

**Representative Gordon E. Snow** proposes the following substitute bill:

**SEVERANCE TAX RELATED AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gordon E. Snow**

Senate Sponsor: Kevin T. VanTassell

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**LONG TITLE**

**General Description:**

This bill amends provisions related to the Uintah Basin Revitalization Fund and provisions on oil and gas severance tax revenues.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions;
- ▶ modifies how monies are allocated from the fund to each county and the Ute Indian Tribe of the Uintah and Ouray Reservation, including clarifying the relationship between statute and an interlocal agreement amongst the parties;
- ▶ addresses how monies from the fund may be used by the Tribe;
- ▶ removes date restrictions on deposits into the fund;
- ▶ increases on an ongoing basis the cap on deposits into the fund;
- ▶ amends oil and gas severance tax provisions to eliminate the tax exemption for the first \$50,000 annually in gross value of oil and gas wells; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an effective date and provides for retrospective operation.

**Utah Code Sections Affected:**

28 AMENDS:

29 9-10-101, as last amended by Chapter 18, Laws of Utah 2004

30 9-10-104, as enacted by Chapter 341, Laws of Utah 1995

31 9-10-106, as enacted by Chapter 341, Laws of Utah 1995

32 59-5-102, as last amended by Chapter 346, Laws of Utah 2006

33 59-5-116, as last amended by Chapter 13, Laws of Utah 2004



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

36 Section 1. Section 9-10-101 is amended to read:

37 **9-10-101. Definitions.**

38 As used in this chapter:

39 (1) "Board" means the Uintah Basin Revitalization Fund Board.

40 (2) "Capital projects" means expenditures for land, improvements on the land, and  
41 equipment intended to have long-term beneficial use.

42 (3) "County" means:

43 (a) Duchesne County; or

44 (b) Uintah County.

45 [(3)] (4) "Division" means the Division of Housing and Community Development.

46 [(4)] (5) "Revitalization Fund" means the Uintah Basin Revitalization Fund.

47 [(5)] (6) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

48 Section 2. Section 9-10-104 is amended to read:

49 **9-10-104. Duties -- Loans -- Interest.**

50 (1) The board shall:

51 (a) subject to the other provisions of this chapter and an agreement entered into under  
52 ~~[the] Title 11, Chapter 13, Interlocal Cooperation Act,~~ among the state, ~~[Duchesne and Uintah~~  
53 ~~Counties]~~ the counties, and the Tribe, make recommendations to the division for grants and  
54 loans from the revitalization fund to county agencies and the Tribe that are or may be socially  
55 or economically impacted, directly or indirectly, by mineral resource development;

56 (b) establish procedures for application for and award of grants and loans including:

57 (i) eligibility criteria;

58 (ii) subject to Subsection 9-10-106(2)(b), a preference that capital projects, including

59 subsidized and low-income housing, and other one-time need projects and programs have  
60 priority over other projects;

61 (iii) a preference [†] for projects and programs that are associated with the geographic  
62 area where the oil and gas were produced; and

63 (iv) coordination of projects and programs with other projects and programs funded by  
64 federal, state, and local governmental entities;

65 (c) determine the order in which projects will be funded;

66 (d) allocate the amount to be distributed from the revitalization fund for grants or loans  
67 to each county and the Tribe during a fiscal year as follows:

68 (i) up to and including the first \$3,000,000 that is approved for distribution by the  
69 board during a fiscal year, the board may allocate the amount in accordance with the interlocal  
70 agreement described by Subsection (1)(a), except that the board may not allocate less than 75%  
71 of the amount under the interlocal agreement to the Tribe unless the interlocal agreement is  
72 further modified by statute; and

73 (ii) beginning with fiscal year 2007-08, any amount approved for distribution by the  
74 board during that fiscal year in excess of \$3,000,000 shall be allocated equally amongst each  
75 county and the Tribe so that each receives 1/3 of the amount approved for distribution by the  
76 board in excess of \$3,000,000;

77 [†] (e) qualify for, accept, and administer grants, gifts, loans, or other funds from the  
78 federal government and from other sources, public or private; and

79 [†] (f) perform other duties assigned to it under the [Interlocal Cooperation Act]  
80 interlocal agreement described in Subsection (1)(a) that are not prohibited by law or otherwise  
81 modified by this chapter.

82 (2) The board shall ensure that loan repayments and interest are deposited into the  
83 revitalization fund.

