

Senator Beverly Ann Evans proposes the following substitute bill:

OIL AND GAS RELATED TAXES AND FEES

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Beverly Ann Evans

LONG TITLE

General Description:

This bill amends provisions related to fees and severance taxes imposed on oil and gas.

Highlighted Provisions:

This bill:

- ▶ addresses how a fee on oil and gas is calculated;
- ▶ modifies definition provisions;
- ▶ addresses the imposition of the severance tax on oil and gas including:
 - how the severance tax is calculated;
 - severance tax rates;
 - the valuation of oil and gas for severance tax purposes; and
 - the filing of required statements; and
- ▶ requires the State Tax Commission to conduct a study and report to the Revenue

and Taxation Interim Committee and the Utah Tax Review Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation to January 1, 2004.

Utah Code Sections Affected:

AMENDS:



- 26 **40-6-14**, as last amended by Chapter 274, Laws of Utah 2003
- 27 **59-5-101**, as last amended by Chapter 271, Laws of Utah 1996
- 28 **59-5-102**, as last amended by Chapters 273 and 274, Laws of Utah 2003
- 29 **59-5-104**, as last amended by Chapter 341, Laws of Utah 1995

30 ENACTS:

31 **59-5-103.1**, Utah Code Annotated 1953

32 REPEALS:

33 **59-5-103**, as last amended by Chapter 247, Laws of Utah 1990



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

36 Section 1. Section **40-6-14** is amended to read:

37 **40-6-14. Fee on oil and gas -- Payment of fee -- Collection -- Penalty and interest**
38 **on delinquencies -- Payment when product taken in-kind -- Interests exempt.**

39 (1) (a) There is levied a fee [~~of .002 of the value at the well of oil and gas: (a)~~] as
40 provided in Subsection (1)(b) for oil and gas:

41 (i) produced; and

42 (ii) (A) saved;

43 ~~[(b)]~~ (B) sold; or

44 ~~[(c)]~~ (C) transported from the [~~premises~~] field in Utah where the oil or gas is produced.

45 (b) The fee imposed under this Subsection (1) is equal to the product of:

46 (i) .002; and

47 (ii) the value of the oil or gas determined in accordance with Section 59-5-103.

48 (2) (a) The State Tax Commission shall administer the collection of the fee, including
49 any penalties and interest.

50 (b) The monies collected shall be deposited in the Oil and Gas Conservation Account
51 created in Section 40-6-14.5.

52 (c) Time periods for the State Tax Commission to allow a refund or assess the fee shall
53 be determined in accordance with Section 59-5-114.

54 (3) (a) Each person having an ownership interest in oil or gas at the time of production
55 shall be liable for a proportionate share of the fee equivalent to [~~his~~] that person's ownership
56 interest.

57 (b) As used in this section "ownership interest" means any:
58 (i) working interest;
59 (ii) royalty interest;
60 (iii) interest in payments out of production; or
61 (iv) any other interest in the oil or gas, or in the proceeds of the oil or gas, subject to
62 the fee.

63 (4) (a) The operator, on behalf of the operator and any person having an ownership
64 interest in the oil or gas, shall pay the fee to the State Tax Commission:

65 (i) quarterly; and
66 (ii) as provided in Subsections (4)(b) and (c).

67 (b) For purposes of Subsection (4)(a), the quarterly fee payments are due as follows:

68 (i) for the quarter beginning on January 1 and ending on March 31, on or before June 1;

69 (ii) for the quarter beginning on April 1 and ending on June 30, on or before September
70 1;

71 (iii) for the quarter beginning on July 1 and ending on September 30, on or before
72 December 1; and

73 (iv) for the quarter beginning on October 1 and ending on December 31, on or before
74 March 1 of the next year.

75 (c) The fee required by this section shall be reported to the State Tax Commission on
76 forms provided by the State Tax Commission.

77 (5) (a) Any fee not paid within the time specified shall:

78 (i) carry a penalty as provided in Section 59-1-401; and

79 (ii) bear interest at the rate and in the manner prescribed in Section 59-1-402.

80 (b) (i) The fee, together with the interest, shall be a lien upon the oil or gas against
81 which the fee and interest are levied.

