

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 14

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO TAXATION; CREATING THE OIL AND GAS EQUALIZATION
SURTax IN THE OIL AND GAS EMERGENCY SCHOOL TAX ACT TO IMPOSE A
TAX ON CERTAIN OIL PRODUCTS IF THE PRICE OF OIL MEETS A CERTAIN
THRESHOLD; DECREASING THE RATE OF THE OIL AND GAS EMERGENCY
SCHOOL TAX ON CERTAIN NATURAL GAS PRODUCTS; REPEALING THE
WORKING FAMILIES TAX CREDIT AND ENACTING THE EARNED INCOME TAX
CREDIT.

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

SECTION 1. Section 7-1-10 NMSA 1978 (being Laws 1965,
Chapter 248, Section 15, as amended) is amended to read:

"7-1-10. RECORDS REQUIRED BY STATUTE--TAXPAYER RECORDS--
ACCOUNTING METHODS--REPORTING METHODS--INFORMATION RETURNS.--

A. Every person required by the provisions of any
statute administered by the department to keep records and

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1 documents and every taxpayer shall maintain books of account or
2 other records in a manner that will permit the accurate
3 computation of state taxes or provide information required by
4 the statute under which the person is required to keep records.

5 B. Methods of accounting shall be consistent for
6 the same business. A taxpayer engaged in more than one
7 business may use a different method of accounting for each
8 business.

9 C. Prior to changing the method of accounting in
10 keeping books and records for tax purposes, a taxpayer shall
11 first secure the consent of the secretary or the secretary's
12 delegate. If consent is not secured, the department upon audit
13 may require the taxpayer to compute the amount of tax due on
14 the basis of the accounting method earlier used.

15 D. Prior to changing the method of reporting taxes,
16 other than for changes required by law, a taxpayer shall first
17 secure the consent of the secretary or the secretary's
18 delegate. Consent shall be granted or withheld pursuant to the
19 provisions of Section 7-4-19 NMSA 1978. If consent is not
20 secured, the secretary or the secretary's delegate upon audit
21 may require the taxpayer to compute the amount of tax due on
22 the basis of the reporting method earlier used.

23 E. Upon the written application of a taxpayer and
24 at the sole discretion of the secretary or the secretary's
25 delegate, the secretary or the secretary's delegate may enter

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1 into an agreement with a taxpayer allowing the taxpayer to
2 report values, gross receipts, deductions or the value of
3 property on an estimated basis for gross receipts and
4 compensating tax, oil and gas severance tax, oil and gas
5 conservation tax, oil and gas emergency school tax, oil and gas
6 equalization surtax and oil and gas ad valorem production tax
7 purposes for a limited period of time not to exceed four years.
8 As used in this section, "estimated basis" means a methodology
9 that is reasonably expected to approximate the tax that will be
10 due over the period of the agreement using summary rather than
11 detail data or alternate valuation applications or methods,
12 provided that:

13 (1) nothing in this section shall be construed
14 to require the secretary or the secretary's delegate to enter
15 into such an agreement; and

16 (2) the agreement must:

17 (a) specify the receipts, deductions or
18 values to be reported on an estimated basis and the methodology
19 to be followed by the taxpayer in making the estimates;

20 (b) state the term of the agreement and
21 the procedures for terminating the agreement prior to its
22 expiration;

23 (c) be signed by the taxpayer or the
24 taxpayer's representative and the secretary or the secretary's
25 delegate; and

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1 (d) contain a declaration by the
2 taxpayer or the taxpayer's representative that all statements
3 of fact made by the taxpayer or the taxpayer's representative
4 in the taxpayer's application and the agreement are true and
5 correct as to every material matter.

6 F. The secretary may, by regulation, require any
7 person doing business in the state to submit to the department
8 information reports that are considered reasonable and
9 necessary for the administration of any provision of law to
10 which the Tax Administration Act applies."

11 SECTION 2. Section 7-31-2 NMSA 1978 (being Laws 1959,
12 Chapter 54, Section 2, as amended) is amended to read:

13 "7-31-2. DEFINITIONS.--As used in the Oil and Gas
14 Emergency School Tax Act:

15 A. [~~"commission"~~] "department" [~~or "division"~~]
16 means the taxation and revenue department, the secretary of
17 taxation and revenue or any employee of the department
18 exercising authority lawfully delegated to that employee by the
19 secretary;

20 B. "production unit" means a unit of property
21 designated by the department from which products of common
22 ownership are severed;

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

25 D. "value" means the actual price received from

1 products at the production unit, except as otherwise provided
2 in the Oil and Gas Emergency School Tax Act;

