

HYDROGEN FUEL PRODUCTION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to the Permanent Community Impact Fund and the High Cost Infrastructure Development Tax Credit Act.

Highlighted Provisions:

This bill:

▶ expands the definition of "throughput infrastructure project" to include a plant or facility that distributes hydrogen for use as a fuel in zero emission motor vehicles in the context of allowable uses for money in the Permanent Community Impact Fund; and

▶ expands the definition of "high cost infrastructure project" to include the construction of a plant or other facility for the production and distribution of hydrogen fuel used for transportation, in the context of a program to allow a tax credit for costs associated with the project.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-8-302, as last amended by Laws of Utah 2017, Chapter 262



28 [63M-4-602](#), as last amended by Laws of Utah 2016, Chapter 348



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

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

32 **35A-8-302. Definitions.**

33 As used in this part:

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

38 (2) "Impact board" means the Permanent Community Impact Fund Board created under
39 Section [35A-8-304](#).

40 (3) "Impact fund" means the Permanent Community Impact Fund established by this
41 chapter.

42 (4) "Interlocal agency" means a legal or administrative entity created by a subdivision
43 or combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal
44 Cooperation Act.

45 (5) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et
46 seq.

47 (6) "Qualifying sales and use tax distribution reduction" means that, for the calendar
48 year beginning on January 1, 2008, the total sales and use tax distributions a city received
49 under Section [59-12-205](#) were reduced by at least 15% from the total sales and use tax
50 distributions the city received under Section [59-12-205](#) for the calendar year beginning on
51 January 1, 2007.

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

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

58 (i) a bulk commodities ocean terminal;

- 59 (ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;
- 60 (iii) electric transmission lines and ancillary facilities;
- 61 (iv) a shortline freight railroad and ancillary facilities;
- 62 (v) a plant [~~for~~] or facility for distributing or producing hydrogen, including the
- 63 liquification of hydrogen, for use as a fuel in zero emission motor vehicles; or
- 64 (vi) a plant for the production of zero emission hydrogen fueled trucks.

65 (b) "Throughput infrastructure project" includes:

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

70 Section 2. Section **63M-4-602** is amended to read:

71 **63M-4-602. Definitions.**

72 As used in this part:

73 (1) "Applicant" means a person that conducts business in the state and that applies for a

74 tax credit under this part.

75 (2) "Fuel standard compliance project" means a project designed to retrofit a fuel

76 refinery in order to make the refinery capable of producing fuel that complies with the United

77 States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40

78 C.F.R. Sec. 79.54.

79 (3) "High cost infrastructure project" means a project:

80 (a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture

81 activity in the state, not including a retail business; [~~or~~]

82 (ii) that involves new investment of at least \$50,000,000 in an existing industrial,

83 mining, manufacturing, or agriculture entity, by the entity; or

84 (iii) for the construction of a plant or other facility, including a fueling station, for the

85 production and distribution of hydrogen fuel used for transportation;

86 (b) that requires or is directly facilitated by infrastructure construction; and

87 (c) for which the cost of infrastructure construction to the entity creating the project is

88 greater than:

89 (i) 10% of the total cost of the project; or

- 90 (ii) \$10,000,000.
- 91 (4) "Infrastructure" means:
- 92 (a) an energy delivery project as defined in Section [63H-2-102](#);
- 93 (b) a railroad as defined in Section [54-2-1](#);
- 94 (c) a fuel standard compliance project;
- 95 (d) a road improvement project;
- 96 (e) a water self-supply project;
- 97 (f) a water removal system project; or
- 98 (g) a project that is designed to:
- 99 (i) increase the capacity for water delivery to a water user in the state; or
- 100 (ii) increase the capability of an existing water delivery system or related facility to
- 101 deliver water to a water user in the state.

102 (5) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an
103 agreement with the office that qualifies the applicant to receive a tax credit as provided in this
104 part.

105 (b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as
106 defined in Section [59-10-1402](#), of a person described in Subsection (5)(a).

107 (6) "Infrastructure-related revenue" means an amount of tax revenue, for an entity
108 creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high
109 cost infrastructure project, under:

- 110 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- 111 (b) Title 59, Chapter 10, Individual Income Tax Act; and
- 112 (c) Title 59, Chapter 12, Sales and Use Tax Act.

113 (7) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

114 (8) "Tax credit" means a tax credit under Section [59-7-619](#) or [59-10-1034](#).

115 (9) "Tax credit certificate" means a certificate issued by the office to an infrastructure
116 cost-burdened entity that:

- 117 (a) lists the name of the infrastructure cost-burdened entity;
- 118 (b) lists the infrastructure cost-burdened entity's taxpayer identification number;
- 119 (c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure
120 cost-burdened entity under this part; and

121 (d) includes other information as determined by the office.