

Christine F. Watkins proposes the following substitute bill:

Throughput Infrastructure Funding Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses financial assistance that is funded through the Throughput Infrastructure Fund.

Highlighted Provisions:

This bill:

- relocates the Throughput Infrastructure Fund (fund) and the fund's administration into the Office of Energy Development;
- repeals provisions related to the fund being administered by the Permanent Community Impact Fund Board;
- provides for the Legislature to appropriate money from the fund;
- addresses the provision of financial assistance to an industry within mining; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

This bill appropriates \$11,000,000 in restricted fund and account transfers for fiscal year 2025, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

35A-8-302, as last amended by Laws of Utah 2021, Chapter 339

63N-3-105, as last amended by Laws of Utah 2024, Chapter 159

79-6-405, as renumbered and amended by Laws of Utah 2024, Chapter 88

ENACTS:

79-6-1101, Utah Code Annotated 1953

79-6-1102, Utah Code Annotated 1953

29 **79-6-1103**, Utah Code Annotated 1953

30 REPEALS:

31 **35A-8-308**, as last amended by Laws of Utah 2021, Chapter 367

32 **35A-8-309**, as last amended by Laws of Utah 2021, Chapter 367

33

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

35 Section 1. Section **35A-8-302** is amended to read:

36 **35A-8-302 . Definitions.**

37 As used in this part:

- 38 (1) "Bonus payments" means that portion of the bonus payments received by the United
39 States government under the Leasing Act paid to the state under Section 35 of the
40 Leasing Act, 30 U.S.C. Sec. 191, together with any interest that had accrued on those
41 payments.
- 42 (2) "Impact board" means the Permanent Community Impact Fund Board created under
43 Section 35A-8-304.
- 44 (3) "Impact fund" means the Permanent Community Impact Fund established by this
45 chapter.
- 46 (4) "Interlocal agency" means a legal or administrative entity created by a subdivision or
47 combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal
48 Cooperation Act.
- 49 (5) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.
- 50 (6) "Qualifying sales and use tax distribution reduction" means that, for the calendar year
51 beginning on January 1, 2008, the total sales and use tax distributions a city received
52 under Section 59-12-205 were reduced by at least 15% from the total sales and use tax
53 distributions the city received under Section 59-12-205 for the calendar year beginning
54 on January 1, 2007.
- 55 (7)(a) "Planning" means any of the following performed by or on behalf of the state, a
56 subdivision, or an interlocal entity:
- 57 (i) a study, analysis, plan, or survey; or
- 58 (ii) activities necessary to obtain a permit or land use approval, including review to
59 determine the need, cost, or feasibility of obtaining a permit or land use approval.
- 60 (b) "Planning" includes:
- 61 (i) the preparation of maps and guidelines;
- 62 (ii) land use planning;

- 63 (iii) a study or analysis of:
- 64 (A) the social or economic impacts associated with natural resource development;
- 65 (B) the demand for the transportation of individuals or goods;
- 66 (C) state, regional, and local development and growth;
- 67 (D) population and employment;
- 68 (E) development related to natural resources; and
- 69 (F) as related to any other activity described in this Subsection (7), engineering,
- 70 financial analysis, legal analysis, or any other analysis helpful to the state,
- 71 subdivision, or interlocal agency; and
- 72 (iv) any activity described in this Subsection (7) regardless of whether the activity is
- 73 for a public facility or a public service.
- 74 (8) "Public facility" means a facility:
- 75 (a) in whole or in part, owned, controlled, or operated by the state, a subdivision, or an
- 76 interlocal agency; and
- 77 (b) that serves a public purpose.
- 78 (9)(a) "Public service" means a service that:
- 79 (i) is provided, in whole or in part, by or on behalf of the state, a subdivision, or an
- 80 interlocal agency; and
- 81 (ii) serves a public purpose.
- 82 (b) "Public service" includes:
- 83 (i) a service described in Subsection (9)(a) regardless of whether the service is
- 84 provided in connection with a public facility;
- 85 (ii) the cost of providing a service described in Subsection (9)(a), including
- 86 administrative costs, wages, and legal fees; and
- 87 (iii) a contract with a public postsecondary institution to fund research, education, or
- 88 a public service program.
- 89 (10) "Subdivision" means a county, city, town, county service area, special service district,
- 90 special improvement district, water conservancy district, water improvement district,
- 91 sewer improvement district, housing authority, building authority, school district, or
- 92 public postsecondary institution organized under the laws of this state.
- 93 ~~[(11)(a) "Throughput infrastructure project" means the following facilities, whether~~
- 94 ~~located within, partially within, or outside of the state:]~~
- 95 ~~[(i) a bulk commodities ocean terminal;]~~
- 96 ~~[(ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;]~~

