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HOUSE BILL 285

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Nate Gentry

AN ACT

RELATING TO TAXATION; CREATING A TAX RATE DIFFERENTIAL FOR OIL
PRODUCED FROM A QUALIFIED ENHANCED RECOVERY PROJECT THAT USES
ANTHROPOGENIC CARBON DIOXIDE TO DISPLACE THE OIL FROM NATURAL
GAS; AMENDING A SECTION OF THE OIL AND GAS SEVERANCE TAX ACT;
DEFINING "POSTED PRICE" IN THE OIL AND GAS SEVERANCE TAX ACT.

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

SECTION 1. Section 7-29-2 NMSA 1978 (being Laws 1959,
Chapter 52, Section 2, as amended) is amended to read:

"7-29-2. DEFINITIONS.--As used in the Oil and Gas
Severance Tax Act:

A. "commission", "department", "division" or "oil
and gas accounting division" means the taxation and revenue
department, the secretary of taxation and revenue or any
employee of the department exercising authority lawfully

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1 delegated to that employee by the secretary;

2 B. "production unit" means a unit of property
3 designated by the department from which products of common
4 ownership are severed;

5 C. "severance" means the taking from the soil of
6 any product in any manner whatsoever;

7 D. "value" means the actual price received for
8 products at the production unit, except as otherwise provided
9 in the Oil and Gas Severance Tax Act;

10 E. "posted price" means the price of west Texas
11 intermediate light sweet crude oil as published by the United
12 States energy information administration;

13 [~~E.~~] F. "product" or "products" means oil, natural
14 gas or liquid hydrocarbon, individually or any combination
15 thereof, carbon dioxide, helium or a non-hydrocarbon gas;

16 [~~F.~~] G. "operator" means any person:

17 (1) engaged in the severance of products from
18 a production unit; or

19 (2) owning an interest in any product at the
20 time of severance who receives a portion or all of such product
21 for [~~his~~] the person's interest;

22 [~~G.~~] H. "primary recovery" means the displacement
23 of oil and of other liquid hydrocarbons removed from natural
24 gas at or near the wellhead from an oil well or pool as
25 classified by the oil conservation division of the energy,

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1 minerals and natural resources department pursuant to Paragraph
2 (11) of Subsection B of Section 70-2-12 NMSA 1978 into the
3 wellbore by means of the natural pressure of the oil well or
4 pool, including but not limited to artificial lift;

5 ~~[H.]~~ I. "purchaser" means a person who is the first
6 purchaser of a product after severance from a production unit,
7 except as otherwise provided in the Oil and Gas Severance Tax
8 Act;

9 ~~[I.]~~ J. "person" means any individual, estate,
10 trust, receiver, business trust, corporation, firm, co-
11 partnership, cooperative, joint venture, association or other
12 group or combination acting as a unit, and the plural as well
13 as the singular number;

14 ~~[J.]~~ K. "interest owner" means a person owning an
15 entire or fractional interest of whatsoever kind or nature in
16 the products at the time of severance from a production unit,
17 or who has a right to a monetary payment that is determined by
18 the value of such products;

19 ~~[K.]~~ L. "new production natural gas well" means a
20 producing crude oil or natural gas well proration unit that
21 begins its initial natural gas production on or after May 1,
22 1987 as determined by the oil conservation division of the
23 energy, minerals and natural resources department;

24 ~~[L.]~~ M. "qualified enhanced recovery project",
25 prior to January 1, 1994, means the use or the expanded use of

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1 carbon dioxide, when approved by the oil conservation division
2 of the energy, minerals and natural resources department
3 pursuant to the Enhanced Oil Recovery Act, for the displacement
4 of oil and of other liquid hydrocarbons removed from natural
5 gas at or near the wellhead from an oil well or pool classified
6 by the oil conservation division pursuant to Paragraph (11) of
7 Subsection B of Section 70-2-12 NMSA 1978;

8 ~~[M-]~~ N. "qualified enhanced recovery project", on
9 and after January 1, 1994, means the use or the expanded use of
10 any process approved by the oil conservation division of the
11 energy, minerals and natural resources department pursuant to
12 the Enhanced Oil Recovery Act for the displacement of oil and
13 of other liquid hydrocarbons removed from natural gas at or
14 near the wellhead from an oil well or pool classified by the
15 oil conservation division pursuant to Paragraph (11) of
16 Subsection B of Section 70-2-12 NMSA 1978, other than a primary
17 recovery process; the term includes but is not limited to the
18 use of a pressure maintenance process, a water flooding process
19 and immiscible, miscible, chemical, thermal or biological
20 process or any other related process;

