

1 SENATE BILL 64

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

4 Ron Griggs

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10 AN ACT

11 RELATING TO TAXATION; PROVIDING AN OIL AND GAS SEVERANCE TAX
12 EXEMPTION FOR THE SEVERANCE OF OIL AND NATURAL GAS FROM A
13 PRODUCTION COMPLIANCE PROJECT COMPLETED TO COMPLY WITH CERTAIN
14 AGENCY RULES.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. 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--
20 COLLECTION--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
21 LIABILITY--EXCLUSIONS.--

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

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

5 (2) on oil and on other liquid hydrocarbons
6 removed from natural gas at or near the wellhead, except as
7 provided in Paragraphs (3), (5), (8) and (9) of this
8 subsection, three and three-fourths percent of taxable value
9 determined pursuant to Section 7-29-4.1 NMSA 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, one and seven-eighths
13 percent of the taxable value determined pursuant to Section
14 7-29-4.1 NMSA 1978, provided that the annual average price of
15 west Texas intermediate crude oil, determined by the department
16 by averaging the posted prices in effect on the last day of
17 each month of the twelve-month period ending on May 31 prior to
18 the fiscal year in which the tax rate is to be imposed, was
19 less than twenty-eight dollars (\$28.00) per barrel;

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

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1 price of west Texas intermediate crude oil, determined by the
2 department by averaging the posted prices in effect on the last
3 day of each month of the twelve-month period ending on May 31
4 prior to the fiscal year in which the tax rate is to be
5 imposed, was less 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 percent of the taxable
12 value determined pursuant to Section 7-29-4.1 NMSA 1978,
13 provided that the annual average price of west Texas
14 intermediate crude oil, determined by the department by
15 averaging the posted prices in effect on the last day of each
16 month of the twelve-month period ending on May 31 prior to the
17 fiscal year in which the tax rate is to be imposed, was less
18 than twenty-four dollars (\$24.00) per barrel;

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

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

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

18 (9) on the oil and on other liquid
19 hydrocarbons removed from natural gas at or near the wellhead
20 from a stripper well property, two and thirteen-sixteenths
21 percent of the taxable value determined pursuant to Section
22 7-29-4.1 NMSA 1978, provided that the average annual taxable
23 value of oil was greater than fifteen dollars (\$15.00) per
24 barrel but not more than eighteen dollars (\$18.00) per barrel
25 in the calendar year preceding July 1 of the fiscal year in

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1 which the tax rate is to be imposed; and

2 (10) on carbon dioxide, helium and non-
3 hydrocarbon gases, three and three-fourths percent of the
4 taxable value determined pursuant to Section 7-29-4.1 NMSA
5 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;

17 (2) natural gas severed from a stripper well
18 property and sold from a production compliance project during
19 the first ten years of production following the completion of
20 the project or until the date the total amount of tax that
21 would have been imposed but for this subsection equals the cost
22 of the production compliance project, whichever occurs first;

23 (3) oil and other liquid hydrocarbons removed
24 from natural gas at or near the wellhead from a stripper well
25 property production compliance project during the first ten

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1 years of production following the completion of the project or
2 until the date the total amount of tax that would have been
3 imposed but for this subsection equals the cost of the
4 production compliance project, whichever occurs first; and

5 ~~[(2)]~~ (4) oil and other liquid hydrocarbons
6 removed from natural gas at or near the wellhead from a
7 production restoration project during the first ten years of
8 production following the restoration of production, provided
9 that the annual average price of west Texas intermediate crude
10 oil, determined by the department by averaging the posted
11 prices in effect on the last day of each month of the twelve-
12 month period ending on May 31 prior to each fiscal year in
13 which the tax exemption is to be effective, was less than
14 twenty-four dollars (\$24.00) per barrel.

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

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

22 E. As used in this section, "production compliance
23 project" means a procedure undertaken by the operator of a
24 natural gas or crude oil well that, in order to continue
25 production from the well, is required by rules promulgated on

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1 or after January 1, 2022 by the oil conservation commission to
2 reduce the venting and flaring of natural gas from wells and
3 production equipment and facilities and of natural gas from
4 natural gas gathering systems or by the environmental
5 improvement board to reduce ambient ozone concentrations."

