

- 28 (1) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.
- 29 (2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 30 (3) "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally
- 31 in the gaseous phase in the reservoir that are separated from the natural gas as liquids through
- 32 the process of condensation either in the reservoir, in the wellbore, or at the surface in field
- 33 separators.
- 34 (4) "Crude oil" means those hydrocarbons, regardless of gravity, that occur naturally in
- 35 the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.
- 36 (5) "Development well" means any oil and gas producing well other than a wildcat
- 37 well.
- 38 (6) "Division" means the Division of Oil, Gas, and Mining established under Title 40,
- 39 Chapter 6.
- 40 (7) "Enhanced recovery project" means:
- 41 (a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a
- 42 reservoir for the purpose of:
- 43 (i) augmenting reservoir energy;
- 44 (ii) modifying the properties of the fluids or gases in a reservoir; or
- 45 (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and
- 46 gas through the joint use of two or more well bores; and
- 47 (b) a project initially approved by the board as a new or expanded enhanced recovery
- 48 project on or after January 1, 1996.
- 49 (8) (a) "Gas" means:
- 50 (i) natural gas;
- 51 (ii) natural gas liquids; or
- 52 (iii) any mixture of natural gas and natural gas liquids.
- 53 (b) "Gas" does not include solid hydrocarbons.
- 54 (9) "Incremental production" means that part of production, certified by the Division of
- 55 Oil, Gas, and Mining, which is achieved from an enhanced recovery project that would not
- 56 have economically occurred under the reservoir conditions existing before the project and that
- 57 has been approved by the division as incremental production.
- 58 (10) "Natural gas" means those hydrocarbons, other than oil and other than natural gas

59 liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and
60 are produced and recovered at the wellhead in gaseous form.

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

64 (12) (a) "Oil" means:

65 (i) crude oil;

66 (ii) condensate; or

67 (iii) any mixture of crude oil and condensate.

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

69 (13) "Oil or gas field" means a geographical area overlying oil or gas structures. The
70 boundaries of oil or gas fields shall conform with the boundaries as fixed by the Board and
71 Division of Oil, Gas, and Mining under Title 40, Chapter 6, Board and Division of Oil, Gas,
72 and Mining.

73 (14) "Oil shale" means a group of fine black to dark brown shales containing
74 bituminous material that yields petroleum upon distillation.

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

77 (a) a working interest owner;

78 (b) an independent contractor; or

79 (c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the
80 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
81 Rulemaking Act.

82 (16) "Owner" means any person having a working interest, royalty interest, payment
83 out of production, or any other interest in the oil or gas produced or extracted from an oil or gas
84 well in the state, or in the proceeds of this production.

85 (17) (a) Subject to Subsections (17)(b) and (c), "processing costs" means the
86 reasonable actual costs of processing oil or gas to remove:

87 (i) natural gas liquids; or

88 (ii) contaminants.

89 (b) If processing costs are determined on the basis of an arm's-length contract,

90 processing costs are the actual costs.

91 (c) (i) If processing costs are determined on a basis other than an arm's-length contract,
92 processing costs are those reasonable costs associated with:

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

95 (B) overhead directly attributable and allocable to the operation and maintenance; and

96 (C) (I) depreciation and a return on undepreciated capital investment; or

97 (II) a cost equal to a return on the investment in the processing facilities as determined
98 by the commission.

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

101 (18) "Producer" means any working interest owner in any lands in any oil or gas field
102 from which gas or oil is produced.

103 (19) "Recompletion" means any downhole operation that is:

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

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

107 (20) "Research and development" means the process of inquiry or experimentation
108 aimed at the discovery of facts, devices, technologies, or applications and the process of
109 preparing those devices, technologies, or applications for marketing.

110 (21) "Royalty interest owner" means the owner of an interest in oil or gas, or in the
111 proceeds of production from the oil or gas who does not have the obligation to share in the
112 expenses of developing and operating the property.

113 (22) "Solid hydrocarbons" means:

114 (a) coal;

115 (b) gilsonite;

116 (c) ozocerite;

117 (d) elaterite;

118 (e) oil shale;

119 (f) tar sands; and

120 (g) all other hydrocarbon substances that occur naturally in solid form.

121 (23) "Stripper well" means:

122 (a) an oil well whose average daily production for the days the well has produced has
123 been [20] 10 barrels or less of crude oil a day during any consecutive 12-month period; or

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

126 (24) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
127 and require further processing other than mechanical blending before becoming finished
128 petroleum products.

129 (25) (a) Subject to Subsections (25)(b) and (c), "transportation costs" means the
130 reasonable actual costs of transporting oil or gas products from the well to the point of sale.

131 (b) If transportation costs are determined on the basis of an arm's-length contract,
132 transportation costs are the actual costs.

133 (c) (i) If transportation costs are determined on a basis other than an arm's-length
134 contract, transportation costs are those reasonable costs associated with:

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

137 (B) overhead costs directly attributable and allocable to the operation and maintenance;
138 and

139 (C) depreciation and a return on undepreciated capital investment.

140 (ii) Subsection (25)(c)(i) includes situations where the producer performs the
141 transportation for the producer's product.

142 (d) Regardless of whether transportation costs are determined on the basis of an
143 arm's-length contract or a basis other than an arm's-length contract, transportation costs
144 include:

145 (i) carbon dioxide removal;

146 (ii) compression;

147 (iii) dehydration;

148 (iv) gathering;

149 (v) separating;

150 (vi) treating; or

151 (vii) a process similar to Subsections (25)(d)(i) through (vi), as determined by the

152 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
153 Rulemaking Act.

