

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 410, 582, 844 & 1086

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO TAXATION; PERMITTING AN INCOME TAX EXEMPTION FOR
LOW- AND MIDDLE-INCOME TAXPAYERS; EXTENDING A PHASE-IN OF
INCOME TAX RATE REDUCTIONS; PROVIDING INCOME TAX RELIEF TO
HEADS OF HOUSEHOLD; PROVIDING FOR AN INCOME TAX EXEMPTION FOR
CERTAIN MEDICAL CARE EXPENSES OF INDIVIDUALS SIXTY-FIVE YEARS
OF AGE OR OLDER; PROVIDING FOR A GROSS RECEIPTS TAX OR A
GOVERNMENTAL GROSS RECEIPTS TAX CREDIT FOR THE SALE OF SERVICES
FOR RESALE IN THE ORDINARY COURSE OF BUSINESS THAT ARE NOT
DEDUCTIBLE; RAISING THE PRIVILEGE TAX IMPOSED PURSUANT TO THE
OIL AND GAS EMERGENCY SCHOOL TAX ACT ON THE SEVERANCE OF OIL
AND CERTAIN OTHER HYDROCARBONS REMOVED FROM NATURAL GAS;
INCREASING THE OIL AND GAS SEVERANCE TAX FOR CERTAIN
TRANSACTIONS; REMOVING CERTAIN LIMITATIONS ON THE IMPOSITION OF
THE OIL AND GAS SEVERANCE TAX; PROVIDING FOR ADJUSTED
DISTRIBUTIONS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE

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1 NMSA 1978.

2
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

4 Section 1. A new section of the Tax Administration Act is
5 enacted to read:

6 "[NEW MATERIAL] DISTRIBUTION ADJUSTMENT--TAX
7 ADMINISTRATION SUSPENSE FUND--CREDIT FOR CERTAIN SALES OF
8 SERVICES FOR RESALE.--Distributions from the tax administration
9 suspense fund of revenue attributable to the gross receipts tax
10 or to the governmental gross receipts tax shall be adjusted for
11 credits issued pursuant to the Gross Receipts and Compensating
12 Tax Act for receipts from the sale of services for resale."

13 Section 2. Section 7-2-7 NMSA 1978 (being Laws 2003,
14 Chapter 2, Section 5) is amended to read:

15 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by
16 Section 7-2-3 NMSA 1978 shall be at the following rates for any
17 taxable year beginning in 2006:

18 A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000	\$ 384 plus [5.3%] <u>5.8%</u> of

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1 excess over \$ 12,000.

2 B. For heads of household, surviving spouses and
3 married individuals filing joint returns:

4	If the taxable income is:	The tax shall be:
5	Not over \$8,000	1.7% of taxable income
6	Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
7		excess over \$ 8,000
8	Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
9		excess over \$ 16,000
10	Over \$ 24,000	\$ 768 plus [5.3%] <u>5.8%</u> of
11		excess over \$ 24,000.

12 C. For single individuals and for estates and
13 trusts:

14	If the taxable income is:	The tax shall be:
15	Not over \$5,500	1.7% of taxable income
16	Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of
17		excess over \$ 5,500
18	Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of
19		excess over \$ 11,000
20	Over \$ 16,000	\$ 504.50 plus [5.3%] <u>5.8%</u> of
21		excess over \$ 16,000.

22 ~~[D. For heads of household filing returns:~~

23	If the taxable income is:	The tax shall be:
24	Not over \$7,000	1.7% of taxable income
25	Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of

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1 ~~excess over \$ 7,000~~
2 ~~Over \$ 14,000 but not over \$ 20,000 \$ 343 plus 4.7% of~~
3 ~~excess over \$ 14,000~~
4 ~~Over \$ 20,000 \$ 625 plus 5.3% of~~
5 ~~excess over \$ 20,000.~~

6 E.] D. The tax on the sum of any lump-sum amounts
7 included in net income is an amount equal to five multiplied by
8 the difference between:

9 (1) the amount of tax due on the taxpayer's
10 taxable income; and

11 (2) the amount of tax that would be due on an
12 amount equal to the taxpayer's taxable income and twenty
13 percent of the taxpayer's lump-sum amounts included in net
14 income."

