

SB0187S02 compared with SB0187

{Omitted text} shows text that was in SB0187 but was omitted in SB0187S02

inserted text shows text that was not in SB0187 but was inserted into SB0187S02

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1 {Critical Minerals} Throughput Infrastructure Funding Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Casey Snider

3 LONG TITLE

4 General Description:

5 This bill addresses financial assistance {for mining of critical minerals} that is funded through the
6 Throughput Infrastructure Fund.

7 Highlighted Provisions:

8 This bill:

9 ▶ relocates the Throughput Infrastructure Fund (fund) and the fund's administration into
10 the Office of Energy Development;

11 ▶ repeals provisions related to the fund being administered by the Permanent Community
12 Impact Fund Board;

13 ▶ provides for the Legislature {appropriating} to appropriate money from the {Throughput
14 Infrastructure Fund} fund;

15 ▶ addresses the provision of financial assistance to an industry within mining; and

16 ▶ makes technical and conforming amendments.

17 Money Appropriated in this Bill:

 ▶ This bill appropriates \$11,000,000 in restricted fund and account transfers for fiscal year

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2025, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

AMENDS:

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

35A-8-308 (Effective upon governor's approval), as last amended by Laws of Utah 2021, Chapter 367 (Effective upon governor's approval), as last amended by Laws of Utah 2021, Chapter 367

63N-3-105 ~~{(Effective upon governor's approval)}~~, as last amended by Laws of Utah 2024, Chapter 159 ~~{(Effective upon governor's approval)}~~, as last amended by Laws of Utah 2024, Chapter 159

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

ENACTS:

79-6-1101 , Utah Code Annotated 1953 , Utah Code Annotated 1953

79-6-1102 , Utah Code Annotated 1953 , Utah Code Annotated 1953

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

REPEALS:

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

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

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

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

35A-8-302. Definitions.

As used in this part:

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

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- 42 (2) "Impact board" means the Permanent Community Impact Fund Board created under Section
35A-8-304.
- 44 (3) "Impact fund" means the Permanent Community Impact Fund established by this chapter.
- 46 (4) "Interlocal agency" means a legal or administrative entity created by a subdivision or combination
of subdivisions under the authority of Title 11, Chapter 13, Interlocal 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 beginning on
January 1, 2008, the total sales and use tax distributions a city received under Section 59-12-205
were reduced by at least 15% from the total sales and use tax distributions the city received under
Section 59-12-205 for the calendar year beginning on January 1, 2007.
- 55 (7)
- (a) "Planning" means any of the following performed by or on behalf of the state, a 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 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, financial analysis, legal
analysis, or any other analysis helpful to the state, subdivision, or interlocal agency; and
- 72 (iv) any activity described in this Subsection (7) regardless of whether the activity is for a public facility
or a public service.
- 74 (8) "Public facility" means a facility:
- 75

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

(b) that serves a public purpose.

(9)

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

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

(ii) serves a public purpose.

(b) "Public service" includes:

(i) a service described in Subsection (9)(a) regardless of whether the service is provided in connection with a public facility;

(ii) the cost of providing a service described in Subsection (9)(a), including administrative costs, wages, and legal fees; and

(iii) a contract with a public postsecondary institution to fund research, education, or a public service program.

(10) "Subdivision" means a county, city, town, county service area, special service district, special improvement district, water conservancy district, water improvement district, sewer improvement district, housing authority, building authority, school district, or public postsecondary institution organized under the laws of this state.

~~[(11)~~

~~(a) "Throughput infrastructure project" means the following facilities, whether located within, partially within, or outside of the state:]~~

~~[(i) a bulk commodities ocean terminal;]~~

~~[(ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;]~~

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

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

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

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

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

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[(i) an ownership interest or a joint or undivided ownership interest in a facility;]
[(ii) a membership interest in the owner of a facility; or]
[(iii) a contractual right, whether secured or unsecured, to use all or a portion of the throughput,
transportation, or transmission capacity of a facility.]

~~{Section 1. Section 35A-8-308 is amended to read: }~~

35A-8-308. Throughput Infrastructure Fund.

- (1) There is created an enterprise fund known as the "Throughput Infrastructure Fund."
- (2) The fund consists of money generated from the following revenue sources:
 - (a) ~~[aH]~~ amounts transferred to the fund by statute;
 - (b) any voluntary contributions received;
 - (c) appropriations made to the fund by the Legislature; and
 - (d) all amounts received from the repayment of loans made by the impact board under Section 35A-8-309.
- (3) The state treasurer shall:
 - (a) invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
 - (b) deposit ~~[aH]~~ the interest or other earnings derived from those investments into the fund.
- (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 socially or economically impacted by the leasing of minerals under the Leasing Act.

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

63N-3-105. ~~{(Effective upon governor's approval)}~~Qualification for assistance -- Application requirements.

- (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:
 - (a) applies to the administrator in a form approved by the administrator; and
 - (b) meets the qualifications of Subsection (2).
- (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:

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- 55 (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;
- 58 (b) how the economic opportunity will act in concert with other state, federal, or local agencies to
achieve the economic benefit;
- 60 (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;
- 64 (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
- 67 (e) any other criteria the administrator considers appropriate.
- 68 (3)
- (a) The administrator may exempt an applicant from any of the requirements of Subsection (2) if:
- 70 (i) the applicant is part of a targeted industry; or
- 71 (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.
- 76 (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.
- 80 (4) Before awarding any money under this part, the administrator shall:
- 81 (a) make findings as to whether an applicant has satisfied the requirements of Subsection (2);
- 83 (b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon
activity is to occur;
- 85 (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
- 87 (d) make funding decisions based upon appropriate findings and compliance.
- 88 (5)

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(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:

(i) has the required permits to engage in the mining activity of fluorspar or gallium;

(ii) will engage in the mining activity in a community within the state that is {socially or } economically impacted by the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.;

(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

(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.

