

1 AVIATION FUEL INCENTIVE AMENDMENTS

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Kirk A. Cullimore

5 House Sponsor: Calvin R. Musselman

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7 LONG TITLE

8 General Description:

9 This bill addresses provisions relating to an aviation fuel incentive program.

10 Highlighted Provisions:

11 This bill:

12 ▶ directs the Division of Finance to deposit money from severance tax revenue into an  
13 aviation fuel incentive account;

14 ▶ enacts provisions relating to an aviation fuel incentive, including provisions that:  
15 • authorize the Utah Inland Port Authority to award an aviation fuel incentive,  
16 under certain circumstances, to an airline carrier that meets certain  
17 requirements;

18 • establish application procedures and requirements; and  
19 • establish maximum amounts to be awarded as an aviation fuel incentive; and  
20 ▶ makes technical and conforming changes.

21 Money Appropriated in this Bill:

22 None

23 Other Special Clauses:

24 None

25 Utah Code Sections Affected:

26 AMENDS:

27 [51-9-307](#), as enacted by Laws of Utah 2021, Chapter 401

28 [59-5-115](#), as last amended by Laws of Utah 2021, Chapter 401

29 ENACTS:

30 [11-58-208](#), Utah Code Annotated 1953

31 [59-5-121](#), Utah Code Annotated 1953



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

34 Section 1. Section **11-58-208** is enacted to read:

35 **11-58-208. New aviation fuel incentive -- Requirements.**

36 (1) As used in this section:

37 (a) "Aviation fuel" means fuel that is:

38 (i) used by a carrier; and

39 (ii) subject to an aviation fuel tax under Title 59, Chapter 13, Part 4, Aviation Fuel.

40 (b) "Aviation fuel incentive" means a grant awarded by the authority to a qualifying  
41 carrier from the incentive account as provided in this section.

42 (c) "Aviation fuel project" means a project for the development of facilities in the state  
43 to increase the production of aviation fuel.

44 (d) "Base production year" means the fiscal year designated by the authority under  
45 Subsection (3).

46 (e) "Carrier" means a federally certificated air carrier, as defined in Section [59-13-102](#).

47 (f) "Commission" means the State Tax Commission.

48 (g) "Incentive account" means an account that the authority establishes and maintains  
49 under Subsection (4) and from which the authority pays an aviation fuel incentive.

50 (h) "Incentive year" means any of the first 10 consecutive fiscal years immediately  
51 following the base production year.

52 (i) "New aviation fuel" means the quantity of aviation fuel produced by a refinery  
53 during an incentive year that exceeds the quantity of aviation fuel produced by the refinery  
54 during the base production year.

55 (j) "Qualifying carrier" means a carrier that meets the requirements of Subsection (4).

56 (k) "Refinery" means the same as that term is defined in Section 79-6-701.

57 (2) As provided in this section, the authority may award a grant of up to \$1,000,000 per  
58 incentive year from the incentive account to a carrier that the authority determines to be a  
59 qualifying carrier.

60 (3) The authority shall designate as the base production year the fiscal year that the  
61 authority determines to be the fiscal year that precedes the first fiscal year during which new  
62 aviation fuel is expected to be produced.

63 (4) (a) The authority shall establish and maintain an account for the deposit of money  
64 under Section 59-5-121 and for the authority's payment of aviation fuel incentives under this  
65 section.

66 (b) The authority shall maintain and account for money in the account described in  
67 Subsection (4)(a) separate from all other money of the authority.

68 (5) A carrier that seeks to be awarded an aviation fuel incentive for a fiscal year shall:

69 (a) submit to the authority an application that meets the requirements of Subsection (6);  
70 and

71 (b) demonstrate to the authority's satisfaction that:

72 (i) a refinery from which the carrier purchases aviation fuel has invested at least  
73 \$5,000,000 since May 3, 2023 in an aviation fuel project; and

74 (ii) due to the aviation fuel project, the refinery, during an incentive year:

75 (A) has produced at least 4,500,000 gallons more aviation fuel for use by carriers in the  
76 state than the refinery produced during the base production year; and

77 (B) has not produced less gas and diesel fuel than the refinery produced during the base  
78 production year.

79 (6) (a) An application under Subsection (5) shall include information that the authority  
80 determines to be relevant to the authority's determination of whether the carrier qualifies for an  
81 aviation fuel incentive, including:

82 (i) for the application for the first incentive year that the carrier submits an application

83 under this section:

84 (A) the amount of the refinery's investment in an aviation fuel project; and

85 (B) the quantity of aviation fuel and gas and diesel fuel produced by the refinery during  
86 the base production year;

87 (ii) the quantity of aviation fuel and gas and diesel fuel produced by the refinery during  
88 the applicable incentive year; and

89 (iii) verification that the new aviation fuel was produced for use by a carrier in the  
90 state.

91 (b) An application under Subsection (5) shall be submitted to the authority before a  
92 deadline established by the authority.

93 (c) Multiple carriers may not rely on the same refinery to support the carriers'  
94 applications for an aviation fuel incentive.

95 (7) (a) A carrier may receive an aviation fuel incentive for no more than 15 consecutive  
96 incentive years.

97 (b) The maximum cumulative amount a carrier may receive as an aviation fuel  
98 incentive is \$10,000,000 or one-third of the amount the refineries represented in the carrier's  
99 applications invested in an aviation fuel project, whichever is less.

