

Senator Lyle W. Hillyard proposes the following substitute bill:

USE OF SEVERANCE TAX REVENUES

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Wayne A. Harper

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ creates the Capital and Infrastructure Investment Account;
- ▶ creates the Severance Tax Holding Account;
- ▶ provides that severance tax revenues that exceed a base amount are deposited in the permanent state trust fund or the Severance Tax Holding Account;
- ▶ provides that certain earnings are credited to the Capital and Infrastructure Investment Account; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2007.

Utah Code Sections Affected:

AMENDS:

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



26 **59-5-215**, as enacted by Chapter 4, Laws of Utah 1988

27 **63-97-301**, as last amended by Chapter 275, Laws of Utah 2005

28 ENACTS:

29 **63-97a-101**, Utah Code Annotated 1953

30 **63-97a-102**, Utah Code Annotated 1953

31 **63-97a-103**, Utah Code Annotated 1953

32 **63-97a-201**, Utah Code Annotated 1953

33 **63-97a-202**, Utah Code Annotated 1953

34 **63-97a-301**, Utah Code Annotated 1953



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

37 Section 1. Section **59-5-115** is amended to read:

38 **59-5-115. Disposition of taxes collected -- Credit to General Fund.**

39 [AH] (1) Except as provided in Subsection (2), all taxes imposed and collected under
40 Section 59-5-102 shall be paid to the commission, and promptly remitted to the state treasurer,
41 and except those taxes otherwise allocated under Section 59-5-116 or 59-5-119, credited to the
42 General Fund.

43 (2) Taxes imposed and collected under Section 59-5-102 shall not be credited to the
44 General Fund if those taxes are:

- 45 (a) otherwise allocated under Section 59-5-116 or 59-5-119;
- 46 (b) credited to the Severance Tax Holding Account under Section 63-97a-301; or
- 47 (c) credited to the permanent state trust fund under Section 63-97a-301.

48 Section 2. Section **59-5-215** is amended to read:

49 **59-5-215. Disposition of taxes collected -- Credit to General Fund.**

50 [AH] (1) Except as provided in Subsection (2), all taxes imposed and collected under
51 Section 59-5-202 shall be paid to the commission, and promptly remitted to the state treasurer,
52 to be credited to the General Fund.

53 (2) Taxes imposed and collected under Section 59-5-202 shall not be credited to the
54 General Fund if those taxes are credited to:

- 55 (a) the Severance Tax Holding Account under Section 63-97a-301; or
- 56 (b) the permanent state trust fund under Section 63-97a-301.

57 Section 3. Section **63-97-301** is amended to read:

58 **63-97-301. Permanent state trust fund.**

59 (1) Until July 1, 2003, 50% of all funds of every kind that are received by the state that
60 are related to the settlement agreement that the state entered into with leading tobacco
61 manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund
62 created by and operated under Utah Constitution Article XXII, Section 4.

63 (2) On and after July 1, 2003 and until July 1, 2004 20% of the funds of any kind
64 received by the state that are related to the settlement agreement that the state entered into with
65 leading tobacco manufacturers shall be deposited into the permanent state trust fund created by
66 and operated under Utah Constitution Article XXII, Section 4.

67 (3) On and after July 1, 2004 and until July 1, 2005, 30% of all funds of any kind
68 received by the state that are related to the settlement agreement that the state entered into with
69 leading tobacco manufacturers shall be deposited into the General Fund Budget Reserve
70 Account created in Section 63-38-2.5.

71 (4) On and after July 1, 2005 and until July 1, 2007, 25% of all funds of any kind
72 received by the state that are related to the settlement agreement that the state entered into with
73 leading tobacco manufacturers shall be deposited into the permanent state trust fund created by
74 and operated under Utah Constitution Article XXII, Section 4.

75 (5) On and after July 1, 2007, 40% of all funds of every kind that are received by the
76 state that are related to the settlement agreement that the state entered into with leading tobacco
77 manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund
78 created by and operated under Utah Constitution Article XXII, Section 4.

79 (6) Funds in the permanent state trust fund shall be deposited or invested pursuant to
80 Section 51-7-12.1.

