

**Senator Thomas V. Hatch** proposes the following substitute bill:

**REVISIONS TO ROYALTY ON BRINE**

**SHRIMP**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Thomas V. Hatch**

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**LONG TITLE**

**General Description:**

This bill modifies the Brine Shrimp Royalty Act.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ provides that a brine shrimp royalty of \$550,000 is due each taxable year;
- ▶ provides a calculation to determine the annual brine shrimp royalty rate;
- ▶ establishes procedures and requirements for assessing the brine shrimp royalty each year;
- ▶ grants rulemaking authority to the Utah State Tax Commission ~~§ [and the Department of Natural Resources]~~ § ;
- ▶ changes the date that the brine shrimp royalty is due; ~~§ [and]~~

**▶REQUIRES THE REVENUE AND TAXATION INTERIM COMMITTEE TO REVIEW THE ANNUAL BRINE SHRIMP ROYALTY AMOUNT AT LEAST ONCE EVERY FIVE YEARS; AND §**

- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.

This bill provides for retrospective operation.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **59-23-3**, as enacted by Chapter 179, Laws of Utah 199729 **59-23-4**, as last amended by Chapter 21, Laws of Utah 199930 **59-23-5**, as enacted by Chapter 179, Laws of Utah 199731 

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32 *Be it enacted by the Legislature of the state of Utah:*33 Section 1. Section **59-23-3** is amended to read:34 **59-23-3. Definitions.**

35 As used in this chapter:

36 (1) "Brine shrimp eggs" means dormant, early stage brine shrimp embryos  
37 encapsulated as cysts that are harvested from the waters of the state.38 (2) "Taxable year" means a one-year period beginning on February 1 and ending on  
39 January 31 of the following year.40 ~~§ (3) "Unprocessed brine shrimp eggs" means:~~41 ~~—— (i) brine shrimp eggs and other organic matter that are removed from the surface or~~  
42 ~~near the surface of water and reduced to possession on a boat, barge, or other vessel; or~~43 ~~—— (ii) brine shrimp eggs and other organic or inorganic matter that are removed from the~~  
44 ~~surface of a beach and reduced to possession in a sack, vehicle, or other vessel.] §~~45 Section 2. Section **59-23-4** is amended to read:46 **59-23-4. Brine shrimp royalty -- Royalty rate -- Commission prepare billing**  
47 **statement -- Deposit of revenue.**48 (1) (a) ~~[There is levied]~~ Except as provided in Subsection (1)(b) and subject to the  
49 other provisions of this section, for taxable years beginning on or after February 1, 2004, there  
50 is imposed a brine shrimp royalty of [.035 of the value] \$550,000 each taxable year for the  
51 harvest of unprocessed brine shrimp eggs.52 ~~[(2)(a) The commission shall annually determine the value of unprocessed brine~~  
53 ~~shrimp eggs in accordance with a valuation methodology established by the commission in~~  
54 ~~rule.]~~55 ~~[(b) Each person who harvests brine shrimp eggs shall file, in a form prescribed by the~~  
56 ~~commission, a sworn statement with the commission by August 1 of each year. The statement~~

57 shall set out in detail any information required by the commission.]

58 (b) If no unprocessed brine shrimp eggs are harvested during a taxable year, a brine  
59 shrimp royalty is not imposed under Subsection (1)(a).

60 (2) (a) (i) A person that harvests unprocessed brine shrimp eggs shall pay a  
61 proportional amount of the annual brine shrimp royalty imposed under Subsection (1) based on  
62 the total volume of unprocessed brine shrimp eggs harvested by all persons harvesting brine  
63 shrimp eggs during that taxable year.

64 (ii) The commission shall determine the royalty rate for a taxable year by dividing the  
65 total annual royalty amount under Subsection (1) by the total gross volume of unprocessed  
66 brine shrimp eggs harvested during that taxable year.

67 (iii) The royalty amount due from a person for a taxable year is the annual royalty rate  
68 calculated under Subsection (2)(a)(ii) multiplied by the gross volume of unprocessed brine  
69 shrimp eggs harvested by that person for that taxable year.

70 (b) A person that harvests unprocessed brine shrimp eggs shall report to the  
71 Department of Natural Resources the total gross volume of unprocessed brine shrimp eggs  
72 harvested by that person for that taxable year on or before the February 15 immediately  
73 following the last day of that taxable year.

74 (c) The Department of Natural Resources shall provide the following information to  
75 the commission on or before the March 1 immediately following the last day of a taxable year:

76 (i) the total gross volume of unprocessed brine shrimp eggs harvested for that taxable  
77 year; and

78 (ii) for each person that harvested brine shrimp eggs for that taxable year:

79 (A) the gross volume of unprocessed brine shrimp eggs harvested by that person for  
80 that taxable year; and

81 (B) a current billing address for that person; and

82 (iii) any additional information required by the commission.

83 ~~§ [(d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the~~  
84 ~~Department of Natural Resources may make rules to establish standards for determining the~~  
85 ~~total gross volume of unprocessed brine shrimp eggs harvested by each person.~~

86 ~~——(e)] (d) § (i) The commission shall prepare and mail a billing statement to each person that~~  
87 ~~harvested unprocessed brine shrimp eggs by the March 30 immediately following the last day~~

88 of a taxable year.

89 (ii) The billing statement under Subsection (2) § ~~(e)~~ (d) § (i) shall specify:

90 (A) the gross volume of unprocessed brine shrimp eggs harvested by that person for  
91 that taxable year;

92 (B) the amount of brine shrimp royalty that the person owes; and

93 (C) the date that the brine shrimp royalty payment is due as provided in Section  
94 59-23-5.

95 (e) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
96 commission may make rules prescribing the information required under Subsection (2)(c)(iii).

97 (3) All revenue generated by the brine shrimp royalty shall be deposited in the Species  
98 Protection Account created in Section 63-34-14.

98a **§ (4) BEGINNING WITH THE 2004 INTERIM, THE REVENUE AND TAXATION INTERIM**  
98b **COMMITTEE:**

98c **(a) SHALL REVIEW THE ANNUAL BRINE SHRIMP ROYALTY AMOUNT IMPOSED UNDER THIS**  
98d **SECTION ONE OR MORE TIMES EVERY FIVE YEARS;**

98e **(b) SHALL DETERMINE ON OR BEFORE THE NOVEMBER INTERIM MEETING OF THE YEAR IN**  
98f **WHICH THE REVENUE AND TAXATION INTERIM COMMITTEE REVIEWS THE ANNUAL BRINE SHRIMP**  
98g **ROYALTY AMOUNT IMPOSED UNDER THIS SECTION WHETHER THE ROYALTY AMOUNT SHOULD**  
98h **BE:**

98i **(i) CONTINUED;**

98j **(ii) MODIFIED; OR**

98k **(iii) REPEALED; AND**

98l **(c) MAY REVIEW ANY OTHER ISSUE RELATED TO THE BRINE SHRIMP ROYALTY IMPOSED**  
98m **UNDER THIS PART AS DETERMINED BY THE REVENUE AND TAXATION INTERIM COMMITTEE. §**

99 Section 3. Section 59-23-5 is amended to read:

100 **59-23-5. Payment of the brine shrimp royalty.**

101 (1) The brine shrimp royalty shall be paid to the commission by the person who  
102 harvests the unprocessed brine shrimp eggs [~~to the commission~~].

103 (2) The payment shall be accompanied by [~~the form prescribed~~] the billing statement  
104 prepared by the commission in accordance with Section 59-23-4.

105 (3) The royalty is due [~~March 31 for the harvest season just ended~~] on the April 30  
106 immediately following the last day of the taxable year.

107 Section 4. **Effective date.**

108 If approved by two-thirds of all the members elected to each house, this bill takes effect  
109 upon approval by the governor, or the day following the constitutional time limit of Utah  
110 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,

111 the date of veto override.

112 Section 5. **Retrospective operation.**

113 This bill has retrospective operation for the taxable year beginning on February 1, 2004.