

1 **EVALUATING TAX REVENUE FOREGONE FROM**
2 **FEDERALLY CONTROLLED LANDS**

3 2018 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Ken Ivory**

6 Senate Sponsor: David P. Hinkins

8 **LONG TITLE**

9 **General Description:**

10 This bill enacts provisions relating to federally controlled land within the state.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires the Commission on Federalism to hold a hearing on the impact of the
14 federal payments in lieu of tax on the state;
- 15 ▶ authorizes the Commission on Federalism to engage each of the state's elected
16 members of Congress in coordinating with the federal government to secure
17 payments in lieu of tax that are equivalent to the property tax the state would
18 generate but for federally controlled land in the state; and
- 19 ▶ requires the Commission on Federalism to communicate the results of the hearing
20 and any action taken to certain individuals and entities, including the state's elected
21 members of Congress.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 This bill provides a special effective date.

26 **Utah Code Sections Affected:**

27 AMENDS:



28 **63C-4a-303**, as last amended by Laws of Utah 2014, Chapter 221
29 **63I-1-263**, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469,
30 and 470

31 ENACTS:

32 **63C-4a-307**, Utah Code Annotated 1953

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

35 Section 1. Section **63C-4a-303** is amended to read:

36 **63C-4a-303. Duties of Commission on Federalism.**

37 (1) In accordance with Section **63C-4a-304**, the commission may evaluate a federal
38 law:

- 39 (a) as agreed by a majority of the commission; or
- 40 (b) submitted to the commission by a council member.

41 (2) The commission may request information regarding a federal law under evaluation
42 from a United States senator or representative elected from the state.

43 (3) If the commission finds that a federal law is not authorized by the United States
44 Constitution or violates the principle of federalism as described in Subsection **63C-4a-304(2)**, a
45 commission cochair may:

46 (a) request from a United States senator or representative elected from the state:

- 47 (i) information about the federal law; or
- 48 (ii) assistance in communicating with a federal governmental entity regarding the
49 federal law;

50 (b) (i) give written notice of an evaluation made under Subsection (1) to the federal
51 governmental entity responsible for adopting or administering the federal law; and

52 (ii) request a response by a specific date to the evaluation from the federal
53 governmental entity; and

54 (c) request a meeting, conducted in person or by electronic means, with the federal
55 governmental entity, a representative from another state, or a United States Senator or
56 Representative elected from the state to discuss the evaluation of federal law and any possible
57 remedy.

58 (4) The commission may recommend to the governor that the governor call a special

59 session of the Legislature to give the Legislature an opportunity to respond to the commission's
60 evaluation of a federal law.

61 (5) A commission cochair may coordinate the evaluation of and response to federal law
62 with another state as provided in Section [63C-4a-305](#).

63 (6) On May 20 and October 20 of each year, the commission shall submit a report by
64 electronic mail to the Legislative Management Committee and the Government Operations
65 Interim Committee that summarizes:

66 (a) action taken by the commission in accordance with this section; and

67 (b) action taken by, or communication received from, any of the following in response
68 to a request or inquiry made, or other action taken, by the commission:

69 (i) a United States senator or representative elected from the state;

70 (ii) a representative of another state; or

71 (iii) a federal entity, official, or employee.

72 (7) The commission shall keep a current list on the Legislature's website of:

73 (a) a federal law that the commission evaluates under Subsection (1);

74 (b) an action taken by a cochair of the commission under Subsection (3);

75 (c) any coordination undertaken with another state under Section [63C-4a-305](#); and

76 (d) any response received from a federal government entity that was requested under
77 Subsection (3).

78 (8) The commission shall develop curriculum for a seminar on the principles of
79 federalism. The curriculum shall be available to the general public and include:

80 (a) fundamental principles of federalism;

81 (b) the sovereignty, supremacy, and jurisdiction of the individual states, including their
82 police powers;

83 (c) the history and practical implementation of the Tenth Amendment to the United
84 States Constitution;

85 (d) the authority and limits on the authority of the federal government as found in the
86 United States Constitution;

87 (e) the relationship between the state and federal governments;

88 (f) methods of evaluating a federal law in the context of the principles of federalism;

89 (g) how and when challenges should be made to a federal law or regulation on the basis

90 of federalism;

91 (h) the separate and independent powers of the state that serve as a check on the federal
92 government;

93 (i) first amendment rights and freedoms contained therein; and

94 (j) any other issues relating to federalism the commission considers necessary.

95 (9) The commission may apply for and receive grants, and receive private donations to
96 assist in funding the creation, enhancement, and dissemination of the curriculum.

97 (10) Before the final meeting of 2018, the commission shall conduct the activities
98 described in Section 63C-4a-307.

99 Section 2. Section 63C-4a-307 is enacted to read:

100 **63C-4a-307. Foregone property tax evaluation procedures.**

101 (1) As used in this section:

102 (a) (i) "Federally controlled land" means any land within the exterior boundaries of the
103 state that is controlled by the United States government for the entire taxable year.

104 (ii) "Federally controlled land" does not include:

105 (A) a military installation;

106 (B) a federal enclave as described in United States Constitution, Article I, Section 8,
107 clause 17; or

108 (C) land owned by an Indian tribe as described in 18 U.S.C. Sec. 1151.

109 (b) (i) "Payments in lieu of tax" means payments made by the federal government to a
110 county, municipality, or school district of the state.

111 (ii) "Payments in lieu of tax" includes a payment under:

112 (A) the in lieu of property taxes program, 31 U.S.C. Sec. 6901, et seq., commonly
113 referred to as PILT; and

114 (B) the impact aid program, 20 U.S.C. Sec. 7701, et seq.

