

# House Bill 2804

Sponsored by COMMITTEE ON ENERGY AND ENVIRONMENT

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates severance tax on minerals, applicable to gold and uranium oxide, computed on gross value at mine or other point of extraction.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to taxation of extractive resources; creating new provisions; amending ORS 324.050,  
3 324.070, 324.090, 324.110, 324.120, 324.130, 324.140, 324.240, 324.310, 324.340, 324.510 and 324.520;  
4 prescribing an effective date; and providing for revenue raising that requires approval by a  
5 three-fifths majority.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1.** ORS 324.050 is amended to read:

8 324.050. As used in this chapter, unless the context requires otherwise:

9 (1) "Department" means the Department of Revenue.

10 (2) "Gas" means natural gas and casinghead gas.

11 (3)(a) **"Gross production" means the total volume of:**

12 (A) **Oil or gas extracted from a well, including oil or gas extracted but not sold.**

13 (B) **Minerals extracted from a mine or from the earth by any process, including minerals**  
14 **extracted but not sold.**

15 (b) **"Gross production" does not include the extraction from a well of any oil or gas re-**  
16 **injected into the well for storage.**

17 [(3)] (4) [*"Gross value" or*] **"Gross sales value" or "gross value"** means the actual cash price  
18 prevailing for [*oil or gas*] **a taxable extractive resource** of the kind, character and quality of the  
19 [*oil or gas*] **extractive resource** subject to [*the*] **a tax** imposed under this chapter at the time [*such*  
20 *oil or gas*] **the taxable extractive resource** is produced, as determined by the department.

21 [(4)] *"Gross production" means the total volume of oil or gas extracted from a well, including oil*  
22 *or gas extracted but not sold. "Gross production" does not include the extraction from a well of any*  
23 *oil or gas reinjected therein for storage.]*

24 (5) **"Mineral" means a naturally occurring inorganic substance. A mineral may be me-**  
25 **tallic or nonmetallic.**

26 [(5)] *"Produced and saved" means extracted and sold, extracted and used or extracted and retained*  
27 *for later sale or use.]*

28 (6) "Oil" means petroleum, crude oil, mineral oil and casinghead gas.

29 (7) "Person" includes **a** partnership, corporation, association, fiduciary, trustee and any combi-  
30 nation of individuals.

31 (8) **"Produced and saved" means extracted and sold, extracted and used or extracted and**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 **retained for later sale or use.**

2 [(8)] (9) “Quarter” and “quarterly” [mean] **refer to** calendar quarters.

3 (10) **“Taxable extractive resource” means oil, gas and minerals subject to taxation under**  
4 **this chapter.**

5 **SECTION 2.** ORS 324.070 is amended to read:

6 324.070. (1) A [privilege] **severance** tax of six percent of the gross value at the well is levied  
7 upon the production of oil and gas within the State of Oregon. The gross value at the well shall be  
8 reduced by the value of any part [thereof,] **of the gross value** the ownership or right to which is  
9 exempt from taxation.

10 (2) The tax [levied] shall be [measured by] **computed on** the value of [the whole production] **all**  
11 **oil and gas extracted**, including what is commonly known as the royalty interest.

12 **SECTION 3.** Section 4 of this 2013 Act is added to and made a part of ORS chapter 324.

13 **SECTION 4.** (1)(a) A **severance tax of one-tenth of one percent of the gross value at the**  
14 **mine or other point of extraction is levied upon the production within the State of Oregon**  
15 **of minerals listed in subsection (2) of this section. The gross value at the mine or other point**  
16 **of extraction shall be reduced by the value of any part of the gross value the ownership or**  
17 **right to which is exempt from taxation.**

18 (b) **The tax shall be computed on the value of all minerals extracted, including what is**  
19 **commonly known as the royalty interest.**

20 (2) **The following minerals are subject to the severance tax imposed under this section:**

21 (a) **Gold.**

22 (b) **Uranium oxide.**

23 **SECTION 5.** ORS 324.090 is amended to read:

24 324.090. (1) Any royalty or other interest in [oil or gas] **a taxable extractive resource** owned  
25 by the state, counties, cities, towns, school districts or other municipal corporations or political  
26 subdivisions, is exempt from [the gross production tax imposed by ORS 324.070] **taxation under this**  
27 **chapter.**

28 (2) There shall be allowed as a credit against taxes imposed [by] **under** this chapter all ad  
29 valorem taxes imposed by the state, counties, cities, towns, school districts and other municipal  
30 corporations and political subdivisions upon any property rights attached to or inherent in the right  
31 to produce [oil and gas] **taxable extractive resources**, upon producing [oil and gas] **taxable**  
32 **extractive resource** leases, upon machinery, appliances and equipment used in and around any  
33 well, **mine or other point of extraction** producing [oil or gas] **a taxable extractive resource** and  
34 actually used in the operation of the well, **mine or other point of extraction**, upon [oil and gas]  
35 **taxable extractive resources** produced in the state and upon any investment in any property  
36 [mentioned or] described in this subsection.

