

Representative Douglas V. Sagers proposes the following substitute bill:

HYDROGEN FUEL PRODUCTION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: Scott D. Sandall

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 stores, produces, or distributes hydrogen for use as a fuel in zero emission motor vehicles, for electrical generation, or for industrial use in the context of allowable uses for money in the Permanent Community Impact Fund;

- ▶ 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; and

- ▶ expands the definition of "infrastructure."

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **35A-8-302**, as last amended by Laws of Utah 2017, Chapter 262

29 **63M-4-602**, as last amended by Laws of Utah 2016, Chapter 348

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

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

33 **35A-8-302. Definitions.**

34 As used in this part:

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

39 (2) "Impact board" means the Permanent Community Impact Fund Board created under
40 Section **35A-8-304**.

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

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

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

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

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

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

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

67 (b) "Throughput infrastructure project" includes:

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

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

73 **63M-4-602. Definitions.**

74 As used in this part:

75 (1) "Applicant" means a person that conducts business in the state and that applies for a
76 tax credit under this part.

77 (2) "Fuel standard compliance project" means a project designed to retrofit a fuel
78 refinery in order to make the refinery capable of producing fuel that complies with the United
79 States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40
80 C.F.R. Sec. 79.54.

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

82 (a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture
83 activity in the state, not including a retail business; [~~or~~]

84 (ii) that involves new investment of at least \$50,000,000 in an existing industrial,
85 mining, manufacturing, or agriculture entity, by the entity; or

86 (iii) for the construction of a plant or other facility, including a fueling station, for the
87 storage, production, or distribution of hydrogen fuel used for transportation, electricity

88 generation, or industrial use;

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

90 (c) for which the cost of infrastructure construction to the entity creating the project is
91 greater than:

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

93 (ii) \$10,000,000.

94 (4) "Infrastructure" means:

95 (a) an energy delivery project as defined in Section [63H-2-102](#);

96 (b) a railroad as defined in Section [54-2-1](#);

97 (c) a fuel standard compliance project;

98 (d) a road improvement project;

99 (e) a water self-supply project;

100 (f) a water removal system project; [~~or~~]

101 (g) a solution-mined subsurface salt cavern; or

102 [~~(g)~~] (h) a project that is designed to:

103 (i) increase the capacity for water delivery to a water user in the state; or

104 (ii) increase the capability of an existing water delivery system or related facility to
105 deliver water to a water user in the state.

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

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

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

114 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

115 (b) Title 59, Chapter 10, Individual Income Tax Act; and

116 (c) Title 59, Chapter 12, Sales and Use Tax Act.

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

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

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

121 (a) lists the name of the infrastructure cost-burdened entity;

122 (b) lists the infrastructure cost-burdened entity's taxpayer identification number;

123 (c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure
124 cost-burdened entity under this part; and

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