, and power to coordinate the efforts of all applicable state and local government entities, property owners and other private parties, and other stakeholders to:

(a) develop and implement a business plan for the authority jurisdictional land, to include an environmental sustainability component, developed in conjunction with the Utah Department of Environmental Quality, incorporating policies and best practices to meet or exceed applicable federal and state standards, including:

(i) emissions monitoring and reporting; and

(ii) strategies that use the best available technology to mitigate environmental impacts

369 from development and uses on the authority jurisdictional land;

370 (b) plan and facilitate the development of inland port uses on authority jurisdictional  
371 land and on land in other authority project areas;

372 (c) manage any inland port located on land owned or leased by the authority; and

373 (d) establish a foreign trade zone, as provided under federal law, covering some or all  
374 of the authority jurisdictional land or land in other authority project areas.

375 (2) The authority may:

376 (a) facilitate and bring about the development of inland port uses on land that is part of  
377 the authority jurisdictional land or that is in other authority project areas, including engaging in  
378 marketing and business recruitment activities and efforts to encourage and facilitate:

379 (i) the development of an inland port on the authority jurisdictional land; and

380 (ii) other development of the authority jurisdictional land consistent with the policies  
381 and objectives described in Subsection 11-58-203(1);

382 (b) facilitate and provide funding for the development of the authority jurisdictional  
383 land and land in other authority project areas, including the development of publicly owned  
384 infrastructure and improvements and other infrastructure and improvements on or related to the  
385 authority jurisdictional land;

386 (c) engage in marketing and business recruitment activities and efforts to encourage  
387 and facilitate development of the authority jurisdictional land;

388 (d) apply for and take all other necessary actions for the establishment of a foreign  
389 trade zone, as provided under federal law, covering some or all of the authority jurisdictional  
390 land;

391 (e) as the authority considers necessary or advisable to carry out any of its duties or  
392 responsibilities under this chapter:

393 (i) buy, obtain an option upon, or otherwise acquire any interest in real or personal  
394 property;

395 (ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or  
396 personal property; or

397 (iii) enter into a lease agreement on real or personal property, either as lessee or lessor;

398 (f) sue and be sued;

399 (g) enter into contracts generally;

(h) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the authority jurisdictional land or other authority project areas;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) receive the property tax differential, as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, ~~[and]~~ bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act, and bonds under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) engage one or more consultants to advise or assist the authority in the performance of the authority's duties and responsibilities;

~~[(q)] enter into an agreement with a taxing entity to share property tax differential for services that the taxing entity provides within the authority jurisdictional land;~~

~~[(r)]~~ (q) work with other political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the development of authority jurisdictional land;

~~[(s)]~~ (r) own and operate an intermodal facility if the authority considers the authority's ownership and operation of an intermodal facility to be necessary or desirable;

~~[(t)]~~ (s) own and operate publicly owned infrastructure and improvements in a project area outside the authority jurisdictional land; and

~~[(u)]~~ (t) exercise powers and perform functions that the authority is authorized by

statute to exercise or perform.

(3) (a) Beginning [~~January~~] April 1, 2020, the authority shall:

~~[(a)]~~ (i) be the repository of the official delineation of the boundary of the authority jurisdictional land, identical to the boundary as delineated in the shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session, subject to Subsection (3)(b) and any later changes to the boundary enacted by the Legislature; and

~~[(b)]~~ (ii) maintain an accurate digital file of the boundary that is easily accessible by the public.

(b) (i) As used in this Subsection (3)(b), "split property" means a piece of land:

(A) with a single tax identification number; and

(B) that is partly included within and partly excluded from the authority jurisdictional land by the boundary delineated in the shapefile described in Subsection 11-58-102(2).

(ii) With the consent of the mayor of the municipality in which the split property is located, the executive director may adjust the boundary of the authority jurisdictional land to include an excluded portion of a split property or exclude an included portion of a split property.

(iii) In adjusting the boundary under Subsection (3)(b)(ii), the executive director shall consult with the county assessor, the county surveyor, the owner of the split property, and the municipality in which the split property is located.

(iv) A boundary adjustment under this Subsection (3)(b) affecting the northwest boundary of the authority jurisdictional land shall maintain the buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land to be preserved from development.

(v) Upon completing boundary adjustments under this Subsection (3)(b), the executive director shall cause to be recorded in the county recorder's office a map or other description, sufficient for purposes of the county recorder, of the adjusted boundary of the authority jurisdictional land.