84 (3) The interlocal agreement described in Subsection (1)(a) shall be consistent with the  
85 following statutes, including any subsequent amendments to those statutes:

86 (a) this chapter;

87 (b) Title 11, Chapter 13, Interlocal Cooperation Act;

88 (c) Section 59-5-116; and

89 (d) any other applicable provision of this Utah Code.

90 Section 3. Section **9-10-106** is amended to read:

91 **9-10-106. Eligibility for assistance -- Applications -- Review by board -- Terms --**  
92 **Security.**

93 (1) Counties or the Tribe that wish to receive loans or grants from the board shall  
94 submit formal applications to the board containing the information required by the board.

95 (2) The board may not fund:

96 (a) start-up or operational costs of private business ventures; and

97 (b) general operating budgets of the counties or the Tribe[-], except that the Tribe may  
98 use a grant or loan to fund costs associated with the management and administration of energy  
99 or mineral development on:

100 (i) lands held in trust by the United States for the Tribe and its members; or

101 (ii) lands owned by the Tribe.

102 (3) (a) The board shall review each application for a loan or grant before approving it.

103 (b) The board may approve loan or grant applications subject to the applicant's  
104 compliance with certain conditions established by the board.

105 (c) The board shall:

106 (i) ensure that each loan specifies the terms for repayment; and

107 (ii) secure the loans by proceeds from any general obligation, special assessment, or  
108 revenue bonds, notes, or other obligations of the appropriate subdivision.

109 Section 4. Section **59-5-102** is amended to read:

110 **59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Tax credit**  
111 **-- Tax rate reduction -- Study by Tax Review Commission -- Study by commission.**

112 (1) Each person owning an interest, working interest, royalty interest, payments out of  
113 production, or any other interest, in oil or gas produced from a well in the state, or in the  
114 proceeds of the production, shall pay to the state a severance tax on the basis of the value  
115 determined under Section 59-5-103.1 of the oil or gas:

116 (a) produced; and

117 (b) (i) saved;

118 (ii) sold; or

119 (iii) transported from the field where the substance was produced.

120 (2) (a) Subject to Subsection (2)(d), the severance tax rate for oil is as follows:

121 (i) 3% of the value of the oil up to and including the first \$13 per barrel for oil; and  
122 (ii) 5% of the value of the oil from \$13.01 and above per barrel for oil.

123 (b) Subject to Subsection (2)(d), the severance tax rate for natural gas is as follows:

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

126 (ii) 5% of the value of the natural gas from \$1.51 and above per MCF for gas.

127 (c) Subject to Subsection (2)(d), the severance tax rate for natural gas liquids is 4% of  
128 the value of the natural gas liquids.

129 (d) (i) On or before December 15, 2004, the Office of the Legislative Fiscal Analyst  
130 and the Governor's Office of Planning and Budget shall prepare a revenue forecast estimating  
131 the amount of revenues that:

132 (A) would be generated by the taxes imposed by this part for the calendar year  
133 beginning on January 1, 2004 had 2004 General Session S.B. 191 not taken effect; and

134 (B) will be generated by the taxes imposed by this part for the calendar year beginning  
135 on January 1, 2004.

136 (ii) Effective on January 1, 2005, the tax rates described in Subsections (2)(a) through  
137 (c) shall be:

138 (A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated  
139 under Subsection (2)(d)(i)(B) is less than the amount of revenues estimated under Subsection  
140 (2)(d)(i)(A); or

141 (B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated  
142 under Subsection (2)(d)(i)(B) is greater than the amount of revenues estimated under  
143 Subsection (2)(d)(i)(A).

144 (iii) For purposes of Subsection (2)(d)(ii):

145 (A) subject to Subsection (2)(d)(iv)(B):

146 (I) if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax  
147 rates shall be by the amount necessary to generate for the calendar year beginning on January 1,  
148 2005 revenues equal to the amount by which the revenues estimated under Subsection  
149 (2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or

150 (II) if a decrease is required under Subsection (2)(d)(ii)(B), the total decrease in the tax  
151 rates shall be by the amount necessary to reduce for the calendar year beginning on January 1,

152 2005 revenues equal to the amount by which the revenues estimated under Subsection  
153 (2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and

154 (B) an increase or decrease in each tax rate under Subsection (2)(d)(ii) shall be in  
155 proportion to the amount of revenues generated by each tax rate under this part for the calendar  
156 year beginning on January 1, 2003.

157 (iv) (A) The commission shall calculate any tax rate increase or decrease required by  
158 Subsection (2)(d)(ii) using the best information available to the commission.

