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SENATE BILL 245

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

TOM RUTHERFORD

AN ACT

RELATING TO ENERGY; AMENDING SECTIONS OF THE NMSA 1978 TO
PROVIDE FOR THE RESTORATION AND REMEDIATION OF ABANDONED WELL
SITES.

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

Section 1. Section 7-30-4 NMSA 1978 (being Laws 1959,
Chapter 53, Section 4, as amended) is amended to read:

"7-30-4. OIL AND GAS CONSERVATION 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 tax on all products [~~which~~] that are severed and
sold. The measure and rate of the tax shall be nineteen one-
hundredths of one percent of the taxable value of sold products.
Every interest owner shall be liable for this tax to the extent

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1 of the owner's interest in the value of such products or to the
2 extent of the owner's interest as may be measured by the value
3 of such products. [Provided] Any Indian tribe, Indian pueblo or
4 Indian shall be liable for this tax to the extent authorized or
5 permitted by law.

6 B. In the event the unencumbered balance in the oil
7 and gas reclamation fund equals or exceeds one million dollars
8 (\$1,000,000) for any one-month period computed after receipt of
9 the tax for that month, then the rate of the tax levied by this
10 section shall be eighteen one-hundredths of one percent
11 beginning with the first day of the second month following the
12 month in which the unencumbered balance equaled or exceeded one
13 million dollars (\$1,000,000), and no funds collected by the tax
14 with respect to any period for which the rate is eighteen one-
15 hundredths of one percent shall be distributed to the oil and
16 gas reclamation fund. After having been reduced to eighteen
17 one-hundredths of one percent, the rate of the tax imposed by
18 this section shall remain at that rate until the unencumbered
19 balance in the oil and gas reclamation fund is less than or
20 equal to [~~five hundred thousand dollars (\$500,000)~~] eight
21 hundred thousand dollars (\$800,000) for any one-month period
22 computed after receipt of the tax for that month, in which event
23 the rate of the tax levied by this section shall be increased to
24 nineteen one-hundredths of one percent beginning with the first
25 day of the second month following the month in which the

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1 unencumbered balance [~~equalled~~] equalled or was less than [~~five~~
2 ~~hundred thousand dollars (\$500,000)] eight hundred thousand
3 dollars (\$800,000), and the additional funds with respect to any
4 period for which the rate is nineteen one-hundredths of one
5 percent shall be distributed to the oil and gas reclamation fund
6 in accordance with the provisions of the Tax Administration Act.~~

7 C. The department shall notify taxpayers of any change
8 in the rate of tax imposed by this section. "

9 Section 2. Section 70-2-12 NMSA 1978 (being Laws 1978,
10 Chapter 71, Section 1, as amended) is amended to read:

11 "70-2-12. ENUMERATION OF POWERS. --

12 A. Included in the power given to the oil conservation
13 division of the energy, minerals and natural resources
14 department is the authority to collect data; to make
15 investigations and inspections; to examine properties, leases,
16 papers, books and records; to examine, check, test and gauge oil
17 and gas wells, tanks, plants, refineries and all means and modes
18 of transportation and equipment; to hold hearings; to provide
19 for the keeping of records and the making of reports and for the
20 checking of the accuracy of the records and reports; to limit
21 and prorate production of crude petroleum oil or natural gas or
22 both as provided in the Oil and Gas Act; to require either
23 generally or in particular areas certificates of clearance or
24 tenders in connection with the transportation of crude petroleum
25 oil or natural gas or any products of either or both oil and

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1 products or both natural gas and products.

2 B. Apart from any authority, express or implied,
3 elsewhere given to or existing in the oil conservation division
4 by virtue of the Oil and Gas Act or the statutes of this state,
5 the division is authorized to make rules, regulations and orders
6 for the purposes and with respect to the subject matter stated
7 in this subsection:

8 (1) to require dry or abandoned wells to be
9 plugged in a way to confine the crude petroleum oil, natural gas
10 or water in the strata in which it is found and to prevent it
11 from escaping into other strata; the division shall require a
12 cash or surety bond in a sum not to exceed fifty thousand
13 dollars (\$50,000) conditioned for the performance of such
14 regulations;

15 (2) to prevent crude petroleum oil, natural gas
16 or water from escaping from strata in which it is found into
17 other strata;

18 (3) to require reports showing locations of all
19 oil or gas wells and for the filing of logs and drilling records
20 or reports;

