HYDROGEN FUEL PRODUCTION INCENTIVES

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: Curtis S. Bramble

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 Ĥ→ **or a plant for the manufacture of zero emission hydrogen fueled trucks** ←Ĥ ; 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

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.

H.B. 405

As used in this part:

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

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

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

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

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

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

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

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

(i) a bulk commodities ocean terminal;

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

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

(iv) a shortline freight railroad and ancillary facilities[~~.~~]; Ĥ→ **[~~or~~]** ←Ĥ

(v) a plant for producing hydrogen, including the liquification of hydrogen, for use as a fuel in zero emission motor vehicles Ĥ→ **[~~.~~] ; or**

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

(b) "Throughput infrastructure project" includes:

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

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

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

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

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

(1) As used in this section:

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

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

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

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

(c) "Taxable volume" means:

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

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

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

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

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

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

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

(i) produced; and

(ii) (A) saved;

(B) sold; or

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

(e) "Total volume" means:
(i) for oil, the number of barrels:
(A) produced; and
(B) (I) saved;
(II) sold; or
(III) transported from the field where the oil was produced; and
(ii) for natural gas, the number of MCFs:
(A) produced; and
(B) (I) saved;
(II) sold; or
(III) transported from the field where the natural gas was produced.
(f) "Value of oil or gas taken in kind" means the volume of oil or gas taken in kind multiplied by the market price for oil or gas at the location where the oil or gas was produced on the date the oil or gas was taken in kind.
(2) (a) Except as provided in Subsection (2)(b), a person owning an interest in oil or gas produced from a well in the state, including a working interest, royalty interest, payment out of production, or any other interest, or in the proceeds of the production of oil or gas, shall pay to the state a severance tax on the owner's interest in the taxable value of the oil or gas:
(i) produced; and
(ii) (A) saved;
(B) sold; or
(C) transported from the field where the substance was produced.
(b) The severance tax imposed by Subsection (2)(a) does not apply to:
(i) an interest of:
(A) the United States in oil or gas or in the proceeds of the production of oil or gas;
(B) the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil or gas; and
(C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the proceeds of the production of oil or gas produced from land under the jurisdiction of the United States; and
(ii) the value of:

(A) oil or gas produced from stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;

(B) oil or gas produced in the first 12 months of production for wildcat wells started after January 1, 1990; and

(C) oil or gas produced in the first six months of production for development wells started after January 1, 1990.

(3) (a) The severance tax on oil shall be calculated as follows:

(i) dividing the taxable value by the taxable volume;

(ii) (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(i); and

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

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

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

(b) The severance tax on natural gas shall be calculated as follows:

(i) dividing the taxable value by the taxable volume;

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

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

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

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

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

(4) Subject to Subsection [~~(8)~~] <u>(9)</u>:

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

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

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

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

(i) 3% of the taxable value of the natural gas up to and including the first $1.50 per MCF for gas; and

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

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

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

(a) the shipment constitutes a sale; and

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

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

(i) sold;

(ii) transported; or

(iii) delivered.

(b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this section.

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

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

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

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

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

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

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

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

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

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

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

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

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field.

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

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

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

Legislative Review Note
Office of Legislative Research and General Counsel