82 (ii) The operator shall deduct from any amounts due to the persons owning an interest
83 in the oil or gas, or in the proceeds at the time of production, a proportionate amount of the
84 charge before making payment to the persons.

85 (6) (a) When product is taken in-kind by an interest owner who is not the operator and
86 the operator cannot determine the value of the in-kind product, the operator shall:

87 (i) report 100% of the production;

88 (ii) deduct the product taken in-kind; and

89 (iii) pay the levy on the difference.

90 (b) The interest owner who takes the product in-kind shall file a report and pay the levy
91 on the interest owner's share of production excluded from the operator's report.

92 (7) This section shall apply to any interest in oil or gas produced in the state except:

93 (a) any interest of the United States;

94 (b) any interest of the state or a political subdivision of the state in any oil or gas or in
95 the proceeds of the oil or gas;

96 (c) any interest of any Indian or Indian tribe in any oil or gas or in the proceeds
97 produced from land subject to the supervision of the United States; or

98 (d) oil or gas used in producing or drilling operations or for repressuring or recycling
99 purposes.

100 Section 2. Section **59-5-101** is amended to read:

101 **59-5-101. Definitions.**

102 As used in this part:

103 (1) "Board" means the Board of Oil, Gas and Mining created in Section 40-6-4.

104 (2) "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally
105 in the gaseous phase in the reservoir that are separated from the natural gas as liquids through
106 the process of condensation either in the reservoir, in the wellbore, or at the surface in field
107 separators.

108 (3) "Crude oil" means those hydrocarbons, regardless of gravity, that occur naturally in
109 the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.

110 [~~2~~] (4) "Development well" means any oil and gas producing well other than a
111 wildcat well.

112 [~~3~~] (5) "Division" means the Division of Oil, Gas and Mining established under Title
113 40, Chapter 6.

114 [~~4~~] (6) "Enhanced recovery project" means:

115 (a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a
116 reservoir for the purpose of:

117 (i) augmenting reservoir energy[;];

118 (ii) modifying the properties of the fluids or gases in a reservoir[;]; or

119 (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and
120 gas through the joint use of two or more well bores; and

121 (b) a project initially approved by the board as a new or expanded enhanced recovery
122 project on or after January 1, 1996.

123 ~~[(5)]~~ (7) (a) "Gas" means:

124 (i) natural gas ~~[or]~~;

125 (ii) natural gas liquids; or

126 (iii) any mixture ~~[thereof, but]~~ of natural gas and natural gas liquids.

127 (b) "Gas" does not include solid hydrocarbons.

128 ~~[(a) "Natural gas" means those hydrocarbons, other than oil and other than natural gas
129 liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and
130 are produced and recovered at the wellhead in gaseous form.]~~

131 ~~[(b) "Natural gas liquids" means those hydrocarbons initially in reservoir natural gas,
132 regardless of gravity, that are separated in gas processing plants from the natural gas as liquids
133 at the surface through the process of condensation, absorption, adsorption, or other methods.]~~

134 ~~[(6)]~~ (8) "Incremental production" means that part of production, certified by the
135 Division of Oil, Gas and Mining, which is achieved from an enhanced recovery project that
136 would not have economically occurred under the reservoir conditions existing before the
137 project and that has been approved by the division as incremental production.

138 ~~[(7) "Net-back method" means a method for calculating the fair market value of oil or
139 gas at the well. Under this method, costs of transportation, not to exceed 50% of the value of
140 the oil or gas, and processing shall be deducted from the proceeds received for the oil or gas
141 and any extracted or processed products, or from the value of the oil or gas or any extracted or
142 processed products at the first point at which the fair-market value for those products is
143 determined by a sale pursuant to an arm's-length contract or comparison to other sales of those
144 products. Processing and transportation costs shall be deducted only from the value of the
145 processed or transported product.]~~

146 (9) "Natural gas" means those hydrocarbons, other than oil and other than natural gas
147 liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and
148 are produced and recovered at the wellhead in gaseous form.

149 (10) "Natural gas liquids" means those hydrocarbons initially in reservoir natural gas,

150 regardless of gravity, that are separated in gas processing plants from the natural gas as liquids
151 at the surface through the process of condensation, absorption, adsorption, or other methods.

152 ~~[(8)]~~ (11) (a) "Oil" means:

153 (i) crude oil ~~[or]~~;

154 (ii) condensate; or

155 (iii) any mixture ~~[thereof, but]~~ of crude oil and condensate.

