

1 **SEVERANCE TAX FUNDING FOR CERTAIN PROGRAMS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ken Ivory**

5 Senate Sponsor: Wayne L. Niederhauser

6

7 **LONG TITLE**

8 **General Description:**

9 This bill provides funding for the Constitutional Defense Restricted Account from
10 certain oil and gas severance tax revenues.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides funding for the Constitutional Defense Restricted Account from certain oil
14 and gas severance tax revenues;
- 15 ▶ provides that the Division of Finance shall make deposits into the Constitutional
16 Defense Restricted Account after making the deposits required to be made into the
17 Uintah Basin Revitalization Fund and the Navajo Revitalization Fund;
- 18 ▶ repeals obsolete language; and
- 19 ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **51-9-305**, as last amended by Laws of Utah 2011, Chapter 239

27 **59-5-115**, as last amended by Laws of Utah 2008, Chapter 141



28 **59-5-116**, as last amended by Laws of Utah 2010, Chapter 28
 29 **59-5-119**, as last amended by Laws of Utah 2007, Chapter 104
 30 **63C-4-103**, as last amended by Laws of Utah 2011, Chapters 252 and 303

31 ENACTS:

32 **59-5-121**, Utah Code Annotated 1953



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

35 Section 1. Section **51-9-305** is amended to read:

36 **51-9-305. Crediting of certain severance tax revenues to the permanent state**
 37 **trust fund -- Disposition of earnings, interest, or dividends on severance tax revenues**
 38 **deposited into the permanent state trust fund.**

39 (1) (a) After making the distributions of oil and gas severance tax revenues as required
 40 under Sections 59-5-116 [~~and~~], 59-5-119, and 59-5-121, the Division of Finance shall make the
 41 distributions required under [~~Subsections (2) through (5)~~] this section.

42 (b) For purposes of this section, revenue collected from severance taxes on oil and gas
 43 imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, does not include
 44 revenue that is distributed under Section 59-5-116 [~~or~~], 59-5-119, or 59-5-121.

45 ~~[(2) (a) Beginning with fiscal year 2008-09 and ending with fiscal year 2010-11, if~~
 46 ~~authorized by law, the Division of Finance shall credit to the permanent state trust fund all~~
 47 ~~revenue collected in a fiscal year from severance taxes on oil and gas imposed under Title 59,~~
 48 ~~Chapter 5, Severance Tax on Oil, Gas, and Mining, that exceed \$71,000,000.]~~

49 ~~[(b)]~~ (2) Beginning with fiscal year 2011-12, [~~if authorized by law,~~] the Division of
 50 Finance shall credit to the permanent state trust fund all revenue collected in a fiscal year from
 51 severance taxes on oil and gas imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas,
 52 and Mining, that exceed \$77,000,000.

53 (3) Beginning with fiscal year 2008-09, [~~if authorized by law,~~] the Division of Finance
 54 shall credit to the permanent state trust fund all revenue collected in a fiscal year from
 55 severance taxes on mining imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and
 56 Mining, that exceed \$27,600,000.

57 (4) The state treasurer shall invest and separately account for the earnings on [~~funds~~]
 58 revenues collected from a tax imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas,

59 and Mining, that are deposited into the permanent state trust fund [~~under this section~~].

60 (5) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and
61 dividends earned annually on [~~revenue from severance taxes~~] revenues collected from a tax
62 imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, that are deposited
63 into the permanent state trust fund shall be deposited in the General Fund.

64 (b) Interest and dividends earned on [~~revenue from severance taxes~~] revenues collected
65 from a tax imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, that are
66 deposited in the General Fund pursuant to Subsection (5)(a) shall be credited to the
67 Infrastructure and Economic Diversification Investment Account created in Section 51-9-303.

68 Section 2. Section **59-5-115** is amended to read:

69 **59-5-115. Disposition of taxes collected -- Credit to General Fund.**

70 [~~All taxes~~] Except as provided in Section 51-9-305, 59-5-116, 59-5-119, or 59-5-121, a
71 tax imposed and collected under Section 59-5-102 shall be paid to the commission, promptly
72 remitted to the state treasurer, and [~~except those taxes otherwise allocated under Section~~
73 ~~51-9-305, 59-5-116, or 59-5-119;~~] credited to the General Fund.

74 Section 3. Section **59-5-116** is amended to read:

75 **59-5-116. Disposition of certain taxes collected on Ute Indian land.**

76 (1) Except as provided in Subsection (2), there shall be deposited into the Uintah Basin
77 Revitalization Fund established in Section 9-10-102:

78 (a) for taxes imposed under this part, 33% of the taxes collected on oil, gas, or other
79 hydrocarbon substances produced from a well:

80 (i) for which production began on or before June 30, 1995; and

81 (ii) attributable to interests:

82 (A) held in trust by the United States for the Tribe and its members; or

83 (B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948);

84 (b) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other
85 hydrocarbon substances produced from a well:

86 (i) for which production began on or after July 1, 1995; and

87 (ii) attributable to interests:

88 (A) held in trust by the United States for the Tribe and its members; or

89 (B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948); and

90 (c) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other
91 hydrocarbon substances produced from a well:

92 (i) for which production began on or after January 1, 2001; and

93 (ii) attributable to interests on lands conveyed to the tribe under the Ute-Moab Land
94 Restoration Act, Pub. L. No. 106-398, Sec. 3303.