15 Section 3. Section 7-2-7 NMSA 1978 (being Laws 2003,
16 Chapter 2, Section 6) is amended to read:

17 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by
18 Section 7-2-3 NMSA 1978 shall be at the following rates for any
19 taxable year beginning on or after January 1, 2007:

20 A. For married individuals filing separate returns:

21	If the taxable income is:	The tax shall be:
22	Not over \$4,000	1.7% of taxable income
23	Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of
24		excess over \$ 4,000
25	Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of

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1 excess over \$ 8,000
 2 Over \$ 12,000 \$ 384 plus [~~4.9%~~] 5.3% of
 3 excess over \$ 12,000.

4 B. For heads of household, surviving spouses and
 5 married individuals filing joint returns:

6	If the taxable income is:	The tax shall be:
7	Not over \$8,000	1.7% of taxable income
8	Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
9		excess over \$ 8,000
10	Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
11		excess over \$ 16,000
12	Over \$ 24,000	\$ 768 plus [4.9%] <u>5.3%</u> of
13		excess over \$ 24,000.

14 C. For single individuals and for estates and
 15 trusts:

16	If the taxable income is:	The tax shall be:
17	Not over \$5,500	1.7% of taxable income
18	Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of
19		excess over \$ 5,500
20	Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of
21		excess over \$ 11,000
22	Over \$ 16,000	\$ 504.50 plus [4.9%] <u>5.3%</u> of
23		excess over \$ 16,000.

24 [~~D. For heads of household filing returns:~~

25 ~~If the taxable income is: The tax shall be:~~

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1 ~~Not over \$7,000~~ ~~1.7% of taxable income~~
2 ~~Over \$ 7,000 but not over \$ 14,000~~ ~~\$ 119 plus 3.2% of~~
3 ~~excess over \$ 7,000~~
4 ~~Over \$ 14,000 but not over \$ 20,000~~ ~~\$ 343 plus 4.7% of~~
5 ~~excess over \$ 14,000~~
6 ~~Over \$ 20,000~~ ~~\$ 625 plus 4.9% of~~
7 ~~excess over \$ 20,000.~~

8 E.] D. The tax on the sum of any lump-sum amounts
9 included in net income is an amount equal to five multiplied by
10 the difference between:

11 (1) the amount of tax due on the taxpayer's
12 taxable income; and

13 (2) the amount of tax that would be due on an
14 amount equal to the taxpayer's taxable income and twenty
15 percent of the taxpayer's lump-sum amounts included in net
16 income."

17 Section 4. Section 7-2-7 NMSA 1978 (being Laws 2003,
18 Chapter 2, Section 6, as amended by Section 2 of this act if it
19 becomes law) is repealed and a new Section 7-2-7 NMSA 1978 is
20 enacted to read:

21 "7-2-7. [NEW MATERIAL] INDIVIDUAL INCOME TAX RATES.--The
22 tax imposed by Section 7-2-3 NMSA 1978 shall be at the
23 following rates for any taxable year beginning on or after
24 January 1, 2008:

25 A. For married individuals filing separate returns:

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1	If the taxable income is:	The tax shall be:
2	Not over \$4,000	1.7% of taxable income
3	Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of
4		excess over \$ 4,000
5	Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of
6		excess over \$ 8,000
7	Over \$ 12,000	\$ 384 plus 4.9% of
8		excess over \$ 12,000.

9 B. For heads of household, surviving spouses and
10 married individuals filing joint returns:

11	If the taxable income is:	The tax shall be:
12	Not over \$8,000	1.7% of taxable income
13	Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
14		excess over \$ 8,000
15	Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
16		excess over \$ 16,000
17	Over \$ 24,000	\$ 768 plus 4.9% of
18		excess over \$ 24,000.