156 (b) "Oil" does not include solid hydrocarbons.

157 ~~[(a) "Crude oil" means those hydrocarbons, regardless of gravity, that occur naturally in~~
158 ~~the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid~~
159 ~~form.]~~

160 ~~[(b) "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally~~
161 ~~in the gaseous phase in the reservoir that are separated from the natural gas as liquids through~~
162 ~~the process of condensation either in the reservoir, in the wellbore, or at the surface in field~~
163 ~~separators.]~~

164 ~~[(9)]~~ (12) "Oil or gas field" means a geographical area overlying oil or gas structures.

165 The boundaries of oil or gas fields shall conform with the boundaries as fixed by the Board and
166 Division of Oil, Gas and Mining under Title 40, Chapter 6[-], Board and Division of Oil, Gas
167 and Mining.

168 (13) "Operator" means any person engaged in the business of operating an oil or gas
169 well, regardless of whether the person is:

170 (a) a working interest owner;

171 (b) an independent contractor; or

172 (c) acting in a capacity similar to Subsection (13)(a) or (b) as determined by the
173 commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative
174 Rulemaking Act.

175 ~~[(10)]~~ (14) "Owner" means any person having a working interest, royalty interest,
176 payment out of production, or any other interest in the oil or gas produced or extracted from an
177 oil or gas well in the state, or in the proceeds of this production.

178 ~~[(11)]~~ "Processing" (15) (a) Subject to Subsections (15)(b) and (c), "processing costs"
179 means the reasonable actual costs of processing ~~[gas. Processing costs determined by]~~ oil or
180 gas to remove:

181 (i) natural gas liquids; or

182 (ii) contaminants.

183 (b) If processing costs are determined on the basis of an arm's-length contract [are],
 184 processing costs are the actual costs. [~~Where processing costs are not determined by]~~

185 (c) (i) If processing costs are determined on a basis other than an arm's-length contract,
 186 [including those situations where the producer performs the processing for himself, the actual
 187 costs of processing shall be] processing costs are those reasonable costs associated with [the];

188 (A) actual operating and maintenance expenses, including oil or gas used or consumed
 189 in processing;

190 (B) overhead directly attributable and allocable to the operation and maintenance[;];
 191 and [either]

192 (C) (I) depreciation and a return on undepreciated capital investment[;]; or

193 (II) a cost equal to a return on the investment in the processing facilities as determined
 194 by the [tax] commission. [~~The tax commission shall adopt rules to implement this definition,~~
 195 and may adopt federal regulations where applicable.]

196 (ii) Subsection (15)(c)(i) includes situations where the producer performs the
 197 processing for the producer's product.

198 ~~[(12)]~~ (16) "Producer" means any working interest owner in any lands in any oil or gas
 199 field from which gas or oil is produced.

200 ~~[(13)]~~ (17) "Recompletion" means any downhole operation that is:

201 (a) conducted to reestablish the producibility or serviceability of a well in any geologic
 202 interval; and

203 (b) approved by the division as a recompletion.

204 ~~[(14)]~~ (18) "Royalty interest owner" means the owner of an interest in oil or gas, or in
 205 the proceeds of production from the oil or gas who does not have the obligation to share in the
 206 expenses of developing and operating the property.

207 ~~[(15)]~~ (19) "Solid hydrocarbons" means:

208 (i) coal[;];

209 (ii) gilsonite[;];

210 (iii) ozocerite[;];

211 (iv) elaterite[;];

