

Representative Michael K. McKell proposes the following substitute bill:

THROUGHPUT INFRASTRUCTURE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses throughput infrastructure amendments.

Highlighted Provisions:

This bill:

- ▶ addresses definitions;
- ▶ imposes requirements for the first throughput infrastructure project considered by the Permanent Community Impact Fund Board; and
- ▶ makes technical changes.

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

35A-8-309, as last amended by Laws of Utah 2017, Chapters 181 and 421

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



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

27 **35A-8-302. Definitions.**

28 As used in this part:

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

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

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

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

40 (5) "Intermodal facility" means a hub or other facility for trade combining any
41 combination of rail, trucking, air cargo, and other transportation services.

42 [~~5~~] (6) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec.
43 181 et seq.

44 [~~6~~] (7) "Qualifying sales and use tax distribution reduction" means that, for the
45 calendar year beginning on January 1, 2008, the total sales and use tax distributions a city
46 received under Section 59-12-205 were reduced by at least 15% from the total sales and use tax
47 distributions the city received under Section 59-12-205 for the calendar year beginning on
48 January 1, 2007.

49 [~~7~~] (8) "Subdivision" means a county, city, town, county service area, special service
50 district, special improvement district, water conservancy district, water improvement district,
51 sewer improvement district, housing authority, building authority, school district, or public
52 postsecondary institution organized under the laws of this state.

53 [~~8~~] (9) (a) "Throughput infrastructure project" means the following facilities, whether
54 located within, partially within, or outside of the state:

55 (i) a bulk commodities ocean terminal;

56 (ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;

- 57 (iii) electric transmission lines and ancillary facilities;
- 58 (iv) a shortline freight railroad and ancillary facilities;
- 59 (v) a plant for producing hydrogen, including the liquification of hydrogen, for use as a
- 60 fuel in zero emission motor vehicles; [or]
- 61 (vi) a plant for the production of zero emission hydrogen fueled trucks[-];
- 62 (vii) an inland port; or
- 63 (viii) an intermodal facility.

- 64 (b) "Throughput infrastructure project" includes:
- 65 (i) an ownership interest or a joint or undivided ownership interest in a facility;
- 66 (ii) a membership interest in the owner of a facility; or
- 67 (iii) a contractual right, whether secured or unsecured, to use all or a portion of the
- 68 throughput, transportation, or transmission capacity of a facility.

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

70 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**
 71 **Uses -- Review by board -- Annual report.**

- 72 (1) The impact board shall:
- 73 (a) make grants and loans from the Throughput Infrastructure Fund created in Section
- 74 **35A-8-308** for a throughput infrastructure project;
- 75 (b) use money transferred to the Throughput Infrastructure Fund in accordance with
- 76 Subsection **59-12-103**(12) to provide a loan or grant to finance the cost of acquisition or
- 77 construction of a throughput infrastructure project to one or more local political subdivisions,
- 78 including a Utah interlocal [entity] agency created under Title 11, Chapter 13, Interlocal
- 79 Cooperation Act;
- 80 (c) administer the Throughput Infrastructure Fund in a manner that will keep a portion
- 81 of the fund revolving;
- 82 (d) determine provisions for repayment of loans;
- 83 (e) establish criteria for awarding loans and grants; and
- 84 (f) establish criteria for determining eligibility for assistance under this section.
- 85 (2) The cost of acquisition or construction of a throughput infrastructure project
- 86 includes amounts for working capital, reserves, transaction costs, and other amounts
- 87 determined by the impact board to be allocable to a throughput infrastructure project.

88 (3) The impact board may restructure or forgive all or part of a local political
89 subdivision's or interlocal [~~entity's~~] agency's obligation to repay loans for extenuating
90 circumstances.

91 (4) [~~In order to~~] To receive assistance under this section, a local political subdivision or
92 an interlocal [~~entity~~] agency shall submit a formal application containing the information that
93 the impact board requires.

94 (5) (a) The impact board shall:

95 (i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant
96 before approving the loan or grant and may condition its approval on whatever assurances the
97 impact board considers necessary to ensure that proceeds of the loan or grant will be used in
98 accordance with this section;

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

101 (iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of
102 the appropriate local political subdivision or interlocal [~~entity~~] agency issued to the impact
103 board and payable from the net revenues of a throughput infrastructure project.

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

105 (i) non-recourse to the local political subdivision or interlocal [~~entity~~] agency; and

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

107 (6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate
108 from the Throughput Infrastructure Fund to the board those amounts that are appropriated by
109 the Legislature for the administration of the Throughput Infrastructure Fund.

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

112 (7) The board shall include in the annual written report described in Section

113 [35A-1-109](#):

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

115 (b) a list of local political subdivisions or interlocal [~~entities~~] agencies that received
116 assistance under this section.

117 (8) (a) The first throughput infrastructure project considered by the impact board shall
118 be:

119 (i) a bulk commodities ocean terminal project;

120 (ii) an inland port; or

121 (iii) an intermodal facility.

122 (b) Upon receipt of an application from an interlocal agency created for the purpose of
123 undertaking a throughput infrastructure project that is described in Subsection (8)(a), the
124 impact board shall:

125 (i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal
126 agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition
127 of the throughput infrastructure project; and

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