

**Representative John G. Mathis** proposes the following substitute bill:

**SEVERANCE TAX AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: John Dougall

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**LONG TITLE**

**General Description:**

This bill provides for the disposition of certain revenues from severance taxes.

**Highlighted Provisions:**

This bill:

- ▶ amends the provisions relating to the deposition of certain severance tax revenues into the permanent state trust fund;
- ▶ increases the amount of revenue to be deposited into the permanent state trust fund over a six-year period beginning with fiscal year 2011-12;
- ▶ for fiscal years 2011-12 through 2014-15, requires a certain amount of revenue collected from the severance tax on oil and gas to be distributed to the following:
  - the Invasive Species Mitigation Fund;
  - the Rangeland Improvement Fund;
  - the Species Protection Account; and
  - the Department of Natural Resources to be used for watershed rehabilitation or restoration;
- ▶ defines terms; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**



26 None

27 **Other Special Clauses:**

28 This bill takes effect on July 1, 2009.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **4-2-8.7**, as enacted by Laws of Utah 2008, Chapter 245

32 **4-20-2**, as last amended by Laws of Utah 2008, Chapter 399

33 **51-9-302**, as renumbered and amended by Laws of Utah 2008, Chapter 382

34 **51-9-304**, as last amended by Laws of Utah 2008, Chapters 141, 216 and renumbered

35 and amended by Laws of Utah 2008, Chapter 382

36 **51-9-305**, as enacted by Laws of Utah 2008, Chapter 141

37 **59-5-115**, as last amended by Laws of Utah 2008, Chapter 141

38 **63-34-14**, as last amended by Laws of Utah 2005, Chapter 71



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

41 Section 1. Section **4-2-8.7** is amended to read:

42 **4-2-8.7. Invasive Species Mitigation Fund created.**

43 (1) As used in this section, "project" means an undertaking that prevents catastrophic  
44 wildland fire through land restoration in a watershed that:

45 (a) is impacted by cheatgrass or other invasive species; or

46 (b) has a fuel load that may contribute to a catastrophic wildland fire.

47 (2) (a) There is created a restricted special revenue fund known as the "Invasive  
48 Species Mitigation Fund."

49 (b) The fund shall consist of:

50 (i) money appropriated by the Legislature;

51 (ii) grants from the federal government; [~~and~~]

52 (iii) grants or donations from a person[~~;~~]; and

53 (iv) revenue received from the allocations described in Section 59-5-115.

54 (3) Any unallocated balance in the fund at the end of the year is nonlapsing.

55 (4) (a) After consulting with the Department of Natural Resources and the

56 Conservation Commission, the department may expend fund monies:

- 57 (i) on a project implemented by:
- 58 (A) the department; or
- 59 (B) the Conservation Commission; or
- 60 (ii) by giving a grant for a project to:
- 61 (A) a state agency;
- 62 (B) a federal agency; or
- 63 (C) a federal, state, tribal, or private landowner.

64 (b) A grant to a federal landowner must be matched with at least an equal amount of  
65 money by the federal landowner.

66 (c) In expending the fund monies authorized by Subsection (4)(a)(i), the department  
67 shall use existing infrastructure and employees to plan and implement the project.

68 (5) In giving a grant, the department shall consider the effectiveness of a project in  
69 preventing:

- 70 (a) first, the risk to public safety and health from:
  - 71 (i) air pollution;
  - 72 (ii) flooding; and
  - 73 (iii) reduced visibility on a highway;
- 74 (b) second, damage to the environment, including:
  - 75 (i) soil erosion;
  - 76 (ii) degraded water quality; and
  - 77 (iii) release of carbon; and
- 78 (c) third, damage to:
  - 79 (i) a local economy; and
  - 80 (ii) habitat for wildlife or livestock.

81 Section 2. Section **4-20-2** is amended to read:

82 **4-20-2. Rangeland Improvement Fund -- Administered by department.**

83 (1) (a) There is created a restricted special revenue fund known as the "Rangeland  
84 Improvement Fund."

85 (b) The fund shall consist of:

86 (i) all monies received by the state from the United States Secretary of Interior under  
87 the Taylor Grazing Act, 43 U.S.C. Section 315 et seq., for sales, leases, and fees;

- 88 (ii) grants or appropriations from the state or federal government;
- 89 (iii) grants from private foundations;
- 90 (iv) proceeds from the sale of a livestock watering right in accordance with Section
- 91 73-3-31; [~~and~~]
- 92 (v) revenue received from the allocations described in Section 59-5-115; and
- 93 [~~(v)~~] (vi) interest on fund monies.

94 (2) Any unallocated balance in the fund at the end of a fiscal year is nonlapsing.

95 (3) The department shall:

96 (a) administer the fund;

97 (b) obtain from the United States Department of Interior the receipts collected from:

98 (i) fees in each grazing district; and

99 (ii) the receipts collected from the sale or lease of public lands; and

100 (c) distribute fund monies in accordance with Section 4-20-3.