3 E. "product" or "products" means oil, including
4 crude, slop or skim oil and condensate; natural gas; liquid
5 hydrocarbon, including ethane, propane, isobutene, normal
6 butane and pentanes plus, individually or any combination
7 thereof; and non-hydrocarbon gases, including carbon dioxide
8 and helium;

9 F. "operator" means any person:

10 (1) engaged in the severance of products from
11 a production unit; or

12 (2) owning an interest in any product at the
13 time of severance who receives a portion or all of such product
14 for the person's interest;

15 G. "purchaser" means a person who is the first
16 purchaser of a product after severance from a production unit,
17 except as otherwise provided in the Oil and Gas Emergency
18 School Tax Act;

19 H. "person" means any individual, estate, trust,
20 receiver, business trust, corporation, firm, copartnership,
21 cooperative, joint venture, association, limited liability
22 company or other group or combination acting as a unit, and the
23 plural as well as the singular number;

24 I. "interest owner" means a person owning an entire
25 or fractional interest of whatsoever kind or nature in the

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1 products at the time of severance from a production unit or who
2 has a right to a monetary payment that is determined by the
3 value of such products;

4 J. "stripper well property" means a crude oil or
5 natural gas producing property that is assigned a single
6 production unit number by the department and is certified by
7 the oil conservation division of the energy, minerals and
8 natural resources department pursuant to the Natural Gas and
9 Crude Oil Production Incentive Act to have produced in the
10 preceding calendar year:

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

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

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

23 K. "average annual taxable value" means as
24 applicable:

25 (1) the average of the taxable value per one

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1 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
 2 1978, of all natural gas produced in New Mexico for the
 3 specified calendar year as determined by the department; or

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

8 L. "tax" means the oil and gas emergency school tax
 9 and the oil and gas equalization surtax; and

10 M. "volume" means the quantity of product severed
 11 reported using:

12 (1) oil, condensate and slop oil in barrels;
 13 and

14 (2) natural gas, liquid hydrocarbons, helium
 15 and carbon dioxide in thousand cubic feet at a pressure base of
 16 fifteen and twenty-five thousandths pounds per square inch."

17 **SECTION 3.** Section 7-31-4 NMSA 1978 (being Laws 1959,
 18 Chapter 54, Section 4, as amended) is amended to read:

19 "7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY DEPARTMENT--
 20 RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

21 A. There is [~~levied~~] imposed and shall be collected
 22 by the department a privilege tax, to be referred to as the
 23 "oil and gas emergency school tax", on [~~the business of every~~
 24 ~~person severing products in this state~~] all products that are
 25 severed and sold. The measure of the tax shall be:

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

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

11 (3) on natural gas, except as provided in
12 Paragraphs (6) and (7) of this subsection, [~~four~~] three and
13 nine-tenths percent of the taxable value determined pursuant to
14 Section 7-31-5 NMSA 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 4. A new section of the Oil and Gas Emergency
7 School Tax Act, Section 7-31-4.1 NMSA 1978, is enacted to read:

8 "7-31-4.1. [NEW MATERIAL] OIL AND GAS EQUALIZATION
9 SURTAX.--

10 A. Except as provided in Subsection B of this
11 section, in addition to the oil and gas emergency school tax,
12 there is imposed and shall be collected by the department a
13 surtax, to be referred to as the "oil and gas equalization
14 surtax", on products that are oil and other liquid hydrocarbons
15 removed from natural gas at or near the wellhead and severed
16 and sold. If the average price of west Texas intermediate
17 crude in the previous quarter is greater than or equal to
18 fifty-five dollars (\$55.00) per barrel, the rate of the surtax
19 is twenty-eight hundredths percent of the taxable value of the
20 products that are severed and sold in the ensuing quarter.

21 B. If the average price of west Texas intermediate
22 crude in the previous quarter is less than fifty-five dollars
23 (\$55.00) per barrel, no surtax in the ensuing quarter shall be
24 levied pursuant to this section.

25 C. Any Indian tribe, Indian pueblo or Indian is

1 liable for the surtax to the extent authorized or permitted by
2 law."

3 SECTION 5. Section 7-31-7 NMSA 1978 (being Laws 1959,
4 Chapter 54, Section 7, as amended) is amended to read:

5 "7-31-7. PRICE INCREASE SUBJECT TO APPROVAL OF AGENCY OF
6 UNITED STATES OF AMERICA, STATE OF NEW MEXICO OR COURT--
7 REFUND.--When an increase in the value of any product is
8 subject to the approval of any agency of the United States of
9 America or the state of New Mexico or any court, the increased
10 value shall be subject to ~~[this]~~ tax. In the event the
11 increase in value is disapproved, either in whole or in part,
12 then the amount of tax ~~[which]~~ that has been paid on the
13 disapproved part of the value shall be considered excess tax.
14 Any person who has paid any such excess tax may apply for a
15 refund of that excess tax in accordance with the provisions of
16 Section 7-1-26 NMSA 1978."

