

AVIATION FUEL INCENTIVE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ directs the Division of Finance to deposit money from severance tax revenue into the Industrial Assistance Account;
- ▶ modifies provisions related to the Industrial Assistance Account;
- ▶ enacts provisions relating to an aviation fuel incentive, including provisions that:
 - authorize the Governor's Office of Economic Opportunity to award an aviation fuel incentive, under certain circumstances, to an airline carrier that meets certain requirements;
 - establish application procedures and requirements; and
 - establish maximum amounts to be awarded as an aviation fuel incentive; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 [51-9-307](#), as enacted by Laws of Utah 2021, Chapter 401
29 [59-5-115](#), as last amended by Laws of Utah 2021, Chapter 401
30 [63N-3-103](#), as last amended by Laws of Utah 2021, Chapter 282

31 ENACTS:

32 [59-5-121](#), Utah Code Annotated 1953
33 [63N-3-114](#), Utah Code Annotated 1953

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

36 Section 1. Section [51-9-307](#) is amended to read:

37 **[51-9-307](#). New Severance Tax Revenue Special Revenue Fund.**

38 (1) As used in this section:

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

41 (b) "New revenue" means revenue collected above \$100,000,000 from the taxes
42 imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting
43 the amounts required to be distributed under Sections [51-9-305](#), [51-9-306](#), [59-5-116](#), [~~and~~
44 ~~[59-5-119](#)~~], and [59-5-121](#).

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

- 47 (a) money deposited by the State Tax Commission in accordance with this section; and
- 48 (b) interest earned on the money in the fund.

49 (3) Beginning July 1, 2021, the State Tax Commission shall deposit into the fund
50 100% of new revenue until the new revenue equals or exceeds \$200,000,000 in a fiscal year.

51 Section 2. Section [59-5-115](#) is amended to read:

52 **[59-5-115](#). Disposition of taxes collected -- Credit to General Fund.**

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

56 Section 3. Section [59-5-121](#) is enacted to read:

57 **[59-5-121](#). Disposition of taxes collected -- Industrial Assistance Account.**

58 (1) As used in this section:

59 (a) "Account" means the Industrial Assistance Account created in Section 63N-3-103.

60 (b) "Base revenue year" means the fiscal year designated by the economic office under
61 Subsection (3).

62 (c) "Economic office" means the Governor's Office of Economic Opportunity, created
63 in Section 63N-1a-301.

64 (d) "Marginal revenue" means the amount that is calculated by subtracting the net
65 severance revenue for the base revenue year from the net severance revenue for the applicable
66 marginal revenue year.

67 (e) "Marginal revenue year" means any of the first 10 consecutive fiscal years
68 immediately following the base revenue year.

69 (f) "Net severance revenue" means the amount of severance tax revenue collected
70 during a fiscal year under Section 59-5-102, after deducting the amount of severance tax
71 revenue required to be distributed under Sections 51-9-305, 51-9-306, 59-5-116, and 59-5-119.

72 (2) Subject to Subsection (3), for each of the 10 consecutive fiscal years beginning the
73 first marginal revenue year, the commission shall deposit marginal revenue into the account.

74 (3) (a) The economic office shall designate as the base revenue year the fiscal year the
75 economic office determines will precede the first fiscal year during which the effects of the
76 aviation fuel incentive program under Section 63N-3-114 on the amount of severance tax
77 revenue under Section 59-5-102 are expected to begin to occur.

78 (b) No later than August 31 during the first marginal revenue year, the economic office
79 shall provide written notification to the commission of the fiscal year that the economic office
80 designates as the base revenue year.

81 (4) (a) The commission may not deposit marginal revenue under Subsection (2) that
82 exceeds \$1,000,000 per fiscal year.

83 (b) The maximum cumulative amount of marginal revenue that the commission may
84 deposit into the account is \$10,000,000.

85 (c) If the amount of marginal revenue for any incentive year is less than \$1,000,000,
86 the commission shall deposit into the account the amount of marginal revenue available.

87 (5) Any money deposited into the account under this section that the economic office
88 does not award by grant under Section 63N-3-114 by the end of the 15th fiscal year after the
89 base production year, as defined in Section 63N-3-114, lapses to the General Fund.

90 Section 4. Section 63N-3-103 is amended to read:

91 **63N-3-103. Industrial Assistance Account created -- Uses -- Administrator duties**
92 **-- Costs.**

93 (1) There is created a restricted account within the General Fund known as the
94 "Industrial Assistance Account".

95 (2) The administrator shall administer the restricted account.