100 (c) The authority may not award aviation fuel incentives in excess of the amount that  
101 the Division of Finance deposits into the incentive account under Section [59-5-121](#).

102 (d) If more than one carrier qualifies for an aviation fuel incentive in an incentive year,  
103 the authority shall prorate money granted to qualifying carriers based on the percentage of new  
104 aviation fuel produced by the refineries represented in a carrier's application as compared to the  
105 total amount of new aviation fuel produced by all refineries represented in the applications of  
106 all qualifying carriers.

107 (8) (a) For purposes of determining whether a carrier meets the requirements to be a  
108 qualifying carrier, the authority may require a carrier that submits an application for an aviation  
109 fuel incentive to provide the authority with a document that expressly directs and authorizes the

110 commission to disclose to the authority the carrier's returns and other information that would  
111 otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal  
112 Revenue Code.

113 (b) Upon the commission's receipt of a document described in Subsection (8)(a), the  
114 commission shall provide the authority with the returns and other information requested by the  
115 authority that the document directs and authorizes the commission to provide to the authority.

116 (9) The authority may adopt a policy establishing:

117 (a) the application and reporting criteria for a carrier to receive an aviation fuel  
118 incentive under this section; and

119 (b) procedures for establishing the base production year.

120 (10)(a) Within 90 days after the end of the 15th fiscal year after the base production  
121 year, the authority shall pay to the Division of Finance all money in the account that the port  
122 authority has not awarded by grant under this section.

123 (b) Any money that the authority pays to the Division of Finance under Subsection  
124 (10)(a) is considered to be severance tax revenue collected under Section 59-5-102 in the fiscal  
125 year during which the authority pays the money to the Division of Finance.

126 Section 2. Section **51-9-307** is amended to read:

127 **51-9-307. New Severance Tax Revenue Special Revenue Fund.**

128 (1) As used in this section:

129 (a) "Fund" means the New Severance Tax Revenue Special Revenue Fund created in  
130 this section.

131 (b) "New revenue" means revenue collected above \$100,000,000 from the taxes  
132 imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting  
133 the amounts required to be distributed under Sections 51-9-305, 51-9-306, 59-5-116, [and]  
134 59-5-119, and 59-5-121.

135 (2) There is created a special revenue fund known as the "New Severance Tax  
136 Revenue Special Revenue Fund" that consists of:

137 (a) money deposited by the State Tax Commission in accordance with this section; and

138 (b) interest earned on the money in the fund.

139 (3) Beginning July 1, 2021, the State Tax Commission shall deposit into the fund  
140 100% of new revenue until the new revenue equals or exceeds \$200,000,000 in a fiscal year.

141 Section 3. Section **59-5-115** is amended to read:

142 **59-5-115. Disposition of taxes collected -- Credit to General Fund.**

143 Except as provided in Section [51-9-305](#), [51-9-306](#), [51-9-307](#), [59-5-116](#), [or] [59-5-119](#),  
144 or [59-5-121](#), a tax imposed and collected under Section [59-5-102](#) shall be paid to the  
145 commission, promptly remitted to the state treasurer, and credited to the General Fund.

146 Section 4. Section **59-5-121** is enacted to read:

147 **59-5-121. Severance tax revenue for aviation fuel incentive account.**

148 (1) As used in this section:

149 (a) "Base revenue year" means the fiscal year designated by the port authority under  
150 Subsection (3).

151 (b) "Incentive account" means the same as that term is defined in Section [11-58-208](#).

152 (c) "Incremental revenue" means the amount that is calculated by subtracting the net  
153 severance revenue for the base revenue year from the net severance revenue for the applicable  
154 incremental revenue year.

155 (d) "Incremental revenue year" means any of the first 10 consecutive fiscal years  
156 immediately following the base revenue year.

157 (e) "Net severance revenue" means the amount of severance tax revenue collected  
158 during a fiscal year under Section [59-5-102](#), after deducting the amount of severance tax  
159 revenue required to be distributed under Sections [51-9-305](#), [51-9-306](#), [59-5-116](#), and [59-5-119](#).

160 (f) "Port authority" means the Utah Inland Port Authority created in Section [11-58-201](#).

161 (2) Subject to Subsections (3) and (4), for each of the 10 consecutive fiscal years  
162 beginning the first incremental revenue year, the Division of Finance shall deposit incremental  
163 revenue into the incentive account.

164 (3) (a) The port authority shall designate as the base revenue year the fiscal year that:

165 (i) begins on or after July 1, 2023; and

166 (ii) the port authority determines will precede the first fiscal year during which the  
167 effects of the aviation fuel incentive program under Section 11-58-208 on the amount of  
168 severance tax revenue under Section 59-5-102 are expected to begin to occur.

169 (b) No later than September 30 of the first incremental revenue year, the port authority  
170 shall provide written notification to the Division of Finance of the fiscal year that the port  
171 authority designates as the base revenue year.

172 (4) (a) The Division of Finance may not deposit incremental revenue under Subsection  
173 (2) that exceeds \$1,000,000 per fiscal year.

174 (b) The maximum cumulative amount of incremental revenue that the Division of  
175 Finance may deposit into the incentive account is \$10,000,000.

176 (c) If the amount of incremental revenue for any incentive year is less than \$1,000,000,  
177 the Division of Finance shall deposit into the incentive account the amount of incremental  
178 revenue available.