154 (26) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

155 (27) "Well or wells" means any extractive means from which oil or gas is produced or
156 extracted, located within an oil or gas field, and operated by one person.

157 (28) "Wildcat well" means an oil and gas producing well which is drilled and
158 completed in a pool, as defined under Section 40-6-2, in which a well has not been previously
159 completed as a well capable of producing in commercial quantities.

160 (29) "Working interest owner" means the owner of an interest in oil or gas burdened
161 with a share of the expenses of developing and operating the property.

162 (30) (a) "Workover" means any downhole operation that is:

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

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

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

168 Section 2. Section **59-5-102** is amended to read:

169 **59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Tax credit**
170 **-- Tax rate reduction -- Study by Tax Review Commission.**

171 (1) Each person owning an interest, working interest, royalty interest, payments out of
172 production, or any other interest, in oil or gas produced from a well in the state, or in the
173 proceeds of the production, shall pay to the state a severance tax on the basis of the value
174 determined under Section 59-5-103.1 of the oil or gas:

175 (a) produced; and

176 (b) (i) saved;

177 (ii) sold; or

178 (iii) transported from the field where the substance was produced.

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

180 (i) ~~3% of the value of the oil up to and including the first \$13 per barrel for oil; and (ii) 5% of~~
181 the value of the oil [~~from \$13.01 and above per barrel for oil~~].

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

183 follows: (i) ~~3%~~ of the value of the natural gas up to and including the first \$1.50 per MCF for
184 gas; and (ii) ~~5%~~ of the value of the natural gas [from \$1.51 and above per MCF for gas].

185 (c) [~~Subject to Subsection (2)(d), the~~] The severance tax rate for natural gas liquids is
186 [~~4%~~] 5% of the value of the natural gas liquids.

187 [~~(d) (i) On or before December 15, 2004, the Office of the Legislative Fiscal Analyst~~
188 and the Governor's Office of Planning and Budget shall prepare a revenue forecast estimating
189 the amount of revenues that:]

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

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

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

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

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

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

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

204 [(F) ~~if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax~~
205 rates shall be by the amount necessary to generate for the calendar year beginning on January 1,
206 2005 revenues equal to the amount by which the revenues estimated under Subsection
207 (2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or]

208 [(H) ~~if a decrease is required under Subsection (2)(d)(ii)(B), the total decrease in the~~
209 tax rates shall be by the amount necessary to reduce for the calendar year beginning on January
210 1, 2005 revenues equal to the amount by which the revenues estimated under Subsection
211 (2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and]

212 [(B) ~~an increase or decrease in each tax rate under Subsection (2)(d)(ii) shall be in~~
213 proportion to the amount of revenues generated by each tax rate under this part for the calendar

214 year beginning on January 1, 2003.]

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

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

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

222 (a) the shipment constitutes a sale; and

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

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

226 (i) sold;

227 (ii) transported; or

228 (iii) delivered.

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

231 (5) ~~[A] The following are exempt from a tax [is not] imposed under this section~~
232 ~~[upon]:~~

233 (a) a stripper ~~[wells] well~~, unless:

234 (i) the exemption prevents the severance tax from being treated as a deduction for
235 federal tax purposes; or

236 (ii) (A) for an oil stripper well, the average crude oil price for the prior calendar year as
237 reported by the United States Department of Energy is greater than or equal to \$40 per barrel;
238 or

239 (B) for a gas stripper well, the average wellhead price for the prior calendar year as
240 reported by the United States Department of Energy is greater than or equal to \$1.50 per
241 thousand cubic feet;

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

243 (c) the first six months of production for development wells started after January 1,
244 1990.

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

248 (b) The tax credit under Subsection (6)(a) for each recompletion or workover may not
249 exceed \$30,000 per well during each calendar year.

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

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

256 (8) The taxes imposed by this section are:

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

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

260 (i) produced; and

261 (ii) (A) saved;

262 (B) sold; or

263 (C) transported from the field.

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

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

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

274 (12) (a) The Utah Tax Review Commission shall review the applicability of the tax
275 provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology on or before

276 the October 2011 interim meeting.

277 (b) The Utah Tax Review Commission shall address in its review the cost and benefit
278 of not applying the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands
279 technology.

280 (c) The Utah Tax Review Commission shall report its findings and recommendations
281 under this Subsection (12) to the Revenue and Taxation Interim Committee on or before the
282 November 2011 interim meeting.

283 Section 3. **Effective date.**

284 This bill takes effect January 1, 2012.

Legislative Review Note
as of 2-2-11 11:31 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 112

SHORT TITLE: **Severance Tax Code Revisions**

SPONSOR: **King, B.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill could increase the General Fund by \$11,282,000 in FY 2012 and by \$26,500,000 in FY 2013.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
General Fund	\$0	\$11,282,000	\$26,500,000
Total Revenue	\$0	\$11,282,000	\$26,500,000
Expenditure			
	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	\$11,282,000	\$26,500,000
Net Impact, General/Education Funds	\$0	\$11,282,000	\$26,500,000

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill could increase the net costs to businesses involved in mining exploration and production by \$11,282,000 in FY 2012 and by \$26,500,000 in FY 2013. Actual impact on businesses will depend on the number of workover wells and total number of wells from which businesses are producing.