# INCENTIVES FOR OIL PRODUCTION

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kevin T. Van Tassell**

House Sponsor: ____________

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**LONG TITLE**

**General Description:**

This bill addresses a nonrefundable severance tax credit.

**Highlighted Provisions:**

This bill:

- ▸ addresses a nonrefundable severance tax credit for a working interest owner who pays for all or part of the expenses of a recompletion or workover;
- ▸ provides a repeal date related to the severance tax credit;
- ▸ deletes obsolete language; and
- ▸ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**59-5-102**, as last amended by Laws of Utah 2013, Chapter 310

**63I-2-259**, as last amended by Laws of Utah 2014, Chapter 256

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

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

S.B. 224

**59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Tax credit -- Tax rate reduction.**

(1) (a) Subject to Subsection (1)(b), a person owning an interest in oil or gas produced from a well in the state, including a working interest, royalty interest, payment out of production, or any other interest, or in the proceeds of the production of oil or gas, shall pay to the state a severance tax on the basis of the value determined under Section 59-5-103.1 of the oil or gas:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the substance was produced.

(b) This section applies to an interest in oil or gas produced from a well in the state or in the proceeds of the production of oil or gas produced from a well in the state except for:

(i) an interest of the United States in oil or gas or in the proceeds of the production of oil or gas;

(ii) an interest of the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil or gas; or

(iii) an interest of an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the proceeds of the production of oil or gas produced from land under the jurisdiction of the United States.

(2) (a) [~~Subject to Subsection (2)(d), the~~] The severance tax rate for oil is as follows:

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

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

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

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

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

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

[~~(d) (i) On or before December 15, 2004, the Office of the Legislative Fiscal Analyst~~

~~and the Governor's Office of Management and Budget shall prepare a revenue forecast estimating the amount of revenues that:~~]

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

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

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

[~~(A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is less than the amount of revenues estimated under Subsection (2)(d)(i)(A); or~~]

[~~(B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is greater than the amount of revenues estimated under Subsection (2)(d)(i)(A).~~]

[~~(iii) For purposes of Subsection (2)(d)(ii):~~]

[~~(A) subject to Subsection (2)(d)(iv)(B):~~]

[~~(I) if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax rates shall be by the amount necessary to generate for the calendar year beginning on January 1, 2005 revenues equal to the amount by which the revenues estimated under Subsection (2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or~~]

[~~(II) if a decrease is required under Subsection (2)(d)(ii)(B), the total decrease in the tax rates shall be by the amount necessary to reduce for the calendar year beginning on January 1, 2005 revenues equal to the amount by which the revenues estimated under Subsection (2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and~~]

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

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

[~~(B) If the tax rates described in Subsections (2)(a) through (c) are increased or decreased as provided in this Subsection (2)(d), the commission shall mail a notice to each~~

~~person required to file a return under this part stating the tax rate in effect on January 1, 2005 as a result of the increase or decrease.~~]

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

(a) the shipment constitutes a sale; and

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

(4) (a) Except as provided in Subsection (4)(b), if the oil or gas is stockpiled, the tax is not imposed until the oil or gas is:

(i) sold;

(ii) transported; or

(iii) delivered.

(b) Notwithstanding Subsection (4)(a), if oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this section.

(5) A tax is not imposed under this section upon:

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

(b) the first 12 months of production for wildcat wells started after January 1, 1990; or

(c) the first six months of production for development wells started after January 1, 1990.

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

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

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

(b) (i) Notwithstanding Subsection (6)(a) and subject to Subsections (6)(b)(ii) and (iii), beginning on January 1, 2015, and ending on December 31, 2016, a working interest owner who pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal to 40% of the amount paid.

<u>(ii) The tax credit under Subsection (6)(b)(i) for each recompletion or workover may not exceed $750,000 per well during each calendar year.</u>

<u>(iii) If any amount of tax credit a taxpayer is allowed under this Subsection (6)(b) exceeds the taxpayer's tax liability under this part for the calendar year for which the taxpayer claims the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the calendar year may be carried forward for the next three calendar years.</u>

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

(8) The taxes imposed by this section are:

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

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

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field.

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

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

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

[~~(12) (a) The Revenue and Taxation Interim Committee shall review the applicability of the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology on or before the October 2011 interim meeting.~~]

[~~(b) The Revenue and Taxation Interim Committee shall address in its review the cost and benefit of not applying the tax provided for in this chapter to coal-to-liquids, oil shale, and~~

~~tar sands technology.~~] [~~(c) The Revenue and Taxation Interim Committee shall report its findings and recommendations under this Subsection (12) to the Legislative Management Committee on or before the November 2011 interim meeting.~~]

Section 2. Section **63I-2-259** is amended to read:

**63I-2-259. Repeal dates -- Title 59.**

(1) Subsection 59-2-919(10) is repealed December 31, 2015.

(2) Subsection 59-2-919.1(4) is repealed December 31, 2015.

(3) Subsection 59-5-102(6)(b) is repealed on December 31, 2016.

Section 3. **Retrospective operation.**

This bill has retrospective operation to January 1, 2015.

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**Legislative Review Note**
**as of 2-17-15 4:38 PM**

**Office of Legislative Research and General Counsel**