37 **SECTION 6.** ORS 324.110 is amended to read:

38 324.110. (1) [The gross production tax on oil or gas] **A tax** imposed [by] **under** this chapter shall  
39 be paid on a quarterly basis. The tax shall become due on the 45th day following the preceding  
40 quarterly period on all [oil or gas] **taxable extractive resources** produced in and saved during the  
41 preceding quarterly period, and, if the tax is not paid on or before the end of the 45th day, it shall  
42 become delinquent and shall be collected as provided in this chapter. The Department of Revenue,  
43 upon request and a proper showing of [the] necessity [therefor], may grant an extension of time, not  
44 to exceed 30 days, for paying the tax and when such a request is granted the tax shall not be de-  
45 linquent until the [extended] **extension** period has expired.

1 (2) *[On oil or gas]* **With respect to taxable extractive resources** sold at the time of pro-  
 2 duction, the *[gross production]* tax shall be paid by the purchaser, and the purchaser *[shall and is*  
 3 *authorized to deduct]*, in making settlements with the producer or royalty owner, **may deduct** the  
 4 amount of tax *[so]* paid.

5 (3) *[In the event oil]* **If a taxable extractive resource** on which the *[gross production]* tax be-  
 6 comes due is not sold at the time of production but is retained or used by the producer, the tax on  
 7 the *[oil]* **taxable extractive resource** not *[so]* sold shall be paid by the producer, including the tax  
 8 due on *[royalty oil]* **the taxable extractive resource subject to royalty that is** not sold. In  
 9 settlement with the royalty owner, the producer shall have the right to deduct the amount of the  
 10 tax *[so]* paid on **the taxable extractive resource subject to** royalty *[oil]* or to deduct *[royalty oil]*  
 11 **the** equivalent in value at the time the tax becomes due with the amount of the tax paid.

12 *[(3)]* (4) The amount of gas produced and used for fuel or otherwise used in the operation of any  
 13 lease or premises in the drilling for or production of oil or gas, or for repressuring, shall not be  
 14 considered for the purpose of this chapter as gas actually produced and saved.

15 *[(4)]* (5) When *[oil or gas]* **a taxable extractive resource** is sold at a sale price that does not  
 16 represent the cash price prevailing for *[oil or gas]* **extractive resources** of like kind, character  
 17 *[or]* **and** quality *[in the field]* **at the well, mine or other point of extraction** from which *[such]* **the**  
 18 product is produced, the department may require the tax to be paid upon the basis of the prevailing  
 19 cash price *[then]* being paid at the time of production *[in the field for oil, or gas]* **at the well, mine**  
 20 **or other point of extraction for extractive resources** of like kind, *[quality and]* character **and**  
 21 **quality**.

22 **SECTION 7.** ORS 324.120 is amended to read:

23 324.120. (1) *[The]* **A** tax imposed *[by]* **under** this chapter shall be paid to the Department of Re-  
 24 venue and the person paying the tax shall file with the department at the time the tax is required  
 25 to be paid, a statement, under oath, on forms prescribed by the department, giving, with other in-  
 26 formation required, the following:

27 (a) Full description of the property by lease name, subdivision of quarter section, section,  
 28 township and range from which the *[oil or gas]* **taxable extractive resource** was produced;

29 (b) The name of the producer;

30 (c) The gross amount of the *[oil or gas]* **taxable extractive resource** purchased;

31 (d) The total value of the *[oil or gas]* **taxable extractive resource** at the price paid, if pur-  
 32 chased at time of production;

33 (e) The formation from which the *[oil or gas]* **taxable extractive resource** is produced; and

34 (f) The prevailing market price of *[oil or gas]* **the taxable extractive resource** sold at time of  
 35 production.

36 (2) If a purchaser of *[oil or gas]* **the taxable extractive resource** pays the tax, the producer  
 37 of the *[oil or gas]* **taxable extractive resource** for which the tax is being paid shall make available  
 38 to the purchaser all information required under subsection (1) of this section. In lieu of the state-  
 39 ment, a purchaser, at time of production, may furnish a true verified copy of the regular settlement  
 40 sheet in use by such purchaser, if the sheet contains all the information required.

