

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 208

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

AN ACT

RELATING TO TAXATION; AMENDING A SECTION OF THE TAX
ADMINISTRATION ACT TO PROVIDE FOR A DISTRIBUTION FROM THE OIL
AND GAS CONSERVATION TAX TO THE OIL AND GAS RECLAMATION FUND;
PROVIDING FOR EXPANSION OF THE USE OF MONEY IN THE OIL AND GAS
RECLAMATION FUND; AMENDING SECTIONS OF THE OIL AND GAS ACT TO
REMOVE THE LIMIT ON THE AMOUNT OF MONEY IN THE OIL AND GAS
RECLAMATION FUND AND TO PROVIDE FOR DONATIONS TO BE ACCEPTED IN
THE FUND; MAKING AN APPROPRIATION.

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

Section 1. Section 7-1-6.21 NMSA 1978 (being Laws 1985,
Chapter 65, Section 7, as amended) is amended to read:

"7-1-6.21. DISTRIBUTION TO OIL AND GAS RECLAMATION
FUND.--

A. With respect to any period for which the rate of
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underscored material = new
[bracketed material] = delete

1 the tax imposed by Section 7-30-4 NMSA 1978 is nineteen-
2 hundredths percent, a distribution pursuant to Section 7-1-6.20
3 NMSA 1978 shall be made to the oil and gas reclamation fund in
4 [~~the~~] an amount equal to two-nineteenths of the net receipts
5 attributable to the tax imposed under the Oil and Gas
6 Conservation Tax Act.

7 B. With respect to any period for which the total
8 rate of the tax imposed on oil by Section 7-30-4 NMSA 1978 is
9 [~~eighteen-hundredths~~] twenty-four hundredths percent, a
10 distribution pursuant to Section 7-1-6.20 NMSA 1978 shall be
11 made to the oil and gas reclamation fund in [~~the~~] an amount
12 equal to [~~one-eighteenth~~] nineteen and seven-tenths percent of
13 the net receipts attributable to the tax imposed under the Oil
14 and Gas Conservation Tax Act."

15 Section 2. Section 7-30-4 NMSA 1978 (being Laws 1959,
16 Chapter 53, Section 4, as amended) is amended to read:

17 "7-30-4. OIL AND GAS CONSERVATION TAX LEVIED--COLLECTED
18 BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--
19 INDIAN LIABILITY.--

20 A. There is levied and shall be collected by the
21 department a tax on all products that are severed and sold.
22 [~~Except as provided in Subsections B and C of this section~~] The
23 measure and rate of the tax shall be nineteen-hundredths
24 percent of the taxable value of sold products. Every interest
25 owner shall be liable for this tax to the extent of the owner's

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

6 ~~[B. In the event the unencumbered balance in the
7 oil and gas reclamation fund equals or exceeds two million five
8 hundred thousand dollars (\$2,500,000) for any one-month period
9 computed after receipt of the tax for that month, the rate of
10 the tax levied by this section shall be eighteen-hundredths
11 percent beginning with the first day of the second month
12 following the month in which the unencumbered balance equaled
13 or exceeded two million five hundred thousand dollars
14 (\$2,500,000).~~

15 ~~C. After having been reduced to eighteen-hundredths
16 percent, the rate of the tax imposed by this section shall
17 remain at that rate until the unencumbered balance in the oil
18 and gas reclamation fund is less than or equal to five hundred
19 thousand dollars (\$500,000) for any one-month period computed
20 after receipt of the tax for that month, in which event the
21 rate of the tax levied by this section shall be increased to
22 nineteen-hundredths percent beginning with the first day of the
23 second month following the month in which the unencumbered
24 balance equaled or was less than five hundred thousand dollars
25 (\$500,000).~~

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1 ~~D. The department shall notify taxpayers of any~~
2 ~~change in the rate of tax imposed by this section.]~~

3 B. When the average price of west Texas
4 intermediate crude in the previous quarter exceeds seventy
5 dollars (\$70.00) per barrel, an additional tax to that provided
6 pursuant to Subsection A of this section is levied and shall be
7 collected by the department on oil that is severed and sold in
8 the ensuing quarter. The measure and rate of the total tax on
9 oil shall be twenty-four hundredths percent of the taxable
10 value of the sold product. Every interest owner shall be
11 liable for this tax to the extent of the owner's interest in
12 the value of the products or to the extent of the owner's
13 interest as may be measured by the value of the products. An
14 Indian tribe, Indian pueblo or Indian shall be liable for this
15 tax to the extent authorized or permitted by law."