17 SECTION 6. Section 7-31-8 NMSA 1978 (being Laws 1959,
18 Chapter 54, Section 8) is amended to read:

19 "7-31-8. PRODUCTS ON WHICH TAX HAS BEEN LEVIED--
20 ~~[REGULATION BY COMMISSION]~~ DEPARTMENT RULE.--~~[This tax]~~ The oil
21 and gas emergency school tax and the oil and gas equalization
22 surtax shall not be levied more than once on the same product.
23 Reporting of products on which ~~[this]~~ tax has been paid shall
24 be subject to ~~[the regulation of the commission]~~ department
25 rule."

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1 SECTION 7. Section 7-31-26 NMSA 1978 (being Laws 1991,
2 Chapter 9, Section 38) is amended to read:

3 "7-31-26. ADVANCE PAYMENT REQUIRED.--

4 A. Any person required to make payment of tax
5 pursuant to Section 7-31-10 or 7-31-11 NMSA 1978 shall make the
6 advance payment required by this section.

7 B. For the purposes of this section:

8 (1) "advance payment" means the payment
9 required to be made by this section in addition to any oil and
10 gas emergency school tax and oil and gas equalization surtax,
11 penalty or interest due; and

12 (2) "average tax" means the aggregate amount
13 of tax, [~~net of~~] less any refunds or credits, paid by a person
14 during the twelve-month period ending March 31 pursuant to the
15 Oil and Gas Emergency School Tax Act divided by the number of
16 months during that period for which the person made payment.

17 C. Each year, prior to July 1, each person required
18 to pay tax pursuant to the Oil and Gas Emergency School Tax Act
19 shall compute the average tax for the period ending March 31 of
20 that year. The average tax calculated for a year shall be used
21 during the twelve-month period beginning with July of that year
22 and ending with June of the following year as the basis for
23 making the advance payments required by Subsection D of this
24 section.

25 D. Every month, beginning with July 1991, every

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1 person required to pay tax in a month pursuant to the Oil and
2 Gas Emergency School Tax Act shall pay, in addition to any
3 amount of tax, interest or penalty due, an advance payment in
4 an amount equal to the applicable average tax, except:

5 (1) if the person is making a final return
6 under the Oil and Gas Emergency School Tax Act, no advance
7 payment pursuant to this subsection is due for that return; and

8 (2) as provided in Subsection F of this
9 section.

10 E. Every month, beginning with tax payments in
11 August 1991, every person required to pay tax pursuant to the
12 Oil and Gas Emergency School Tax Act may claim a credit equal
13 to the amount of advance payment made in the previous month,
14 except as provided in Subsection F of this section.

15 F. If, in any month, a person is not required to
16 pay tax pursuant to the Oil and Gas Emergency School Tax Act,
17 that person is not required to pay the advance payment and may
18 not claim a credit pursuant to Subsection E of this section;
19 provided that, in any succeeding month when the person has
20 liability under the Oil and Gas Emergency School Tax Act, the
21 person may claim a credit for any advance payment made and not
22 credited.

23 G. In the event that the date by which a person is
24 required to pay the tax pursuant to the Oil and Gas Emergency
25 School Tax Act is accelerated to a date earlier than the

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1 twenty-fifth day of the second month following the month of
2 production, the advance payment provision contained in this
3 section is [~~null and~~] void and any money held as advance
4 payments shall be credited to the taxpayers' accounts."

5 SECTION 8. Section 7-2-18.15 NMSA 1978 (being Laws 2007,
6 Chapter 45, Section 9, as amended) is repealed and a new
7 Section 7-2-18.15 NMSA 1978 is enacted to read:

8 "7-2-18.15. [NEW MATERIAL] EARNED INCOME TAX CREDIT.--

9 A. The credit provided by this section may be
10 referred to as the "earned income tax credit". A taxpayer who
11 is an eligible individual may claim the earned income tax
12 credit against the taxpayer's tax liability imposed pursuant to
13 the Income Tax Act in an amount equal to the credit percentage
14 of so much of the taxpayer's earned income for the taxable year
15 as does not exceed the earned income amount; provided that the
16 amount of the credit shall not exceed the excess of:

17 (1) the credit percentage of the earned income
18 amount; over

19 (2) the phaseout percentage of so much of the
20 adjusted gross income or, if greater, the earned income, of the
21 taxpayer for the taxable year as exceeds the phaseout amount.

