

AVIATION FUEL INCENTIVE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill modifies provisions relating to an aviation fuel incentive.

Highlighted Provisions:

This bill:

► increases the number of years for which net severance tax revenue may be deposited into an aviation fuel incentive account.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-58-208, as enacted by Laws of Utah 2023, Chapter 537

59-5-121, as enacted by Laws of Utah 2023, Chapter 537

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

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

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

(1) As used in this section:

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



- 28 (i) used by a carrier; and
- 29 (ii) subject to an aviation fuel tax under Title 59, Chapter 13, Part 4, Aviation Fuel.
- 30 (b) "Aviation fuel incentive" means a grant awarded by the authority to a qualifying
- 31 carrier from the incentive account as provided in this section.
- 32 (c) "Aviation fuel project" means a project for the development of facilities in the state
- 33 to increase the production of aviation fuel.
- 34 (d) "Base production year" means the fiscal year designated by the authority under
- 35 Subsection (3).
- 36 (e) "Carrier" means a federally certificated air carrier, as defined in Section 59-13-102.
- 37 (f) "Commission" means the State Tax Commission.
- 38 (g) "Incentive account" means an account that the authority establishes and maintains
- 39 under Subsection (4) and from which the authority pays an aviation fuel incentive.
- 40 (h) "Incentive year" means any of the first [10] ~~10~~ 11 consecutive fiscal years
- 40a immediately
- 41 following the base production year.
- 42 (i) "New aviation fuel" means the quantity of aviation fuel produced by a refinery
- 43 during an incentive year that exceeds the quantity of aviation fuel produced by the refinery
- 44 during the base production year.
- 45 (j) "Qualifying carrier" means a carrier that meets the requirements of Subsection (4).
- 46 (k) "Refinery" means the same as that term is defined in Section 79-6-701.
- 47 (2) As provided in this section, the authority may award a grant of up to \$1,000,000 per
- 48 incentive year from the incentive account to a carrier that the authority determines to be a
- 49 qualifying carrier.
- 50 (3) The authority shall designate as the base production year the fiscal year that the
- 51 authority determines to be the fiscal year that precedes the first fiscal year during which new
- 52 aviation fuel is expected to be produced.
- 53 (4) (a) The authority shall establish and maintain an account for the deposit of money
- 54 under Section 59-5-121 and for the authority's payment of aviation fuel incentives under this
- 55 section.
- 56 (b) The authority shall maintain and account for money in the account described in
- 57 Subsection (4)(a) separate from all other money of the authority.
- 58 (5) A carrier that seeks to be awarded an aviation fuel incentive for a fiscal year shall:

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

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

62 (i) a refinery from which the carrier purchases aviation fuel has invested at least
63 \$5,000,000 since May 3, 2023 in an aviation fuel project; and

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

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

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

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

72 (i) for the application for the first incentive year that the carrier submits an application
73 under this section:

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

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

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

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

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

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

85 (7) (a) A carrier may receive an aviation fuel incentive for no more than ~~15~~ 11 ←~~15~~
85a consecutive
86 incentive years.

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

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

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

97 (8) (a) For purposes of determining whether a carrier meets the requirements to be a
98 qualifying carrier, the authority may require a carrier that submits an application for an aviation
99 fuel incentive to provide the authority with a document that expressly directs and authorizes the
100 commission to disclose to the authority the carrier's returns and other information that would
101 otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal
102 Revenue Code.

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

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

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

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

110 (10) (a) Within 90 days after the end of the ~~15th~~ 11th fiscal year after the base
110a production
111 year, the authority shall pay to the Division of Finance all money in the account that the port
112 authority has not awarded by grant under this section.

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

116 Section 2. Section 59-5-121 is amended to read:

117 **59-5-121. Severance tax revenue for aviation fuel incentive account.**

118 (1) As used in this section:

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

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

122 (c) "Incremental revenue" means the amount that is calculated by subtracting the net
123 severance revenue for the base revenue year from the net severance revenue for the applicable
124 incremental revenue year.

125 (d) "Incremental revenue year" means any of the first [~~10~~] ~~H~~→ [15] 11 ←~~H~~ consecutive
125a fiscal years
126 immediately following the base revenue year.

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

130 (f) "Port authority" means the Utah Inland Port Authority created in Section 11-58-201.

131 (2) Subject to Subsections (3) and (4), for each of the [~~10~~] ~~H~~→ [15] 11 ←~~H~~ consecutive
131a fiscal years
132 beginning the first incremental revenue year, the Division of Finance shall deposit incremental
133 revenue into the incentive account.

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

135 (i) begins on or after July 1, ~~H~~→ [2023] 2022 ←~~H~~ ; and

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

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

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

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

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

149 Section 3. **Effective date.**

150 This bill takes effect on May 1, 2024.