97 ~~[(iii) electric transmission lines and ancillary facilities;]~~

98 ~~[(iv) a shortline freight railroad and ancillary facilities;]~~

99 ~~[(v) a plant or facility for storing, distributing, or producing hydrogen, including the~~
 100 ~~liquification of hydrogen, for use as a fuel in zero-emission motor vehicles, for~~
 101 ~~electricity generation, or for industrial use; or]~~

102 ~~[(vi) a plant for the production of zero-emission hydrogen-fueled trucks.]~~

103 [(b) "Throughput infrastructure project" includes:]

104 [(i) an ownership interest or a joint or undivided ownership interest in a facility;]

105 [(ii) a membership interest in the owner of a facility; or]

106 [(iii) a contractual right, whether secured or unsecured, to use all or a portion of the
 107 throughput, transportation, or transmission capacity of a facility.]

108 Section 2. Section **63N-3-105** is amended to read:

109 **63N-3-105 . Qualification for assistance -- Application requirements.**

- 110 (1) Subject to the requirements of this part, the administrator may provide loans, grants, or
 111 other financial assistance from the restricted account to an entity offering an economic
 112 opportunity if that entity:
- 113 (a) applies to the administrator in a form approved by the administrator; and
 - 114 (b) meets the qualifications of Subsection (2).
- 115 (2) As part of an application for receiving financial assistance under this part, an applicant
 116 shall demonstrate the following to the satisfaction of the administrator:
- 117 (a) the nature of the economic opportunity and the related benefit to the economic
 118 well-being of the state by providing evidence documenting the expenditure of money
 119 necessitated by the economic opportunity;
 - 120 (b) how the economic opportunity will act in concert with other state, federal, or local
 121 agencies to achieve the economic benefit;
 - 122 (c) that the applicant will expend funds in the state with employees, vendors,
 123 subcontractors, or other businesses in an amount proportional with money provided
 124 from the restricted account at a minimum ratio of one to one per year or other more
 125 stringent requirements as established on a per project basis by the administrator;
 - 126 (d) for an application for a loan, the applicant's ability to sustain economic activity in the
 127 state sufficient to repay, by means of cash or appropriate credits, the loan provided by
 128 the restricted account; and
 - 129 (e) any other criteria the administrator considers appropriate.
- 130 (3)(a) The administrator may exempt an applicant from any of the requirements of

- 131 Subsection (2) if:
- 132 (i) the applicant is part of a targeted industry; or
- 133 (ii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,
- 134 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent
- 135 Corporations Act, and the applicant's operations, as demonstrated to the
- 136 satisfaction of the administrator, will provide significant economic stimulus to the
- 137 growth of commerce and industry in the state.
- 138 (b) The administrator may not exempt the applicant from the requirement under
- 139 Subsection 63N-3-106(1)(b) that the loan be structured so that the repayment or
- 140 return to the state equals at least the amount of the assistance together with an annual
- 141 interest charge.
- 142 (4) Before awarding any money under this part, the administrator shall:
- 143 (a) make findings as to whether an applicant has satisfied the requirements of Subsection
- 144 (2);
- 145 (b) establish benchmarks and timeframes in which progress toward the completion of the
- 146 agreed upon activity is to occur;
- 147 (c) monitor compliance by an applicant with any contract or agreement entered into by
- 148 the applicant and the state as provided by Section 63N-3-107; and
- 149 (d) make funding decisions based upon appropriate findings and compliance.
- 150 (5)(a) The administrator shall exempt an applicant that mines or intends to mine
- 151 fluorspar or gallium from the requirements of Subsection (2) and provide an
- 152 applicant financial assistance under this section if the applicant demonstrates to the
- 153 satisfaction of the administrator that the applicant:
- 154 (i) has the required permits to engage in the mining activity of fluorspar or gallium;
- 155 (ii) will engage in the mining activity in a community within the state that is
- 156 economically impacted by the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec.
- 157 181 et seq.;
- 158 (iii) will draw money from the financial assistance provided to the applicant under
- 159 this Subsection (5) by no later than two years from the day on which the
- 160 administrator awards the financial assistance; and
- 161 (iv) agrees to reimburse the restricted account in staggered payments during a period
- 162 beginning three years from the day on which the administrator awards the
- 163 financial assistance and ending seven years from the day on which the
- 164 administrator awards the financial assistance.

