

1 **HYDROGEN FUEL PRODUCTION AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Douglas V. Sagers**

5 Senate Sponsor: Scott D. Sandall

6 Cosponsor:

7 Melissa G. Ballard

8

9 **LONG TITLE**

10 **General Description:**

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

13 **Highlighted Provisions:**

14 This bill:

15 ▶ expands the definition of "throughput infrastructure project" to include a plant or
16 facility that stores, produces, or distributes hydrogen for use as a fuel in zero
17 emission motor vehicles, for electrical generation, or for industrial use in the
18 context of allowable uses for money in the Permanent Community Impact Fund;

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

23 ▶ expands the definition of "infrastructure."

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 [35A-8-302](#), as last amended by Laws of Utah 2017, Chapter 262

31 [63M-4-602](#), as last amended by Laws of Utah 2016, Chapter 348

32

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

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

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

36 As used in this part:

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

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

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

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

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

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

55 (7) "Subdivision" means a county, city, town, county service area, special service
56 district, special improvement district, water conservancy district, water improvement district,

57 sewer improvement district, housing authority, building authority, school district, or public
58 postsecondary institution organized under the laws of this state.

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

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

69 (b) "Throughput infrastructure project" includes:

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

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

75 **63M-4-602. Definitions.**

76 As used in this part:

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

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

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

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

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

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

88 (iii) for the construction of a plant or other facility, including a fueling station, for the
89 storage, production, or distribution of hydrogen fuel used for transportation, electricity
90 generation, or industrial use;

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

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

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

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

96 (4) "Infrastructure" means:

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

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

99 (c) a fuel standard compliance project;

100 (d) a road improvement project;

101 (e) a water self-supply project;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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