

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; and
- ▶ addresses the imposition of the severance tax on oil and gas including:
 - how the severance tax is calculated;
 - the valuation of oil and gas for severance tax purposes; and
 - the filing of required statements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation to January 1, 2004.

Utah Code Sections Affected:

AMENDS:

40-6-14, as last amended by Chapter 274, Laws of Utah 2003

59-5-101, as last amended by Chapter 271, Laws of Utah 1996

59-5-102, as last amended by Chapters 273 and 274, Laws of Utah 2003

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

59-5-104, as last amended by Chapter 341, Laws of Utah 1995



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

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

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

(1) ~~(a)~~ There is levied a fee of .002 of the ~~[value at the well of oil and gas: (a)]~~ amount calculated under Subsection (1)(b) for oil and gas:

(i) produced; and

(ii) (A) saved;

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

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

(b) The fee imposed under this Subsection (1) is equal to the difference between:

(i) subject to Subsection (1)(c), the value of the oil or gas; and

(ii) any deduction allowed under Section 59-5-102 for:

(A) processing costs; or

(B) transportation costs.

(c) The value of the oil or gas shall be determined in accordance with Section 59-5-103.

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

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

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

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

(b) As used in this section "ownership interest" means any:

(i) working interest;

(ii) royalty interest;

(iii) interest in payments out of production; or

59 (iv) any other interest in the oil or gas, or in the proceeds of the oil or gas, subject to
60 the fee.

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

63 (i) quarterly; and

64 (ii) as provided in Subsections (4)(b) and (c).

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

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

67 (ii) for the quarter beginning on April 1 and ending on June 30, on or before September
68 1;

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

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

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

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

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

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

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

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

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

85 (i) report 100% of the production;

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

87 (iii) pay the levy on the difference.

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

- 90 (7) This section shall apply to any interest in oil or gas produced in the state except:
- 91 (a) any interest of the United States;
- 92 (b) any interest of the state or a political subdivision of the state in any oil or gas or in
- 93 the proceeds of the oil or gas;
- 94 (c) any interest of any Indian or Indian tribe in any oil or gas or in the proceeds
- 95 produced from land subject to the supervision of the United States; or
- 96 (d) oil or gas used in producing or drilling operations or for repressuring or recycling
- 97 purposes.

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

99 **59-5-101. Definitions.**

100 As used in this part:

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

102 (2) "Communitized area" means the area that is a combination of small tracts that are
103 combined by agreement for the purpose of committing enough acreage to form the spacing and
104 proration units necessary to comply with applicable state conservation requirements.

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

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

111 [~~2~~] (5) "Development well" means any oil and gas producing well other than a
112 wildcat well.

113 [~~3~~] (6) "Division" means the Division of Oil, Gas and Mining established under Title
114 40, Chapter 6.

115 [~~4~~] (7) "Enhanced recovery project" means:

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

118 (i) augmenting reservoir energy[;];

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

120 (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and

121 gas through the joint use of two or more well bores; and

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

124 ~~[(5)]~~ (8) (a) "Gas" means:

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

126 (ii) natural gas liquids; or

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

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

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

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

135 ~~[(6)]~~ (9) "Incremental production" means that part of production, certified by the
136 Division of Oil, Gas and Mining, which is achieved from an enhanced recovery project that
137 would not have economically occurred under the reservoir conditions existing before the
138 project and that has been approved by the division as incremental production.

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

147 (10) "Lease premises" means:

148 (a) the surface area of any land covered by:

149 (i) an oil and gas lease; or

150 (ii) unleased mineral interest; or

151 (b) if a lease or mineral interest is committed to a unit area or communitized area, any

152 surface area covered by the unit area or communitized area.

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

156 (12) "Natural gas liquids" means those hydrocarbons initially in reservoir natural gas,
157 regardless of gravity, that are separated in gas processing plants from the natural gas as liquids
158 at the surface through the process of condensation, absorption, adsorption, or other methods.

159 ~~[(8)]~~ (13) (a) "Oil" means:

160 (i) crude oil [or];

161 (ii) condensate; or

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

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

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

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

171 ~~[(9)]~~ (14) "Oil or gas field" means a geographical area overlying oil or gas structures.

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

175 (15) "Operator" means any person engaged in the business of operating an oil or gas
176 well, regardless of whether the person is:

177 (a) a working interest owner;

178 (b) an independent contractor; or

179 (c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the
180 commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative
181 Rulemaking Act.

182 ~~[(10)]~~ (16) "Owner" means any person having a working interest, royalty interest,

183 payment out of production, or any other interest in the oil or gas produced or extracted from an
184 oil or gas well in the state, or in the proceeds of this production.

185 ~~[(11) "Processing]~~ (17) (a) Subject to Subsections (17)(b) and (c), "processing costs"
186 means the reasonable actual costs of processing ~~[gas. Processing costs determined by]~~ natural
187 gas to remove natural gas liquids.

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

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

193 (A) actual operating and maintenance expenses, including gas used or consumed in
194 processing;

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

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

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

201 (ii) Subsection (17)(c)(i) includes situations where the producer performs the
202 processing for the producer's product.

203 ~~[(12)]~~ (18) "Producer" means any working interest owner in any lands in any oil or gas
204 field from which gas or oil is produced.

205 ~~[(13)]~~ (19) "Recompletion" means any downhole operation that is:

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

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

209 ~~[(14)]~~ (20) "Royalty interest owner" means the owner of an interest in oil or gas, or in
210 the proceeds of production from the oil or gas who does not have the obligation to share in the
211 expenses of developing and operating the property.

212 ~~[(15)]~~ (21) "Solid hydrocarbons" means:

213 (i) coal[;];

214 (ii) gilsonite[;];

215 (iii) ozocerite[;];

216 (iv) elaterite[;];

217 (v) oil shale[;];

218 (vi) tar sands[;]; and

219 (vii) all other hydrocarbon substances that occur naturally in solid form.

220 ~~[(16)]~~ (22) "Stripper well" means:

221 (a) an oil well whose average daily production for the days the well has produced has
222 been 20 barrels or less of crude oil a day during any consecutive 12-month period; or

223 (b) a gas well whose average daily production for the days the well has produced has
224 been 60 MCF or less of natural gas a day during any consecutive 90-day period.

225 ~~[(17) "Transportation"]~~ (23) (a) Subject to Subsections (23)(b) and (c), "transportation
226 costs" means the reasonable actual costs of transporting oil or gas products from the ~~[well to~~
227 ~~the]~~ lease premises where the production process is completed to a point of:

228 (i) sale ~~[except the transportation allowance deduction may not exceed 50% of the~~
229 ~~value of the oil or gas. Transportation costs determined by]~~ off the lease premises; or

230 (ii) delivery off the lease premises.

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

233 (c) (i) If transportation costs are determined on a basis other than an arm's-length
234 contract~~[, including those situations where the producer performs the transportation service for~~
235 ~~himself, the actual costs of transportation shall be],~~ transportation costs are those reasonable
236 costs associated with ~~[the];~~

237 (A) actual operating and maintenance expenses, including fuel used or consumed in
238 transporting the oil or gas;

239 (B) overhead costs directly attributable and allocable to the operation and
240 maintenance~~[;]; and~~ ~~[either]~~

241 (C) depreciation and a return on undepreciated capital investment~~[, or a cost equal to a~~
242 ~~return on the investment in the transportation system as determined by the commission. The~~
243 ~~tax commission shall adopt rules to implement this definition, and may adopt federal~~
244 ~~regulations where applicable].~~

245 (ii) Subsection (23)(c)(i) includes situations where the producer performs the
 246 transportation for the producer's product.

247 ~~[(18)]~~ (24) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

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

250 (25) "Unit area" means the land subject to development under an agreement or plan of
 251 development for the production or use of oil and gas in separately owned interests as a single
 252 consolidated unit.

253 ~~[(20)]~~ (26) "Well or wells" means any extractive means from which oil or gas is
 254 produced or extracted, located within an oil or gas field, and operated by one person.

255 ~~[(21)]~~ (27) "Wildcat well" means an oil and gas producing well which is drilled and
 256 completed in a pool, as defined under Section 40-6-2, in which a well has not been previously
 257 completed as a well capable of producing in commercial quantities.

258 ~~[(22)]~~ (28) "Working interest owner" means the owner of an interest in oil or gas
 259 burdened with a share of the expenses of developing and operating the property.

260 ~~[(23)]~~ (29) (a) "Workover" means any downhole operation that is:

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

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

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

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

267 **59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Tax credit**
 268 **-- Deduction for processing costs and transportation costs -- Study by Tax Review**
 269 **Commission.**

270 (1) ~~[(a)]~~ Each person owning an interest, working interest, royalty interest, payments
 271 out of production, or any other interest, in oil or gas produced from a well in the state, or in the
 272 proceeds of the production, shall pay to the state a severance tax on the basis of the value~~[,at~~
 273 ~~the well,]~~ determined under Section 59-5-103 of the oil or gas:

274 (a) produced[;]; and

275 (b) (i) saved[; and];

276 (ii) sold; or
277 (iii) transported from the ~~[field]~~ lease premises where the substance was produced [as
278 ~~provided in this section~~].

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

280 (2) (a) The severance tax rate for oil is as follows:

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

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

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

284 (b) The severance tax rate for natural gas is as follows:

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

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

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

289 (c) The severance tax rate for natural gas liquids is 4% of the ~~[taxable]~~ value ~~[for]~~ of
290 the natural gas liquids.

291 ~~[(e)]~~ (3) If oil or gas is shipped outside the state:

292 ~~[(i)]~~ (a) the shipment constitutes a sale; and

293 ~~[(ii)]~~ (b) the oil or gas is subject to the tax imposed by this section.

294 ~~[(f)]~~ (i) (4) (a) Except as provided in Subsection ~~[(1)(f)(ii)]~~ (4)(b), if the oil or gas is
295 stockpiled, the tax is not imposed until the oil or gas is:

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

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

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

299 ~~[(ii)]~~ (b) Notwithstanding Subsection ~~[(1)(f)(i)]~~ (4)(a), if oil or gas is stockpiled for
300 more than two years, the oil or gas is subject to the tax imposed by this section.

301 ~~[(2)]~~ (5) A tax is not imposed under this section upon:

302 (a) the first \$50,000 annually in gross value of each well or wells as defined in this
303 part, to be prorated among the owners in proportion to their respective interests in the
304 production or in the proceeds of the production;

305 (b) stripper wells, unless the exemption prevents the severance tax from being treated
306 as a deduction for federal tax purposes;

307 ~~[(c) the first six months of production for wells started after January 1, 1984, but before~~
308 ~~January 1, 1990;]~~

309 ~~[(d)]~~ (c) the first 12 months of production for wildcat wells started after January 1,
310 1990; or

311 ~~[(e)]~~ (d) the first six months of production for development wells started after January
312 1, 1990.

313 ~~[(3)]~~ (6) (a) Subject to Subsections ~~[(3)]~~ (6)(b) and (c), a working interest owner who
314 pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable
315 tax credit equal to 20% of the amount paid.

316 (b) The tax credit under Subsection ~~[(3)]~~ (6)(a) for each recompletion or workover may
317 not exceed \$30,000 per well during each calendar year.

318 (c) If any amount of tax credit a taxpayer is allowed under this Subsection ~~[(3)]~~ (6)
319 exceeds the taxpayer's tax liability under this part for the calendar year for which the taxpayer
320 claims the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the
321 calendar year may be carried forward for the next three calendar years.

322 ~~[(4)]~~ (7) A 50% reduction in the tax rate is imposed upon the incremental production
323 achieved from an enhanced recovery project.

324 (8) (a) A person subject to a tax under this section may deduct processing costs from
325 the value of natural gas liquids.

326 (b) (i) Except as provided in Subsection (8)(b)(ii), a person subject to a tax under this
327 section may deduct transportation costs from the value of:

328 (A) oil; or

329 (B) gas.

330 (ii) Notwithstanding Subsection (8)(b)(i), the deduction for transportation costs may
331 not exceed 50% of the value of the:

332 (A) oil; or

333 (B) gas.

334 ~~[(5)]~~ (9) The taxes imposed by this section are:

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

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

338 (i) [~~(A)~~] produced; and
339 [~~(B)~~] (ii) (A) saved; [~~and~~]
340 [~~(C)~~] (B) sold; or
341 [~~(i)~~] (C) transported from the lease premises.
342 [~~(6)~~] (10) With respect to the tax imposed by this section on each owner of oil or gas or
343 in the proceeds of the production of those substances produced in the state, each owner is liable
344 for the tax in proportion to the owner's interest in the production or in the proceeds of the
345 production.
346 [~~(7)~~] (11) The tax imposed by this section shall be reported and paid by each producer
347 that takes oil or gas in kind pursuant to agreement on behalf of the producer and on behalf of
348 each owner entitled to participate in the oil or gas sold by the producer or transported by the
349 producer from the [~~field~~] lease premises where the oil or gas is produced.
350 [~~(8)~~] (12) Each producer shall deduct the tax imposed by this section from the amounts
351 due to other owners for the production or the proceeds of the production.
352 [~~(9)~~] (13) (a) The Tax Review Commission shall review the tax provided for in this
353 part on or before the October 2008 interim meeting.
354 (b) The Tax Review Commission shall address in its review the following statutory
355 provisions:
356 (i) the severance tax rate structure provided for in this section;
357 (ii) the exemptions provided for in Subsection [~~(2)~~] (5);
358 (iii) the tax credit provided for in Subsection [~~(3)~~] (6), including:
359 (A) the cost of the tax credit;
360 (B) the purpose and effectiveness of the tax credit; and
361 (C) whether the tax credit benefits the state;
362 (iv) the tax rate reduction provided for in Subsection [~~(4)~~] (7);
363 (v) other statutory provisions or issues as determined by the Tax Review Commission;
364 and
365 (vi) whether the statutory provisions the Tax Review Commission reviews under this
366 Subsection [~~(9)~~] (13) should be:
367 (A) continued;
368 (B) modified; or

369 (C) repealed.

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

373 Section 4. Section **59-5-103** is amended to read:

374 **59-5-103. Valuation of oil or gas -- Alternatives -- Exceptions -- Controversies on**
375 **value to be determined by commission.**

376 [~~(1) For purposes of computing the severance tax, the value of oil or gas at the well is]~~

377 (1) (a) For purposes of the tax imposed under Section 59-5-102, the value of oil or gas
378 shall be determined at the lease premises after the production process is completed.

379 (b) The production process for oil is completed after:

380 (i) extracting from the well;

381 (ii) gathering on the lease premises to the lease automatic custody transfer;

382 (iii) treating;

383 (iv) separating; and

384 (v) any other activity that occurs before the:

385 (A) lease automatic custody transfer; or

386 (B) other point on the lease premises used to measure sales or delivery volume of the

387 oil.

388 (c) The production process for gas is completed after:

389 (i) extracting from the well;

390 (ii) gathering on the lease premises to the lease custody transfer meter;

391 (iii) treating;

392 (iv) compression on the lease premises before the lease custody transfer meter;

393 (v) separating; and

394 (vi) any other activity that occurs before the:

395 (A) lease custody transfer meter; or

396 (B) other point on the lease premises used to measure sales or delivery volume of the

397 gas.

398 (2) The value of the oil or gas is:

399 (a) in the case of an arm's-length contract for the purchase of oil or gas, the value

400 established under ~~[an] the~~ arm's-length contract ~~[for the purchase of production at the well];~~ or

401 (b) in the absence of ~~[such a] an arm's-length~~ contract for the purchase of oil or gas, by
 402 the value established in accordance with the first applicable of the following methods:

403 ~~[(a)]~~ (i) the value ~~[at the well]~~ established under a non-arm's-length contract for the
 404 purchase of ~~[production at the well] oil or gas,~~ provided that the value is equivalent to the value
 405 received under comparable arm's-length contracts for purchases or sales of like-quality oil or
 406 gas in the same field; or

407 ~~[(b)]~~ (ii) the value ~~[at the well]~~ determined by consideration of information relevant in
 408 valuing like-quality oil or gas ~~[at the well]~~ in the same field or nearby fields or areas such as:

409 (A) posted prices[;];

410 (B) prices received in arm's-length spot sales[;]; or

411 (C) other reliable public sources of price or market information[;].

412 ~~[(c) the value established using the net-back method as defined in Section 59-5-101.]~~

413 ~~[(2)]~~ (3) Oil or gas used in drilling operations in the same oil or gas field and in
 414 producing operations in this field or for repressuring or recycling purposes may not be included
 415 with the other products in arriving at the gross value ~~[for tax purposes] of the oil or gas.~~

416 ~~[(3) Any contract between a parent and a subsidiary company, or between companies~~
 417 ~~wholly or partially owned by a common parent, or between companies otherwise affiliated that~~
 418 ~~specifies the value of oil or gas is not arm's-length unless the value of oil or gas specified is~~
 419 ~~comparable to its fair market value as defined under Section 59-2-102. If there is a~~
 420 ~~controversy, the commission shall determine the value of the oil or gas.]~~

421 (4) Subsection (2)(b)(i) applies to a contract for oil or gas between:

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

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

424 (c) companies otherwise affiliated.

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

426 **59-5-104. Statements filed -- Contents -- Falsification as perjury.**

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

430 (1)(b) relating to the oil or gas;

431 (i) produced[~~;~~]; and
 432 (ii) (A) saved[~~;~~and];
 433 (B) sold; or
 434 (C) transported from the [~~oil or gas field~~] lease premises where the oil or gas was
 435 produced during the preceding calendar year[~~;~~].
 436 (b) The statement required in Subsection (1)(a) shall include:
 437 [~~(a)~~] (i) the name, description, and location of:
 438 (A) every well or wells; and
 439 (B) every field in which the well or wells are located;
 440 [~~(b)~~] (ii) the number of barrels of oil, the cubic feet of gas, and quantity of other
 441 hydrocarbon substances produced, including the percentage of production from lands held in
 442 trust by the United States for any federally recognized Indian tribe or its members;
 443 [~~(c)~~] (iii) the value of [~~this production at the well~~] the oil or gas; and
 444 [~~(d)~~] (iv) any other reasonable and necessary information required by the commission.
 445 (2) The statements or reports required to be filed with the commission shall be signed
 446 and sworn to by the producer or a designee.
 447 (3) Any willful false swearing as to the purported material facts set out in this report
 448 constitutes the crime of perjury and shall be punished as such under Title 76, Utah Criminal
 449 Code.
 450 Section 6. **Retrospective operation.**
 451 This bill has retrospective operation to January 1, 2004.

Legislative Review Note
 as of 2-19-04 11:57 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0191

Oil and Gas Related Taxes and Fees

23-Feb-04

8:56 AM

AMENDED NOTE

State Impact

Passage of this bill would codify existing Tax Commission practice. Revenue adjustments have been made pending court action.

Individual and Business Impact

Based on the timing of the bill, impact to affected businesses would be small.

Office of the Legislative Fiscal Analyst