

Representative Jack A. Seitz proposes the following substitute bill:

**OIL AND GAS SEVERANCE TAX - BOARD,
RESTRICTED ACCOUNT, AND USE OF
REVENUES**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Jack A. Seitz

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This act modifies the Community and Economic Development Code and the Oil and Gas Severance Tax Act to provide definitions and to create within the Division of Community Development the Oil and Gas Severance Tax Board. The act provides procedures and requirements for the operation of the Oil and Gas Severance Tax Board and prescribes the powers and duties of the Oil and Gas Severance Tax Board. The act creates the Oil and Gas Severance Tax Restricted Account, specifies the revenues to be deposited into the Oil and Gas Severance Tax Restricted Account, and prescribes the purposes for which those revenues may be expended. The act makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-5-115, as last amended by Chapter 135, Laws of Utah 1996

ENACTS:

9-16-101, Utah Code Annotated 1953

9-16-102, Utah Code Annotated 1953

9-16-103, Utah Code Annotated 1953

9-16-104, Utah Code Annotated 1953

9-16-105, Utah Code Annotated 1953



26 **59-5-120**, Utah Code Annotated 1953

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

28 Section 1. Section **9-16-101** is enacted to read:

29 **CHAPTER 16. OIL AND GAS SEVERANCE TAX BOARD ACT**

30 **9-16-101. Title.**

31 This chapter is known as the "Oil and Gas Severance Tax Board Act."

32 Section 2. Section **9-16-102** is enacted to read:

33 **9-16-102. Definitions.**

34 As used in this chapter:

35 (1) "Board" means the Oil and Gas Severance Tax Board created in Section 9-16-103.

36 (2) "Division" means the Division of Community Development.

37 (3) "Restricted account" means the Oil and Gas Severance Tax Restricted Account created
38 in Section 59-5-120.

39 Section 3. Section **9-16-103** is enacted to read:

40 **9-16-103. Oil and Gas Severance Tax Board -- Creation -- Membership --**
41 **Appointments -- Officers -- Meetings -- Compensation -- Funding.**

42 (1) There is created within the division the Oil and Gas Severance Tax Board.

43 (2) The board shall consist of nine members who are appointed as follows:

44 (a) the division shall forward to the governor one or more names submitted to the division
45 by the governing body of each county within which oil or gas is produced; and

46 (b) the governor shall appoint the members from the names forwarded by the division
47 under Subsection (2)(a).

48 (3) (a) Except as provided in Subsections (3)(b)(i) and (3)(c), each member of the board
49 shall serve a four-year term.

50 (b) If a vacancy occurs in the membership of the board, a member shall be appointed to
51 fill the vacancy as follows:

52 (i) notwithstanding Subsection (3)(a), if a vacancy occurs before the expiration of a
53 member's term, a member shall be appointed to serve the unexpired term in accordance with
54 Subsection (2); or

55 (ii) except as provided in Subsection (3)(c), if a vacancy occurs as a result of the expiration
56 of a member's term, a member shall be appointed to serve a four-year term in accordance with

57 Subsection (2).

58 (c) Notwithstanding Subsection (3)(a) or (3)(b)(ii), the governor shall in appointing
59 members to the board, adjust the length of terms to ensure that the terms of the board members are
60 staggered so that approximately half of the board is appointed every two years.

61 (4) The board:

62 (a) shall elect a chair of the board; and

63 (b) may elect other officers as determined by the board.

64 (5) (a) A majority of the members of the board constitute a quorum.

65 (b) Action by a majority vote of a quorum of the board constitutes an action by the board.

66 (6) The board shall:

67 (a) hold meetings on dates established by the board; and

68 (b) in holding a meeting, comply with the requirements of Title 52, Chapter 4, Open and

69 Public Meetings.

70 (7) Except as provided in Subsection (8):

71 (a) a member of the board who is not a government employee may not receive
72 compensation or benefits for the member's services, but may receive per diem and expenses
73 incurred in the performance of the member's official duties at the rates established by the Division
74 of Finance under Sections 63A-3-106 and 63A-3-107;

75 (b) a member of the board who is a state government officer or employee who does not
76 receive salary, per diem, or expenses from the member's agency for the member's service may
77 receive per diem and expenses incurred in the performance of the member's official duties at the
78 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107;

79 (c) a member of the board who is a local government officer or employee who does not
80 receive salary, per diem, or expenses from the entity that the member represents for the member's
81 service may receive per diem and expenses incurred in the performance of the member's official
82 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
83 63A-3-107; and

84 (d) a member of the board may decline to receive per diem and expenses for the member's
85 services.