16 Section 3. Section 70-2-37 NMSA 1978 (being Laws 1977,
17 Chapter 237, Section 4, as amended) is amended to read:

18 "70-2-37. OIL AND GAS RECLAMATION FUND CREATED--
19 DISPOSITION OF FUND.--There is created the "oil and gas
20 reclamation fund". In addition to other sources, money in the
21 fund may consist of donations. All funds in the oil and gas
22 reclamation fund are appropriated to the energy, minerals and
23 natural resources department for use by the oil conservation
24 division in carrying out the provisions of the Oil and Gas
25 Act."

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

3 "70-2-38. OIL AND GAS RECLAMATION FUND ADMINISTERED--
4 PLUGGING WELLS ON FEDERAL LAND--RIGHT OF INDEMNIFICATION--
5 ANNUAL REPORT--CONTRACTORS SELLING EQUIPMENT FOR SALVAGE.--

6 A. The oil and gas reclamation fund shall be
7 administered by the oil conservation division of the energy,
8 minerals and natural resources department. Expenditures from
9 the fund may be used by the director of the division for the
10 purposes of:

11 (1) employing the necessary personnel to
12 survey abandoned wells, well sites and associated production
13 facilities and preparing plans for administering and performing
14 the plugging of abandoned wells that have not been plugged or
15 that have been improperly plugged and for the restoration and
16 remediation of abandoned well sites and associated production
17 facilities that have not been properly restored and remediated;
18 and

19 (2) supporting energy education throughout the
20 state in an amount not to exceed one hundred fifty thousand
21 dollars (\$150,000) annually.

22 B. The director of the oil conservation division of
23 the energy, minerals and natural resources department, as funds
24 become available in the oil and gas reclamation fund, shall
25 reclaim and properly plug all abandoned wells and shall restore

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1 and remediate abandoned well sites and associated production
2 facilities in accordance with the provisions of the Oil and Gas
3 Act and the rules and regulations promulgated pursuant to that
4 act. The division may order wells plugged and well sites and
5 associated production facilities restored and remediated on
6 federal lands on which there are no bonds running to the
7 benefit of the state in the same manner and in accordance with
8 the same procedure as with wells drilled on state and fee land,
9 including using funds from the oil and gas reclamation fund to
10 pay the cost of plugging. When the costs of plugging a well
11 [~~drilled on federal mineral leases~~] or restoring and
12 remediating well sites and associated production facilities are
13 paid from the oil and gas reclamation fund, the division is
14 authorized to bring a suit against the operator or district
15 court of the county in which the well is located for
16 indemnification for all costs incurred by the division in
17 plugging the well or restoring and remediating the well site
18 and associated production facilities. Any funds collected
19 pursuant to a judgment in a suit for indemnification brought
20 under the Oil and Gas Act shall be deposited in the oil and gas
21 reclamation fund.

22 C. The director of the oil conservation division of
23 the energy, minerals and natural resources department shall
24 make an annual report to the secretary of energy, minerals and
25 natural resources, the governor and the legislature on the use

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1 of the oil and gas reclamation fund.

2 D. Contracts for plugging, reclamation and energy
3 education pursuant to this section shall be entered into in
4 accordance with the provisions of the Procurement Code. A
5 contractor employed by the oil conservation division of the
6 energy, minerals and natural resources department to plug a
7 well or restore or remediate a well site or associated
8 production facility is authorized to sell [~~for salvage~~] the
9 equipment and material or product that is removed from the
10 well, [~~in plugging it~~] site or facility and to deduct the
11 proceeds of the sales from the costs of plugging, restoring or
12 remediating.

13 E. As used in this section, "associated production
14 facilities" means those facilities used for, intended to be
15 used for or that have been used for the production, treatment,
16 transportation, storage or disposal of oil, gas, brine, product
17 or waste generated during oil and gas operations or used in the
18 production of oil and gas if that facility is, has been or
19 would have been subject to regulation by the oil conservation
20 division of the energy, minerals and natural resources
21 department or the oil conservation commission pursuant to the
22 Oil and Gas Act or the Water Quality Act."