(vi) The authority shall modify the official delineation of the boundary of the authority jurisdictional land under Subsection (3)(a) to reflect a boundary adjustment under this Subsection (3)(b).

(4) An intermodal facility owned by the authority is subject to a privilege tax under Title 59, Chapter 4, Privilege Tax.

Section 9. Section **11-58-203** is amended to read:

**11-58-203. Policies and objectives of the port authority -- Additional duties of the port authority.**

(1) The policies and objectives of the authority are to:

(a) maximize long-term economic benefits to the area, the region, and the state;

(b) maximize the creation of high-quality jobs;

(c) respect and maintain sensitivity to the unique natural environment of areas in proximity to the authority jurisdictional land and land in other authority project areas;

(d) improve air quality and minimize resource use;

(e) respect existing land use and other agreements and arrangements between property owners within the authority jurisdictional land and within other authority project areas and applicable governmental authorities;

(f) promote and encourage development and uses that are compatible with or complement uses in areas in proximity to the authority jurisdictional land or land in other authority project areas;

(g) take advantage of the authority jurisdictional land's strategic location and other features, including the proximity to transportation and other infrastructure and facilities, that make the authority jurisdictional land attractive to:

(i) businesses that engage in regional, national, or international trade; and

(ii) businesses that complement businesses engaged in regional, national, or international trade;

(h) facilitate the transportation of goods;

(i) coordinate trade-related opportunities to export Utah products nationally and internationally;

(j) support and promote land uses on the authority jurisdictional land and land in other authority project areas that generate economic development, including rural economic development;

(k) establish a project of regional significance;

(l) facilitate an intermodal facility;

(m) support uses of the authority jurisdictional land for inland port uses, including warehousing, light manufacturing, and distribution facilities;

(n) facilitate an increase in trade in the region and in global commerce;

(o) promote the development of facilities that help connect local businesses to potential foreign markets for exporting or that increase foreign direct investment; ~~and~~

(p) encourage all class 5 through 8 designated truck traffic entering the authority jurisdictional land to meet the heavy-duty highway compression-ignition diesel engine and urban bus exhaust emission standards for year 2007 and later[-]; and

(q) encourage the development and use of cost-efficient renewable energy in project areas.

(2) In fulfilling its duties and responsibilities relating to the development of the authority jurisdictional land and land in other authority project areas and to achieve and implement the development policies and objectives under Subsection (1), the authority shall:

(a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around the authority jurisdictional land and land in other authority project areas and for an inland port;

(b) review and identify land use and zoning policies and practices to recommend to municipal land use policymakers and administrators that are consistent with and will help to achieve:

(i) the policies and objectives stated in Subsection (1); and

(ii) the mutual goals of the state and local governments that have authority jurisdictional land with their boundaries with respect to the authority jurisdictional land; and

(c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of the authority jurisdictional land to attract, retain, and service users who will help maximize the long-term economic benefit to the state.

(3) (a) The authority may use property tax differential and other authority money to encourage, incentivize, or require development that:

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

(ii) mitigates traffic congestion; or

(iii) uses high efficiency building construction and operation.

(b) In consultation with a municipality in which development is expected to occur, the authority shall establish minimum mitigation and environmental standards that a development is required to meet to qualify for the use of property tax differential.

(c) The authority may develop and implement world-class, state-of-the-art, zero-emissions logistics that support continued growth of the state's economy in order to:

(i) promote the state as the global center of efficient and sustainable supply chain logistics;

(ii) facilitate the efficient movement of goods on roads and rails and through the air;

(iii) benefit the commercial viability of developers, landowners, and tenants and users;

and

(iv) attract capital and expertise in pursuit of the next generation of logistics solutions.

Section 10. 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 -- Sharing property tax differential -- Disclosure by nonauthority governing body member.**

(1) Except as provided in Part 4, Appeals to Appeals Panel, 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) ~~[(f)]~~ 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.

~~[(f)]~~ (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.