41 **SECTION 8.** ORS 324.130 is amended to read:

42 324.130. (1) Any person engaged in the production within this state of *[oil or gas]* **a taxable**  
 43 **extractive resource** shall, on or before the 45th day following the preceding quarterly period, file  
 44 with the Department of Revenue a statement under oath, upon forms prescribed by the department,  
 45 giving, along with other information required, the following:

1 (a) *[The name]* **Full description** of the property *[and the description]* by **lease name**, subdivision  
 2 of quarter section, section, township and range **from which the taxable extractive resource was**  
 3 **produced;**

4 (b) The gross amount of *[oil or gas]* **the taxable extractive resource** produced and saved;

5 (c) The name of the purchaser and the price paid by the purchaser; and

6 (d) The formation from which the *[oil or gas]* **taxable extractive resource** is produced.

7 (2) Each report required *[by]* **under** this section shall be filed on separate forms as to product  
 8 and county.

9 **SECTION 9.** ORS 324.140 is amended to read:

10 324.140. (1) Reports required under ORS 324.120 and 324.130 from either the purchaser or  
 11 producer<sup>1</sup>*[, as the case may be, shall be]* **are** delinquent after the last day fixed for filing, and every  
 12 person required to file a report shall be subject to penalty of \$25 per day for each property upon  
 13 which the person fails or refuses to file a report. The penalties prescribed *[by]* **under** this section  
 14 shall be for failure to file reports and shall be in addition to the interest and penalty imposed for  
 15 delinquent tax, and shall likewise constitute a lien against the assets of the person failing or refus-  
 16 ing to file a report. The penalties prescribed under this section shall be collected in the same man-  
 17 ner as *[gross production]* **the taxes imposed under this chapter** and shall be deposited in the  
 18 suspense account referred to in ORS 324.340.

19 (2) When royalty is claimed to be exempt from taxation by law, the facts on which claims of  
 20 exemption are based and other information as the Department of Revenue may require shall be  
 21 furnished in the report.

22 **SECTION 10.** ORS 324.240 is amended to read:

23 324.240. When *[oil or gas]* **a taxable extractive resource** subject to *[gross production]* tax under  
 24 this chapter is in litigation or dispute involving ownership of the *[oil or gas]* **taxable extractive**  
 25 **resource**, and the *[oil or gas]* **taxable extractive resource** is sold, the *[usual gross production tax,*  
 26 *as provided by law,]* **taxes imposed under this chapter** shall be paid from the proceeds or funds  
 27 in the hands of the purchaser of the *[oil or gas]* **taxable extractive resource** and in lieu of payment  
 28 for the production, to the extent of the tax. The receipt of the Department of Revenue therefor shall  
 29 be accepted in lieu of money in settlement of the purchase price of the production. If *[oil or gas]* **a**  
 30 **taxable extractive resource** is assigned as security for debt or otherwise, the tax shall be likewise  
 31 paid by the assignee, and the tax shall constitute a lien upon the interest assigned, which shall be  
 32 paramount to the indebtedness for which the assignment is made, and if the tax becomes delinquent,  
 33 the usual penalty shall apply.

34 **SECTION 11.** ORS 324.310 is amended to read:

35 324.310. The Department of Revenue may:

36 (1) Require any producer of *[oil or gas]* **a taxable extractive resource**, purchaser of *[oil or*  
 37 *gas]* **a taxable extractive resource**, agent or employee of any producer or purchaser or the owner  
 38 of any royalty interest in *[oil or gas]* **a taxable extractive resource** to furnish any additional in-  
 39 formation considered by the department to be necessary for the purpose of correctly computing the  
 40 amount of tax imposed *[by]* **under** this chapter;

41 (2) Examine the books, records and files of any producer, purchaser or royalty owner;

42 (3) Administer oaths and compel the attendance of witnesses and the production of books, re-  
 43 cords and papers of any person by subpoena; and

44 (4) Make any investigation considered necessary to a full and complete determination as to the  
 45 amount of production from any *[oil or gas]* **taxable extractive resource** location, or of any producer

1 of *oil or gas* a **taxable extractive resource**, and as to the correct determination of taxes due un-  
 2 der this chapter.

3 **SECTION 12.** ORS 324.340 is amended to read:

4 324.340. (1) The revenues derived from the *[tax]* **taxes** imposed *[by]* **under** this chapter, including  
 5 interest and penalties, shall be deposited in a suspense account created pursuant to ORS 293.445.  
 6 After payment of refunds and the expenses of the Department of Revenue incurred in the adminis-  
 7 tration of this chapter, the remaining revenues shall be paid into the Common School Fund and are  
 8 continuously appropriated to the Department of State Lands for the purposes for which other mon-  
 9 eys in the Common School Fund may be used.

10 (2) The amount of moneys necessary to pay refunds and expenses of the Department of Revenue  
 11 incurred in the administration of this chapter are continuously appropriated to the Department of  
 12 Revenue from the suspense account referred to in subsection (1) of this section.