101 Section 3. Section **51-9-302** is amended to read:

102 **51-9-302. Definitions.**

103 As used in this part:

104 (1) "Infrastructure and Economic Diversification Investment Account" means the

105 Infrastructure and Economic Diversification Investment Account created in Section 51-9-303.

106 (2) "Mining base amount" means:

107 (a) \$27,600,000 for fiscal years 2008-09, 2009-10, and 2010-11;

108 (b) \$22,600,000 for fiscal year 2011-12;

109 (c) \$17,600,000 for fiscal year 2012-13;

110 (d) \$12,600,000 for fiscal year 2013-14;

111 (e) \$7,600,000 for fiscal year 2014-15; and

112 (f) \$2,600,000 for fiscal year 2015-16.

113 (3) "Oil and gas base amount" means:

114 (a) \$71,000,000 for fiscal years 2008-09, 2009-10, and 2010-11;

115 (b) \$56,000,000 for fiscal year 2011-12;

116 (c) \$41,000,000 for fiscal year 2012-13;

117 (d) \$26,000,000 for fiscal year 2013-14; and

118 (e) \$11,000,000 for fiscal year 2014-15.

119           ~~[(2)]~~ (4) "Permanent state trust fund" means the permanent state trust fund created  
120 under Utah Constitution Article XXII, Section 4.

121           ~~[(3)]~~ (5) "Severance Tax Holding Account" means the Severance Tax Holding Account  
122 created in Section 51-9-304.

123           Section 4. Section **51-9-304** is amended to read:

124           **51-9-304. Creation of Severance Tax Holding Account -- Distribution of funds in**  
125 **the account.**

126           (1) (a) There is created a restricted account within the General Fund known as the  
127 "Severance Tax Holding Account."

128           (b) The Severance Tax Holding Account shall consist of:

129           (i) appropriations from the Legislature;

130           (ii) grants from private foundations; and

131           (iii) all monies credited to the Severance Tax Holding Account under Section  
132 51-9-305.

133           (2) (a) The state treasurer shall invest monies in the account according to Title 51,  
134 Chapter 7, State Money Management Act.

135           (b) The Division of Finance shall deposit interest or other earnings derived from  
136 investment of account monies into the General Fund.

137           (3) ~~[If authorized by law the]~~ The Division of Finance shall deposit all of the monies in  
138 the Severance Tax Holding Account as of June 30, 2009, into the permanent state trust fund.

139           Section 5. Section **51-9-305** is amended to read:

140           **51-9-305. Crediting of certain severance tax revenues to the permanent state**  
141 **trust fund.**

142           (1) (a) After making the distributions of oil and gas severance tax revenues as required  
143 under Sections 59-5-115, 59-5-116, and 59-5-119, the Division of Finance shall make the  
144 distributions required under Subsections (2) through (5).

145           (b) For purposes of this section, revenue collected from severance taxes on oil and gas  
146 imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, does not include  
147 revenue that is distributed under Section 59-5-115, 59-5-116, or 59-5-119.

148           (2) ~~[Beginning]~~ (a) For fiscal years beginning with fiscal year 2008-09~~[, if authorized~~  
149 ~~by law]~~ and ending with fiscal year 2014-15, the Division of Finance shall credit to the

150 permanent state trust fund all revenue collected in a fiscal year from severance taxes on oil and  
151 gas imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, that exceed  
152 ~~[\$71,000,000.]~~ the oil and gas base amount.

153 (b) For fiscal years beginning on or after fiscal year 2015-16, the Division of Finance  
154 shall credit all revenue collected in a fiscal year from severance taxes on oil and gas imposed  
155 under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining to the permanent state trust  
156 fund.

157 (3) ~~[Beginning]~~ (a) For fiscal years beginning with fiscal year 2008-09~~[, if authorized~~  
158 ~~by law]~~ and ending with fiscal year 2015-16, the Division of Finance shall credit to the  
159 permanent state trust fund all revenue collected in a fiscal year from severance taxes on mining  
160 imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, that exceed  
161 ~~[\$27,600,000.]~~ the mining base amount.

162 (b) For fiscal years beginning on or after fiscal year 2016-17, the Division of Finance  
163 shall credit all revenue collected in a fiscal year from severance taxes on mining imposed under  
164 Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining to the permanent state trust fund.

165 (4) The state treasurer shall invest and separately account for the earnings on funds that  
166 are deposited into the permanent state trust fund under this section.

167 (5) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and  
168 dividends earned annually on revenue from severance taxes that are deposited into the  
169 permanent state trust fund shall be deposited in the General Fund.

170 (b) Interest and dividends earned on revenue from severance taxes that are deposited in  
171 the General Fund pursuant to Subsection (5)(a) shall be credited to the Infrastructure and  
172 Economic Diversification Investment Account created in Section 51-9-303.

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

174 **59-5-115. Disposition of taxes collected -- Credit to General Fund.**

175 (1) For purposes of this section:

176 (a) "Invasive Species Mitigation Fund" means the Invasive Species Mitigation Fund  
177 created in Section 4-2-8.7.

178 (b) "Rangeland Improvement Fund" means the Rangeland Improvement Fund created  
179 in Section 4-20-2.