159 (B) If the tax rates described in Subsections (2)(a) through (c) are increased or  
160 decreased as provided in this Subsection (2)(d), the commission shall mail a notice to each  
161 person required to file a return under this part stating the tax rate in effect on January 1, 2005  
162 as a result of the increase or decrease.

163 (v) The Office of the Legislative Fiscal Analyst and the Governor's Office of Planning  
164 and Budget shall report the estimates prepared in the revenue forecast required by Subsection  
165 (2)(d)(i) to the:

166 (A) commission on or before December 15, 2004; and

167 (B) Executive Appropriations Committee on or before January 31, 2005.

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

169 (a) the shipment constitutes a sale; and

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

171 (4) (a) Except as provided in Subsection (4)(b), if the oil or gas is stockpiled, the tax is  
172 not imposed until the oil or gas is:

173 (i) sold;

174 (ii) transported; or

175 (iii) delivered.

176 (b) Notwithstanding Subsection (4)(a), if oil or gas is stockpiled for more than two  
177 years, the oil or gas is subject to the tax imposed by this section.

178 (5) A tax is not imposed under this section upon:

179 [~~(a) the first \$50,000 annually in gross value of each well or wells as defined in this~~  
180 ~~part, to be prorated among the owners in proportion to their respective interests in the~~  
181 ~~production or in the proceeds of the production;]~~

182 [~~(b)~~] (a) stripper wells, unless the exemption prevents the severance tax from being

183 treated as a deduction for federal tax purposes;

184 ~~[(e)]~~ (b) the first 12 months of production for wildcat wells started after January 1,  
185 1990; or

186 ~~[(d)]~~ (c) the first six months of production for development wells started after January  
187 1, 1990.

188 (6) (a) Subject to Subsections (6)(b) and (c), a working interest owner who pays for all  
189 or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit  
190 equal to 20% of the amount paid.

191 (b) The tax credit under Subsection (6)(a) for each recompletion or workover may not  
192 exceed \$30,000 per well during each calendar year.

193 (c) If any amount of tax credit a taxpayer is allowed under this Subsection (6) exceeds  
194 the taxpayer's tax liability under this part for the calendar year for which the taxpayer claims  
195 the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the calendar  
196 year may be carried forward for the next three calendar years.

197 (7) A 50% reduction in the tax rate is imposed upon the incremental production  
198 achieved from an enhanced recovery project.

199 (8) The taxes imposed by this section are:

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

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

203 (i) produced; and

204 (ii) (A) saved;

205 (B) sold; or

206 (C) transported from the field.

207 (9) With respect to the tax imposed by this section on each owner of oil or gas or in the  
208 proceeds of the production of those substances produced in the state, each owner is liable for  
209 the tax in proportion to the owner's interest in the production or in the proceeds of the  
210 production.

211 (10) The tax imposed by this section shall be reported and paid by each producer that  
212 takes oil or gas in kind pursuant to agreement on behalf of the producer and on behalf of each  
213 owner entitled to participate in the oil or gas sold by the producer or transported by the

214 producer from the field where the oil or gas is produced.

215 (11) Each producer shall deduct the tax imposed by this section from the amounts due  
216 to other owners for the production or the proceeds of the production.

217 (12) (a) The Tax Review Commission shall review the tax provided for in this part on  
218 or before the October 2008 interim meeting.

219 (b) The Tax Review Commission shall address in its review the following statutory  
220 provisions:

221 (i) the severance tax rate structure provided for in this section;

222 (ii) the exemptions provided for in Subsection (5);

223 (iii) the tax credit provided for in Subsection (6), including:

224 (A) the cost of the tax credit;

225 (B) the purpose and effectiveness of the tax credit; and

226 (C) whether the tax credit benefits the state;

227 (iv) the tax rate reduction provided for in Subsection (7);

228 (v) other statutory provisions or issues as determined by the Tax Review Commission;

229 and

230 (vi) whether the statutory provisions the Tax Review Commission reviews under this  
231 Subsection (12) should be:

232 (A) continued;

233 (B) modified; or

234 (C) repealed.

235 (c) The Tax Review Commission shall report its findings and recommendations  
236 regarding the tax provided for in this part to the Revenue and Taxation Interim Committee on  
237 or before the November 2008 interim meeting.

238 (d) (i) The Tax Review Commission shall review the applicability of the tax provided  
239 for in this chapter to coal-to-liquids, oil shale, and tar sands technology on or before the  
240 October 2011 interim meeting.

241 (ii) The Tax Review Commission shall address in its review the cost and benefit of not  
242 applying the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands  
243 technology.