21 ~~[N-]~~ O. "production restoration project" means the
22 use of any process for returning to production a natural gas or
23 oil well that had thirty days or less of production in any
24 period of twenty-four consecutive months beginning on or after
25 January 1, 1993, as approved and certified by the oil

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1 conservation division of the energy, minerals and natural
2 resources department pursuant to the Natural Gas and Crude Oil
3 Production Incentive Act;

4 ~~[P-]~~ P. "well workover project" means any procedure
5 undertaken by the operator of a natural gas or crude oil well
6 that is intended to increase the production from the well and
7 that has been approved and certified by the oil conservation
8 division of the energy, minerals and natural resources
9 department pursuant to the Natural Gas and Crude Oil Production
10 Incentive Act;

11 ~~[P-]~~ Q. "stripper well property" means a crude oil
12 or natural gas producing property that is assigned a single
13 production unit number by the department and is certified by
14 the oil conservation division of the energy, minerals and
15 natural resources department pursuant to the Natural Gas and
16 Crude Oil Production Incentive Act to have produced in the
17 preceding calendar year:

18 (1) if a crude oil producing property, an
19 average daily production of less than ten barrels of oil per
20 eligible well per day;

21 (2) if a natural gas producing property, an
22 average daily production of less than sixty thousand cubic feet
23 of natural gas per eligible well per day; or

24 (3) if a property with wells that produce both
25 crude oil and natural gas, an average daily production of less

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1 than ten barrels of oil per eligible well per day, as
2 determined by converting the volume of natural gas produced by
3 the well to barrels of oil by using a ratio of six thousand
4 cubic feet to one barrel of oil;

5 [Q-] R. "average annual taxable value" means as
6 applicable:

7 (1) the average of the taxable value per one
8 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
9 1978, of all natural gas produced in New Mexico for the
10 specified calendar year as determined by the department; or

11 (2) the average of the taxable value per
12 barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all
13 oil produced in New Mexico for the specified calendar year as
14 determined by the department; and

15 [R-] S. "tax" means the oil and gas severance tax."

16 SECTION 2. Section 7-29-4 NMSA 1978 (being Laws 1980,
17 Chapter 62, Section 5, as amended) is amended to read:

18 "7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--
19 COLLECTION--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
20 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 as

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1 provided in Paragraphs [~~(4), (6) and (7)~~] (5), (7) and (8) of
2 this subsection, three and three-fourths percent of the taxable
3 value determined 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)~~] (4), (6), (9)
7 and (10) of this subsection, three and three-fourths percent of
8 taxable value determined pursuant to Section 7-29-4.1 NMSA
9 1978;

10 (3) on oil and on other liquid hydrocarbons
11 removed from natural gas at or near the wellhead produced from
12 a qualified enhanced recovery project that does not involve the
13 application of anthropogenic carbon dioxide in the process of
14 displacing oil and other liquid hydrocarbons removed from
15 natural gas, one and seven-eighths percent of the taxable value
16 determined pursuant to Section 7-29-4.1 NMSA 1978; provided
17 that the annual average price of west Texas intermediate crude
18 oil, determined by the department by averaging the posted
19 prices in effect on the last day of each month of the twelve-
20 month period ending on May 31 prior to the fiscal year in which
21 the tax rate is to be imposed, was less than twenty-eight
22 dollars (\$28.00) per barrel;

23 (4) on oil and on other liquid hydrocarbons
24 removed from natural gas at or near the wellhead produced from
25 a qualified enhanced recovery project that involves the

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1 application of anthropogenic carbon dioxide in the process of
2 displacing oil and other liquid hydrocarbons removed from
3 natural gas, one and seven-eighths percent of the taxable value
4 determined pursuant to Section 7-29-4.1 NMSA 1978; provided
5 that the annual average price of west Texas intermediate crude
6 oil, determined by the department by averaging the posted
7 prices in effect on the last day of each month of the twelve-
8 month period ending on May 31 prior to the fiscal year in which
9 the tax rate is to be imposed, was less than sixty dollars
10 (\$60.00) per barrel;