21 (4) to prevent the drowning by water of any
22 stratum or part thereof capable of producing oil or gas or both
23 oil and gas in paying quantities and to prevent the premature
24 and irregular encroachment of water or any other kind of water
25 encroachment [~~which~~] that reduces or tends to reduce the total

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1 ultimate recovery of crude petroleum oil or gas or both oil and
2 gas from any pool;

3 (5) to prevent fires;

4 (6) to prevent "blow-ups" and "caving" in the
5 sense that the conditions indicated by such terms are generally
6 understood in the oil and gas business;

7 (7) to require wells to be drilled, operated and
8 produced in such manner as to prevent injury to neighboring
9 leases or properties;

10 (8) to identify the ownership of oil or gas
11 producing leases, properties, wells, tanks, refineries,
12 pipelines, plants, structures and all transportation equipment
13 and facilities;

14 (9) to require the operation of wells with
15 efficient gas-oil ratios and to fix such ratios;

16 (10) to fix the spacing of wells;

17 (11) to determine whether a particular well or
18 pool is a gas or oil well or a gas or oil pool, as the case may
19 be, and from time to time to classify and reclassify wells and
20 pools accordingly;

21 (12) to determine the limits of any pool
22 producing crude petroleum oil or natural gas or both and from
23 time to time redetermine the limits;

24 (13) to regulate the methods and devices employed
25 for storage in this state of oil or natural gas or any product

1 of either, including subsurface storage;

2 (14) to permit the injection of natural gas or of
3 any other substance into any pool in this state for the purpose
4 of repressuring, cycling, pressure maintenance, secondary or any
5 other enhanced recovery operations;

6 (15) to regulate the disposition of water
7 produced or used in connection with the drilling for or
8 producing of oil or gas or both and to direct surface or
9 subsurface disposal of the water in a manner that will afford
10 reasonable protection against contamination of fresh water
11 supplies designated by the state engineer;

12 (16) to determine the limits of any area
13 containing commercial potash deposits and from time to time
14 redetermine the limits;

15 (17) to regulate and, where necessary, prohibit
16 drilling or producing operations for oil or gas within any area
17 containing commercial deposits of potash where the operations
18 would have the effect unduly to reduce the total quantity of the
19 commercial deposits of potash which may reasonably be recovered
20 in commercial quantities or where the operations would interfere
21 unduly with the orderly commercial development of the potash
22 deposits;

23 (18) to spend the oil and gas reclamation fund
24 and do all acts necessary and proper to plug dry and abandoned
25 oil and gas wells and to restore and remediate abandoned well

Underscored material = new
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1 sites and associated production facilities in accordance with
2 the provisions of the Oil and Gas Act, the rules and regulations
3 adopted under that act and the Procurement Code, including
4 disposing of salvageable equipment and material removed from oil
5 and gas wells being plugged by the state;

6 (19) to make well price category determinations
7 pursuant to the provisions of the Natural Gas Policy Act of 1978
8 or any successor act and, by regulation, to adopt fees for such
9 determinations, which fees shall not exceed twenty-five dollars
10 (\$25.00) per filing. Such fees shall be credited to the account
11 of the oil conservation division by the state treasurer and may
12 be expended as authorized by the legislature;

13 (20) to regulate the construction and operation
14 of oil treating plants and to require the posting of bonds for
15 the reclamation of treating plant sites after cessation of
16 operations;

17 (21) to regulate the disposition of nondomestic
18 wastes resulting from the exploration, development, production
19 or storage of crude oil or natural gas to protect public health
20 and the environment; and

21 (22) to regulate the disposition of nondomestic
22 wastes resulting from the oil field service industry, the
23 transportation of crude oil or natural gas, the treatment of
24 natural gas or the refinement of crude oil to protect public
25 health and the environment, including administering the Water

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1 Quality Act as provided in Subsection E of Section 74-6-4 NMSA
2 1978. "

3 Section 3. Section 70-2-38 NMSA 1978 (being Laws 1977,
4 Chapter 237, Section 5, as amended) is amended to read:

5 "70-2-38. OIL AND GAS RECLAMATION FUND ADMINISTERED--
6 PLUGGING WELLS ON FEDERAL LAND--RIGHT OF INDEMNIFICATION--ANNUAL
7 REPORT--CONTRACTORS SELLING EQUIPMENT FOR SALVAGE.--