6 SECTION 2. Section 7-29B-1 NMSA 1978 (being Laws 1995,
7 Chapter 15, Section 1) is amended to read:

8 "7-29B-1. SHORT TITLE.--~~[Sections 1 through 6 of this~~
9 ~~act]~~ Chapter 7, Article 29B NMSA 1978 may be cited as the
10 "Natural Gas and Crude Oil Production Incentive Act"."

11 SECTION 3. Section 7-29B-2 NMSA 1978 (being Laws 1995,
12 Chapter 15, Section 2, as amended by Laws 1999, Chapter 7,
13 Section 2 and as further amended by Laws 1999, Chapter 256,
14 Section 3) is amended to read:

15 "7-29B-2. DEFINITIONS.--As used in the Natural Gas and
16 Crude Oil Production Incentive Act:

17 A. "average annual taxable value" means the average
18 of the taxable value per barrel, determined pursuant to Section
19 7-31-5 NMSA 1978, of all oil produced in New Mexico for the
20 specified calendar year as determined by the department;

21 B. "average daily production" means, for any crude
22 oil or natural gas property assigned a single production number
23 by the department, the number derived by dividing the total
24 volume of crude oil or natural gas production from the property
25 reported to the division during a calendar year by the sum of

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1 the number of days each eligible well within the property
2 produced or injected during that calendar year;

3 C. "department" means the taxation and revenue
4 department;

5 D. "division" means the oil conservation division
6 of the energy, minerals and natural resources department;

7 E. "eligible well" means a crude oil or natural gas
8 well that produces or an injection well that injects and is
9 integral to production for any period of time during the
10 preceding calendar year;

11 F. "natural gas" means any combustible vapor
12 composed chiefly of hydrocarbons occurring naturally;

13 G. "operator" means the person responsible for the
14 actual physical operation of a natural gas or oil well;

15 H. "person" means any individual or other legal
16 entity, including any group or combination of individuals or
17 other legal entities acting as a unit;

18 I. "production compliance project" means a
19 procedure undertaken by the operator of a natural gas or crude
20 oil well that, in order to continue production from the well,
21 is required by rules promulgated on or after January 1, 2022 by
22 the oil conservation commission to reduce the venting and
23 flaring of natural gas from wells and production equipment and
24 facilities and of natural gas from natural gas gathering
25 systems or by the environmental improvement board to reduce

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1 ambient ozone concentrations;

2 [~~I.~~] J. "production restoration incentive tax
3 exemption" means the tax exemption set forth in Subsection B of
4 Section 7-29-4 NMSA 1978 for natural gas or oil produced from a
5 production restoration project;

6 [~~J.~~] K. "production restoration project" means the
7 use of any process for returning to production a natural gas or
8 oil well that had thirty days or less of production in any
9 period of twenty-four consecutive months beginning on or after
10 January 1, 1993 as approved and certified by the division;

11 [~~K.~~] L. "severance" means the taking from the soil
12 of any product in any manner whatsoever;

13 [~~L.~~] M. "stripper well property" means a crude oil
14 or natural gas producing property that is assigned a single
15 production unit number by the department and:

16 (1) if a crude oil producing property,
17 produced an average daily production of less than ten barrels
18 of oil per eligible well per day for the preceding calendar
19 year;

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

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

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

5 [M.] N. "stripper well incentive tax rates" means
6 the tax rates set forth in Paragraphs (6) through (9) of
7 Subsection A of Section 7-29-4 NMSA 1978 and in Paragraphs (4)
8 through (7) of Subsection A of Section 7-31-4 NMSA 1978 for
9 natural gas or oil produced from a well within a stripper well
10 property;

11 [N.] O. "well workover incentive tax rate" means
12 the tax rate set forth in Paragraphs (4) and (5) of Subsection
13 A of Section 7-29-4 NMSA 1978 on the natural gas or oil
14 produced from a well workover project; and

15 [O.] P. "well workover project" means any procedure
16 undertaken by the operator of a natural gas or oil well that is
17 intended to increase the production from the well and that has
18 been approved and certified by the division."