81 (7) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and
82 dividends earned annually from the permanent state trust fund shall be deposited in the General
83 Fund. There shall be transferred on an ongoing basis from the General Fund to the permanent
84 state trust fund created under Utah Constitution Article XXII, Section 4, an amount equal to
85 50% of the interest and dividends earned annually from the permanent state trust fund. The
86 amount transferred into the fund under this Subsection (7)(a) shall be treated as principal.

87 (b) Any annual interest or dividends earned from the permanent state trust fund that

88 remain in the General Fund after Subsection (7)(a) may be appropriated by the Legislature.

89 (c) Any realized or unrealized gains or losses on investments in the permanent state
90 trust fund shall remain in the permanent state trust fund.

91 (8) This section does not apply to funds deposited under Chapter 97a, Capital and
92 Infrastructure Investment Account and Severance Tax Holding Account into:

93 (a) the permanent state trust fund; or

94 (b) the Severance Tax Holding Account created under Chapter 97a, Capital and
95 Infrastructure Investment Account and Severance Tax Holding Account.

96 Section 4. Section **63-97a-101** is enacted to read:

97 **CHAPTER 97a. CAPITAL AND INFRASTRUCTURE INVESTMENT ACCOUNT**
98 **AND SEVERANCE TAX HOLDING ACCOUNT**

99 **Part 1. General Provisions**

100 **63-97a-101. Title.**

101 This chapter is known as the "Capital and Infrastructure Investment Account and
102 Severance Tax Holding Account."

103 Section 5. Section **63-97a-102** is enacted to read:

104 **63-97a-102. Definitions.**

105 As used in this chapter:

106 (1) "Capital and Infrastructure Investment Account" means the Capital and
107 Infrastructure Investment Account created in Section 63-97a-201.

108 (2) "Mining base amount" means:

109 (a) \$9,000,000 for:

110 (i) fiscal year 2007-08; or

111 (ii) fiscal year 2008-09; and

112 (b) for each fiscal year beginning on or after July 1, 2009, the amount determined by
113 the Division of Finance as described in Section 63-97a-103.

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

115 (a) \$41,000,000 for:

116 (i) fiscal year 2007-08; or

117 (ii) fiscal year 2008-09; and

118 (b) for each fiscal year beginning on or after July 1, 2009, the amount determined by

119 the Division of Finance as described in Section 63-97a-103.

120 (4) "Permanent state trust fund" means the permanent state trust fund created under
121 Utah Constitution Article XXII, Section 4.

122 (5) "Severance Tax Holding Account" means the Severance Tax Holding Account
123 created in Section 63-97a-202.

124 Section 6. Section **63-97a-103** is enacted to read:

125 **63-97a-103. Base amount calculation using the consumer price index.**

126 (1) For each fiscal year beginning on or after July 1, 2009, the Division of Finance
127 shall increase or decrease the base amounts described in Subsections 63-97a-102(2) and (3) by
128 a percentage equal to the percentage difference between the consumer price index for the
129 preceding fiscal year and the consumer price index for fiscal year 2007-08.

130 (2) For purposes of Subsection (1), the Division of Finance shall calculate the
131 consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

132 Section 7. Section **63-97a-201** is enacted to read:

133 **Part 2. Creation of Restricted Accounts**

134 **63-97a-201. Creation of Capital and Infrastructure Investment Account.**

135 (1) (a) There is created a restricted account within the General Fund known as the
136 "Capital and Infrastructure Investment Account."

137 (b) The Capital and Infrastructure Investment Account shall consist of:

138 (i) all monies credited to the account under Section 63-97a-301;

139 (ii) appropriations from the Legislature;

140 (iii) grants from private foundations; and

141 (iv) interest and investment earnings on account monies.

142 (2) (a) The Capital and Infrastructure Investment Account shall earn interest.

143 (b) All interest earned on monies in the Capital and Infrastructure Investment Account
144 shall be deposited into the Capital and Infrastructure Investment Account.

145 (3) The Legislature may appropriate monies from the Capital and Infrastructure
146 Investment Account for capital and infrastructure investment projects.

147 Section 8. Section **63-97a-202** is enacted to read:

148 **63-97a-202. Creation of Severance Tax Holding Account.**

149 (1) (a) There is created a restricted account within the General Fund known as the

150 "Severance Tax Holding Account."

