

SB0187S05 compared with SB0187

~~{Omitted text}~~ shows text that was in SB0187 but was omitted in SB0187S05

inserted text shows text that was not in SB0187 but was inserted into SB0187S05

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~~{Critical Minerals}~~ 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 ~~{for mining of critical minerals}~~ that is funded through the Throughput Infrastructure Fund.

Highlighted Provisions:

This bill:

- modifies the definition of a throughput infrastructure project;
- modifies the Permanent Community Impact Fund Board's authority related to the Throughput Infrastructure Fund;
- provides for ~~{the Legislature appropriating money}~~ an award of a loan or grant from the Throughput Infrastructure Fund~~{;}~~ for certain mining activity; and
- ~~{addresses the provision of financial assistance to an industry within mining; and}~~
- makes technical and conforming amendments.

Money Appropriated in this Bill:

- {

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~~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.~~

}

None

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~~

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

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.
- (2) "Impact board" means the Permanent Community Impact Fund Board created under Section 35A-8-304.
- (3) "Impact fund" means the Permanent Community Impact Fund established by this chapter.
- (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.

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- (5) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.
- (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.
- (7)
- (a) "Planning" means any of the following performed by or on behalf of the state, a subdivision, or an interlocal entity:
- (i) a study, analysis, plan, or survey; or
 - (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.
- (b) "Planning" includes:
- (i) the preparation of maps and guidelines;
 - (ii) land use planning;
 - (iii) a study or analysis of:
 - (A) the social or economic impacts associated with natural resource development;
 - (B) the demand for the transportation of individuals or goods;
 - (C) state, regional, and local development and growth;
 - (D) population and employment;
 - (E) development related to natural resources; and
 - (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
 - (iv) any activity described in this Subsection (7) regardless of whether the activity is for a public facility or a public service.
- (8) "Public facility" means a facility:
- (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:

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(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[~~;~~] ; or

(vii) a mining facility described in Subsection 35A-8-309(9).

(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.

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Section 2. Section **35A-8-308** is amended to read:

35A-8-308. ~~{{Effective upon governor's approval}}~~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) ~~[all]~~ amounts transferred to the fund by statute;
 - (b) any voluntary contributions received;
 - (c) appropriations made to the fund by the Legislature; ~~[and]~~
 - (d) ~~[all]~~ the amounts received from the repayment of loans made by the impact board under Section 35A-8-309~~;~~ ; and
 - (e) interest or other earnings deposited under Subsection (3).
 - (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 ~~[all]~~ 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 3. Section **35A-8-309** is amended to read:

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

- (1) The impact board shall:
 - (a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a throughput infrastructure project;
 - (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;
 - (c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;
 - (d) determine provisions for repayment of loans;

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- 129 (e) establish criteria for awarding loans and grants; and
130 (f) establish criteria for determining eligibility for assistance under this section.
- 131 (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.
- 134 (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.
- 136 (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.
- 139 (5)
- (a) The impact board shall:
- 140 (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;
- 144 (ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal
repayment; and
- 146 (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.
- 150 (b) An instrument described in Subsection (5)(a)(iii) may be:
- 151 (i) non-recourse to the local political subdivision or interlocal agency; and
- 152 (ii) limited to a pledge of the net revenues from a throughput infrastructure project.
- 153 (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.
- 156 (b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the
[fund] Throughput Infrastructure Fund.
- 158 (7) The board shall include in the annual written report described in Section 35A-1-109:
- 159 (a) the number and type of loans and grants made under this section; and

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- (b) a list of local political subdivisions or interlocal agencies that received assistance under this section.
- (8)
- (a) The first throughput infrastructure project [~~considered~~] funded by the impact board shall be a bulk commodities ocean terminal project[.] financed through a mixture of grant and loans, of which no less than 20% of the project costs funded by the impact board is grants.
- (b) Upon receipt of an application from an interlocal agency [~~created for the sole purpose of undertaking a throughput infrastructure project that is~~] for a bulk commodities ocean terminal project, the impact board shall:
- (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
- (ii) fund the interlocal agency's application if the application meets all criteria established by the impact board.
- (9) Notwithstanding Subsection (8) and following the procedures of this section, the impact board may issue a grant or loan for a throughput infrastructure project other than a bulk commodities ocean terminal project if the throughput infrastructure project:
- (a) is funded from the interest or other earnings deposited into the Throughput Infrastructure Fund;
- (b) is applied for by a political subdivision or interlocal agency to be distributed to a private entity described in Subsection (9)(c); and
- (c) is engaged in by a private entity if the private entity:
- (i) has the required permits to engage in mining fluorspar or gallium;
- (ii) will engage in the mining activity in a community within the state that is economically impacted by the Leasing Act;
- (iii) will draw money from the loan or grant by no later than two years from the day on which the impact board awards the loan or grant; and
- (iv) agrees to reimburse the Throughput Infrastructure Fund in staggered payments during a period beginning three years from the day on which the impact board approves the loan or grant and ending seven years from the day on which the impact board approves the loan or grant.

~~{Section 2. Section 63N-3-105 is amended to read: }~~

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

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- (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:
- 51 (a) applies to the administrator in a form approved by the administrator; and
- 52 (b) meets the qualifications of Subsection (2).
- 53 (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:
- 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);

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(b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activity is to occur;

(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

(d) make funding decisions based upon appropriate findings and compliance.

(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:

(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) 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 . **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.

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Subsection 3(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.

To General Fund Restricted - Industrial Assistance Account

11,000,000

Schedule of Programs:

11,000,000

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

Section 4. **Effective date.**

Effective Date.

This bill takes effect:

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

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