22 B. The credit percentage and the phaseout
23 percentage shall be determined as follows:

24 In the case of a taxpayer The credit The phaseout
25 with: percentage is: percentage is:

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1	1 qualifying child	11.55%	4.55%
2	2 qualifying children	13.6%	6.15%
3	3 or more qualifying children	15.3%	6.15%
4	No qualifying children	2.6%	2.1%.

5 C. Except as provided in Subsections E and F of
6 this section, the earned income amount and the phaseout amount
7 shall be determined as follows:

8	In the case of a taxpayer	The earned	The phaseout
9	with:	income amount	amount is:
10		is:	
11	1 qualifying child	\$11,000	\$36,000
12	2 or more qualifying children	\$15,000	\$40,000
13	No qualifying children	\$8,000	\$25,000.

14 D. For married individuals filing joint returns,
15 the phaseout amount shall be increased by five thousand dollars
16 (\$5,000).

17 E. Except as provided in Subsection F of this
18 section, if the greater of an eligible individual's earned
19 income or adjusted gross income is less than the earned income
20 amount and the amount of credit is less than one hundred
21 dollars (\$100), the amount of the credit shall be one hundred
22 dollars (\$100).

23 F. For the 2026 taxable year and each subsequent
24 taxable year, the earned income amounts and phaseout amounts
25 shown in the table in Subsection C of this section, the amount

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1 of credit provided in Subsection E of this section and the
2 phaseout amount provided in Subsection D of this section shall
3 be adjusted to account for inflation. The department shall
4 make the adjustment by multiplying each amount of credit by a
5 fraction, the numerator of which is the consumer price index
6 ending during the prior taxable year and the denominator of
7 which is the consumer price index ending in taxable year 2025.
8 The result of the multiplication shall be rounded to the
9 nearest ten dollars (\$10.00), except that if the result would
10 be an amount less than the corresponding amount for the
11 preceding taxable year, then no adjustment shall be made.

12 G. The secretary shall reflect the provisions of
13 Subsections B and C of this section in tables that shall have
14 income brackets of not greater than fifty dollars (\$50.00) each
15 for:

16 (1) earned income between zero and the amount
17 of earned income at which the credit is phased out under
18 Subsection C of this section; and

19 (2) adjusted gross income between the dollar
20 amount at which the phase out begins under Subsection C of this
21 section and the amount of adjusted gross income at which the
22 credit is phased out under that subsection.

23 H. That portion of credit that exceeds a taxpayer's
24 tax liability in the taxable year in which the credit is
25 claimed shall be refunded. A refund made to a taxpayer

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1 pursuant to this section shall not be treated as income.

2 I. A taxpayer allowed a tax credit pursuant to this
3 section shall report the amount of the credit to the department
4 in a manner required by the department.

5 J. The credit provided by this section shall be
6 included in the tax expenditure budget pursuant to Section
7 7-1-84 NMSA 1978, including the total annual aggregate cost of
8 the credit.

9 K. As used in this section:

10 (1) "earned income" means "earned income" as
11 defined in 26 U.S.C. 32(c)(2);

12 (2) "eligible individual" means a resident who
13 is:

14 (a) an "eligible individual" pursuant to
15 the federal earned income tax credit who is eligible to claim
16 the federal earned income tax credit in the taxable year; or

17 (b) an individual who would have been
18 eligible for the federal earned income tax credit but for the:
19 1) identification number requirement pursuant to 26 U.S.C.
20 32(m), as that section may be amended or renumbered; or 2) the
21 age requirement pursuant to 26 U.S.C. 32(c)(1)(A)(ii)(II), as
22 that section may be amended or renumbered; provided that the
23 taxpayer is at least eighteen years of age but has not reached
24 the age of twenty-five;

25 (3) "federal earned income tax credit" means

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1 the federal tax credit allowed pursuant to 26 U.S.C. 32, as
2 that section may be amended or renumbered; and

3 (4) "qualifying child" means "qualifying
4 child" as defined by Section 152(c) of the Internal Revenue
5 Code, as that section may be amended or renumbered, but
6 includes any minor child or stepchild of the taxpayer who would
7 be a qualifying child for federal income tax purposes if the
8 public assistance contributing to the support of the child or
9 stepchild was considered to have been contributed by the
10 taxpayer."

11 SECTION 9. APPLICABILITY.--The provisions of Section 8 of
12 this act apply to taxable years beginning on or after January
13 1, 2025.

14 SECTION 10. EFFECTIVE DATE.--The effective date of the
15 provisions of Sections 1 through 7 of this act is July 1, 2025.