- 165 (b) The applicant shall pay interest at a rate of not more than 4.5%.
- 166 (c) The administrator may enter into an agreement with the applicant as provided in
- 167 Section 63N-3-107 to provide for the process of drawing money from the financial
- 168 assistance, the payment of interest, and reimbursing the restricted account.
- 169 (d) The administrator shall deposit money reimbursed by the applicant into the restricted
- 170 account and may use that money for any purpose authorized by this part.
- 171 (e) If an applicant fails to pay money owed under the agreement described under
- 172 Subsection (5)(c), the administrator may bring an action against the assets of the
- 173 applicant to recover the money owed under the agreement.

174 Section 3. Section **79-6-405** is amended to read:

175 **79-6-405 . Reports.**

- 176 (1) The director shall report annually to the Public Utilities, Energy, and Technology
- 177 Interim Committee.
- 178 (2) The report required in Subsection (1) shall:
- 179 (a) summarize the status and development of the state's energy resources;
- 180 (b) summarize the activities and accomplishments of the office;
- 181 (c) address the director's activities under this part;
- 182 (d) recommend any energy-related executive or legislative action the director or office
- 183 considers beneficial to the state, including updates to the state energy policy under
- 184 Section 79-6-301; [and]
- 185 (e) address long-term energy planning required under Subsection 79-6-401(10)[-]; and
- 186 (f) include the information required by Subsection 79-6-1103(7).

187 Section 4. Section **79-6-1101** is enacted to read:

188 **Part 11. Throughput Infrastructure Fund**

189 **79-6-1101 . Definitions.**

190 As used in this part:

- 191 (1) "Board" means the Utah Energy Infrastructure Board created in Section 79-6-902.
- 192 (2) "Fund" means the Throughput Infrastructure Fund created in Section 79-6-1102.
- 193 (3) "Office" means the Office of Energy Development created in Section 79-6-401.
- 194 (4)(a) "Throughput infrastructure project" means the following facilities, whether
- 195 located within, partially within, or outside of the state:
- 196 (i) a bulk commodities ocean terminal;
- 197 (ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;
- 198 (iii) electric transmission lines and ancillary facilities;

- 199 (iv) a short line freight railroad and ancillary facilities;
 200 (v) a plant or facility for storing, distributing, or producing hydrogen, including the
 201 liquification of hydrogen, for use as a fuel in zero emission motor vehicles, for
 202 electricity generation, or for industrial use; or
 203 (vi) a plant for the production of zero emission hydrogen fueled trucks.
 204 (b) "Throughput infrastructure project" includes:
 205 (i) an ownership interest or a joint or undivided ownership interest in a facility;
 206 (ii) a membership interest in the owner of a facility; or
 207 (iii) a contractual right, whether secured or unsecured, to use all or a portion of the
 208 throughput, transportation, or transmission capacity of a facility.

209 Section 5. Section **79-6-1102** is enacted to read:

210 **79-6-1102 . Throughput Infrastructure Fund.**

- 211 (1) There is created an enterprise fund known as the "Throughput Infrastructure Fund."
 212 (2) The fund consists of money generated from the following revenue sources:
 213 (a) amounts transferred to the fund by statute;
 214 (b) any voluntary contributions received;
 215 (c) appropriations made to the fund by the Legislature; and
 216 (d) amounts received from the repayment of loans made by the board under Section
 217 79-6-1103.
 218 (3) The state treasurer shall:
 219 (a) invest the money in the fund by following Title 51, Chapter 7, State Money
 220 Management Act; and
 221 (b) deposit all interest or other earnings derived from those investments into the fund.
 222 (4) The Legislature may appropriate money from the fund to the Industrial Assistance
 223 Account, created in Section 63N-3-103, to provide for financial assistance under
 224 Subsection 63N-3-105(5) to an entity that offers an economic opportunity in a
 225 community that is economically impacted by the leasing of minerals under the Mineral
 226 Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.

227 Section 6. Section **79-6-1103** is enacted to read:

228 **79-6-1103 . Throughput Infrastructure Fund administered by board -- First**
 229 **project -- Transition from impact board.**

- 230 (1) The board shall:
 231 (a) make grants and loans from the fund for a throughput infrastructure project;
 232 (b) use money transferred to the fund in accordance with statute to provide a loan or

233 grant to finance the cost of acquisition or construction of a throughput infrastructure
234 project to one or more local political subdivisions, including a Utah interlocal agency
235 created under Title 11, Chapter 13, Interlocal Cooperation Act;

236 (c) administer the fund in a manner that will keep a portion of the fund revolving;

237 (d) determine provisions for repayment of loans;

238 (e) establish criteria for awarding loans and grants; and

239 (f) establish criteria for determining eligibility for assistance under this section.