19 SECTION 4. Section 7-29B-3 NMSA 1978 (being Laws 1995,
20 Chapter 15, Section 3, as amended by Laws 1999, Chapter 7,
21 Section 3 and as further amended by Laws 1999, Chapter 256,
22 Section 4) is amended to read:

23 "7-29B-3. APPROVAL OF PRODUCTION RESTORATION PROJECTS,
24 PRODUCTION COMPLIANCE PROJECTS, WELL WORKOVER PROJECTS AND
25 STRIPPER WELL PROPERTIES.--

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1 A. A natural gas or oil well shall be approved by
2 the division as a production restoration project if:

3 (1) the operator of the well makes application
4 to the division in accordance with the provisions of the
5 Natural Gas and Crude Oil Production Incentive Act and rules
6 adopted pursuant to that act for approval of a production
7 restoration project and the application is made within twelve
8 months of the completion of the production restoration project;
9 and

10 (2) the division records show that the well
11 had thirty days or less of production in any period of twenty-
12 four consecutive months beginning on or after January 1, 1993.

13 B. A natural gas or crude oil well shall be
14 approved by the division as a production compliance project if:

15 (1) the operator of the well makes an
16 application to the division in accordance with the provisions
17 of the Natural Gas and Crude Oil Production Incentive Act and
18 rules adopted pursuant to that act for approval of a production
19 compliance project and the application is made within twelve
20 months of the completion of the production compliance project;

21 (2) in order to continue production, the
22 production compliance project was required by rules promulgated
23 on or after January 1, 2022 by the oil conservation commission
24 to reduce the venting and flaring of natural gas from wells and
25 production equipment and facilities and of natural gas from

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1 natural gas gathering systems or by the environmental
2 improvement board to reduce ambient ozone concentrations;

3 (3) the well is approved and certified by the
4 division as a stripper well;

5 (4) the operator of the well has total
6 production in New Mexico of not more than one thousand barrels
7 of oil equivalent per day; and

8 (5) the production compliance project was
9 implemented to install, upgrade or replace the following well
10 equipment, as approved by the division:

11 (a) tank controls;

12 (b) pneumatic devices;

13 (c) actuators;

14 (d) vapor recovery units;

15 (e) forward-looking infrared cameras;

16 and

17 (f) smokeless combustion chambers.

18 ~~[B.]~~ C. A natural gas or oil well shall be approved
19 by the division as a well workover project if:

20 (1) the operator of the well makes application
21 to the division in accordance with the provisions of the
22 Natural Gas and Crude Oil Production Incentive Act and rules
23 adopted pursuant to that act for approval of a well workover
24 project;

25 (2) the division determines that the procedure

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1 performed by the operator of the well is a procedure to
2 increase the production from the well, but is not routine
3 maintenance performed by a prudent operator to maintain the
4 well in operation. Such procedures may include, but are not
5 limited to:

6 (a) re-entry into the well to drill
7 deeper, to sidetrack to a different location or to recomplete
8 for production;

9 (b) recompletion by reperforation of a
10 zone from which natural gas or oil has been produced or by
11 perforation of a different zone;

12 (c) repair or replacement of faulty or
13 damaged casing or related downhole equipment;

14 (d) fracturing, acidizing or installing
15 compression equipment; or

16 (e) squeezing, cementing or installing
17 equipment necessary for removal of excessive water, brine or
18 condensate from the well bore in order to establish, continue
19 or increase production from the well; and

20 (3) the operator of the well submits to the
21 division evidence of a positive production increase over the
22 production rate of the well prior to the workover. The
23 operator must submit a production curve or tabulation made up
24 of at least twelve months' production prior to the workover and
25 at least three months' production following the workover that

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1 reflects a positive production increase from the workover. The
2 production curve or tabulation must be certified by the
3 operator as that of the well on which a workover was performed.