13 **SECTION 13.** ORS 324.510 is amended to read:

14 324.510. All statements or settlement sheets for *oil or gas* **taxable extractive resources** shall  
 15 have stamped or written thereon the following words: “[*Gross production*] **Severance** tax deducted  
 16 and paid, and payee accepts such deduction and authorizes payment to the State of Oregon.”

17 **SECTION 14.** ORS 324.520 is amended to read:

18 324.520. (1) It shall be the duty of every person engaged in the production of *oil and gas* **tax-**  
 19 **able extractive resources** in this state to furnish to the Department of Revenue, upon forms pre-  
 20 scribed by the department, any and all information relative to the production of *oil or gas* a  
 21 **taxable extractive resource** subject to *[gross production]* **the severance** tax that may be required  
 22 to properly enforce the provisions of this chapter. The department may require any person to install  
 23 suitable measuring devices to enable the person to include in the reports the quantity of *oil or gas*  
 24 *produced* **taxable extractive resources produced by the person** in the State of Oregon.

25 (2) It shall be the duty of every person engaged in *[the operation of a refinery for the processing*  
 26 *of oil or gas]* **refining or otherwise processing a taxable extractive resource** in the State of  
 27 Oregon to furnish quarterly to the department, upon forms prescribed by the department, any and  
 28 all information relative to the amount of *oil or gas* **taxable extractive resources** subject to *[gross*  
 29 *production]* **the severance** tax that has been **refined or otherwise** processed by *[it]* **the person**  
 30 during the quarterly period, and *oil* **the amount of taxable extractive resources** on hand at the  
 31 close of the period, that may be required to properly enforce the provisions of this chapter.

32 (3) It shall be the duty of every person engaged in the purchase or storing of *oil* **taxable**  
 33 **extractive resources** subject to *[gross production]* **the severance** tax in the State of Oregon to  
 34 furnish quarterly a report to the department, upon forms prescribed by the department, showing the  
 35 amount of *oil* **taxable extractive resources** in storage, giving, along with other information re-  
 36 quired, the location, identity, character and capacity of the storage receptacle in which the *oil*  
 37 **taxable extractive resource** is stored.

38 (4) All reports required under this section, shall be filed for each quarter and shall be delinquent  
 39 if not filed on or before the 45th day following the preceding quarterly period. The failure of any  
 40 person to comply with the provisions of this section shall make the person liable to a penalty of \$25  
 41 for each day the person fails or refuses to furnish a statement or comply with the provisions of this  
 42 chapter. The penalty may be recovered at the suit of the state, on relation of the department. Any  
 43 penalty so collected shall be deposited in the suspense account referred to in ORS 324.340.

44 **SECTION 15.** Section 16 of this 2013 Act is added to and made a part of ORS chapter 324.

45 **SECTION 16.** (1)(a) A person may not extract or cause to be extracted any taxable

1 extractive resource from land in this state unless the person first notifies the State De-  
2 partment of Geology and Mineral Industries in writing, with a copy to the Department of  
3 Revenue, of the intent to extract a taxable extractive resource.

4 (b) The notice required under this subsection must:

5 (A) Be on forms prepared by the State Department of Geology and Mineral Industries  
6 and the Department of Revenue;

7 (B) Specify the kind of taxable extractive resource to be extracted, where and when the  
8 extraction will take place and the method of extraction; and

9 (C) Include maps and other information as required by the State Department of Geology  
10 and Mineral Industries and the Department of Revenue.

11 (2) The Department of Revenue shall conduct field and office audits to determine the  
12 accuracy of notices required under this section.

13 (3)(a) If a person fails to file a written notice required under subsection (1) of this section  
14 with respect to any extraction of a taxable extractive resource, the Department of Revenue  
15 shall notify the person of the failure.

16 (b) If, after the person has been notified under paragraph (a) of this subsection, the  
17 person fails to file a written notice with respect to any subsequent extraction of a taxable  
18 extractive resource, there shall be added to the amount of the severance tax payable by the  
19 person as a result of the subsequent extraction a delinquency penalty of \$250 for each vio-  
20 lation occurring within a calendar year.

21 (c) The Department of Revenue shall collect the penalty in the same manner as the  
22 severance taxes imposed under this chapter are collected.

23 (4) The Department of Revenue may adopt rules under this section, including rules that  
24 index the penalty amount under subsection (3) of this section.

25 **SECTION 17.** Sections 4 and 16 of this 2013 Act and the amendments to ORS 324.050,  
26 324.070, 324.090, 324.110, 324.120, 324.130, 324.140, 324.240, 324.310, 324.340, 324.510 and 324.520  
27 by sections 1, 2 and 5 to 14 of this 2013 Act apply to taxable extractive resources extracted  
28 on or after the effective date of this 2013 Act.

29 **SECTION 18.** This 2013 Act takes effect on the 91st day after the date on which the 2013  
30 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.