

SB0187S01 compared with SB0187S03

21 This bill provides a special effective date.

23 AMENDS:

24 **35A-8-308** , as last amended by Laws of Utah 2021, Chapter 367 , as last amended by Laws of Utah
2021, Chapter 367

25 **35A-8-309** , as last amended by Laws of Utah 2021, Chapter 367 , as last amended by Laws of Utah
2021, Chapter 367

26 **63N-3-105** , as last amended by Laws of Utah 2024, Chapter 159 , as last amended by Laws of Utah
2024, Chapter 159

27

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

29 Section 1. Section **35A-8-308** is amended to read:

30 **35A-8-308. Throughput Infrastructure Fund.**

29 (1) There is created an enterprise fund known as the "Throughput Infrastructure Fund."

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

31 (a) ~~all~~ amounts transferred to the fund by statute;

32 (b) any voluntary contributions received;

33 (c) appropriations made to the fund by the Legislature; and

34 (d) all amounts received from the repayment of loans made by the impact board under Section
35A-8-309.

36 (3) The state treasurer shall:

37 (a) invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7,
State Money Management Act; and

39 (b) deposit ~~all~~ the interest or other earnings derived from those investments into the fund.

41 (4) The Legislature may appropriate money from the fund to the Industrial Assistance Account, created
in Section 63N-3-103, to provide for financial assistance under Subsection 63N-3-105(5) to an
entity that offers an economic opportunity in a community that is economically impacted by the
leasing of minerals under the Leasing Act.

48 Section 2. Section **35A-8-309** is amended to read:

49 **35A-8-309. Throughput Infrastructure Fund administered by impact board -- Uses --
Review by board -- Annual report -- First project.**

49 (1) The impact board shall:

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- 50 (a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a
throughput infrastructure project;
- 52 (b) use money transferred to the Throughput Infrastructure Fund in accordance with statute to provide a
loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project
to one or more local political subdivisions, including a Utah interlocal agency created under Title
11, Chapter 13, Interlocal Cooperation Act;
- 57 (c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the {fund{}}
Throughput Infrastructure Fund} revolving;
- 59 (d) determine provisions for repayment of loans;
- 60 (e) establish criteria for awarding loans and grants; and
- 61 (f) establish criteria for determining eligibility for assistance under this section.
- 62 (2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for
working capital, reserves, transaction costs, and other amounts determined by the impact board to be
allocable to a throughput infrastructure project.
- 65 (3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal
agency's obligation to repay loans for extenuating circumstances.
- 67 (4) To receive assistance under this section, a local political subdivision or an interlocal agency shall
submit a formal application containing the information that the impact board requires.
- 70 (5)
- (a) The impact board shall:
- 71 (i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant before
approving the loan or grant and may condition its approval on whatever assurances the impact
board considers necessary to ensure that proceeds of the loan or grant will be used in accordance
with this section;
- 75 (ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal
repayment; and
- 77 (iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the
appropriate local political subdivision or interlocal agency issued to the impact board and
payable from the net revenues of a throughput infrastructure project.
- 81 (b) An instrument described in Subsection (5)(a)(iii) may be:
- 82 (i) non-recourse to the local political subdivision or interlocal agency; and

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- 83 (ii) limited to a pledge of the net revenues from a throughput infrastructure project.
- 84 (6)
- (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.
- 87 (b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the ~~fund~~ Throughput Infrastructure Fund.
- 89 (7) The board shall include in the annual written report described in Section 35A-1-109:
- 90 (a) the number and type of loans and grants made under this section; and
- 91 (b) a list of local political subdivisions or interlocal agencies that received assistance under this section.
- 93 (8)
- (a) The first throughput infrastructure project ~~considered~~ funded by the impact board shall be a bulk commodities ocean terminal project~~[-]~~ that meets the following conditions:
- 98 (i) facilitates greater access to international markets of carbon resources derived from a county of the fourth, fifth, or sixth class;
- 100 (ii) partners with Utah based logistics and transportation entities for the development of the project;
and
- 102 (iii) finances the project costs through a mixture of grant and loan structures, of which the loan structures shall account for no less than 20% of the project.
- 95 (b) Upon receipt of an application from an interlocal agency ~~created for the sole purpose of undertaking] for~~ for a throughput infrastructure project that is a bulk commodities ocean terminal project, the impact board ~~{shall{}}~~ may:
- 98 (i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition of the throughput infrastructure project; and
- 101 (ii) fund the interlocal agency's application if the application meets all criteria established by the impact board.
- 112 (c) The impact board shall allocate \$40,000,000 in the Throughput Infrastructure Fund to fund a bulk commodities ocean terminal project in accordance with this Subsection (8). The impact board may fund a project that meets criteria established by the impact board other than a bulk commodities