4 ~~[G.]~~ D. A natural gas or crude oil producing
5 property shall be approved and certified by the division as a
6 stripper well property if the division records show that the
7 property is assigned a single production unit number by the
8 department and:

9 (1) if a crude oil producing property,
10 produced an average daily production of less than ten barrels
11 of oil per eligible well per day for the preceding calendar
12 year;

13 (2) if a natural gas producing property,
14 produced an average daily production of less than sixty
15 thousand cubic feet of natural gas per eligible well per day
16 during the preceding calendar year; or

17 (3) if a property with wells that produce both
18 crude oil and natural gas, produced an average daily production
19 of less than ten barrels of oil per eligible well per day for
20 the preceding calendar year, as determined by converting the
21 volume of natural gas produced by the well to barrels of oil by
22 using a ratio of six thousand cubic feet to one barrel of oil."

23 SECTION 5. Section 7-29B-4 NMSA 1978 (being Laws 1995,
24 Chapter 15, Section 4, as amended) is amended to read:

25 "7-29B-4. APPLICATION PROCEDURES--CERTIFICATION OF

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1 APPROVAL--RULES--ADMINISTRATION.--

2 A. The operator of a proposed production
3 restoration project, production compliance project or well
4 workover project shall apply to the division for approval of a
5 production restoration project, production compliance project
6 or a well workover project in the form and manner prescribed by
7 the division and shall provide any relevant material and
8 information the division requires for that approval.

9 B. Upon a determination that the project complies
10 with the provisions of the Natural Gas and Crude Oil Production
11 Incentive Act and rules adopted pursuant to that act, the
12 division shall approve the application and shall issue a
13 certification of approval to the operator and designate the
14 natural gas or oil well as a production restoration project,
15 production compliance project or well workover project, as
16 applicable.

17 C. In addition to the powers enumerated in Section
18 70-2-12 NMSA 1978, the division shall adopt, promulgate and
19 enforce rules to carry out the provisions of the Natural Gas
20 and Crude Oil Production Incentive Act.

21 D. The division shall consider and approve
22 applications for approval of a production restoration project,
23 production compliance project or well workover project without
24 holding hearings on the applications. If the division denies
25 approval of an application pursuant to such a process, the

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1 division, upon the request of the applicant, shall set a
2 hearing of the application before an examiner appointed by the
3 division to conduct the hearing. The hearing shall be
4 conducted in accordance with the provisions of the Oil and Gas
5 Act for such hearings."

6 SECTION 6. Section 7-29B-5 NMSA 1978 (being Laws 1995,
7 Chapter 15, Section 5, as amended) is amended to read:

8 "7-29B-5. NOTICE TO SECRETARY OF TAXATION AND
9 REVENUE.--The division shall notify immediately the secretary
10 of taxation and revenue upon:

11 A. adoption of rules pursuant to the provisions of
12 the Natural Gas and Crude Oil Production Incentive Act;

13 B. certification of the date that production has
14 been restored on a production restoration project;

15 C. certification of the date that a production
16 compliance project has been completed;

17 [~~G.~~] D. certification of the date that a well
18 workover project has been completed; and

19 [~~D.~~] E. certification of the stripper well
20 properties for the fiscal year."

21 SECTION 7. Section 7-29B-6 NMSA 1978 (being Laws 1995,
22 Chapter 15, Section 6, as amended) is amended to read:

23 "7-29B-6. QUALIFICATION FOR PRODUCTION RESTORATION
24 INCENTIVE TAX EXEMPTION, PRODUCTION COMPLIANCE PROJECT TAX
25 EXEMPTION AND WELL WORKOVER AND STRIPPER WELL PROPERTY

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1 INCENTIVE TAX RATE--SECRETARY OF TAXATION AND REVENUE
2 APPROVAL--REFUND.--

3 A. The person responsible for paying the oil and
4 gas severance tax on natural gas or oil produced from a
5 production restoration project shall qualify to receive a ten-
6 year production restoration incentive tax exemption upon:

7 (1) application to the department in the form
8 and manner prescribed by the department for approval for the
9 ten-year production restoration incentive tax exemption;

10 (2) submission of the certification of
11 approval from the division and designation of the natural gas
12 or oil well as a production restoration project; and

13 (3) submission of any other relevant material
14 that the secretary of taxation and revenue deems necessary to
15 administer the applicable provisions of the Natural Gas and
16 Crude Oil Production Incentive Act.