- 212 (v) oil shale[-];
- 213 (vi) tar sands[-]; and
- 214 (vii) all other hydrocarbon substances that occur naturally in solid form.
- 215 ~~[(16)]~~ (20) "Stripper well" means:
- 216 (a) an oil well whose average daily production for the days the well has produced has
- 217 been 20 barrels or less of crude oil a day during any consecutive 12-month period; or
- 218 (b) a gas well whose average daily production for the days the well has produced has
- 219 been 60 MCF or less of natural gas a day during any consecutive 90-day period.
- 220 ~~[(17) "Transportation"]~~ (21) (a) Subject to Subsections (21)(b) and (c), "transportation
- 221 costs" means the reasonable actual costs of transporting oil or gas products from the well to the
- 222 point of sale [except the transportation allowance deduction may not exceed 50% of the value
- 223 of the oil or gas. Transportation costs determined by].
- 224 (b) If transportation costs are determined on the basis of an arm's-length contract,
- 225 transportation costs are the actual costs. [Where transportation costs are not determined by]
- 226 (c) (i) If transportation costs are determined on a basis other than an arm's-length
- 227 contract[-, including those situations where the producer performs the transportation service for
- 228 himself, the actual costs of transportation shall be], transportation costs are those reasonable
- 229 costs associated with [the]:
- 230 (A) actual operating and maintenance expenses, including fuel used or consumed in
- 231 transporting the oil or gas;
- 232 (B) overhead costs directly attributable and allocable to the operation and
- 233 maintenance[-]; and [either]
- 234 (C) depreciation and a return on undepreciated capital investment[-, or a cost equal to a
- 235 return on the investment in the transportation system as determined by the commission. The
- 236 tax commission shall adopt rules to implement this definition, and may adopt federal
- 237 regulations where applicable].
- 238 (ii) Subsection (23)(c)(i) includes situations where the producer performs the
- 239 transportation for the producer's product.
- 240 (d) Regardless of whether transportation costs are determined on the basis of an arm's
- 241 length contract or a basis other than an arm's length contract, transportation costs include:
- 242 (i) carbon dioxide removal;

243 (ii) compression;
 244 (iii) dehydration;
 245 (iv) gathering;
 246 (v) separating;
 247 (vi) treating; or
 248 (vii) a process similar to Subsections (21)(d)(i) through (vi), as determined by the
 249 commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative
 250 Rulemaking Act.

251 [(18)] (22) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

252 [(19)] "Value at the well" means the value of oil or gas at the point production is
 253 completed.

254 [(20)] (23) "Well or wells" means any extractive means from which oil or gas is
 255 produced or extracted, located within an oil or gas field, and operated by one person.

256 [(21)] (24) "Wildcat well" means an oil and gas producing well which is drilled and
 257 completed in a pool, as defined under Section 40-6-2, in which a well has not been previously
 258 completed as a well capable of producing in commercial quantities.

259 [(22)] (25) "Working interest owner" means the owner of an interest in oil or gas
 260 burdened with a share of the expenses of developing and operating the property.

261 [(23)] (26) (a) "Workover" means any downhole operation that is:

262 (i) conducted to sustain, restore, or increase the producibility or serviceability of a well
 263 in the geologic intervals in which the well is currently completed; and

264 (ii) approved by the division as a workover.

265 (b) "Workover" does not include operations that are conducted primarily as routine
 266 maintenance or to replace worn or damaged equipment.

267 Section 3. Section **59-5-102** is amended to read:

268 **59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Tax credit**
 269 **-- Deduction for processing costs and transportation costs -- Study by Tax Review**
 270 **Commission.**

271 (1) [(a)] Each person owning an interest, working interest, royalty interest, payments
 272 out of production, or any other interest, in oil or gas produced from a well in the state, or in the
 273 proceeds of the production, shall pay to the state a severance tax on the basis of the value[~~at~~

274 ~~the well,]~~ determined under Section 59-5-103 of the oil or gas:

275 (a) produced~~[-];~~ and

276 (b) (i) saved~~[-and];~~

277 (ii) sold; or

278 (iii) transported from the field where the substance was produced ~~[as provided in this~~
279 ~~section].~~

280 ~~[(b) Beginning January 1, 1992, the]~~

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

282 (i) 3% of the value of the oil up to and including the first \$13 per barrel for oil; and

283 (ii) 5% of the value of the oil from \$13.01 and above per barrel for oil.

284 ~~[(c) Beginning January 1, 1992, the]~~

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

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

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

289 ~~[(d) Beginning January 1, 1992, the]~~

290 (c) Subject to Subsection (2)(d), the severance tax rate for natural gas liquids is 4% of
291 the [taxable] value [for] of the natural gas liquids.

