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HOUSE BILL 520

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO TAXATION; AMENDING THE OIL AND GAS EMERGENCY SCHOOL
TAX ACT TO EQUALIZE AT FOUR PERCENT THE RATE OF TAX ON ALL
PRODUCTS SUBJECT TO THE TAX; DISTRIBUTING A PORTION OF THE
REVENUE FROM THE OIL AND GAS EMERGENCY SCHOOL TAX TO THE PUBLIC
SCHOOL FUND; ESTABLISHING THE PUBLIC SCHOOL FUND AS A
NONREVERTING FUND.

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

SECTION 1. Section 7-31-4 NMSA 1978 (being Laws 1959,
Chapter 54, Section 4, as amended) is amended to read:

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

A. There is levied and shall be collected by the
department a privilege tax on the business of every person

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1 severing products in this state. The measure of the tax shall
2 be ~~[(1)]~~ four percent of the taxable value determined pursuant
3 to Section 7-31-5 NMSA 1978 on oil and on oil and other liquid
4 hydrocarbons removed from natural gas at or near the wellhead;
5 ~~[except as provided in Paragraphs (4) and (5) of this~~
6 ~~subsection, three and fifteen hundredths percent of the taxable~~
7 ~~value determined pursuant to Section 7-31-5 NMSA 1978;~~

8 (2) on carbon dioxide, helium and non-
9 hydrocarbon gases; ~~[three and fifteen hundredths percent of the~~
10 ~~taxable value determined pursuant to Section 7-31-5 NMSA 1978;~~

11 (3) and on natural gas. ~~[except as provided~~
12 ~~in Paragraphs (6) and (7) of this subsection, four percent of~~
13 ~~the taxable value determined pursuant to Section 7-31-5 NMSA~~
14 ~~1978;~~

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

23 (5) ~~on the oil and on other liquid~~
24 ~~hydrocarbons removed from natural gas at or near the wellhead~~
25 ~~from a stripper well property, two and thirty-six hundredths~~

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1 ~~percent of the taxable value determined pursuant to Section~~
2 ~~7-31-5 NMSA 1978, provided that the average annual taxable~~
3 ~~value of oil was greater than fifteen dollars (\$15.00) per~~
4 ~~barrel but not more than eighteen dollars (\$18.00) per barrel~~
5 ~~in the calendar year preceding July 1 of the fiscal year in~~
6 ~~which the tax rate is to be imposed;~~

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

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

22 B. Every interest owner, for the purpose of levying
23 this tax, is deemed to be in the business of severing products
24 and is liable for this tax to the extent of [his] the owner's
25 interest in the value of the products or to the extent of [his]

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1 the owner's interest as may be measured by the value of the
2 products.

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

6 SECTION 2. Section 7-1-6.20 NMSA 1978 (being Laws 1985,
7 Chapter 65, Section 6, as amended) is amended to read:

8 "7-1-6.20. IDENTIFICATION OF MONEY IN EXTRACTION TAXES
9 SUSPENSE FUND--DISTRIBUTION.--

10 A. Except as provided in Subsection B of this
11 section, after the necessary disbursements have been made from
12 the extraction taxes suspense fund, the money remaining in the
13 suspense fund as of the last day of the month shall be
14 identified by tax source and distributed or transferred in
15 accordance with the provisions of Sections 7-1-6.21 through
16 7-1-6.23 NMSA 1978 and Section 3 of this 2011 act. After the
17 necessary distributions and transfers, any balance, except for
18 remittances unidentified as to source or disposition, shall be
19 transferred to the general fund.

20 B. Payments on assessments issued by the department
21 pursuant to the Oil and Gas Conservation Tax Act, the Oil and
22 Gas Emergency School Tax Act, the Oil and Gas Ad Valorem
23 Production Tax Act and the Oil and Gas Severance Tax Act shall
24 be held in the extraction taxes suspense fund until the
25 secretary determines that there is no substantial risk of

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1 protest or other litigation, whereupon after the necessary
2 disbursements have been made from the extraction taxes suspense
3 fund, the money remaining in the suspense fund as of the last
4 day of the month attributed to these payments shall be
5 identified by tax source and distributed or transferred in
6 accordance with the provisions of Sections 7-1-6.21 through
7 7-1-6.23 NMSA 1978 and Section 3 of this 2011 act. After the
8 necessary distributions and transfers, any balance, except for
9 remittance unidentified as to source or disposition, shall be
10 transferred to the general fund."

11 SECTION 3. A new section of the Tax Administration Act is
12 enacted to read:

13 "[NEW MATERIAL] DISTRIBUTION--PUBLIC SCHOOL FUND.--A
14 distribution pursuant to Section 7-1-6.20 NMSA 1978 shall be
15 made to the public school fund in an amount equal to twelve and
16 one-half percent of the net receipts attributable to the tax
17 imposed pursuant to the Oil and Gas Emergency School Tax Act."

18 SECTION 4. Section 22-8-14 NMSA 1978 (being Laws 1967,
19 Chapter 16, Section 69, as amended) is amended to read:

20 "22-8-14. PUBLIC SCHOOL FUND.--

21 A. The "public school fund" is created.

22 B. The public school fund shall be distributed to
23 school districts and state-chartered charter schools in the
24 following parts:

25 (1) state equalization guarantee distribution;

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- 1 (2) transportation distribution; and
- 2 (3) supplemental distributions:
- 3 (a) out-of-state tuition to school
- 4 districts;
- 5 (b) emergency; and
- 6 (c) program enrichment.

7 C. The distributions of the public school fund
8 shall be made by the department within limits established by
9 law. The balance remaining in the public school fund at the
10 end of each fiscal year shall not revert to the general fund
11 [~~unless otherwise provided by law~~]."

12 SECTION 5. APPLICABILITY.--The distribution pursuant to
13 Section 3 of this act applies to revenue earned on a modified
14 accrual basis after June 30, 2011.

15 SECTION 6. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2011.