

HIGH COST INFRASTRUCTURE DEVELOPMENT TAX

CREDIT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies the high cost infrastructure development income tax credit.

Highlighted Provisions:

This bill:

▶ modifies the definition of "energy delivery project" to include certain geothermal energy projects, hydroelectric energy storage systems, and nuclear power generation systems;

▶ defines an "emissions reduction project" and a "mineral processing project";

▶ adds an "emissions reduction project" and a "mineral processing project" to the definition of "infrastructure" for purposes of being eligible for a high cost infrastructure development tax credit;

▶ modifies the definition of "high cost infrastructure project" to include certain projects involving new investment in rural areas; and

▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:



28 AMENDS:

29 **79-6-602**, as last amended by Laws of Utah 2023, Chapter 473



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

32 Section 1. Section **79-6-602** is amended to read:

33 **79-6-602. Definitions.**

34 As used in this part:

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

37 (2) (a) "Energy delivery project" means a project that is designed to:

38 ~~[(a)]~~ (i) increase the capacity for the delivery of energy to a user of energy inside or
39 outside the state; ~~[or]~~

40 ~~[(b)]~~ (ii) increase the capability of an existing energy delivery system or related facility
41 to deliver energy to a user of energy inside or outside the state~~[-];~~ or

42 (iii) increase the production and delivery of geothermal energy through horizontal
43 drilling to create injection and production wells.

44 (b) "Energy delivery project" includes:

45 (i) a hydroelectric energy storage system; or

46 (ii) a nuclear power generation system.

47 (3) "Emissions reduction project" means a project that is designed to reduce the
48 emissions of an existing electrical generation facility, refinery, smelter, manufacturing facility,
49 oil or gas production facility, or other industrial facility, by utilizing selective catalytic
50 reduction technology, carbon capture utilization and sequestration technology, or any other
51 emissions reduction technology or equipment.

52 ~~[(3)]~~ (4) "Fuel standard compliance project" means a project designed to retrofit a fuel
53 refinery in order to make the refinery capable of producing fuel that complies with the United
54 States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40
55 C.F.R. Sec. 79.54.

56 ~~[(4)]~~ (5) "High cost infrastructure project" means a project, including an energy
57 delivery project ~~[or a]~~, emissions reduction project, fuel standard compliance project, mineral
58 processing project, or underground mine infrastructure project:

- 59 (a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture
60 activity in the state, not including a retail business;
- 61 (ii) that involves new investment of at least \$50,000,000 ~~[in]~~ made by an existing
62 industrial, mining, manufacturing, or agriculture entity~~[, by the entity]~~ located within a county
63 of the first or second class; [or]
- 64 (iii) that involves new investment of at least \$25,000,000 made by an existing
65 industrial, mining, manufacturing, or agriculture entity located within:
- 66 (A) a county of the third, fourth, fifth, or sixth class; or
- 67 (B) a municipality with a population of 10,000 or less located within a county of the
68 second class; or
- 69 ~~[(iii)]~~ (iv) for the construction of a plant or other facility for the storage or production
70 of fuel used for transportation, electricity generation, or industrial use;
- 71 (b) that requires or is directly facilitated by infrastructure construction; and
- 72 (c) for which the cost of infrastructure construction to the entity creating the project is
73 greater than:
- 74 (i) 10% of the total cost of the project; or
- 75 (ii) \$10,000,000.
- 76 ~~[(5)]~~ (6) "Infrastructure" means:
- 77 (a) an energy delivery project;
- 78 (b) an emissions reduction project;
- 79 ~~[(b)]~~ (c) a railroad as defined in Section [54-2-1](#);
- 80 ~~[(e)]~~ (d) a fuel standard compliance project;
- 81 (e) a mineral processing project;
- 82 ~~[(d)]~~ (f) a road improvement project;
- 83 ~~[(e)]~~ (g) a water self-supply project;
- 84 ~~[(f)]~~ (h) a water removal system project;
- 85 ~~[(g)]~~ (i) a solution-mined subsurface salt cavern;
- 86 ~~[(h)]~~ (j) a project that is designed to:
- 87 (i) increase the capacity for water delivery to a water user in the state; or
- 88 (ii) increase the capability of an existing water delivery system or related facility to
89 deliver water to a water user in the state; or

90 ~~[(i)]~~ (k) an underground mine infrastructure project.

91 ~~[(6)]~~ (7) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an
92 agreement with the office that qualifies the applicant to receive a tax credit as provided in this
93 part.

94 (b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as
95 defined in Section [59-10-1402](#), of a person described in Subsection ~~[(6)(a)]~~ (7)(a).

96 ~~[(7)]~~ (8) "Infrastructure-related revenue" means an amount of tax revenue, for an entity
97 creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high
98 cost infrastructure project, under:

99 (a) Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax;

100 (b) Title 59, Chapter 5, Part 2, Mining Severance Tax;

101 (c) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

102 (d) Title 59, Chapter 10, Individual Income Tax Act; and

103 (e) Title 59, Chapter 12, Sales and Use Tax Act.

104 (9) "Mineral processing project" means a project that is designed to:

105 (a) process, smelt, refine, convert, or otherwise beneficiate metalliferous minerals as
106 defined in Section [59-5-201](#) or a metalliferous compound as defined in Section [59-5-202](#); or

107 (b) convert or gasify coal to recover chemical compounds, gases, or minerals.

108 ~~[(8)]~~ (10) "Office" means the Office of Energy Development created in Section
109 [79-6-401](#).

110 ~~[(9)]~~ (11) "Tax credit" means a tax credit under Section [59-7-619](#) or [59-10-1034](#).

111 ~~[(10)]~~ (12) "Tax credit certificate" means a certificate issued by the office to an
112 infrastructure cost-burdened entity that:

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

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

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

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

118 ~~[(11)]~~ (13) (a) "Underground mine infrastructure project" means a project that:

119 (i) is designed to create permanent underground infrastructure to facilitate underground
120 mining operations; and

121 (ii) services multiple levels or areas of an underground mine or multiple underground
122 mines.

123 (b) "Underground mine infrastructure project" includes:

124 (i) an underground access or a haulage road, entry, ramp, or decline;

125 (ii) a vertical or incline mine shaft;

126 (iii) a ventilation shaft or an air course; or

127 (iv) a conveyor or a truck haulageway.

128 **Section 2. Effective date.**

129 This bill takes effect on May 1, 2024.

130 **Section 3. Retrospective operation.**

131 This bill has retrospective operation for a taxable year beginning on or after January 1,
132 2024.