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

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

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

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

301 (A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated
302 under Subsection § [(2)(d)(i)(A)] (2)(d)(i)(B) § is less than the amount of revenues estimated under
302a Subsection

303 § [(2)(d)(i)(B)] (2)(d)(i)(A) § ; or

304 (B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated

305 under Subsection § ~~(2)(d)(i)(A)~~ (2)(d)(i)(B) § is greater than the amount of revenues estimated
 305a under

306 Subsection § ~~(2)(d)(i)(B)~~ (2)(d)(i)(A) § .

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

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

309 (I) if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax
 310 rates shall be by the amount necessary to generate for the calendar year beginning on January 1,

311 2005 revenues equal to the amount by which the revenues estimated under Subsection

312 (2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or

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

315 2005 revenues equal to the amount by which the revenues estimated under Subsection

316 (2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and

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

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

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

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

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

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

331 ~~(e)~~ (3) If oil or gas is shipped outside the state:

332 ~~(f)~~ (a) the shipment constitutes a sale; and

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

334 ~~(f)~~ (4) (a) Except as provided in Subsection ~~[(+)(f)(g)] (4)(b), if the oil or gas is~~
 335 stockpiled, the tax is not imposed until the oil or gas is:

336 ~~[(A)]~~ (i) sold;

337 ~~[(B)]~~ (ii) transported; or

338 ~~[(C)]~~ (iii) delivered.

339 ~~[(ii)]~~ (b) Notwithstanding Subsection ~~[(1)(f)(i)]~~ (4)(a), if oil or gas is stockpiled for

340 more than two years, the oil or gas is subject to the tax imposed by this section.

341 ~~[(2)]~~ (5) A tax is not imposed under this section upon:

342 (a) the first \$50,000 annually in gross value of each well or wells as defined in this

343 part, to be prorated among the owners in proportion to their respective interests in the

344 production or in the proceeds of the production;

345 (b) stripper wells, unless the exemption prevents the severance tax from being treated

346 as a deduction for federal tax purposes;

347 ~~[(c) the first six months of production for wells started after January 1, 1984, but before~~

348 ~~January 1, 1990;]~~

349 ~~[(d)]~~ (c) the first 12 months of production for wildcat wells started after January 1,

350 1990; or

351 ~~[(e)]~~ (d) the first six months of production for development wells started after January

352 1, 1990.

353 ~~[(3)]~~ (6) (a) Subject to Subsections ~~[(3)]~~ (6)(b) and (c), a working interest owner who

354 pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable

355 tax credit equal to 20% of the amount paid.

356 (b) The tax credit under Subsection ~~[(3)]~~ (6)(a) for each recompletion or workover may

357 not exceed \$30,000 per well during each calendar year.

358 (c) If any amount of tax credit a taxpayer is allowed under this Subsection ~~[(3)]~~ (6)

359 exceeds the taxpayer's tax liability under this part for the calendar year for which the taxpayer

360 claims the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the

361 calendar year may be carried forward for the next three calendar years.

362 ~~[(4)]~~ (7) A 50% reduction in the tax rate is imposed upon the incremental production

363 achieved from an enhanced recovery project.

364 ~~[(5)]~~ (8) The taxes imposed by this section are:

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

366 (b) delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year

367 when the oil or gas is:

368 (i) [~~(A)~~] produced; and

369 [~~(B)~~] (ii) (A) saved; [~~and~~]

370 [~~(C)~~] (B) sold; or

371 [~~(i)~~] (C) transported from the [~~premises~~] field.

372 [~~(6)~~] (9) With respect to the tax imposed by this section on each owner of oil or gas or
373 in the proceeds of the production of those substances produced in the state, each owner is liable
374 for the tax in proportion to the owner's interest in the production or in the proceeds of the
375 production.

376 [~~(7)~~] (10) The tax imposed by this section shall be reported and paid by each producer
377 that takes oil or gas in kind pursuant to agreement on behalf of the producer and on behalf of
378 each owner entitled to participate in the oil or gas sold by the producer or transported by the
379 producer from the field where the oil or gas is produced.

380 [~~(8)~~] (11) Each producer shall deduct the tax imposed by this section from the amounts
381 due to other owners for the production or the proceeds of the production.

382 [~~(9)~~] (12) (a) The Tax Review Commission shall review the tax provided for in this
383 part on or before the October 2008 interim meeting.