11 [~~4~~] (5) on the natural gas from a well
12 workover project that is certified by the oil conservation
13 division of the energy, minerals and natural resources
14 department in its approval of the well workover project, two
15 and forty-five hundredths percent of the taxable value
16 determined pursuant to Section 7-29-4.1 NMSA 1978; provided
17 that the annual average price of west Texas intermediate crude
18 oil, determined by the department by averaging the posted
19 prices in effect on the last day of each month of the twelve-
20 month period ending on May 31 prior to the fiscal year in which
21 the tax rate is to be imposed, was less than twenty-four
22 dollars (\$24.00) per barrel;

23 [~~5~~] (6) on the oil and on other liquid
24 hydrocarbons removed from natural gas at or near the wellhead
25 from a well workover project that is certified by the oil

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1 conservation division of the energy, minerals and natural
2 resources department in its approval of the well workover
3 project, two and forty-five hundredths percent of the taxable
4 value determined pursuant to Section 7-29-4.1 NMSA 1978;
5 provided that the annual average price of west Texas
6 intermediate crude oil, determined by the department by
7 averaging the posted prices in effect on the last day of each
8 month of the twelve-month period ending on May 31 prior to the
9 fiscal year in which the tax rate is to be imposed, was less
10 than twenty-four dollars (\$24.00) per barrel;

11 [~~(6)~~] (7) on the natural gas from a stripper
12 well property, one and seven-eighths percent of the taxable
13 value determined pursuant to Section 7-29-4.1 NMSA 1978;
14 provided the average annual taxable value of natural gas was
15 equal to or less than one dollar fifteen cents (\$1.15) per
16 thousand cubic feet in the calendar year preceding July 1 of
17 the fiscal year in which the tax rate is to be imposed;

18 [~~(7)~~] (8) on the natural gas from a stripper
19 well property, two and thirteen-sixteenths percent of the
20 taxable value determined pursuant to Section 7-29-4.1 NMSA
21 1978; provided that the average annual taxable value of natural
22 gas was greater than one dollar fifteen cents (\$1.15) per
23 thousand cubic feet but not more than one dollar thirty-five
24 cents (\$1.35) per thousand cubic feet in the calendar year
25 preceding July 1 of the fiscal year in which the tax rate is to

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1 be imposed;

2 ~~[(8)]~~ (9) on the oil and on other liquid
3 hydrocarbons removed from natural gas at or near the wellhead
4 from a stripper well property, one and seven-eighths percent of
5 the taxable value determined pursuant to Section 7-29-4.1 NMSA
6 1978; provided that the average annual taxable value of oil was
7 equal to or less than fifteen dollars (\$15.00) per barrel in
8 the calendar year preceding July 1 of the fiscal year in which
9 the tax rate is to be imposed;

10 ~~[(9)]~~ (10) on the oil and on other liquid
11 hydrocarbons removed from natural gas at or near the wellhead
12 from a stripper well property, two and thirteen-sixteenths
13 percent of the taxable value determined pursuant to Section
14 7-29-4.1 NMSA 1978; provided that the average annual taxable
15 value of oil was greater than fifteen dollars (\$15.00) per
16 barrel but not more than eighteen dollars (\$18.00) per barrel
17 in the calendar year preceding July 1 of the fiscal year in
18 which the tax rate is to be imposed; and

19 ~~[(10)]~~ (11) on carbon dioxide, helium and non-
20 hydrocarbon gases, three and three-fourths percent of the
21 taxable value determined pursuant to Section 7-29-4.1 NMSA
22 1978.

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

25 (1) natural gas severed and sold from a

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1 production restoration project during the first ten years of
2 production following the restoration of production; provided
3 that the annual average price of west Texas intermediate crude
4 oil, determined by the department by averaging the posted
5 prices in effect on the last day of each month of the twelve-
6 month period ending on May 31 prior to each fiscal year in
7 which the tax exemption is to be effective, was less than
8 twenty-four dollars (\$24.00) per barrel; and

9 (2) oil and other liquid hydrocarbons removed
10 from natural gas at or near the wellhead from a production
11 restoration project during the first ten years of production
12 following the restoration of production; provided that the
13 annual average price of west Texas intermediate crude oil,
14 determined by the department by averaging the posted prices in
15 effect on the last day of each month of the twelve-month period
16 ending on May 31 prior to each fiscal year in which the tax
17 exemption is to be effective, was less than twenty-four dollars
18 (\$24.00) per barrel.

19 C. Every interest owner shall be liable for the tax
20 to the extent of [~~his~~] the interest owner's interest in such
21 products. Any Indian tribe, Indian pueblo or Indian shall be
22 liable for the tax to the extent authorized or permitted by
23 law.

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

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SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this section is July 1, 2016.