19 C. For single individuals and for estates and
20 trusts:

21	If the taxable income is:	The tax shall be:
22	Not over \$5,500	1.7% of taxable income
23	Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of
24		excess over \$ 5,500
25	Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of

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1 excess over \$ 11,000
2 Over \$ 16,000 \$ 504.50 plus 4.9% of
3 excess over \$ 16,000.

4 D. The tax on the sum of any lump-sum amounts
5 included in net income is an amount equal to five multiplied by
6 the difference between:

7 (1) the amount of tax due on the taxpayer's
8 taxable income; and

9 (2) the amount of tax that would be due on an
10 amount equal to the taxpayer's taxable income and twenty
11 percent of the taxpayer's lump-sum amounts included in net
12 income."

13 Section 5. A new section of the Income Tax Act is enacted
14 to read:

15 "[NEW MATERIAL] EXEMPTION FOR LOW- AND MIDDLE-INCOME
16 TAXPAYERS.--

17 A. An individual may claim an exemption in an
18 amount specified in Subsections B through D of this section not
19 to exceed an amount equal to the number of federal exemptions
20 multiplied by three thousand dollars (\$3,000) of income
21 includable, except for this exemption, in net income.

22 Individuals having income both within and without this state
23 shall apportion this exemption in accordance with regulations
24 of the secretary.

25 B. For a married individual filing a separate

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1 return with adjusted gross income up to twenty-two thousand
2 dollars (\$22,000):

3 (1) if the adjusted gross income is not over
4 twelve thousand dollars (\$12,000), the amount of the exemption
5 pursuant to this section shall be three thousand dollars
6 (\$3,000) for each federal exemption; and

7 (2) if the adjusted gross income is over
8 twelve thousand dollars (\$12,000) but not over twenty-two
9 thousand dollars (\$22,000), the amount of the exemption
10 pursuant to this section for each federal exemption shall be
11 calculated as follows:

12 (a) three thousand dollars (\$3,000);
13 less

14 (b) thirty percent of the amount
15 obtained by subtracting twelve thousand dollars (\$12,000) from
16 the adjusted gross income.

17 C. For single individuals with adjusted gross
18 income up to twenty-nine thousand five hundred dollars
19 (\$29,500):

20 (1) if the adjusted gross income is not over
21 sixteen thousand dollars (\$16,000), the amount of the exemption
22 pursuant to this section shall be three thousand dollars
23 (\$3,000) for each federal exemption; and

24 (2) if the adjusted gross income is over
25 sixteen thousand dollars (\$16,000) but not over twenty-nine

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1 thousand five hundred dollars (\$29,500), the amount of the
2 exemption pursuant to this section for each federal exemption
3 shall be calculated as follows:

4 (a) three thousand dollars (\$3,000);
5 less

6 (b) twenty-two and one-half percent of
7 the amount obtained by subtracting sixteen thousand dollars
8 (\$16,000) from the adjusted gross income.

9 D. For married individuals filing joint returns,
10 surviving spouses or for heads of households with adjusted
11 gross income up to forty-four thousand dollars (\$44,000):

12 (1) if the adjusted gross income is not over
13 twenty-four thousand dollars (\$24,000), the amount of the
14 exemption pursuant to this section shall be three thousand
15 dollars (\$3,000) for each federal exemption; and

16 (2) if the adjusted gross income is over
17 twenty-four thousand dollars (\$24,000) but not over forty-four
18 thousand dollars (\$44,000), the amount of the exemption
19 pursuant to this section for each federal exemption shall be
20 calculated as follows:

21 (a) three thousand dollars (\$3,000);
22 less

23 (b) fifteen percent of the amount
24 obtained by subtracting twenty-four thousand dollars (\$24,000)
25 from the adjusted gross income.

