

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

2002 GENERAL SESSION

STATE OF UTAH

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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 addresses the distribution of oil and gas severance tax revenues. 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

59-5-120, Utah Code Annotated 1953

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

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

CHAPTER 16. OIL AND GAS SEVERANCE TAX BOARD ACT**9-16-101. Title.**

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

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

9-16-102. Definitions.

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsection (2).

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

(4) The board:

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

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

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

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

(6) The board shall:

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

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

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

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

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

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

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

services.

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

(i) per diem and expenses described in Subsection (7); and

(ii) other expenses of the board.

(b) Notwithstanding Subsection (8)(a):

(i) the amounts described in Subsection (8)(a) may not be paid unless after paying the amounts the restricted account will have a balance of at least \$10,000; and

(ii) after the day on which the restricted account has a balance of \$1,000,000 or more, the amounts described in Subsection (8)(a) paid from the restricted account may not exceed 2% of the deposits into the restricted account under Section 59-5-120 in a calendar year.

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

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

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

(a) in accordance with Section 9-16-105, approve applications for grants from revenues appropriated by the Legislature from the Oil and Gas Severance Tax Restricted Account to:

(i) a county within which oil or gas is produced;

(ii) one or more of the following located in a county within which oil or gas is produced:

(A) a school district; or

(B) an institution of higher education described in Section 53B-2-101;

(iii) an Indian tribe, if oil or gas is produced within:

(A) a property interest that is held in trust by the United States for the tribe within the state or a member of that tribe; or

(B) property identified in Pub. L. No. 440, 62 Stat. 72 (1948); or

(iv) a combination of Subsections (1)(a)(i) through (iii);

(b) establish or approve all rules to administer this act;

(c) subject to Subsection (2) and in accordance with Section 9-16-105, establish procedures for applying for a grant including establishing eligibility criteria;

(d) subject to Subsection (2):

(i) prioritize the projects or other activities for which a grant is applied for in accordance with criteria for prioritizing those projects or activities; and

(ii) establish criteria for prioritizing the projects or activities described in Subsection (1)(d)(i); and

(e) coordinate projects or other activities for which a grant is applied for.

(2) The eligibility criteria described in Subsection (1)(c) and the criteria for prioritizing projects or activities described in Subsection (1)(d) that are established by the board:

(a) shall include the following criteria:

(i) the unemployment rates:

(A) in each county described in Subsection (1)(a)(i); or

(B) for each Indian tribe described in Subsection (1)(a)(iii);

(ii) the per capita income:

(A) in each county described in Subsection (1)(a)(i); or

(B) for each Indian tribe described in Subsection (1)(a)(iii);

(iii) for each county described in Subsection (1)(a)(i), for the calendar year immediately preceding the current calendar year, the taxable value of property subject to taxation on the basis of the property's value in accordance with:

(A) Title 59, Chapter 2, Property Tax Act;

(B) Title 59, Chapter 3, Tax Equivalent Property Act; or

(C) Title 59, Chapter 4, Privilege Tax; and

(iv) the amount of oil or gas produced within each:

(A) county described in Subsection (1)(a)(i); or

(B) property described in Subsection (1)(a)(iii)(A) or (B); and

(b) may include other criteria as determined by the board.

(3) The board may qualify for, accept, or administer grants, gifts, or other funds from the federal government or from other sources, public or private.

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

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

(1) (a) A county, a school district, an institution of higher education, or an Indian tribe described in Subsection 9-16-104(1)(a) wishing to receive a grant from revenues appropriated by the Legislature from the Oil and Gas Severance Tax Restricted Account shall apply to the board.

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

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

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

(2) The division shall distribute grant monies:

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

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

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

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

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

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

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

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

59-5-115. Distribution of taxes collected -- Credit to General Fund.

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

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

(b) promptly remitted by the commission to the state treasurer[~~;~~]; and [except those taxes

~~otherwise allocated under Section 59-5-116 or 59-5-119;]~~

(c) credited to the General Fund.

(2) Notwithstanding Subsection (1):

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

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

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

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

59-5-120. Oil and Gas Severance Tax Restricted Account created -- Revenues to be deposited into the Oil and Gas Severance Tax Restricted Account -- Expenditure of revenues deposited in the Oil and Gas Severance Restricted Account -- Interest.

(1) As used in this section:

(a) "Base amount" means:

(i) for the calendar year beginning on January 1, 2003, \$34,000,000; or

(ii) for calendar years beginning on or after January 1, 2004, \$32,000,000.

(b) (i) Except as provided in Subsection (1)(b)(ii), "prior year oil and gas severance tax collections" means the difference between:

(A) the tax revenues collected under this part for the calendar year immediately preceding the current calendar year; and

(B) for the calendar year immediately preceding the current calendar year, the sum of the amounts deposited into the:

(I) Uintah Basin Revitalization Fund in accordance with Section 59-5-116; and

(II) Navajo Revitalization Fund in accordance with Section 59-5-119.

(ii) Notwithstanding Subsection (1)(b)(i), for the calendar year immediately preceding the current calendar year, the following adjustments made on or after August 1 may not be considered in calculating the amount to be deposited into the Oil and Gas Severance Tax Restricted Account

under this section:

(A) an adjustment as a result of a taxpayer filing an amended tax return;

(B) an adjustment as a result of a refund of a tax imposed by this part; or

(C) an adjustment as a result of an audit by the commission conducted in accordance with Section 59-5-107.

(2) There is created within the General Fund a restricted account known as the "Oil and Gas Severance Tax Restricted Account."

(3) The Oil and Gas Severance Tax Restricted Account shall be funded from:

(a) amounts deposited by the commission in accordance with Subsection (5);

(b) amounts received by the Oil and Gas Severance Tax Board in accordance with Subsection 9-16-104(3); and

(c) the interest described in Subsection (4).

(4) Interest earned on the Oil and Gas Severance Tax Restricted Account shall be deposited into the Oil and Gas Severance Tax Restricted Account.

(5) (a) Except as provided in Subsection (5)(b), for a calendar year beginning on or after January 1, 2003, the commission shall on or before August 1 of that calendar year deposit into the Oil and Gas Severance Tax Restricted Account any amounts by which the prior year oil and gas severance tax collections exceed the base amount for that calendar year.

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

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

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

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