(b) The applicant shall pay interest at a rate of not more than 4.5%.

(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.

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

(e) { §→ { } {(e)} } If an applicant fails to pay money owed under the agreement described under Subsection (5)(c), the administrator may bring an action against the assets of the applicant to recover the money owed under the agreement. { ←§ }

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

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

79-6-405. Reports.

(1) The director shall report annually to the Public Utilities, Energy, and Technology Interim Committee.

(2) The report required in Subsection (1) shall:

(a) summarize the status and development of the state's energy resources;

(b) summarize the activities and accomplishments of the office;

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- (c) address the director's activities under this part;
- (d) recommend any energy-related executive or legislative action the director or office considers beneficial to the state, including updates to the state energy policy under Section 79-6-301; ~~and~~
- (e) address long-term energy planning required under Subsection 79-6-401(10)[~~;~~] ; and
- (f) include the information required by Subsection 79-6-1103(7).

Section 4. Section **4** is enacted to read:

Part 11. Throughput Infrastructure Fund

79-6-1101. Definitions.

As used in this part:

- (1) "Board" means the Utah Energy Infrastructure Board created in Section 79-6-902.
- (2) "Fund" means the Throughput Infrastructure Fund created in Section 79-6-1102.
- (3) "Office" means the Office of Energy Development created in Section 79-6-401.
- (4)
- (a) "Throughput infrastructure project" means the following facilities, whether located within, partially within, or outside of the state:
 - (i) a bulk commodities ocean terminal;
 - (ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;
 - (iii) electric transmission lines and ancillary facilities;
 - (iv) a short line freight railroad and ancillary facilities;
 - (v) a plant or facility for storing, distributing, or producing hydrogen, including the liquification of hydrogen, for use as a fuel in zero emission motor vehicles, for electricity generation, or for industrial use; or
 - (vi) a plant for the production of zero emission hydrogen fueled trucks.
- (b) "Throughput infrastructure project" includes:
 - (i) an ownership interest or a joint or undivided ownership interest in a facility;
 - (ii) a membership interest in the owner of a facility; or
 - (iii) a contractual right, whether secured or unsecured, to use all or a portion of the throughput, transportation, or transmission capacity of a facility.

Section 5. Section **5** is enacted to read:

79-6-1102. Throughput Infrastructure Fund.

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

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- (2) The fund consists of money generated from the following revenue sources:
- (a) amounts transferred to the fund by statute;
 - (b) any voluntary contributions received;
 - (c) appropriations made to the fund by the Legislature; and
 - (d) amounts received from the repayment of loans made by the board under Section 79-6-1103.
- (3) The state treasurer shall:
- (a) invest the money in the fund by following Title 51, Chapter 7, State Money Management Act; and
 - (b) deposit all interest or other earnings derived from those investments into the fund.
- (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 Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.
- Section 6. Section 6 is enacted to read:
- 79-6-1103. Throughput Infrastructure Fund administered by board -- First project -- Transition from impact board.**
- (1) The board shall:
- (a) make grants and loans from the fund for a throughput infrastructure project;
 - (b) use money transferred to the 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;
 - (c) administer the fund in a manner that will keep a portion of the fund revolving;
 - (d) determine provisions for repayment of loans;
 - (e) establish criteria for awarding loans and grants; and
 - (f) establish criteria for determining eligibility for assistance under this section.
- (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 board to be allocable to a throughput infrastructure project.
- (3) The 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.

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(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 board requires.

(5)

(a) The board shall:

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

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

(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 board and payable from the net revenues of a throughput infrastructure project.

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

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

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

(6)

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

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

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

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions, interlocal agencies, or other entities that received assistance under this section.

(8)

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

(i) facilitates greater access to international markets of carbon resources derived from a county of the fourth, fifth, or sixth class;

(ii) partners with Utah based logistics and transportation entities for the development of the project; and

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(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.

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

(i) grant up to 2% of the money in the fund to the interlocal agency to pay or reimburse costs incurred by the interlocal agency preliminary to the interlocal agency's acquisition of the throughput infrastructure project; and

(ii) fund the interlocal agency's application if the application meets all criteria established by the board.

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

Section 7. **Repealer.**

This Bill Repeals:

This bill repeals:

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

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

Section 8. **FY 2025 Appropriations.**

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

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

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

ITEM 1 To General Fund Restricted - Industrial Assistance Account

From Throughput Infrastructure Fund, One-time	11,000,000
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Schedule of Programs:

General Fund Restricted - Industrial Assistance Account	11,000,000
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The Legislature intends that the Governor's
Office of Economic Opportunity use the \$11,000,000

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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.**

This bill takes effect:

- 129 (1) except as provided in Subsection (2), May 7, 2025; or
130 (2) if approved by two-thirds of all members elected to each house:
131 (a) upon approval by the governor;
132 (b) without the governor's signature, the day following the constitutional time limit of Utah
 Constitution, Article VII, Section 8; or
134 (c) in the case of a veto, the date of veto override.

3-3-25 9:22 AM