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1 E. For the purposes of this section, "federal
2 exemption" means an exemption allowable for federal income tax
3 purposes for an individual included in the return who is
4 domiciled in New Mexico."

5 Section 6. A new section of the Income Tax Act is
6 enacted to read:

7 "[NEW MATERIAL] EXEMPTION--UNREIMBURSED OR UNCOMPENSATED
8 MEDICAL CARE EXPENSES OF INDIVIDUALS SIXTY-FIVE YEARS OF AGE OR
9 OLDER.--

10 A. Any individual sixty-five years of age or older
11 may claim an additional exemption from income includable,
12 except for this exemption, in net income in an amount equal to
13 three thousand dollars (\$3,000) for medical care expenses paid
14 by the individual for that individual or for the individual's
15 spouse or dependent during the taxable year if those medical
16 care expenses exceed twenty-eight thousand dollars (\$28,000)
17 and if the medical care expenses are not reimbursed or
18 compensated for by insurance or otherwise.

19 B. As used in this section:

20 (1) "dependent" means "dependent as" defined
21 in Section 152 of the Internal Revenue Code;

22 (2) "health care facility" means a hospital,
23 outpatient facility, diagnostic and treatment center,
24 rehabilitation center, freestanding hospice or other similar
25 facility at which medical care is provided;

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1 (3) "medical care" means the diagnosis, cure,
2 mitigation, treatment or prevention of disease or for the
3 purpose of affecting any structure or function of the body;

4 (4) "medical care expenses" means amounts
5 paid for:

6 (a) the diagnosis, cure, mitigation,
7 treatment or prevention of disease or for the purpose of
8 affecting any structure or function of the body if provided by
9 a physician or in a health care facility;

10 (b) prescribed drugs or insulin;

11 (c) qualified long-term care services as
12 defined in Section 7702B(c) of the Internal Revenue Code;

13 (d) insurance covering medical care,
14 including amounts paid as premiums under Part B of Title 18 of
15 the Social Security Act or for a qualified long-term care
16 insurance contract defined in Section 7702B(b) of the Internal
17 Revenue Code, if the insurance or other amount is paid from
18 income included in the taxpayer's adjusted gross income for the
19 taxable year;

20 (e) specialized treatment or the use of
21 special therapeutic devices if the treatment or device is
22 prescribed by a physician and the patient can show that the
23 expense was incurred primarily for the prevention or
24 alleviation of a physical or mental defect or illness; and

25 (f) care in an institution other than a

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1 hospital, such as a sanitarium or rest home, if the principal
2 reason for the presence of the person in the institution is to
3 receive the medical care available; provided that if the meals
4 and lodging are furnished as a necessary part of such care, the
5 cost of the meals and lodging are "medical care expenses";

6 (5) "physician" means a medical doctor,
7 osteopathic physician, dentist, podiatrist, chiropractic
8 physician or psychologist licensed or certified to practice in
9 New Mexico; and

10 (6) "prescribed drug" means a drug or
11 biological that requires a prescription of a physician for its
12 use by an individual."

13 Section 7. A new section of the Gross Receipts and
14 Compensating Tax Act is enacted to read:

15 "[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--GOVERNMENTAL
16 GROSS RECEIPTS TAX--CERTAIN SALES FOR RESALE.--

17 A. A taxpayer may claim a credit against gross
18 receipts tax or governmental gross receipts tax due for each
19 reporting period beginning after June 2005 in an amount equal
20 to ten percent of the receipts from selling a service for
21 resale multiplied by:

22 (1) three and seven hundred seventy-five
23 thousandths percent if the taxpayer's business location is
24 within a municipality; or

25 (2) five percent if the taxpayer's business

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1 location is in the unincorporated area of a county.

2 B. A taxpayer may claim a credit pursuant to
3 Subsection A of this section only if:

4 (1) the buyer resells the service in the
5 ordinary course of business;

6 (2) the resale is not subject to the gross
7 receipts tax or the governmental gross receipts tax; and

8 (3) the buyer delivers to the seller
9 documentation in a form prescribed by the department clarifying
10 that the service is purchased for resale in the ordinary course
11 of business.