86 (8) (a) Except as provided in Subsection (8)(b), the following amounts shall be paid from
87 the restricted account:

- 88 (i) per diem and expenses described in Subsection (7); and
- 89 (ii) other expenses of the board.
- 90 (b) Notwithstanding Subsection (8)(a):
- 91 (i) the amounts described in Subsection (8)(a) may not be paid unless after paying the
- 92 amounts the restricted account will have a balance of at least \$10,000; and
- 93 (ii) after the day on which the restricted account has a balance of \$1,000,000 or more, the
- 94 amounts described in Subsection (8)(a) paid from the restricted account may not exceed 2% of the
- 95 deposits into the restricted account under Section 59-5-120 in a calendar year.

96 Section 4. Section **9-16-104** is enacted to read:

97 **9-16-104. Powers and duties of the Oil and Gas Severance Tax Board.**

98 (1) The Oil and Gas Severance Tax Board shall:

- 99 (a) in accordance with Section 9-16-105, approve applications for grants from revenues
- 100 appropriated by the Legislature from the Oil and Gas Severance Tax Restricted Account to:
- 101 (i) a county within which oil or gas is produced;
- 102 (ii) an Indian tribe, if oil or gas is produced within:
- 103 (A) a property interest that is held in trust by the United States for the tribe within the state
- 104 or a member of that tribe; or
- 105 (B) property identified in Pub. L. No. 440, 62 Stat. 72 (1948); or
- 106 (iii) a combination of Subsections (1)(a)(i) and (ii);
- 107 (b) subject to Subsection (2) and in accordance with Section 9-16-105, establish
- 108 procedures for applying for a grant including establishing eligibility criteria;
- 109 (c) subject to Subsection (2):
- 110 (i) prioritize the projects or other activities for which a grant is applied for in accordance
- 111 with criteria for prioritizing those projects or activities; and
- 112 (ii) establish criteria for prioritizing the projects or activities described in Subsection
- 113 (1)(c)(i); and
- 114 (d) coordinate projects or other activities for which a grant is applied for.
- 115 (2) The eligibility criteria described in Subsection (1)(b) and the criteria for prioritizing
- 116 projects or activities described in Subsection (1)(c) that are established by the board:
- 117 (a) shall include the following criteria:
- 118 (i) the unemployment rates:

119 (A) in each county described in Subsection (1)(a)(i); or
 120 (B) for each Indian tribe described in Subsection (1)(a)(ii);
 121 (ii) the per capita income:
 122 (A) in each county described in Subsection (1)(a)(i); or
 123 (B) for each Indian tribe described in Subsection (1)(a)(ii);
 124 (iii) for each county described in Subsection (1)(a)(i), for the calendar year immediately
 125 preceding the current calendar year, the taxable value of property subject to taxation on the basis
 126 of the property's value in accordance with:

127 (A) Title 59, Chapter 2, Property Tax Act;
 128 (B) Title 59, Chapter 3, Tax Equivalent Property Act; or
 129 (C) Title 59, Chapter 4, Privilege Tax; and
 130 (iv) the amount of oil or gas produced within each:
 131 (A) county described in Subsection (1)(a)(i); or
 132 (B) property described in Subsection (1)(a)(ii)(A) or (B); and
 133 (b) may include other criteria as determined by the board.
 134 (3) The board may qualify for, accept, or administer grants, gifts, or other funds from the
 135 federal government or from other sources, public or private.

136 Section 5. Section **9-16-105** is enacted to read:

137 **9-16-105. Grants from Oil and Gas Severance Tax Restricted Account -- Application**
 138 **procedures -- Oil and Gas Severance Tax Board review and approval procedures -- Division**
 139 **duties regarding grants.**

140 (1) (a) A county or an Indian tribe described in Subsection 9-16-104(1)(a) wishing to
 141 receive a grant from revenues appropriated by the Legislature from the Oil and Gas Severance Tax
 142 Restricted Account shall apply to the board.

143 (b) A grant application shall contain the information required by the board.

144 (c) The board shall review each grant application before approving the grant for which the
 145 application is submitted.

146 (d) The board may approve a grant application subject to the applicant's compliance with
 147 certain conditions established by the board.

148 (2) The division shall distribute grant monies:

149 (a) if the grant is approved by the board; and

150 (b) in accordance with the instructions of the board, except that the board may not instruct
151 that monies be distributed in a manner:

152 (i) inconsistent with Section 9-16-104 or this section; or

153 (ii) in violation of a rule or procedure of the division.