96 (3) The administrator may hire appropriate support staff to perform the duties required
97 under this section.

98 (4) (a) [The] Except as provided in Subsection (4)(b), the cost of administering the
99 restricted account shall be paid from money in the restricted account.

100 (b) The cost of administering the restricted account may not be paid from the money
101 deposited into the restricted account under Section 59-5-121.

102 (5) Interest accrued from investment of money in the restricted account shall remain in
103 the restricted account.

104 (6) The office shall review the activities and progress of grant recipients under this
105 chapter on a regular basis and, as part of the office's annual written report described in Section
106 63N-1a-306, report on the economic impact of activities funded by each grant.

107 Section 5. Section 63N-3-114 is enacted to read:

108 **63N-3-114. New aviation fuel incentive -- Requirements.**

109 (1) As used in this section:

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

111 (i) used by a carrier; and

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

113 (b) "Aviation fuel incentive" means a grant awarded by the office to a qualifying carrier
114 from the restricted account as provided in this section.

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

117 (d) "Base production year" means the fiscal year designated by the office under
118 Subsection (3).

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

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

121 (g) "Incentive year" means any of the first 10 consecutive fiscal years immediately
122 following the base production year.

123 (h) "New aviation fuel" means the quantity of aviation fuel produced by a refinery
124 during an incentive year that exceeds the quantity of aviation fuel produced by the refinery
125 during the base production year.

126 (i) "Qualifying carrier" means a carrier that meets the requirements of Subsection (4).

127 (j) "Refinery" means the same as that term is defined in Section [79-6-701](#).

128 (2) As provided in this section, the office may award a grant of up to \$1,000,000 per
129 incentive year from the restricted account to a carrier that the office determines is a qualifying
130 carrier.

131 (3) (a) The office shall designate as the base production year the fiscal year that the
132 office determines to be the fiscal year that precedes the first fiscal year during which new
133 aviation fuel is expected to be produced.

134 (b) No later than August 31 of the first incentive year, the office shall provide written
135 notification to the Division of Finance of the fiscal year the office designates as the base
136 production year.

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

138 (a) submit to the office an application that meets the requirements of Subsection (5);

139 and

140 (b) demonstrate to the office's satisfaction that:

141 (i) a refinery from which the carrier purchases aviation fuel has invested at least
142 \$5,000,000 since May 3, 2023 in an aviation fuel project; and

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

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

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

148 (5) (a) An application under Subsection (4) shall include information that the office
149 determines to be relevant to the office's determination of whether the carrier qualifies for an
150 aviation fuel incentive, including:

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

152 under this section:

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

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

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

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

160 (b) An application under Subsection (5)(a) shall be submitted to the office before a
161 deadline established by the office.

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

164 (6) (a) A carrier may receive an aviation fuel incentive for no more than 15 consecutive
165 incentive years.

166 (b) The maximum cumulative amount a carrier may receive as an aviation fuel
167 incentive is \$10,000,000 or one-third of the amount the refinery invested in an aviation fuel
168 project, whichever is less.

169 (c) The office may not award aviation fuel incentives in excess of the amount that the
170 commission deposits into the restricted account under Section [59-1-121](#).

171 (d) If more than one carrier qualifies for an aviation fuel incentive in an incentive year,
172 the office shall prorate money granted to qualifying carriers based on the percentage of new
173 aviation fuel produced by the refineries represented in a carrier's application as compared to the
174 total amount of new aviation fuel produced by all refineries represented in the applications of
175 all qualifying carriers.

176 (7) (a) For purposes of determining whether a carrier meets the requirements to be a
177 qualifying carrier, the office may require a carrier that submits an application for an aviation
178 fuel incentive to provide the office with a document that expressly directs and authorizes the
179 commission to disclose to the office the carrier's returns and other information that would
180 otherwise be subject to confidentiality under Section [59-1-403](#) or Section 6103, Internal
181 Revenue Code.

182 (b) Upon the commission's receipt of a document described in Subsection (7)(a), the

183 commission shall provide the office with the returns and other information requested by the
184 office that the document directs and authorizes the commission to provide to the office.

185 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
186 office may make rules establishing:

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

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

190 (9) (a) On or before August 31 of each year, the office shall certify to the Division of
191 Finance for the previous fiscal year each carrier that qualifies for an aviation fuel incentive
192 under this section and the amount of the aviation fuel incentive.

193 (b) Within 30 days after receipt of the certification under Subsection (9)(a), the
194 Division of Finance shall distribute to the office for distribution to a qualifying carrier the
195 amount of the aviation fuel incentive described in the certification.