

1 **HYDROGEN FUEL PRODUCTION INCENTIVES**

2 2017 GENERAL SESSION

3 STATE OF UTAH

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

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

12 ▶ expands the uses for money in the Community Impact Fund to include a plant for
13 the production of hydrogen fuel for zero emission motor vehicles or a plant for the
14 manufacture of zero emission hydrogen fueled trucks; and

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

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **35A-8-302**, as last amended by Laws of Utah 2016, Chapter 184

24 **59-5-102**, as last amended by Laws of Utah 2016, Chapters 135 and 324

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

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

28 **35A-8-302. Definitions.**

29 As used in this part:

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

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

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

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

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

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

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

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

- 54 (i) a bulk commodities ocean terminal;
- 55 (ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;
- 56 (iii) electric transmission lines and ancillary facilities; ~~or~~
- 57 (iv) a shortline freight railroad and ancillary facilities[-];

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

60 (vi) a plant for the production of zero emission hydrogen fueled trucks.

61 (b) "Throughput infrastructure project" includes:

62 (i) an ownership interest or a joint or undivided ownership interest in a facility;

63 (ii) a membership interest in the owner of a facility; or

64 (iii) a contractual right, whether secured or unsecured, to use all or a portion of the
65 throughput, transportation, or transmission capacity of a facility.

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

67 **59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual**
68 **exemption -- Tax credit -- Tax rate reduction.**

69 (1) As used in this section:

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

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

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

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

77 (c) "Taxable volume" means:

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

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

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

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

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

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

86 (d) "Total value" means the value, as determined by Section 59-5-103.1, of all oil or
87 gas that is:

- 88 (i) produced; and
- 89 (ii) (A) saved;
- 90 (B) sold; or
- 91 (C) transported from the field where the oil or gas was produced.

92 (e) "Total volume" means:

- 93 (i) for oil, the number of barrels:
 - 94 (A) produced; and
 - 95 (B) (I) saved;
 - 96 (II) sold; or
 - 97 (III) transported from the field where the oil was produced; and

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

- 99 (A) produced; and
- 100 (B) (I) saved;
- 101 (II) sold; or
- 102 (III) transported from the field where the natural gas was produced.

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

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

- 110 (i) produced; and
- 111 (ii) (A) saved;
- 112 (B) sold; or
- 113 (C) transported from the field where the substance was produced.

- 114 (b) The severance tax imposed by Subsection (2)(a) does not apply to:
- 115 (i) an interest of:
- 116 (A) the United States in oil or gas or in the proceeds of the production of oil or gas;
- 117 (B) the state or a political subdivision of the state in oil or gas or in the proceeds of the
- 118 production of oil or gas; and
- 119 (C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the
- 120 proceeds of the production of oil or gas produced from land under the jurisdiction of the United
- 121 States; and
- 122 (ii) the value of:
- 123 (A) oil or gas produced from stripper wells, unless the exemption prevents the
- 124 severance tax from being treated as a deduction for federal tax purposes;
- 125 (B) oil or gas produced in the first 12 months of production for wildcat wells started
- 126 after January 1, 1990; and
- 127 (C) oil or gas produced in the first six months of production for development wells
- 128 started after January 1, 1990.
- 129 (3) (a) The severance tax on oil shall be calculated as follows:
- 130 (i) dividing the taxable value by the taxable volume;
- 131 (ii) (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the
- 132 figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection
- 133 (4)(a)(i); and
- 134 (B) multiplying the rate described in Subsection (4)(a)(ii) by the portion of the figure
- 135 calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(ii);
- 136 (iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and
- 137 (iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.
- 138 (b) The severance tax on natural gas shall be calculated as follows:
- 139 (i) dividing the taxable value by the taxable volume;
- 140 (ii) (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the
- 141 figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection

142 (4)(b)(i); and

143 (B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure
144 calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);

145 (iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and

146 (iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.

147 (c) The severance tax on natural gas liquids shall be calculated by multiplying the
148 taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).

149 (4) Subject to Subsection [~~8~~] (9):

150 (a) the severance tax rate for oil is as follows:

151 (i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for oil;

152 and

153 (ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil;

154 (b) the severance tax rate for natural gas is as follows:

155 (i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per

156 MCF for gas; and

157 (ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas;

158 and

159 (c) the severance tax rate for natural gas liquids is 4% of the taxable value of the natural
160 gas liquids.

161 (5) If oil or gas is shipped outside the state:

162 (a) the shipment constitutes a sale; and

163 (b) the oil or gas is subject to the tax imposed by this section.

164 (6) (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is
165 not imposed until the oil or gas is:

166 (i) sold;

167 (ii) transported; or

168 (iii) delivered.

169 (b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax

170 imposed by this section.

171 (7) (a) Subject to Subsections (7)(b) and (c), a taxpayer who pays for all or part of the
172 expenses of a recompletion or workover may claim a nonrefundable tax credit equal to 20% of
173 the amount paid.

174 (b) The tax credit under Subsection (7)(a) for each recompletion or workover may not
175 exceed \$30,000 per well during each calendar year.

176 (c) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the
177 next three calendar years if the tax credit exceeds the taxpayer's tax liability under this part for
178 the calendar year in which the taxpayer claims the tax credit.

179 (8) (a) A taxpayer may claim a tax credit against a severance tax owing on natural gas
180 under this section if:

181 (i) the taxpayer is required to pay a severance tax on natural gas under this section;

182 (ii) the taxpayer owns or operates a plant in the state that converts natural gas to
183 hydrogen fuel; and

184 (iii) all of the natural gas for which the taxpayer owes a severance tax under this
185 section is used for the production in the state of hydrogen fuel for use in zero emission motor
186 vehicles.

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

189 [~~8~~] (9) A 50% reduction in the tax rate is imposed upon the incremental production
190 achieved from an enhanced recovery project.

191 [~~9~~] (10) The taxes imposed by this section are:

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

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

195 (i) produced; and

196 (ii) (A) saved;

197 (B) sold; or

198 (C) transported from the field.

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

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

207 [~~(12)~~] (13) Each producer shall deduct the tax imposed by this section from the
208 amounts due to other owners for the production or the proceeds of the production.