12 C. A credit permitted pursuant to this section does
13 not apply to receipts from selling a service to a governmental
14 entity or to a person who is a prime contractor that operates a
15 facility in New Mexico designated as a national laboratory by
16 and act of congress."

17 Section 8. Section 7-29-4 NMSA 1978 (being Laws 1980,
18 Chapter 62, Section 5, as amended) is amended to read:

19 "7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--COLLECTION--
20 INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

21 A. There is imposed and shall be collected by the
22 department a tax on all products that are severed and sold,
23 except as provided in Subsection B of this section. The
24 measure of the tax and the rates are:

25 (1) on natural gas severed and sold, except
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1 as provided in Paragraphs (4), (6) and (7) of this subsection,
2 three and three-fourths percent of the taxable value determined
3 pursuant to Section 7-29-4.1 NMSA 1978;

4 (2) on oil and on other liquid hydrocarbons
5 removed from natural gas at or near the wellhead, except as
6 provided in Paragraphs (3), (5), (8) and (9) of this
7 subsection, three and three-fourths percent of taxable value
8 determined pursuant to Section 7-29-4.1 NMSA 1978;

9 (3) on oil and on other liquid hydrocarbons
10 removed from natural gas at or near the wellhead produced from
11 a qualified enhanced recovery project, one and seven-eighths
12 percent of the taxable value determined pursuant to Section
13 7-29-4.1 NMSA 1978, provided that the annual average price of
14 west Texas intermediate crude oil, determined by the department
15 by averaging the posted prices in effect on the last day of
16 each month of the twelve-month period ending on May 31 prior to
17 the fiscal year in which the tax rate is to be imposed, was
18 less than twenty-eight dollars (\$28.00) per barrel;

19 (4) on the natural gas from a well workover
20 project that is certified by the oil conservation division of
21 the energy, minerals and natural resources department in its
22 approval of the well workover project, [~~two and forty-five~~
23 ~~hundredths~~] two and seventy-five hundredths percent of the
24 taxable value determined pursuant to Section 7-29-4.1 NMSA 1978
25 [~~provided that the annual average price of west Texas~~

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1 ~~intermediate crude oil, determined by the department by~~
2 ~~averaging the posted prices in effect on the last day of each~~
3 ~~month of the twelve-month period ending on May 31 prior to the~~
4 ~~fiscal year in which the tax rate is to be imposed, was less~~
5 ~~than twenty-four dollars (\$24.00) per barrel];~~

6 (5) on the oil and on other liquid
7 hydrocarbons removed from natural gas at or near the wellhead
8 from a well workover project that is certified by the oil
9 conservation division of the energy, minerals and natural
10 resources department in its approval of the well workover
11 project, [~~two and forty-five hundredths~~] two and seventy-five
12 hundredths percent of the taxable value determined pursuant to
13 Section 7-29-4.1 NMSA 1978 [~~provided that the annual average~~
14 ~~price of west Texas intermediate crude oil, determined by the~~
15 ~~department by averaging the posted prices in effect on the last~~
16 ~~day of each month of the twelve-month period ending on May 31~~
17 ~~prior to the fiscal year in which the tax rate is to be~~
18 ~~imposed, was less than twenty-four dollars (\$24.00) per~~
19 ~~barrel];~~

20 (6) on the natural gas from a stripper well
21 property, one and seven-eighths percent of the taxable value
22 determined pursuant to Section 7-29-4.1 NMSA 1978, provided the
23 average annual taxable value of natural gas was equal to or
24 less than one dollar fifteen cents (\$1.15) per thousand cubic
25 feet in the calendar year preceding July 1 of the fiscal year

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1 in which the tax rate is to be imposed;