244 (iii) The Tax Review Commission shall report its findings and recommendations under



245 Subsections (12)(d)(i) and (ii) to the Revenue and Taxation Interim Committee on or before the  
246 November 2011 interim meeting.

247 (13) (a) The commission shall during the 2004 interim:

248 (i) subject to Subsection (13)(b), conduct a study of the effective tax burden for the  
249 taxes imposed by this part per barrel of oil or MCF of gas for the time period beginning on  
250 January 1, 1984 and ending on September 30, 2004;

251 (ii) study whether the effective tax burden studied under Subsection (13)(a)(i) has  
252 increased or decreased;

253 (iii) receive input from the oil and gas industry in conducting the study required by  
254 Subsections (13)(a)(i) and (ii);

255 (iv) make findings and recommendations regarding whether any provision of this part  
256 should be amended, including:

257 (A) whether any tax rate under this part should be amended;

258 (B) whether a minimum value of oil or gas should be established by statute;

259 (C) whether a limit should be established by statute on the amount of processing costs  
260 that may be deducted under Section 59-5-103.1; and

261 (D) whether a limit other than the limit established in Section 59-5-103.1 should be  
262 established by statute on the amount of transportation costs that may be deducted under Section  
263 59-5-103.1; and

264 (v) report the findings and recommendations required by Subsection (13)(a)(iv) on or  
265 before the October 2004 interim meeting to:

266 (A) the Revenue and Taxation Interim Committee; and

267 (B) the Utah Tax Review Commission.

268 (b) In conducting the study required by Subsections (13)(a)(i) and (ii), the commission  
269 shall take into account factors including:

270 (i) the production volume of oil and gas;

271 (ii) the sales price of oil and gas; and

272 (iii) the revenues raised by the taxes imposed by this part for the time period described  
273 in Subsection (13)(a)(i).

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

275 **59-5-116. Disposition of certain taxes collected on Ute Indian land.**

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

278 (a) for taxes imposed under this part [~~beginning on July 1, 1996~~], 33% of the taxes  
279 collected on oil, gas, or other hydrocarbon substances produced from a well:

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

281 (ii) attributable to interests:

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

283 (B) [~~for taxes imposed under this part beginning on July 1, 1996, and ending on~~  
284 ~~December 31, 2009~~], on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948);

285 (b) for taxes imposed under this part [~~beginning on July 1, 1996~~], 80% of taxes  
286 collected on oil, gas, or other hydrocarbon substances produced from a well:

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

288 (ii) attributable to interests:

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

290 (B) [~~for taxes imposed under this part beginning on July 1, 1996, and ending on~~  
291 ~~December 31, 2009~~], on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948); and

292 (c) for taxes imposed under this part [~~beginning on January 1, 2001, and ending on~~  
293 ~~December 31, 2009~~], 80% of taxes collected on oil, gas, or other hydrocarbon substances  
294 produced from a well:

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

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

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

300 (i) \$3,000,000 in [~~any state~~] fiscal year[-] 2005-06;

301 (ii) \$6,000,000 in fiscal year 2006-07; and

302 (iii) for fiscal years beginning with fiscal year 2007-08, an amount calculated by  
303 adding to the amount described in Subsection (2)(a)(ii), \$1,000,000 for each fiscal year after  
304 the fiscal year 2006-07.

305 (b) Any amounts in excess of the maximum described in Subsection (2)(a) shall be  
306 deposited into the General Fund.

307 Section 6. **Effective date -- Retrospective operation.**

308 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2007.

309 (2) The amendments in this bill to Section 59-5-102 have retrospective operation to

310 January 1, 2007.

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**H.B. 87 1st Sub. (Buff) - Severance Tax Related Amendments**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill could reduce the General Fund revenue by \$1,000,000 in FY 2007 and increase the General Fund by \$40,000 in FY 2008. There will be a General Fund loss of \$822,500 in FY 2009. Based on the provisions of the bill there would also be an increase to the Uintah Basin Revitalization Fund of \$3,000,000 in FY 2007, \$4,000,000 in FY 2008 and \$5,000,000 in FY 2009.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	(\$1,000,000)	\$40,000	(\$822,500)
Restricted Funds	\$3,000,000	\$4,000,000	\$5,000,000	\$3,000,000	\$4,000,000	\$5,000,000
<b>Total</b>	<b>\$3,000,000</b>	<b>\$4,000,000</b>	<b>\$5,000,000</b>	<b>\$2,000,000</b>	<b>\$4,040,000</b>	<b>\$4,177,500</b>

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

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals. Enactment likely will benefit entities eligible to receive funding from the Uintah Basin Revitalization Fund.

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