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

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

387 (ii) the exemptions provided for in Subsection [~~(2)~~] (5);

388 (iii) the tax credit provided for in Subsection [~~(3)~~] (6), including:

389 (A) the cost of the tax credit;

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

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

392 (iv) the tax rate reduction provided for in Subsection [~~(4)~~] (7);

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

394 and

395 (vi) whether the statutory provisions the Tax Review Commission reviews under this
396 Subsection [~~(9)~~] (12) should be:

397 (A) continued;

398 (B) modified; or

399 (C) repealed.

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

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

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

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

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

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

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

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

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

417 (D) whether a limit other than the limit established in Section 59-5-103.1 should be
418 established by statute on the amount of transportation costs that may be deducted under Section
419 59-5-103.1; and

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

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

423 (B) the Utah Tax Review Commission.

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

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

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

428 (iii) the revenues raised by the taxes imposed by this part for the time period described

429 in Subsection (13)(a)(i).

430 Section 4. Section **59-5-103.1** is enacted to read:

431 **59-5-103.1. Valuation of oil or gas -- Deductions.**

432 (1) (a) For purposes of the tax imposed under Section 59-5-102 and subject to
433 Subsection (2), the value of oil or gas shall be determined at the first point closest to the well at
434 which the fair market value for the oil or gas may be determined by:

435 (i) a sale pursuant to an arm's length contract; or

436 (ii) for a sale other than a sale described in Subsection (1)(a)(i), comparison to other
437 sales of oil or gas.

438 (b) For purposes of determining the fair market value of oil or gas under Subsection
439 (1), a person subject to a tax under Section 59-5-102 may deduct:

440 (i) processing costs from the value of:

441 (A) oil; or

442 (B) gas; and

443 (ii) (A) except as provided in Subsection (1)(b)(ii)(B), transportation costs from the
444 value of:

445 (I) oil; and

446 (II) gas; and

447 (B) notwithstanding Subsection (1)(b)(ii)(A), the deduction for transportation costs
448 may not exceed 50% of the value of the:

449 (I) oil; or

450 (II) gas.

451 (2) Subsection (1)(a)(ii) applies to a sale of oil or gas between:

452 (a) a parent company and a subsidiary company;

453 (b) companies wholly owned or partially owned by a common parent company; or

454 (c) companies otherwise affiliated.

455 Section 5. Section **59-5-104** is amended to read:

456 **59-5-104. Statements filed -- Contents -- Falsification as perjury.**

457 (1) (a) Every producer engaged in the production of oil or gas from any well or wells in
458 the state shall file with the commission, on or before June 1 of each year, on forms furnished by
459 the commission, a statement containing the [following] information required by Subsection

460 (1)(b) relating to the oil or gas;
 461 (i) produced[;]; and
 462 (ii) (A) saved[; and];
 463 (B) sold; or
 464 (C) transported from the [oil or gas] field where the oil or gas was produced during the
 465 preceding calendar year[;].

466 (b) The statement required in Subsection (1)(a) shall include:

- 467 [~~(a)~~] (i) the name, description, and location of;
- 468 (A) every well or wells; and
- 469 (B) every field in which the well or wells are located;
- 470 [~~(b)~~] (ii) the number of barrels of oil, the cubic feet of gas, and quantity of other
 471 hydrocarbon substances produced, including the percentage of production from lands held in
 472 trust by the United States for any federally recognized Indian tribe or its members;
- 473 [~~(c)~~] (iii) the value of [~~this production at the well~~] the oil or gas; and
- 474 [~~(d)~~] (iv) any other reasonable and necessary information required by the commission.

475 (2) The statements or reports required to be filed with the commission shall be signed
 476 and sworn to by the producer or a designee.

477 (3) Any willful false swearing as to the purported material facts set out in this report
 478 constitutes the crime of perjury and shall be punished as such under Title 76, Utah Criminal
 479 Code.

480 Section 6. **Repealer.**

481 This bill repeals:

482 Section **59-5-103, Valuation of oil or gas -- Alternatives -- Exceptions --**
 483 **Controversies on value to be determined by commission.**

484 Section 7. **Retrospective operation.**

485 This bill has retrospective operation to January 1, 2004.

Fiscal Note**Oil and Gas Related Taxes and Fees***27-Feb-04***Bill Number SB0191S04***7:33 PM*

State Impact

Passage of this bill would be revenue neutral.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst