

28 **63N-8-103**, as last amended by Laws of Utah 2018, Chapter 469

29

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

31 Section 1. Section **59-5-102** is amended to read:

32 **59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual**
33 **exemption -- Tax credits -- Tax rate reduction.**

34 (1) As used in this section:

35 (a) "Division" means the Division of Oil, Gas, and Mining created in Section **40-6-15**.

36 (b) "Office" means the Office of Energy Development created in Section **63M-4-401**.

37 (c) "Royalty rate" means the percentage of the interests described in Subsection

38 (2)(b)(i) as defined by a contract between the United States, the state, an Indian, or an Indian
39 tribe and the oil or gas producer.

40 (d) "Taxable value" means the total value of the oil or gas minus:

41 (i) any royalties paid to, or the value of oil or gas taken in kind by, the interest holders
42 described in Subsection (2)(b)(i); and

43 (ii) the total value of oil or gas exempt from severance tax under Subsection (2)(b)(ii).

44 (e) "Taxable volume" means:

45 (i) for oil, the total volume of barrels minus:

46 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and
47 the total volume of barrels; and

48 (B) the number of barrels that are exempt under Subsection (2)(b)(ii); and

49 (ii) for natural gas, the total volume of MCFs minus:

50 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and
51 the total volume of MCFs; and

52 (B) the number of MCFs that are exempt under Subsection (2)(b)(ii).

53 (f) "Total value" means the value, as determined by Section **59-5-103.1**, of all oil or
54 gas that is:

55 (i) produced; and

56 (ii) (A) saved;

57 (B) sold; or

58 (C) transported from the field where the oil or gas was produced.

- 59 (g) "Total volume" means:
- 60 (i) for oil, the number of barrels:
- 61 (A) produced; and
- 62 (B) (I) saved;
- 63 (II) sold; or
- 64 (III) transported from the field where the oil was produced; and
- 65 (ii) for natural gas, the number of MCFs:
- 66 (A) produced; and
- 67 (B) (I) saved;
- 68 (II) sold; or
- 69 (III) transported from the field where the natural gas was produced.

70 (h) "Value of oil or gas taken in kind" means the volume of oil or gas taken in kind
71 multiplied by the market price for oil or gas at the location where the oil or gas was produced
72 on the date the oil or gas was taken in kind.

73 (2) (a) Except as provided in Subsection (2)(b), a person owning an interest in oil or
74 gas produced from a well in the state, including a working interest, royalty interest, payment
75 out of production, or any other interest, or in the proceeds of the production of oil or gas, shall
76 pay to the state a severance tax on the owner's interest in the taxable value of the oil or gas:

- 77 (i) produced; and
- 78 (ii) (A) saved;
- 79 (B) sold; or
- 80 (C) transported from the field where the substance was produced.

81 (b) The severance tax imposed by Subsection (2)(a) does not apply to:

- 82 (i) an interest of:
- 83 (A) the United States in oil or gas or in the proceeds of the production of oil or gas;
- 84 (B) the state or a political subdivision of the state in oil or gas or in the proceeds of the
85 production of oil or gas; and

86 (C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the
87 proceeds of the production of oil or gas produced from land under the jurisdiction of the United
88 States; and

- 89 (ii) the value of:

- 90 (A) oil or gas produced from stripper wells, unless the exemption prevents the
91 severance tax from being treated as a deduction for federal tax purposes;
- 92 (B) oil or gas produced in the first 12 months of production for wildcat wells started
93 after January 1, 1990; and
- 94 (C) oil or gas produced in the first six months of production for development wells
95 started after January 1, 1990.
- 96 (3) (a) The severance tax on oil shall be calculated as follows:
- 97 (i) dividing the taxable value by the taxable volume;
- 98 (ii) (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the
99 figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection
100 (4)(a)(i); and
- 101 (B) multiplying the rate described in Subsection (4)(a)(ii) by the portion of the figure
102 calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(ii);
- 103 (iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and
- 104 (iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.
- 105 (b) The severance tax on natural gas shall be calculated as follows:
- 106 (i) dividing the taxable value by the taxable volume;
- 107 (ii) (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the
108 figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection
109 (4)(b)(i); and
- 110 (B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure
111 calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);
- 112 (iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and
- 113 (iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.
- 114 (c) The severance tax on natural gas liquids shall be calculated by multiplying the
115 taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).
- 116 (4) Subject to Subsection (9):
- 117 (a) the severance tax rate for oil is as follows:
- 118 (i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for oil;
- 119 and
- 120 (ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil;

- 121 (b) the severance tax rate for natural gas is as follows:
- 122 (i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per
123 MCF for gas; and
- 124 (ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas;
125 and
- 126 (c) the severance tax rate for natural gas liquids is 4% of the taxable value of the
127 natural gas liquids.
- 128 (5) If oil or gas is shipped outside the state:
- 129 (a) the shipment constitutes a sale; and
- 130 (b) the oil or gas is subject to the tax imposed by this section.
- 131 (6) (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is
132 not imposed until the oil or gas is:
- 133 (i) sold;
- 134 (ii) transported; or
- 135 (iii) delivered.
- 136 (b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax
137 imposed by this section.
- 138 (7) (a) Subject to other provisions of this Subsection (7), a taxpayer that pays for all or
139 part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal
140 to the amount stated on a tax credit certificate that the office issues to the taxpayer.
- 141 (b) The maximum tax credit per taxpayer per well in a calendar year is the lesser of:
- 142 (i) 20% of the taxpayer's payment of expenses of a well recompletion or workover
143 during the calendar year; and
- 144 (ii) \$30,000.
- 145 (c) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the
146 next three calendar years if the tax credit exceeds the taxpayer's tax liability under this part for
147 the calendar year in which the taxpayer claims the tax credit.
- 148 (d) (i) To claim a tax credit under this Subsection (7), a taxpayer shall follow the
149 procedures and requirements of this Subsection (7)(d).
- 150 (ii) The taxpayer shall prepare a ~~report~~ summary of the taxpayer's expenses of a well
151 recompletion or ~~well~~ workover during the calendar year that the well recompletion or

152 workover is completed.

153 (iii) An independent certified public accountant shall:

154 (A) review the [~~report~~] summary from the taxpayer; and

155 (B) [~~attest to~~] provide a report on the accuracy and validity of [~~the report, including~~]
156 the amount of expenses of a well recompletion or [~~well~~] workover that the taxpayer included in
157 the summary, in accordance with the agreed upon procedures.

158 (iv) The taxpayer shall submit the taxpayer's [~~report and the attestation~~] summary and
159 the independent certified public accountant's report to the division to verify that the expenses
160 certified by the independent certified public accountant are well recompletion or workover
161 expenses.

162 (v) The division shall return to the taxpayer:

163 (A) the taxpayer's [~~report~~] summary;

164 (B) the [~~attestation~~] report by the independent certified public accountant; and

165 (C) a report by the division that includes the amount of approved well recompletion or
166 workover expenses.

167 (vi) The taxpayer shall apply to the office for a tax credit certificate to receive a written
168 certification, on a form approved by the commission, that includes:

169 (A) the amount of the taxpayer's payments of expenses of a well recompletion or
170 workover during the calendar year; and

171 (B) the amount of the taxpayer's tax credit.

172 (vii) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate
173 for the same time period that a person is required to keep books and records under Section
174 [59-1-1406](#).

175 (e) The office shall submit to the commission an electronic list that includes:

176 (i) the name and identifying information of each taxpayer to which the office issues a
177 tax credit certificate; and

178 (ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.

179 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~7~~]:

180 (i) the office may make rules to govern the application process for receiving a tax
181 credit [~~certification~~] certificate under this Subsection (7)[~~7~~]; and

182 (ii) the division shall make rules to establish the agreed upon procedures described in

183 Subsection (7)(d)(iii).

184 (8) (a) Subject to the other provisions of this Subsection (8), a taxpayer may claim a
185 tax credit against a severance tax owing on natural gas under this section if:

186 (i) the taxpayer is required to pay a severance tax on natural gas under this section;

187 (ii) the taxpayer owns or operates a plant in the state that converts natural gas to
188 hydrogen fuel; and

189 (iii) all of the natural gas for which the taxpayer owes a severance tax under this
190 section is used for the production in the state of hydrogen fuel for use in zero emission motor
191 vehicles.

192 (b) The taxpayer may claim a tax credit equal to the lesser of:

193 (i) the amount of tax that the taxpayer owes under this section; and

194 (ii) \$5,000,000.

195 (c) (i) To claim a tax credit under this Subsection (8), a taxpayer shall follow the
196 procedures and requirements of this Subsection (8)(c).

197 (ii) The taxpayer shall request that the division verify that the taxpayer owns or
198 operates a plant in this state:

199 (A) that converts natural gas to hydrogen fuel; and

200 (B) at which all natural gas is converted to hydrogen fuel for use in zero emission
201 motor vehicles.

202 (d) The division shall submit to the commission an electronic list that includes the
203 name and identifying information of each taxpayer for which the division completed the
204 verification described in Subsection (8)(c).

205 (9) A 50% reduction in the tax rate is imposed upon the incremental production
206 achieved from an enhanced recovery project.

207 (10) The taxes imposed by this section are:

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

209 (b) delinquent, unless otherwise deferred, on June 1 following the calendar year when
210 the oil or gas is:

211 (i) produced; and

212 (ii) (A) saved;

213 (B) sold; or

214 (C) transported from the field.

215 (11) With respect to the tax imposed by this section on each owner of an interest in the
216 production of oil or gas or in the proceeds of the production of oil or gas in the state, each
217 owner is liable for the tax in proportion to the owner's interest in the production or in the
218 proceeds of the production.

