

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

B. With respect to any period for which the total rate of the tax imposed on oil by Section 7-30-4 NMSA 1978 is twenty-four hundredths percent, a distribution pursuant to

Section 7-1-6.20 NMSA 1978 shall be made to the oil and gas reclamation fund in an amount equal to nineteen and seven-tenths percent of the net receipts attributable to the tax imposed under the Oil and Gas Conservation Tax Act."

Section 2. 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 that are severed and sold. The measure and rate of the tax shall be nineteen-hundredths percent of the taxable value of sold products. Every interest owner shall be liable for this tax to the extent of the owner's interest in the value of the products or to the extent of the owner's interest as may be measured by the value of the products. An Indian tribe, Indian pueblo or Indian shall be liable for this tax to the extent authorized or permitted by law.

B. When the average price of west Texas intermediate crude in the previous quarter exceeds seventy dollars (\$70.00) per barrel, an additional tax to that provided pursuant to Subsection A of this section is levied and shall be collected by the department on oil that is severed and sold in the ensuing quarter. The measure and rate

of the total tax on oil shall be twenty-four hundredths percent of the taxable value of the sold product. Every interest owner shall be liable for this tax to the extent of the owner's interest in the value of the products or to the extent of the owner's interest as may be measured by the value of the products. An Indian tribe, Indian pueblo or Indian shall be liable for this tax to the extent authorized or permitted by law."

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

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

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

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

A. The oil and gas reclamation fund shall be administered by the oil conservation division of the energy,

minerals and natural resources department. Expenditures from the fund may be used by the director of the division for the purposes of:

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

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

B. The director of the oil conservation division of the energy, minerals and natural resources department, as funds become available in the oil and gas reclamation fund, shall reclaim and properly plug all abandoned wells and shall restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act and the rules and regulations promulgated pursuant to that act. The division may order wells plugged and well sites and associated production facilities restored and remediated on federal lands on which there are no bonds running to the benefit of the state in the same manner and in

accordance with the same procedure as with wells drilled on state and fee land, including using funds from the oil and gas reclamation fund to pay the cost of plugging. When the costs of plugging a well or restoring and remediating well sites and associated production facilities are paid from the oil and gas reclamation fund, the division is authorized to bring a suit against the operator or district court of the county in which the well is located for indemnification for all costs incurred by the division in plugging the well or restoring and remediating the well site and associated production facilities. Any funds collected pursuant to a judgment in a suit for indemnification brought under the Oil and Gas Act shall be deposited in the oil and gas reclamation fund.

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

D. Contracts for plugging, reclamation and energy education pursuant to this section shall be entered into in accordance with the provisions of the Procurement Code. A contractor employed by the oil conservation division of the energy, minerals and natural resources department to plug a well or restore or remediate a well site or associated production facility is authorized to sell the equipment and

material or product that is removed from the well, site or facility and to deduct the proceeds of the sales from the costs of plugging, restoring or remediating.

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