2 (7) on the natural gas from a stripper well
3 property, two and thirteen-sixteenths percent of the taxable
4 value determined pursuant to Section 7-29-4.1 NMSA 1978,
5 provided that the average annual taxable value of natural gas
6 was greater than one dollar fifteen cents (\$1.15) per thousand
7 cubic feet but not more than one dollar thirty-five cents
8 (\$1.35) per thousand cubic feet in the calendar year preceding
9 July 1 of the fiscal year in which the tax rate is to be
10 imposed;

11 (8) on the oil and on other liquid
12 hydrocarbons removed from natural gas at or near the wellhead
13 from a stripper well property, one and seven-eighths percent of
14 the taxable value determined pursuant to Section 7-29-4.1 NMSA
15 1978, provided that the average annual taxable value of oil was
16 equal to or less than fifteen dollars (\$15.00) per barrel in
17 the calendar year preceding July 1 of the fiscal year in which
18 the tax rate is to be imposed;

19 (9) on the oil and on other liquid
20 hydrocarbons removed from natural gas at or near the wellhead
21 from a stripper well property, two and thirteen-sixteenths
22 percent of the taxable value determined pursuant to Section
23 7-29-4.1 NMSA 1978, provided that the average annual taxable
24 value of oil was greater than fifteen dollars (\$15.00) per
25 barrel but not more than eighteen dollars (\$18.00) per barrel

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1 in the calendar year preceding July 1 of the fiscal year in
2 which the tax rate is to be imposed; and

3 (10) on carbon dioxide, three and three-
4 fourths percent of the taxable value determined pursuant to
5 Section 7-29-4.1 NMSA 1978.

6 B. The tax imposed in Subsection A of this section
7 shall not be imposed on:

8 (1) natural gas severed and sold from a
9 production restoration project during the first ten years of
10 production following the restoration of production, provided
11 that the annual average price of west Texas intermediate crude
12 oil, determined by the department by averaging the posted
13 prices in effect on the last day of each month of the twelve-
14 month period ending on May 31 prior to each fiscal year in
15 which the tax exemption is to be effective, was less than
16 twenty-four dollars (\$24.00) per barrel; and

17 (2) oil and other liquid hydrocarbons removed
18 from natural gas at or near the wellhead from a production
19 restoration project during the first ten years of production
20 following the restoration of production, provided that the
21 annual average price of west Texas intermediate crude oil,
22 determined by the department by averaging the posted prices in
23 effect on the last day of each month of the twelve-month period
24 ending on May 31 prior to each fiscal year in which the tax
25 exemption is to be effective, was less than twenty-four dollars

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1 (\$24.00) per barrel.

2 C. Every interest owner shall be liable for the tax
3 to the extent of his interest in such products. Any Indian
4 tribe, Indian pueblo or Indian shall be liable for the tax to
5 the extent authorized or permitted by law.

6 D. The tax imposed by this section may be referred
7 to as the "oil and gas severance tax".

8 Section 9. Section 7-31-4 NMSA 1978 (being Laws 1959,
9 Chapter 54, Section 4, as amended) is amended to read:

10 "7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY
11 DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
12 LIABILITY.--

13 A. There is levied and shall be collected by the
14 department a privilege tax on the business of every person
15 severing products in this state. The measure of the tax shall
16 be:

17 (1) on oil and on oil and other liquid
18 hydrocarbons removed from natural gas at or near the wellhead,
19 except as provided in Paragraphs (4) and (5) of this subsection
20 [~~three and fifteen hundredths~~]:

21 (a) four percent of the taxable value
22 determined pursuant to Section 7-31-5 NMSA 1978, provided that
23 the annual average price of west Texas intermediate crude oil,
24 determined by the department by averaging the posted prices in
25 effect on the last day of each month of the twelve-month period

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1 ending on December 31 prior to the fiscal year in which the tax
2 rate is to be imposed, was twenty-five dollars (\$25.00) or more
3 per barrel; and