115 (2) (a) The commission shall hold a hearing regarding the impact on the state from the
116 failure of the federal government to make payments in lieu of tax that are equivalent to the
117 property tax revenue that the state would generate but for federally controlled land.

118 (b) The commission shall invite and accept testimony on the information described in
119 Subsection (2)(a) and the impact on the ability and the duty of the state to fund education and
120 to protect and promote the health, safety, and welfare of the state, the state's political

121 subdivisions, and the residents of the state from the following:

122 (i) representatives from:

123 (A) the office of each United States senator or representative elected from the state;

124 (B) any federal government entity administering the payments in lieu of tax;

125 (C) the Legislative Management Committee;

126 (D) the Office of the Governor;

127 (E) the Office of the Attorney General;

128 (F) the State Tax Commission;

129 (G) the Public Lands Policy Coordinating Office, created in Section [63J-4-602](#);

130 (H) the school districts;

131 (I) the association of school districts;

132 (J) the superintendents' association;

133 (K) the charter schools;

134 (L) school community councils;

135 (M) the counties;

136 (N) the municipalities; and

137 (O) nonpartisan entities serving state governments;

138 (ii) other states' officials or agencies; and

139 (iii) other interested individuals or entities.

140 (3) In accordance with this part, the commission may engage each United States

141 senator or representative elected from the state in coordinating with the federal government to

142 secure payments in lieu of tax that are equivalent to the property tax revenue the state would

143 generate but for federally controlled land.

144 (4) The commission shall communicate the information received during the hearing

145 described in Subsection (2) and any action taken under Subsection (3) to the individuals and

146 entities described in Subsection (2)(b).

147 Section 3. Section **63I-1-263** is amended to read:

148 **63I-1-263. Repeal dates, Titles 63A to 63N.**

149 (1) Subsection [63A-5-104](#)(4)(h) is repealed on July 1, 2024.

150 (2) Section [63A-5-603](#), State Facility Energy Efficiency Fund, is repealed July 1, 2023.

151 (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July

152 1, [~~2018~~] 2028.

153 (4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is
154 repealed November 30, 2019.

155 (5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1,
156 2020.

157 (6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
158 repealed July 1, 2021.

159 (7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1,
160 2018.

161 (8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
162 2023.

163 (9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
164 2020.

165 (10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

166 (11) On July 1, 2025:

167 (a) in Subsection [17-27a-404\(3\)\(c\)\(ii\)](#), the language that states "the Resource
168 Development Coordinating Committee," is repealed;

169 (b) Subsection [23-14-21\(2\)\(c\)](#) is amended to read "(c) provide notification of proposed
170 sites for the transplant of species to local government officials having jurisdiction over areas
171 that may be affected by a transplant.";

172 (c) in Subsection [23-14-21\(3\)](#), the language that states "and the Resource Development
173 Coordinating Committee" is repealed;

174 (d) in Subsection [23-21-2.3\(1\)](#), the language that states "the Resource Development
175 Coordinating Committee created in Section [63J-4-501](#) and" is repealed;

176 (e) in Subsection [23-21-2.3\(2\)](#), the language that states "the Resource Development
177 Coordinating Committee and" is repealed;

178 (f) Subsection [63J-4-102\(1\)](#) is repealed and the remaining subsections are renumbered
179 accordingly;

180 (g) Subsections [63J-4-401\(5\)\(a\)](#) and (c) are repealed;

181 (h) Subsection [63J-4-401\(5\)\(b\)](#) is renumbered to Subsection [63J-4-401\(5\)\(a\)](#) and the
182 word "and" is inserted immediately after the semicolon;

- 183 (i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);
- 184 (j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;
- 185 and
- 186 (k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are
- 187 renumbered accordingly.
- 188 (12) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.
- 189 (b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and
- 190 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make
- 191 necessary changes to subsection numbering and cross references.
- 192 (13) The Crime Victim Reparations and Assistance Board, created in Section
- 193 63M-7-504, is repealed July 1, 2027.
- 194 (14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.
- 195 (15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.
- 196 (16) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is
- 197 repealed January 1, 2021.
- 198 (b) Subject to Subsection (16)(c), Sections 59-7-610 and 59-10-1007 regarding tax
- 199 credits for certain persons in recycling market development zones, are repealed for taxable
- 200 years beginning on or after January 1, 2021.
- 201 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:
- 202 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
- 203 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or
- 204 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
- 205 the expenditure is made on or after January 1, 2021.
- 206 (d) Notwithstanding Subsections (16)(b) and (c), a person may carry forward a tax
- 207 credit in accordance with Section 59-7-610 or 59-10-1007 if:
- 208 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and
- 209 (ii) (A) for the purchase price of machinery or equipment described in Section
- 210 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
- 211 2020; or
- 212 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
- 213 expenditure is made on or before December 31, 2020.

- 214 (17) Section 63N-2-512 is repealed on July 1, 2021.
- 215 (18) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed
216 January 1, 2021.
- 217 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
218 calendar years beginning on or after January 1, 2021.
- 219 (c) Notwithstanding Subsection (18)(b), an entity may carry forward a tax credit in
220 accordance with Section 59-9-107 if:
- 221 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
222 31, 2020; and
- 223 (ii) the qualified equity investment that is the basis of the tax credit is certified under
224 Section 63N-2-603 on or before December 31, 2023.
- 225 (19) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program,
226 is repealed January 1, 2023.
- 227 (20) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July
228 1, 2018.
- 229 (21) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed
230 July 1, 2018.
- 231 **Section 4. Effective date.**
- 232 If approved by two-thirds of all the members elected to each house, this bill takes effect
233 upon approval by the governor, or the day following the constitutional time limit of Utah
234 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
235 the date of veto override.

Legislative Review Note
Office of Legislative Research and General Counsel