17 B. The person responsible for paying the oil and
18 gas severance tax on natural gas or oil produced from a
19 production compliance project shall qualify to receive a
20 production compliance project tax exemption upon:

21 (1) application to the department in the form
22 and manner prescribed by the department for approval of the
23 production compliance project tax exemption;

24 (2) submission of the certification of
25 approval from the division and designation of the natural gas

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1 or oil well as a production compliance project;

2 (3) submission of verifiable total costs of
3 compliance for the production compliance project for payout
4 purposes; and

5 (4) submission of any other relevant material
6 that the secretary of taxation and revenue deems necessary to
7 administer the applicable provisions of the Natural Gas and
8 Crude Oil Production Incentive Act.

9 ~~[B.]~~ C. The person responsible for payment of the
10 oil and gas severance tax on natural gas or oil produced from a
11 well workover project shall qualify for the well workover
12 incentive tax rate on all the natural gas or oil produced by
13 that project upon:

14 (1) application to the department in the form
15 and manner prescribed by the department for approval to apply
16 the well workover incentive tax rate to the natural gas or oil
17 produced from a well workover project;

18 (2) submission of the certification from the
19 division of approval and designation of the natural gas or oil
20 well as a well workover project; and

21 (3) any other relevant material that the
22 department considers necessary to administer the applicable
23 provisions of the Natural Gas and Crude Oil Production
24 Incentive Act.

25 ~~[C.]~~ D. The person responsible for paying the oil

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1 and gas severance tax and the oil and gas emergency school tax
2 on natural gas and crude oil produced from a stripper well
3 property shall qualify to receive the stripper well property
4 incentive tax rate for the fiscal year following certification
5 by the division in the form and manner agreed to by the
6 division and the department designating the property as a
7 stripper well property. The division shall certify stripper
8 well properties for calendar year 1998 no later than June 30,
9 1999 and no later than June 1 of each succeeding year for the
10 preceding calendar year.

11 ~~[D.]~~ E. The production restoration incentive tax
12 exemption shall apply to natural gas or oil produced from a
13 production restoration project beginning the first day of the
14 month following the date the division certifies that production
15 has been restored and ending the last day of the tenth year of
16 production following that date. The well workover incentive
17 tax rate applies to the natural gas or oil produced from a well
18 workover project beginning the first day of the month following
19 the date the division certifies that the well workover project
20 has been completed. The stripper well property incentive tax
21 rates apply to the natural gas or oil produced from a stripper
22 well property in the twelve months beginning May 1 prior to
23 July 1 of the fiscal year to which the certification of the
24 property as a stripper well property applies.

25 ~~[E.]~~ F. The person responsible for payment of the
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1 oil and gas severance tax on natural gas or oil production from
2 an approved well workover project may file a claim for credit
3 against current tax liability or for refund in accordance with
4 Section 7-1-26 NMSA 1978 for taxes paid in excess of the amount
5 due using the well workover incentive tax rate.

6 Notwithstanding the provisions of Subsection E of Section
7 7-1-26 NMSA 1978, any such refund granted shall be made in the
8 form of a credit against any future oil and gas severance tax
9 liabilities incurred by the taxpayer.

10 ~~[F-]~~ G. Well workover projects certified prior to
11 July 1, 1999 shall be deemed to be approved and certified in
12 accordance with the provisions of this 1999 act and natural gas
13 or oil produced from those projects shall be eligible for the
14 well workover incentive tax rate effective beginning July 1,
15 1999.

16 ~~[G-]~~ H. The secretary of taxation and revenue may
17 adopt and promulgate rules to enforce the provisions of this
18 section."

19 **SECTION 8. APPLICABILITY.**--The provisions of this act
20 apply to production compliance projects completed on or after
21 July 1, 2024.