154 (3) The division shall report annually to the Workforce Services and Economic
155 Development Interim Committee regarding:

156 (a) the number and type of grants made in accordance with Section 9-16-104 and this
157 section; and

158 (b) a list of recipients of a grant made in accordance with Section 9-16-104 and this
159 section.

160 Section 6. Section **59-5-115** is amended to read:

161 **59-5-115. Disposition of taxes collected -- Credit to General Fund.**

162 [~~AH~~] (1) Except as provided in Subsection (2), all taxes imposed and collected under
163 Section 59-5-102 shall be:

164 (a) paid to the commission[~~;~~and];

165 (b) promptly remitted by the commission to the state treasurer[~~;~~]; and [~~except those taxes~~
166 otherwise allocated under Section 59-5-116 or 59-5-119;]

167 (c) credited to the General Fund.

168 (2) Notwithstanding Subsection (1):

169 (a) the amounts specified in Section 59-5-116 shall be deposited into the Uintah Basin
170 Revitalization Fund in accordance with Section 59-5-116;

171 (b) the amounts specified in Section 59-5-119 shall be deposited into the Navajo
172 Revitalization Fund in accordance with Section 59-5-119; and

173 (c) the amounts specified in Section 59-5-120 shall be deposited into the Oil and Gas
174 Severance Tax Restricted Account in accordance with Section 59-5-120.

175 Section 7. Section **59-5-120** is enacted to read:

176 **59-5-120. Oil and Gas Severance Tax Restricted Account created -- Revenues to be**

177 **deposited into the Oil and Gas Severance Tax Restricted Account -- Expenditure of revenues**

178 **deposited in the Oil and Gas Severance Restricted Account -- Interest.**

179 (1) As used in this section:

180 (a) "Base amount" means:

181 (i) for the calendar year beginning on January 1, 2003, \$34,000,000;
182 (ii) for the calendar year beginning on January 1, 2004, \$32,000,000; or
183 (iii) for calendar years beginning on or after January 1, 2005, \$25,000,000.
184 (b) (i) Except as provided in Subsection (1)(b)(ii), "prior year oil and gas severance tax
185 collections" means the difference between:
186 (A) the tax revenues collected under this part for the calendar year immediately preceding
187 the current calendar year; and
188 (B) for the calendar year immediately preceding the current calendar year, the sum of the
189 amounts deposited into the:
190 (I) Uintah Basin Revitalization Fund in accordance with Section 59-5-116; and
191 (II) Navajo Revitalization Fund in accordance with Section 59-5-119.
192 (ii) Notwithstanding Subsection (1)(b)(i), for the calendar year immediately preceding the
193 current calendar year, the following adjustments made on or after August 1 may not be considered
194 in calculating the amount to be deposited into the Oil and Gas Severance Tax Restricted Account
195 under this section:
196 (A) an adjustment as a result of a taxpayer filing an amended tax return;
197 (B) an adjustment as a result of a refund of a tax imposed by this part; or
198 (C) an adjustment as a result of an audit by the commission conducted in accordance with
199 Section 59-5-107.
200 (2) There is created within the General Fund a restricted account known as the "Oil and
201 Gas Severance Tax Restricted Account."
202 (3) The Oil and Gas Severance Tax Restricted Account shall be funded from:
203 (a) amounts deposited by the commission in accordance with Subsection (5);
204 (b) amounts received by the Oil and Gas Severance Tax Board in accordance with
205 Subsection 9-16-104(3); and
206 (c) the interest described in Subsection (4).
207 (4) Interest earned on the Oil and Gas Severance Tax Restricted Account shall be
208 deposited into the Oil and Gas Severance Tax Restricted Account.
209 (5) (a) Except as provided in Subsection (5)(b), for a calendar year beginning on or after
210 January 1, 2003, the commission shall on or before August 1 of that calendar year deposit into the
211 Oil and Gas Severance Tax Restricted Account any amounts by which the prior year oil and gas

212 severance tax collections exceed the base amount for that calendar year.

213 (b) Notwithstanding Subsection (5)(a), the commission may not deposit into the Oil and
214 Gas Severance Tax Restricted Account in any calendar year an amount that exceeds \$8,000,000.

215 (6) The revenues deposited into the Oil and Gas Severance Tax Restricted Account shall
216 be expended:

217 (a) only to the extent appropriated by the Legislature; and

218 (b) as provided in Sections 9-16-104 and 9-16-105.