~~[(b) (i) The board shall negotiate and enter into an agreement with a municipality providing municipal services, as described in Subsection (7)(a), with respect to the appropriate amount of property tax differential the authority should share with the municipality to cover the cost of providing those municipal services.]~~

~~[(ii) Under an agreement described in Subsection (7)(b)(i), the board and municipality shall establish a method of determining the amount of property tax differential the authority shares over time with a municipality to cover the cost of providing municipal services, taking into account:]~~

~~[(A) the cost of those services as documented in the audited financial statements under Subsection (7)(c); and]~~

~~[(B) the variable level of need for those services within the authority jurisdictional land depending on the level, amount, and location of development and other relevant factors.]~~

~~[(c) A municipality providing municipal services, as described in Subsection (7)(a), shall, as requested by the board, provide the board audited financial statements documenting~~

the cost of the municipal services the municipality provides within the authority jurisdictional land.]

~~[(8) (a) The board shall negotiate and enter into an agreement with a municipality or other taxing entity in which the authority jurisdictional land is located to share some of the increase in property tax differential that occurs over time as development occurs and the amount of property tax revenue increases.]~~

~~[(b) In an agreement described in Subsection (8)(a), the board and municipality or other taxing entity shall establish a method of determining the amount of property tax differential the authority shares over time to allow the municipality or other taxing entity to share in the benefit from increasing property tax revenue.]~~

~~[(9) The board may consult with other taxing entities, in addition to a municipality under Subsection (7), for the purpose of receiving input from those taxing entities on the appropriate allocation of property tax differential, considering the needs of the authority and the needs of the other taxing entities.]~~

~~[(10) (a) The board shall review and reassess the amount of property tax differential the authority retains and the amount the authority shares with other taxing entities so that the authority retains property tax differential it reasonably needs to meet its responsibilities and purposes and adjusts the amount the authority shares with other taxing entities accordingly.]~~

~~[(b) The board shall meet with taxing entities to review and reassess, as provided in Subsection (10)(a):]~~

~~[(i) before December 31, 2020; and]~~

~~[(ii) at least every other year after 2020.]~~

~~[(11)] (8) (a) As used in this Subsection [(11)] (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 ~~[(11)]~~ (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 ~~[(11)]~~ (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

(ii) the effective date of this Subsection ~~[(11)]~~ (8), if that date is later than the period described in Subsection ~~[(11)]~~ (8)(d)(i).

(e) A written disclosure submitted under this Subsection ~~[(11)]~~ (8) is a public record.

Section 11. Section **11-58-301** is amended to read:

**11-58-301. Port authority board -- Delegation of power.**

(1) The authority shall be governed by a board which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.

(2) All powers of the authority are exercised through the board or, as provided in Section [11-58-305](#), the executive director.

(3) The board may by resolution delegate powers to authority staff.

Section 12. 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 11 members, as provided in Subsection (2).

(2) (a) The governor shall appoint two board members[;]:

(i) one of whom shall be ~~[an employee or officer of the Governor's Office of Economic Development, created in Section 63N-1-201]~~ 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, or foreign direct investment.

(b) The president of the Senate shall appoint one board member.

(c) The speaker of the House of Representatives shall appoint one board member.

(d) The mayor of Salt Lake County ~~[mayor shall appoint one]~~, or the mayor's designee, shall serve as a board member.

(e) The chair of the Permanent Community Impact Fund Board, created in Section 35A-8-304, shall appoint one board member from among the members of the Permanent Community Impact Fund Board.

(f) ~~The [chair of the]~~ mayor of Salt Lake ~~[Airport Advisory Board, or the chair's]~~ City, ~~or the mayor's designee,~~ shall serve as a board member.

(g) ~~[The]~~ A member of the Salt Lake City council ~~[who is elected by district and whose district includes the Salt Lake City Airport],~~ selected by the Salt Lake City council, shall serve as a board member.

(h) The city manager of West Valley City, with the consent of the city council of West Valley City, shall appoint one board member.

~~[(i) The executive director of the Department of Transportation, appointed under Section 72-1-202, shall serve as a board member.]~~

~~[(j)]~~ (i) The director of the Salt Lake County office of Regional Economic Development shall serve as a board member.

(j) The mayor of the Magna township, or the mayor's designee, shall serve as a board member.

(3) 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, 2018.

(4) (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.

(5) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(6) The authority may appoint nonvoting members of the board and set terms for those nonvoting members.

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

(8) (a) An individual designated as a board member under Subsection (2)(g), (i), or (j) who would be precluded from serving as a board member because of Subsection 11-58-304(2):

(i) may serve as a board member notwithstanding Subsection 11-58-304(2); and

(ii) shall disclose in writing to the board the circumstances that would otherwise have precluded the individual from serving as a board member under Subsection 11-58-304(2).