219 (12) The tax imposed by this section shall be reported and paid by each producer that
220 takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf of
221 each owner entitled to participate in the oil or gas sold by the producer or transported by the
222 producer from the field where the oil or gas is produced.

223 (13) Each producer shall deduct the tax imposed by this section from the amounts due
224 to other owners for the production or the proceeds of the production.

225 Section 2. Section **63N-8-103** is amended to read:

226 **63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives --**
227 **Refundable tax credit incentives.**

228 (1) (a) There is created within the General Fund a restricted account known as the
229 Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives
230 for state-approved productions by a motion picture company.

231 (b) All interest generated from investment of money in the restricted account shall be
232 deposited in the restricted account.

233 (c) The restricted account shall consist of an annual appropriation by the Legislature.

234 (d) The office shall:

235 (i) with the advice of the board, administer the restricted account; and

236 (ii) make payments from the restricted account as required under this section.

237 (e) The cost of administering the restricted account shall be paid from money in the
238 restricted account.

239 (2) (a) A motion picture company or digital media company seeking disbursement of
240 an incentive allowed under an agreement with the office shall follow the procedures and
241 requirements of this Subsection (2).

242 (b) The motion picture company or digital media company shall provide the office with
243 ~~[a report]~~ an incentive request form, provided by the office, identifying and documenting the
244 dollars left in the state and new state revenues generated by the motion picture company or

245 digital media company for [its] state-approved production, including any related tax returns by
246 the motion picture company, payroll company, digital media company, or loan-out corporation
247 under Subsection (2)(d).

248 (c) For a motion picture company, an independent certified public accountant shall:

249 (i) review the [~~report~~] incentive request form submitted by the motion picture
250 company; and

251 (ii) [~~attest to~~] provide a report on the accuracy and validity of the [~~report~~] incentive
252 request form, including the amount of dollars left in the state, in accordance with the agreed
253 upon procedures established by the office by rule.

254 (d) The motion picture company, digital media company, payroll company, or loan-out
255 corporation shall provide the office with a document that expressly directs and authorizes the
256 State Tax Commission to disclose the entity's tax returns and other information concerning the
257 entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section
258 6103, Internal Revenue Code, to the office.

259 (e) The office shall submit the document described in Subsection (2)(d) to the State
260 Tax Commission.

261 (f) Upon receipt of the document described in Subsection (2)(d), the State Tax
262 Commission shall provide the office with the information requested by the office that the
263 motion picture company, digital media company, payroll company, or loan-out corporation
264 directed or authorized the State Tax Commission to provide to the office in the document
265 described in Subsection (2)(d).

266 (g) Subject to Subsection (3), for a motion picture company the office shall:

267 (i) review the [~~report~~] incentive request form from the motion picture company
268 described in Subsection (2)(b) and verify that [it] the incentive request form was reviewed by
269 an independent certified public accountant as described in Subsection (2)(c); and

270 (ii) based upon the independent certified public accountant's [~~attestation~~] report under
271 Subsection (2)(c), determine the amount of the incentive that the motion picture company is
272 entitled to under [its] the motion picture company's agreement with the office.

273 (h) Subject to Subsection (3), for a digital media company, the office shall:

274 (i) ensure the digital media project results in new state [~~revenue~~] revenues; and

275 (ii) based upon review of new state [~~revenue~~] revenues, determine the amount of the

276 incentive that a digital media company is entitled to under [its] the digital media company's
277 agreement with the office.

278 (i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office
279 shall pay the incentive from the restricted account to the motion picture company,
280 notwithstanding Subsections 51-5-3(23)(b) and 63J-1-105(6).

281 (j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or
282 59-10-1108, the office shall:

283 (i) issue a tax credit certificate to the motion picture company or digital media
284 company; and

285 (ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

286 (k) A motion picture company or digital media company may not claim a motion
287 picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company
288 or digital media company has received a tax credit certificate for the claim issued by the office
289 under Subsection (2)(j)(i).

290 (l) A motion picture company or digital media company may claim a motion picture
291 tax credit on [its] the motion picture company's or the digital media company's tax return for
292 the amount listed on the tax credit certificate issued by the office.

293 (m) A motion picture company or digital media company that claims a tax credit under
294 Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in
295 accordance with Subsection 63N-8-104(6).

296 (3) (a) Subject to Subsection (3)(b), the office may issue \$6,793,700 in tax credit
297 certificates under this part in a fiscal year.

298 (b) If the office does not issue tax credit certificates in a fiscal year totaling the amount
299 authorized under Subsection (3)(a), [it] the office may carry over that amount for issuance in
300 subsequent fiscal years.

301 Section 3. **Effective date.**

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

306 Section 4. **Retrospective operation.**

307 This bill has retrospective operation for a taxable year beginning on or after January 1,
308 2019.