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

152 (i) all monies credited to the Severance Tax Holding Account under Section
153 63-97a-301;

154 (ii) appropriations from the Legislature;

155 (iii) grants from private foundations; and

156 (iv) interest and investment earnings on Severance Tax Holding Account monies.

157 (2) (a) The Severance Tax Holding Account shall earn interest.

158 (b) All interest earned on monies in the Severance Tax Holding Account shall be
159 deposited into the Severance Tax Holding Account.

160 (3) If authorized by law the Division of Finance shall deposit all of the monies in the
161 Severance Tax Holding Account as of July 1, 2009, into the permanent state trust fund.

162 Section 9. Section **63-97a-301** is enacted to read:

163 **Part 3. Distribution of Certain Severance Tax Revenues**

164 **63-97a-301. Crediting of certain severance tax revenues to the permanent state**
165 **trust fund and the Severance Tax Holding Account.**

166 (1) After making the distributions of oil and gas severance tax revenues as required
167 under Sections 59-5-116 and 59-5-119, the Division of Finance shall make the distributions
168 required under Subsections (2) through (7).

169 (2) (a) Beginning on July 1, 2007 and ending on June 30, 2008, the Division of Finance
170 shall credit to the Severance Tax Holding Account all revenue from severance taxes on oil and
171 gas imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, collected in
172 that fiscal year that exceed the oil and gas base amount.

173 (b) (i) Beginning on July 1, 2008 and ending on December 31, 2008, the Division of
174 Finance shall credit to the Severance Tax Holding Account all revenue from severance taxes on
175 oil and gas imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining,
176 collected during that time period that exceed the oil and gas base amount.

177 (ii) Beginning on January 1, 2009 and ending on June 30, 2009, if authorized by law,
178 the Division of Finance shall credit to the permanent state trust fund an amount equal to the
179 difference between:

180 (A) all revenue from severance taxes on oil and gas imposed under Title 59, Chapter 5,

181 Severance Tax on Oil, Gas, and Mining, collected in fiscal year 2008-09 that exceed the oil and
182 gas base amount; and

183 (B) the amount of revenue credited to the Severance Tax Holding Account under
184 Subsection (2)(b)(i).

185 (3) Beginning on July 1, 2009, if authorized by law, the Division of Finance shall
186 credit to the permanent state trust fund all revenue collected in a fiscal year from severance
187 taxes on oil and gas imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and
188 Mining, that exceed the oil and gas base amount.

189 (4) (a) Beginning on July 1, 2007 and ending on June 30, 2008, the Division of Finance
190 shall credit to the Severance Tax Holding Account all revenue from severance taxes on mining
191 imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, collected in that
192 fiscal year that exceed the mining base amount.

193 (b) (i) Beginning on July 1, 2008 and ending on December 31, 2008, the Division of
194 Finance shall credit to the Severance Tax Holding Account all revenue from severance taxes on
195 mining imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, collected
196 during that time period that exceed the mining base amount.

197 (ii) Beginning on January 1, 2009 and ending on June 30, 2009, if authorized by law,
198 the Division of Finance shall credit to the permanent state trust fund an amount equal to the
199 difference between:

200 (A) all revenue from severance taxes on mining imposed under Title 59, Chapter 5,
201 Severance Tax on Oil, Gas, and Mining, collected in fiscal year 2008-09 that exceed the
202 mining base amount; and

203 (B) the amount of revenue credited to the Severance Tax Holding Account under
204 Subsection (4)(b)(i).

205 (5) Beginning on July 1, 2009, if authorized by law, the Division of Finance shall
206 credit to the permanent state trust fund all revenue collected in a fiscal year from severance
207 taxes on mining imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining,
208 that exceed the mining base amount.

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

211 (7) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and

212 dividends earned annually on revenue from severance taxes that are deposited into the
213 permanent state trust fund shall be deposited in the General Fund.

214 (b) Interest and dividends earned on revenue from severance taxes that are deposited in
215 the General Fund pursuant to Subsection (7)(a) shall be credited to the Capital and
216 Infrastructure Investment Account created in Section 63-97a-201.

217 Section 10. **Effective date.**

218 This bill takes effect on July 1, 2007.