

**HYDROGEN FUEL PRODUCTION INCENTIVES**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Douglas V. Sagers**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill provides potential incentives for the production of hydrogen fuel.

**Highlighted Provisions:**

This bill:

▶ expands the uses for money in the Community Impact Fund to include a plant for the production of hydrogen fuel for zero emission motor vehicles; and

▶ provides for an oil and gas severance tax credit for a taxpayer that produces natural gas for use in the production of hydrogen fuel for zero emission motor vehicles.

**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 2016, Chapter 184

**59-5-102**, as last amended by Laws of Utah 2016, Chapters 135 and 324

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

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

**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) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et  
41 seq.

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

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

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

53 (i) a bulk commodities ocean terminal;

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

55 (iii) electric transmission lines and ancillary facilities; ~~or~~

56 (iv) a shortline freight railroad and ancillary facilities~~[-];~~ or

57 (v) a plant for producing hydrogen, including the liquification of hydrogen, for use as a  
58 fuel in zero emission motor vehicles.

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

64 Section 2. Section **59-5-102** is amended to read:

65 **59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual**  
66 **exemption -- Tax credit -- Tax rate reduction.**

67 (1) As used in this section:

68 (a) "Royalty rate" means the percentage of the interests described in Subsection  
69 (2)(b)(i) as defined by a contract between the United States, the state, an Indian, or an Indian  
70 tribe and the oil or gas producer.

71 (b) "Taxable value" means the total value of the oil or gas minus:

72 (i) any royalties paid to, or the value of oil or gas taken in kind by, the interest holders  
73 described in Subsection (2)(b)(i); and

74 (ii) the total value of oil or gas exempt from severance tax under Subsection (2)(b)(ii).

75 (c) "Taxable volume" means:

76 (i) for oil, the total volume of barrels minus:

77 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and  
78 the total volume of barrels; and

79 (B) the number of barrels that are exempt under Subsection (2)(b)(ii); and

80 (ii) for natural gas, the total volume of MCFs minus:

81 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and  
82 the total volume of MCFs; and

83 (B) the number of MCFs that are exempt under Subsection (2)(b)(ii).

84 (d) "Total value" means the value, as determined by Section [59-5-103.1](#), of all oil or  
85 gas that is:

86 (i) produced; and

87 (ii) (A) saved;

88 (B) sold; or

89 (C) transported from the field where the oil or gas was produced.

90 (e) "Total volume" means:

91 (i) for oil, the number of barrels:

92 (A) produced; and

93 (B) (I) saved;

94 (II) sold; or

95 (III) transported from the field where the oil was produced; and

96 (ii) for natural gas, the number of MCFs:

97 (A) produced; and

98 (B) (I) saved;

99 (II) sold; or

100 (III) transported from the field where the natural gas was produced.

101 (f) "Value of oil or gas taken in kind" means the volume of oil or gas taken in kind  
102 multiplied by the market price for oil or gas at the location where the oil or gas was produced  
103 on the date the oil or gas was taken in kind.

104 (2) (a) Except as provided in Subsection (2)(b), a person owning an interest in oil or  
105 gas produced from a well in the state, including a working interest, royalty interest, payment  
106 out of production, or any other interest, or in the proceeds of the production of oil or gas, shall  
107 pay to the state a severance tax on the owner's interest in the taxable value of the oil or gas:

108 (i) produced; and

109 (ii) (A) saved;

110 (B) sold; or

111 (C) transported from the field where the substance was produced.

112 (b) The severance tax imposed by Subsection (2)(a) does not apply to:

113 (i) an interest of:

114 (A) the United States in oil or gas or in the proceeds of the production of oil or gas;

115 (B) the state or a political subdivision of the state in oil or gas or in the proceeds of the  
116 production of oil or gas; and

117 (C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the  
118 proceeds of the production of oil or gas produced from land under the jurisdiction of the United  
119 States; and

120 (ii) the value of:

- 121 (A) oil or gas produced from stripper wells, unless the exemption prevents the  
122 severance tax from being treated as a deduction for federal tax purposes;
- 123 (B) oil or gas produced in the first 12 months of production for wildcat wells started  
124 after January 1, 1990; and
- 125 (C) oil or gas produced in the first six months of production for development wells  
126 started after January 1, 1990.
- 127 (3) (a) The severance tax on oil shall be calculated as follows:
- 128 (i) dividing the taxable value by the taxable volume;
- 129 (ii) (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the  
130 figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection  
131 (4)(a)(i); and
- 132 (B) multiplying the rate described in Subsection (4)(a)(ii) by the portion of the figure  
133 calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(ii);
- 134 (iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and
- 135 (iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.
- 136 (b) The severance tax on natural gas shall be calculated as follows:
- 137 (i) dividing the taxable value by the taxable volume;
- 138 (ii) (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the  
139 figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection  
140 (4)(b)(i); and
- 141 (B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure  
142 calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);
- 143 (iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and
- 144 (iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.
- 145 (c) The severance tax on natural gas liquids shall be calculated by multiplying the  
146 taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).
- 147 (4) Subject to Subsection [~~8~~] (9):
- 148 (a) the severance tax rate for oil is as follows:
- 149 (i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for oil;  
150 and
- 151 (ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil;

- 152 (b) the severance tax rate for natural gas is as follows:
- 153 (i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per
- 154 MCF for gas; and
- 155 (ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas;
- 156 and
- 157 (c) the severance tax rate for natural gas liquids is 4% of the taxable value of the natural
- 158 gas liquids.
- 159 (5) If oil or gas is shipped outside the state:
- 160 (a) the shipment constitutes a sale; and
- 161 (b) the oil or gas is subject to the tax imposed by this section.
- 162 (6) (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is
- 163 not imposed until the oil or gas is:
- 164 (i) sold;
- 165 (ii) transported; or
- 166 (iii) delivered.
- 167 (b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax
- 168 imposed by this section.
- 169 (7) (a) Subject to Subsections (7)(b) and (c), a taxpayer who pays for all or part of the
- 170 expenses of a recompletion or workover may claim a nonrefundable tax credit equal to 20% of
- 171 the amount paid.
- 172 (b) The tax credit under Subsection (7)(a) for each recompletion or workover may not
- 173 exceed \$30,000 per well during each calendar year.
- 174 (c) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the
- 175 next three calendar years if the tax credit exceeds the taxpayer's tax liability under this part for
- 176 the calendar year in which the taxpayer claims the tax credit.
- 177 (8) (a) A taxpayer may claim a tax credit against a severance tax owing on natural gas
- 178 under this section if:
- 179 (i) the taxpayer is required to pay a severance tax on natural gas under this section;
- 180 (ii) the taxpayer owns or operates a plant in the state that converts natural gas to
- 181 hydrogen fuel; and
- 182 (iii) all of the natural gas for which the taxpayer owes a severance tax under this

183 section is used for the production in the state of hydrogen fuel for use in zero emission motor  
184 vehicles.

185 (b) The tax credit a taxpayer may claim under Subsection (8)(a) is equal to the amount  
186 of tax that the taxpayer owes under this section, subject to a maximum of \$5,000,000 per year.

187 ~~[(8)]~~ (9) A 50% reduction in the tax rate is imposed upon the incremental production  
188 achieved from an enhanced recovery project.

189 ~~[(9)]~~ (10) The taxes imposed by this section are:

190 (a) in addition to all other taxes provided by law; and

191 (b) delinquent, unless otherwise deferred, on June 1 following the calendar year when  
192 the oil or gas is:

193 (i) produced; and

194 (ii) (A) saved;

195 (B) sold; or

196 (C) transported from the field.

197 ~~[(10)]~~ (11) With respect to the tax imposed by this section on each owner of an interest  
198 in the production of oil or gas or in the proceeds of the production of oil or gas in the state,  
199 each owner is liable for the tax in proportion to the owner's interest in the production or in the  
200 proceeds of the production.

201 ~~[(11)]~~ (12) The tax imposed by this section shall be reported and paid by each producer  
202 that takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf of  
203 each owner entitled to participate in the oil or gas sold by the producer or transported by the  
204 producer from the field where the oil or gas is produced.

205 ~~[(12)]~~ (13) Each producer shall deduct the tax imposed by this section from the  
206 amounts due to other owners for the production or the proceeds of the production.