8 A. The oil and gas reclamation fund shall be
9 administered by the oil conservation division of the energy,
10 minerals and natural resources department. Expenditures from
11 the fund may be used by the director of the division for the
12 purpose of employing the necessary personnel to survey abandoned
13 wells, well sites and associated production facilities and to
14 prepare plans for the plugging of abandoned wells [~~which~~] that
15 have not been plugged or [~~which~~] that have been improperly
16 plugged and for the restoration and remediation of abandoned
17 well sites and associated production facilities that have not
18 been properly restored and remediated. The director, as funds
19 become available in the oil and gas reclamation fund, shall
20 reclaim and properly plug all abandoned wells and shall restore
21 and remediate abandoned well sites and associated production
22 facilities in accordance with the provisions of the Oil and Gas
23 Act and the rules and regulations promulgated pursuant to that
24 act. The division may order wells plugged and well sites and
25 associated production facilities restored and remediated on

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1 federal lands on which there are no bonds running to the benefit
2 of the state in the same manner and in accordance with the same
3 procedure as with wells drilled on state and fee land, including
4 utilizing funds from the oil and gas reclamation fund to pay the
5 cost of plugging. When the costs of plugging a well drilled on
6 federal mineral leases or restoring and remediating well sites
7 and associated production facilities are paid from the oil and
8 gas reclamation fund, the division is authorized to bring a suit
9 against the operator or the owner of the minerals under the
10 tract, or both, in the district court of the county in which the
11 well is located for indemnification for all costs incurred by
12 the division in plugging the well or restoring and remediating
13 the well site and associated production facilities. Any funds
14 collected pursuant to a judgment in a suit for indemnification
15 brought under the Oil and Gas Act shall be deposited in the oil
16 and gas reclamation fund.

17 B. The director of the oil conservation division of
18 the energy, minerals and natural resources department shall make
19 an annual report to the secretary of energy, minerals and
20 natural resources, the governor and the legislature on the use
21 of the oil and gas reclamation fund.

22 C. All contracts for well plugging shall be entered
23 into in accordance with the provisions of the Procurement Code.
24 Any contractor employed by the [~~division~~] oil conservation
25 division of the energy, minerals and natural resources

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1 department to plug a well is authorized to sell for salvage the
2 equipment and material [~~which~~] that is removed from the well in
3 plugging it. "

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1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996

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5 JANUARY 24, 1996

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7 Mr. Presi dent:

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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred

10
11 SENATE BILL 245

12
13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the
15 CONSERVATI ON COMMI TTEE.

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17 Respectfully submi tted,

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23 SENATOR MANNY M. ARAGON, Chai rman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

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1 FORTY- SECOND LEGI SLATURE
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5 February 6, 1996
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7 Mr. President:
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9 Your CONSERVATIVE COMMI TTEE, to whom has been referred
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11 SENATE BILL 245
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13 has had it under consideration and reports same with recommendation that
14 it DO PASS, and thence referred to the FINANCE COMMI TTEE.
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16 Respectfully submit ted,
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21 TOM R. BENAVIDES, Chair man
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25 Adopted _____

Not Adopted _____

(Chi ef Clerk)

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Date _____

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The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Rutherford, Tsosie, Vernon, Wray

Absent: 0

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1 FORTY-SECOND LEGISLATURE
2 SECOND SESSION, 1996
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SB 245/a

5 February 10, 1996
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7 Mr. President:
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9 Your FINANCE COMMITTEE, to whom has been referred
10

11 SENATE BILL 245
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13 has had it under consideration and reports same with recommendation that
14 it DO PASS, amended as follows:
15

16 1. On page 2, line 20, remove the brackets and line-through.
17

18 2. On page 2, lines 20 and 21, strike the underscored language in
19 its entirety.
20

21 3. On page 3, lines 1 and 2, after "than" remove the brackets and
22 line-through.
23

24 4. On page 3, lines 2 and 3, strike the underscored language in
25 its entirety.

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

SFC/SB 245

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Respectfully submitted,

Ben D. Altamirano, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

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**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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SFC/SB 245

Page 17

No: 0

Excused: Duran, Ingle, Kidd, Kysar

Absent: None

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State of New Mexico House of Representatives

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 14, 1996

Mr. Speaker:

Your ENERGY AND NATURAL RESOURCES COMMITTEE, to whom
has been referred

SENATE BILL 245, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

James Roger Madalena, Chairman

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HENRC/SB 245

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

Excused: Knowles, Ryan, Wallach

Absent: Corley, Reyes

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Underscored material = new
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