(b) A written disclosure under Subsection (8)(a)(ii) is a public record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) 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 13. Section 11-58-303 is amended to read:

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

(1) The term of a board member appointed under Subsection 11-58-302(2)(a), (b), (c), ~~[(d), or (e), (g), or (h)]~~ 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 members appointed under Subsections 11-58-302(2)~~[(d)]~~(e) and ~~[(h)]~~ (g) 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 members constitutes a quorum, and the action of a majority of a quorum 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 14. Section 11-58-305 is amended to read:

**11-58-305. Executive director.**

(1) On or before July 1, 2019, the board shall hire a full-time executive director. ~~[to]~~

(2) (a) The executive director is the chief executive officer of the authority.

(b) The role of the executive director is to:

(i) manage and oversee the day-to-day operations of the authority;

(ii) fulfill the executive and administrative duties and responsibilities of the authority;

and ~~[to]~~

(iii) perform other functions, as directed by the board.

~~[(2)]~~ (3) The executive director shall have the education, experience, and training necessary to perform the executive director's duties in a way that maximizes the potential for successfully achieving and implementing the strategies, policies, and objectives stated in Subsection 11-58-203(1).

~~[(3)]~~ (4) An executive director is an at-will employee who serves at the pleasure of the board and may be removed by the board at any time.

~~[(4)]~~ (5) The board shall establish the duties, compensation, and benefits of an executive director.

Section 15. 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.

(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 shared with other taxing entities;]~~

~~[(d)]~~ (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 land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

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

~~[(f)]~~ (e) 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 16. Section ~~11-58-601~~ is amended to read:

**11-58-601. Port authority receipt and use of property tax differential --  
Distribution of property tax differential.**

~~[(1)(a) The authority:]~~

~~[(i) subject to Subsections (1)(b), (c), and (d):]~~

~~[(A) shall be paid 100% of the property tax differential, as provided in Subsection (3), for a period of 25 years after a certificate of occupancy is issued with respect to improvements on a parcel, as determined by the board and as provided in this part; and]~~

~~[(B) may be paid up to 100% of the property tax differential, as provided in Subsection (3), for a period of 15 additional years beyond the period stated in Subsection (1)(a)(i)(A) if the board determines that the additional years of property tax differential will produce a significant~~

benefit, and]

~~[(ii) may use the property tax differential before, during, and after the period described in Subsection (1)(a)(i).]~~

~~[(b) With respect to a parcel located within a project area, the period described in Subsection (1)(a)(i) begins on the day on which the authority receives the first property tax differential from that parcel.]~~

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

(c) "Post-designation parcel" means a parcel within a project area after the transition date for that parcel.

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

(e) "Pre-designation parcel" means a parcel within a project area before the transition date for that parcel.

(f) "Transition date" means the date after which the authority is to be paid post-designation differential for the parcel that is the subject of a designation resolution.

(2) (a) The authority shall be paid pre-designation differential generated within the authority jurisdictional land:

(i) for the period beginning November 2019 and ending November 2044; and

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

(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

803 extending the period described in Subsection (2)(b)(i) for 15 years.

804 (3) The authority shall be paid post-designation differential generated from a  
805 post-designation parcel:

806 (a) for a period of 25 years beginning on the transition date for that parcel; and

807 (b) for a period of an additional 15 years beyond the period stated in Subsection (3)(a)  
808 if the board determines by resolution that the additional years of post-designation differential  
809 from that parcel will produce a significant benefit.

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

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

815 (c) A county assessor shall assign a separate tax identification number to the improved  
816 portion of a parcel designated by the authority as a separate parcel under Subsection (4)(a).

817 ~~[(c)]~~ (5) The authority may not receive property tax differential from:

818 ~~[(i)]~~ (a) an area included within a community reinvestment project area under a  
819 community reinvestment project area plan, as defined in Section 17C-1-102, adopted before  
820 October 1, 2018, from a taxing entity that has, before October 1, 2018, entered into a fully  
821 executed, legally binding agreement under which the taxing entity agrees to the use of its tax  
822 increment, as defined in Section 17C-1-102, under the community reinvestment project area  
823 plan; or

824 ~~[(ii)]~~ (b) a parcel of land;

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

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

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

829 ~~[(d)]~~ ~~[(i)]~~ (6) (a) As used in this Subsection [(1)] ~~[(d)]~~ (6):

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

833 (ii) "Applicable differential" means the amount of property tax differential paid to the

authority that is generated from agency land.