95 (2) (a) The maximum amount deposited in the Uintah Basin Revitalization Fund may
96 not exceed:

97 (i) \$3,000,000 in fiscal year 2005-06;

98 (ii) \$5,000,000 in fiscal year 2006-07;

99 (iii) \$6,000,000 in fiscal years 2007-08 and 2008-09; and

100 (iv) for fiscal years beginning with fiscal year 2009-10, the amount determined by the
101 commission as described in Subsection (2)(b).

102 (b) (i) The commission shall increase or decrease the dollar amount described in
103 Subsection (2)(a)(iii) by a percentage equal to the percentage difference between the consumer
104 price index for the preceding calendar year and the consumer price index for calendar year
105 2008; and

106 (ii) after making an increase or decrease under Subsection (2)(b)(i), round the dollar
107 amount to the nearest whole dollar.

108 (c) For purposes of this Subsection (2), "consumer price index" is as described in
109 Section 1(f)(4), Internal Revenue Code, and defined in Section (1)(f)(5), Internal Revenue
110 Code.

111 (d) Any amounts in excess of the maximum described in Subsection (2)(a) shall be
112 deposited [~~into the General Fund~~] as provided in Section 59-5-115.

113 Section 4. Section **59-5-119** is amended to read:

114 **59-5-119. Disposition of certain taxes collected on Navajo Nation land located in**
115 **Utah.**

116 (1) Except as provided in Subsection (2), there shall be deposited into the Navajo
117 Revitalization Fund established in Section 9-11-104 for taxes imposed under this part
118 beginning on July 1, 1997:

119 (a) 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced
120 from a well:

- 121 (i) for which production began on or before June 30, 1996; and
- 122 (ii) attributable to interests in Utah held in trust by the United States for the Navajo
- 123 Nation and its members; and
- 124 (b) 80% of the taxes collected on oil, gas, or other hydrocarbon substances produced
- 125 from a well:
- 126 (i) for which production began on or after July 1, 1996; and
- 127 (ii) attributable to interests in Utah held in trust by the United States for the Navajo
- 128 Nation and its members.
- 129 (2) (a) The maximum amount deposited in the Navajo Revitalization Fund may not
- 130 exceed:
- 131 (i) \$2,000,000 in fiscal year 2006-07; and
- 132 (ii) \$3,000,000 for fiscal years beginning with fiscal year 2007-08.
- 133 (b) Any amounts in excess of the maximum described in Subsection (2)(a) shall be
- 134 deposited [~~into the General Fund~~] as provided in Section 59-5-115.

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

136 **59-5-121. Deposit of certain revenues into Constitutional Defense Restricted**
137 **Account.**

138 For each fiscal year beginning with fiscal year 2012-13, after the Division of Finance
139 makes the deposits required by Sections 59-5-116 and 59-5-119, the Division of Finance shall
140 annually deposit revenues collected from a tax imposed under Section 59-5-102 into the
141 Constitutional Defense Restricted Account equal to the difference between:

- 142 (1) \$6,000,000; and
- 143 (2) the amounts required to be deposited into the Constitutional Defense Restricted
- 144 Account for that fiscal year in accordance with Subsections 63C-4-103(2)(a) and (e).

145 Section 6. Section **63C-4-103** is amended to read:

146 **63C-4-103. Creation of Constitutional Defense Restricted Account -- Sources of**
147 **funds -- Uses of funds -- Reports.**

- 148 (1) There is created a restricted account within the General Fund known as the
- 149 Constitutional Defense Restricted Account.
- 150 (2) The account consists of money from the following revenue sources:
- 151 (a) money deposited [~~to~~] into the account as required by Section 53C-3-203;

- 152 (b) voluntary contributions;
- 153 (c) money received by the council from other state agencies; [~~and~~]
- 154 (d) revenues deposited into the account in accordance with Section 59-5-121; and
- 155 [~~(d)~~] (e) appropriations made by the Legislature.

156 (3) The Legislature may annually appropriate money from the Constitutional Defense
157 Restricted Account to one or more of the following:

158 (a) the council for the council's or Federalism Subcommittee's duties established in this
159 chapter;

160 (b) the Public Lands Policy Coordinating Office to carry out its duties in Section
161 63J-4-603;

162 (c) the Office of the Governor, to be used only for the purpose of asserting, defending,
163 or litigating state and local government rights under R.S. 2477, in accordance with a plan
164 developed and approved as provided in Section 63C-4-104;

165 (d) a county or association of counties to assist counties, consistent with the purposes
166 of the council, in pursuing issues affecting the counties; or

167 (e) the Office of the Attorney General, to be used only:

168 (i) for public lands counsel and assistance and litigation to the state or local
169 governments including asserting, defending, or litigating state and local government rights
170 under R.S. 2477 in accordance with a plan developed and approved as provided in Section
171 63C-4-104;

172 (ii) for an action filed in accordance with Section 67-5-29; or

173 (iii) to advise the council and Federalism Subcommittee.

174 (4) (a) The council shall require that any entity that receives money from the
175 Constitutional Defense Restricted Account provide financial reports and litigation reports to
176 the council.

177 (b) Nothing in this Subsection (4) prohibits the council from closing a meeting under
178 Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the council from complying
179 with Title 63G, Chapter 2, Government Records Access and Management Act.

Legislative Review Note
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Office of Legislative Research and General Counsel