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ocean terminal project with the remainder of the money in the Throughput Infrastructure Fund including any interest generated from money in the Throughput Infrastructure Fund.

118 (9) The Natural Resources, Agriculture, and Environment Interim Committee shall study the role of the
impact board in facilitating economic opportunities that create statewide benefits or encouraging
energy development. The Natural Resources, Agriculture, and Environment Interim Committee
may issue findings of the study by no later than the November 2025 interim meeting of that
committee.

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

124 **63N-3-105. Qualification for assistance -- Application requirements.**

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

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- 128 (ii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised
Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and the
applicant's operations, as demonstrated to the satisfaction of the administrator, will provide
significant economic stimulus to the growth of commerce and industry in the state.
- 133 (b) The administrator may not exempt the applicant from the requirement under Subsection
63N-3-106(1)(b) that the loan be structured so that the repayment or return to the state equals at
least the amount of the assistance together with an annual interest charge.
- 137 (4) Before awarding any money under this part, the administrator shall:
- 138 (a) make findings as to whether an applicant has satisfied the requirements of Subsection (2);
- 140 (b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon
activity is to occur;
- 142 (c) monitor compliance by an applicant with any contract or agreement entered into by the applicant
and the state as provided by Section 63N-3-107; and
- 144 (d) make funding decisions based upon appropriate findings and compliance.
- 145 (5)
- (a) The administrator shall exempt an applicant that mines or intends to mine fluorspar or gallium from
the requirements of Subsection (2) and provide an applicant financial assistance under this section if
the applicant demonstrates to the satisfaction of the administrator that the applicant:
- 149 (i) has the required permits to engage in the mining activity of fluorspar or gallium;
- 150 (ii) will engage in the mining activity in a community within the state that is economically impacted
by the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.;
- 153 (iii) will draw money from the financial assistance provided to the applicant under this Subsection
(5) by no later than two years from the day on which the administrator awards the financial
assistance; and
- 156 (iv) agrees to reimburse the restricted account in staggered payments during a period beginning
three years from the day on which the administrator awards the financial assistance and ending
seven years from the day on which the administrator awards the financial assistance.
- 160 (b) The applicant shall pay interest at a rate of not more than 4.5%.
- 161 (c) The administrator may enter into an agreement with the applicant as provided in Section 63N-3-107
to provide for the process of drawing money from the financial assistance, the payment of interest,
and reimbursing the restricted account.

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164 (d) The administrator shall deposit money reimbursed by the applicant into the restricted account and
165 may use that money for any purpose authorized by this part.

166 (e) If an applicant fails to pay money owed under the agreement described under Subsection (5)(c), the
167 administrator may bring an action against the assets of the applicant to recover the money owed
168 under the agreement.

189 Section 4. **FY 2025 Appropriations.**

190 The following sums of money are appropriated for the fiscal year beginning July 1,
191 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for
192 fiscal year 2025.

193 Subsection 4(a). **Restricted Fund and Account Transfers**

194 The Legislature authorizes the State Division of Finance to transfer the following
195 amounts between the following funds or accounts as indicated. Expenditures and outlays from
196 the funds to which the money is transferred must be authorized by an appropriation.

197 ITEM 1 To General Fund Restricted - Industrial Assistance Account

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

199 Schedule of Programs:

200 General Fund Restricted - Industrial Assistance Account 11,000,000

202 The Legislature intends that the Governor's
203 Office of Economic Opportunity use the \$11,000,000
204 appropriated in this section to provide an applicant
205 financial assistance in accordance with Subsection
206 63N-3-105(5).

207 Section 5. **Effective date.**

Effective Date.

This bill takes effect:

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

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

191 (a) upon approval by the governor;

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

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

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