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

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

~~[(2)]~~ (7) A county that collects property tax on property within a project area shall pay and distribute to the authority the property tax differential that the authority is entitled to collect under this ~~[title]~~ chapter, in the manner and at the time provided in Section 59-2-1365.

~~[(3)]~~ ~~Until the end of the period described in Subsection (1)(a)(i), the county shall pay to the authority all property tax differential collected from a parcel within a project area, beginning:]~~

~~[(a) for a parcel that is part of the authority jurisdictional land, November 2019; and]~~

~~[(b) for a parcel in any other project area, November of the year following the year that forms the basis of the base taxable value calculation.]~~

Section 17. Section 11-58-602 is amended to read:

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

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

(a) for any purpose authorized under this chapter;

(b) ~~[subject to Subsection (4);]~~ for administrative, overhead, legal, consulting, and other operating expenses of the authority;

(c) 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;

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

(e) to pay the cost of the installation of publicly owned 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;

~~[(f) to pay for municipal services that a municipality provides within the authority jurisdictional land;]~~

~~[(g) to pay for other services that a taxing entity provides within the authority jurisdictional land;]~~

~~[(h) to share growth in the amount of property tax differential over time with other taxing entities;]~~

~~[(i)]~~ (f) to pay to a community reinvestment agency for affordable housing, as provided in Subsection 11-58-601~~[(1)(d)]~~(6); and

~~[(j)]~~ (g) to pay the principal and interest on bonds issued by the authority.

(2) The authority may use revenue generated from the operation of publicly owned 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)(e) regarding benefit to the project area is final.

~~[(4) The authority may not use more than 5% of property tax differential revenue collected during the period described in Subsection 11-58-601(1)(a)(i) to pay for authority operating expenses, including:]~~

~~[(a) administrative and overhead expenses; and]~~

~~[(b) legal expenses, except legal fees and expenses with respect to potential or pending litigation involving the authority.]~~

~~[(5)]~~ (4) The authority may not use property tax differential revenue collected from one project area for a development project within another project area.

~~[(6)]~~ (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.

~~[(7)]~~ (6) (a) As used in this Subsection ~~[(7)]~~ (6):

(i) "Authority sales and use tax revenue" means money distributed to the authority

under Subsection 59-12-205(2)(b)(iii).

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

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

(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)(b)(i) in the absence of Subsection 59-12-205(2)(b)(iii), 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)(b)(i) in the absence of Subsection 59-12-205(2)(b)(iii), 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)(b)(i) 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 18. Section 54-17-806 is amended to read:

**54-17-806. Qualified utility renewable energy tariff.**

(1) The commission may authorize a qualified utility to implement a renewable energy tariff in accordance with this section if the commission determines the tariff that the qualified utility proposes is reasonable and in the public interest.

(2) The commission may authorize a tariff under Subsection (1) to apply to:

(a) a qualified utility customer with an aggregated electrical load of at least five megawatts; or

(b) a combination of qualified utility customers who are separately metered if:

(i) the aggregated electrical load of the qualified utility customers is at least five megawatts; and

(ii) each of the qualified utility customers [~~and the renewable energy source are~~] is located within [~~authority jurisdictional land~~] a project area, as defined in Section 11-58-102.

(3) A customer who agrees to take service that is subject to the renewable energy tariff under this section shall pay:

(a) the customer's normal tariff rate;

(b) an incremental charge in an amount equal to the difference between the cost to the qualified utility to supply renewable generation to the renewable energy tariff customer and the qualified utility's avoided costs as defined in Subsection 54-2-1(1), or a different methodology recommended by the qualified utility; and

(c) an administrative fee in an amount approved by the commission.

(4) The commission shall allow a qualified utility to recover the qualified utility's prudently incurred cost of renewable generation procured pursuant to the tariff established in this section that is not otherwise recovered from the proceeds of the tariff paid by customers agreeing to service that is subject to the renewable energy tariff.

**Section 19. Repealer.**

This bill repeals:

Section 11-58-401, **Definitions.**

Section 11-58-402, **Appeals panel.**

Section 11-58-402.5, **Municipal processing of an inland port use application and appeal.**

Section 11-58-403, **Appeals process and standards.**