180 (c) "Species Protection Account" means the Species Protection Account created in

181 Section 63-34-14.

182 (2) All taxes imposed and collected under Section 59-5-102 shall be paid to the  
183 commission, promptly remitted to the state treasurer, and except those taxes otherwise  
184 allocated under Section 51-9-305, 59-5-116, or 59-5-119, or Subsections (3) through (7),  
185 credited to the General Fund.

186 (3) For fiscal years beginning with fiscal year 2011-12 and ending with fiscal year  
187 2014-15, the Division of Finance shall make the distributions required under Subsections (4)  
188 through (7):

189 (a) after making the distributions of oil and gas severance tax revenues as required  
190 under Sections 59-5-116 and 59-5-119; and

191 (b) before making the distributions of oil and gas severance tax revenues as required  
192 under Section 51-9-305.

193 (4) The Division of Finance shall credit to the Invasive Species Mitigation Fund the  
194 lesser of:

195 (a) 2% of all revenue collected in a fiscal year from severance taxes on oil and gas  
196 imposed under this chapter; or

197 (b) \$1,000,000.

198 (5) The Division of Finance shall credit to the Rangeland Improvement Fund the lesser  
199 of:

200 (a) 2% of all revenue collected in a fiscal year from severance taxes on oil and gas  
201 imposed under this chapter; or

202 (b) \$2,000,000.

203 (6) The Division of Finance shall credit to the Species Protection Account the lesser of:

204 (a) 2% of all revenue collected in a fiscal year from severance taxes on oil and gas  
205 imposed under this chapter; or

206 (b) \$1,000,000.

207 (7) (a) The Division of Finance shall transfer the lesser of the following to the  
208 Department of Natural Resources as dedicated credits:

209 (i) 2% of all revenue collected in a fiscal year from severance taxes on oil and gas  
210 imposed under this chapter; or

211 (ii) \$2,000,000.

212           **(b) The revenue received by the Department of Natural Resources described in**  
213 **Subsection (7)(a) shall be expended for watershed rehabilitation or restoration.**

214           Section 7. Section **63-34-14** is amended to read:

215           **63-34-14. Species Protection Account.**

216           (1) As used in this section, "species protection" means an action to protect any plant or  
217 animal species identified as sensitive by the state or as threatened or endangered under the  
218 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

219           (2) There is created within the General Fund a restricted account known as the Species  
220 Protection Account.

221           (3) The account shall consist of:

222           (a) revenue generated by the brine shrimp tax provided for in Title 59, Chapter 23,  
223 Brine Shrimp Royalty Act; ~~and~~

224           **(b) revenue received from the allocations described in Section 59-5-115; and**  
225 **~~(b)~~ (c) interest earned on monies in the account.**

226           (4) Monies in the account may be appropriated by the Legislature for the following  
227 purposes:

228           (a) to develop and implement species status assessments and species protection  
229 measures;

230           (b) to obtain biological opinions of proposed species protection measures;

231           (c) to conduct studies, investigations, and research into the effects of proposed species  
232 protection measures;

233           (d) to verify species protection proposals that are not based on valid biological data;

234           (e) for Great Salt Lake wetlands mitigation projects in connection with the western  
235 transportation corridor;

236           (f) to pay for the state's voluntary contributions to the Utah Reclamation Mitigation and  
237 Conservation Account under the Central Utah Project Completion Act, Pub. L. No. 102-575,  
238 Titles II-VI, 106 Stat. 4605-4655; and

239           (g) to pay for expenses of the State Tax Commission under Title 59, Chapter 23, Brine  
240 Shrimp Royalty Act.

241           (5) The purposes specified in Subsections (4)(a) through (4)(d) may be accomplished  
242 by the state or, in an appropriation act, the Legislature may authorize the Department of Natural

243 Resources to award grants to political subdivisions of the state to accomplish those purposes.

244 (6) Monies in the account may not be used to develop or implement a habitat  
245 conservation plan required under federal law unless the federal government pays for at least 1/3  
246 of the habitat conservation plan costs.

247 Section 8. **Effective date.**

248 This bill takes effect on July 1, 2009.

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**S.B. 38 2nd Sub. (Salmon) - Severance Tax Amendments**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill would transfer funds from the General Fund to the Permanent State Trust Fund beginning in FY 2012. Before the transfer of funds to the Permanent State Trust Fund, the Invasive Species Mitigation Fund, the Rangeland Improvement Fund, the Species Protection Account, and the Department of Natural Resources would receive an earmarked portion of the oil & gas revenue. These earmarks would likely receive \$4,400,000 in FY 2012. The transfer would likely be \$15,000,000 in FY 2013 and \$50,000,000 in FY 2014 from the General Fund to the Permanent State Trust Fund. When the base amounts become zero in FY 2017, all revenue collected from oil, gas, and mining severance taxes would be credited to the Permanent State Trust Fund rather than the General Fund. The expected amount is \$99,000,000 in FY 2017.

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**Individual, Business and/or Local Impact**

Individuals, businesses, and local taxing entities located in impacted areas will benefit by having greater funds available for projects related to capital and infrastructure development and economic diversification.

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