4 (b) three and fifteen hundredths percent
5 of the taxable value determined pursuant to Section 7-31-5 NMSA
6 1978, provided that the annual average price of west Texas
7 intermediate crude oil, determined by the department by
8 averaging the posted prices in effect on the last day of each
9 month of the twelve-month period ending on December 31 prior to
10 the fiscal year in which the tax rate is to be imposed, was
11 less than twenty-five dollars (\$25.00) per barrel;

12 (2) on carbon dioxide, three and fifteen
13 hundredths percent of the taxable value determined pursuant to
14 Section 7-31-5 NMSA 1978;

15 (3) on natural gas, except as provided in
16 Paragraphs (6) and (7) of this subsection, four percent of the
17 taxable value determined pursuant to Section 7-31-5 NMSA 1978;

18 (4) on the oil and on other liquid
19 hydrocarbons removed from natural gas at or near the wellhead
20 from a stripper well property, one and fifty-eight hundredths
21 percent of the taxable value determined pursuant to Section
22 7-31-5 NMSA 1978, provided that the average annual taxable
23 value of oil was equal to or less than fifteen dollars (\$15.00)
24 per barrel in the calendar year preceding July 1 of the fiscal
25 year in which the tax rate is to be imposed;

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1 (5) on the oil and on other liquid
 2 hydrocarbons removed from natural gas at or near the wellhead
 3 from a stripper well property, two and thirty-six hundredths
 4 percent of the taxable value determined pursuant to Section
 5 7-31-5 NMSA 1978, provided that the average annual taxable
 6 value of oil was greater than fifteen dollars (\$15.00) per
 7 barrel but not more than eighteen dollars (\$18.00) per barrel
 8 in the calendar year preceding July 1 of the fiscal year in
 9 which the tax rate is to be imposed;

10 (6) on the natural gas removed from a
 11 stripper well property, two percent of the taxable value
 12 determined pursuant to Section 7-31-5 NMSA 1978, provided that
 13 the average annual taxable value of natural gas was equal to or
 14 less than one dollar fifteen cents (\$1.15) per thousand cubic
 15 feet in the calendar year preceding July 1 of the fiscal year
 16 in which the tax rate is to be imposed; and

17 (7) on the natural gas removed from a
 18 stripper well property, three percent of the taxable value
 19 determined pursuant to Section 7-31-5 NMSA 1978, provided that
 20 the average annual taxable value of natural gas was greater
 21 than one dollar fifteen cents (\$1.15) per thousand cubic feet
 22 but not more than one dollar thirty-five cents (\$1.35) per
 23 thousand cubic feet in the calendar year preceding July 1 of
 24 the fiscal year in which the tax rate is to be imposed.

25 B. Every interest owner, for the purpose of levying

.157074.3GR

underscored material = new
 [bracketed material] = delete

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1 this tax, is deemed to be in the business of severing products
2 and is liable for this tax to the extent of his interest in the
3 value of the products or to the extent of his interest as may
4 be measured by the value of the products.

5 C. Any Indian tribe, Indian pueblo or Indian is
6 liable for this tax to the extent authorized or permitted by
7 law."

8 Section 10. APPLICABILITY.--

9 A. The provisions of Section 6 of this act apply to
10 taxable years beginning on or after January 1, 2005.

11 B. The provisions of Sections 8 and 9 of this act
12 apply to oil and natural gas production occurring on or after
13 July 1, 2005.

14 C. The provisions of Section 5 of this act apply to
15 taxable years on or after January 1, 2006.

16 Section 11. EFFECTIVE DATE.--

17 A. The effective date of the provisions of Sections
18 1 and 7 of this act is July 1, 2005.

19 B. The effective date of the provisions of Section
20 2 of this act is January 1, 2006.

21 C. The effective date of the provisions of Section
22 3 of this act is January 1, 2007.

23 D. The effective date of the provisions of Section
24 4 of this act is January 1, 2008.