240 (2) The cost of acquisition or construction of a throughput infrastructure project includes
241 amounts for working capital, reserves, transaction costs, and other amounts determined
242 by the board to be allocable to a throughput infrastructure project.

243 (3) The board may restructure or forgive all or part of a local political subdivision's or
244 interlocal agency's obligation to repay loans for extenuating circumstances.

245 (4) To receive assistance under this section, a local political subdivision or an interlocal
246 agency shall submit a formal application containing the information that the board
247 requires.

248 (5)(a) The board shall:

249 (i) review the proposed uses of the fund for a loan or grant before approving the loan
250 or grant and may condition approval of the loan or grant on whatever assurances
251 the board considers necessary to ensure that proceeds of the loan or grant will be
252 used in accordance with this section;

253 (ii) ensure that each loan specifies terms for interest deferments, accruals, and
254 scheduled principal repayment; and

255 (iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations
256 of the appropriate local political subdivision or interlocal agency issued to the
257 board and payable from the net revenues of a throughput infrastructure project.

258 (b) An instrument described in Subsection (5)(a)(iii) may be:

259 (i) non-recourse to the local political subdivision or interlocal agency; and

260 (ii) limited to a pledge of the net revenues from a throughput infrastructure project.

261 (6)(a) Subject to the restriction in Subsection (6)(b), the board shall allocate from the
262 fund to the office those amounts that are appropriated by the Legislature for the
263 administration of the fund.

264 (b) The amounts described in Subsection (6)(a) may not exceed 2% of the annual
265 receipts to the fund.

266 (7) The office shall include in the annual report described in Section 79-6-405:

- 267 (a) the number and type of loans and grants made under this section; and
 268 (b) a list of local political subdivisions, interlocal agencies, or other entities that received
 269 assistance under this section.

270 (8)(a) The first throughput infrastructure project considered by the board shall be a bulk
 271 commodities ocean terminal project that meets the following conditions:

- 272 (i) facilitates greater access to international markets of carbon resources derived from
 273 a county of the fourth, fifth, or sixth class;
 274 (ii) partners with Utah based logistics and transportation entities for the development
 275 of the project; and
 276 (iii) finances the project costs through a mixture of grant and loan structures, of
 277 which the loan structures shall account for no less than 20% of the project.

278 (b) Upon receipt of an application from an interlocal agency for a bulk commodities
 279 ocean terminal project, the board shall:

- 280 (i) grant up to 2% of the money in the fund to the interlocal agency to pay or
 281 reimburse costs incurred by the interlocal agency preliminary to the interlocal
 282 agency's acquisition of the throughput infrastructure project; and
 283 (ii) fund the interlocal agency's application if the application meets all criteria
 284 established by the board.

285 (9) The Permanent Community Impact Fund Board created under Section 35A-8-304 shall
 286 cooperate with the office and board to transition, as soon as practicable, Permanent
 287 Community Impact Fund Board functions related to the fund to the office and board, to
 288 the extent consistent with this part.

289 Section 7. **Repealer.**

290 This bill repeals:

291 Section **35A-8-308, Throughput Infrastructure Fund.**

292 Section **35A-8-309, Throughput Infrastructure Fund administered by impact board --**

293 **Uses -- Review by board -- Annual report -- First project.**

294 Section 8. **FY 2025 Appropriations.**

295 The following sums of money are appropriated for the fiscal year beginning July 1,
 296 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for
 297 fiscal year 2025.

298 Subsection 8(a). **Restricted Fund and Account Transfers**

299 The Legislature authorizes the State Division of Finance to transfer the following
 300 amounts between the following funds or accounts as indicated. Expenditures and outlays from

301 the funds to which the money is transferred must be authorized by an appropriation.

302 ITEM 1 To General Fund Restricted - Industrial Assistance Account

303 From Throughput Infrastructure Fund, One-time 11,000,000

304 Schedule of Programs:

305 General Fund Restricted - Industrial Assistance

306 Account 11,000,000

307 The Legislature intends that the Governor's
308 Office of Economic Opportunity use the \$11,000,000
309 appropriated in this section to provide an applicant
310 financial assistance in accordance with Subsection
311 63N-3-105(5).

312 Section 9. **Effective Date.**

313 This bill takes effect:

314 (1) except as provided in Subsection (2), May 7, 2025; or

315 (2) if approved by two-thirds of all members elected to each house:

316 (a) upon approval by the governor;

317 (b) without the governor's signature, the day following the constitutional time limit of
318 Utah Constitution, Article VII, Section 8; or

319 (c) in the case of a veto, the date of veto override.