

1 HOUSE BILL 181

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Larry R. Scott and James G. Townsend and Randall Pettigrew  
5 and Rod Montoya  
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7  
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10 AN ACT

11 RELATING TO TAXATION; TEMPORARILY EXEMPTING A QUALIFIED  
12 ENHANCED RECOVERY PROJECT THAT USES CAPTURED CARBON DIOXIDE TO  
13 DISPLACE OIL FROM THE TAX ON CARBON DIOXIDE FOR PRODUCTS THAT  
14 ARE SEVERED AND SOLD; DEFINING "POSTED PRICE" AND "CAPTURED  
15 CARBON DIOXIDE" IN THE OIL AND GAS SEVERANCE TAX ACT.  
16

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

18 SECTION 1. Section 7-29-2 NMSA 1978 (being Laws 1959,  
19 Chapter 52, Section 2, as amended) is amended to read:

20 "7-29-2. DEFINITIONS.--As used in the Oil and Gas  
21 Severance Tax Act:

22 A. "captured carbon dioxide" means carbon dioxide  
23 that:

24 (1) is captured from an industrial source by  
25 carbon capture equipment;

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1                   (2) would otherwise be released into the  
2 atmosphere as industrial emissions of greenhouse gas or lead to  
3 such release; and

4                   (3) is measured at the source of capture and  
5 verified at the point of disposal, injection or use; or

6                   (4) in the case of a direct air capture  
7 facility, is:

8                                   (a) captured directly from the ambient  
9 air;

10                                  (b) measured at the source of capture;  
11 and

12                                  (c) verified at the point of disposal,  
13 injection or use;

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

19                   ~~[B.]~~ C. "production unit" means a unit of property  
20 designated by the department from which products of common  
21 ownership are severed;

22                   ~~[C.]~~ D. "severance" means the taking from the soil  
23 of any product in any manner whatsoever;

24                   ~~[D.]~~ E. "value" means the actual price received for  
25 products at the production unit, except as otherwise provided

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1 in the Oil and Gas Severance Tax Act;

2 F. "posted price" means the price of west Texas  
3 intermediate crude oil as published by the United States energy  
4 information administration;

5 ~~[E.]~~ G. "product" or "products" means oil, natural  
6 gas or liquid hydrocarbon, individually or any combination  
7 thereof, carbon dioxide, helium or a non-hydrocarbon gas;

8 ~~[F.]~~ H. "operator" means any person:

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

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

14 ~~[G.]~~ I. "primary recovery" means the displacement  
15 of oil and of other liquid hydrocarbons removed from natural  
16 gas at or near the wellhead from an oil well or pool as  
17 classified by the oil conservation division of the energy,  
18 minerals and natural resources department pursuant to Paragraph  
19 (11) of Subsection B of Section 70-2-12 NMSA 1978 into the  
20 wellbore by means of the natural pressure of the oil well or  
21 pool, including ~~[but not limited to]~~ artificial lift;

22 ~~[H.]~~ J. "purchaser" means a person who is the first  
23 purchaser of a product after severance from a production unit,  
24 except as otherwise provided in the Oil and Gas Severance Tax  
25 Act;

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1           ~~[I.]~~ K. "person" means any individual, estate,  
2 trust, receiver, business trust, corporation, firm, co-  
3 partnership, cooperative, joint venture, association or other  
4 group or combination acting as a unit, and the plural as well  
5 as the singular number;

6           ~~[J.]~~ L. "interest owner" means a person owning an  
7 entire or fractional interest of whatsoever kind or nature in  
8 the products at the time of severance from a production unit,  
9 or who has a right to a monetary payment that is determined by  
10 the value of such products;

11           ~~[K.]~~ M. "new production natural gas well" means a  
12 producing crude oil or natural gas well proration unit that  
13 begins its initial natural gas production on or after May 1,  
14 1987 as determined by the oil conservation division of the  
15 energy, minerals and natural resources department;

16           ~~[L.]~~ N. "qualified enhanced recovery project",  
17 prior to January 1, 1994, means the use or the expanded use of  
18 carbon dioxide, when approved by the oil conservation division  
19 of the energy, minerals and natural resources department  
20 pursuant to the Enhanced Oil Recovery Act, for the displacement  
21 of oil and of other liquid hydrocarbons removed from natural  
22 gas at or near the wellhead from an oil well or pool classified  
23 by the oil conservation division pursuant to Paragraph (11) of  
24 Subsection B of Section 70-2-12 NMSA 1978;

25           ~~[M.]~~ O. "qualified enhanced recovery project", on  
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1 and after January 1, 1994, means the use or the expanded use of  
2 any process approved by the oil conservation division of the  
3 energy, minerals and natural resources department pursuant to  
4 the Enhanced Oil Recovery Act for the displacement of oil and  
5 of other liquid hydrocarbons removed from natural gas at or  
6 near the wellhead from an oil well or pool classified by the  
7 oil conservation division pursuant to Paragraph (11) of  
8 Subsection B of Section 70-2-12 NMSA 1978, other than a primary  
9 recovery process; the term includes ~~[but is not limited to]~~ the  
10 use of a pressure maintenance process, a water flooding process  
11 and immiscible, miscible, chemical, thermal or biological  
12 process or any other related process;

13 ~~[N.]~~ P. "production restoration project" means the  
14 use of any process for returning to production a natural gas or  
15 oil well that had thirty days or less of production in any  
16 period of twenty-four consecutive months beginning on or after  
17 January 1, 1993, as approved and certified by the oil  
18 conservation division of the energy, minerals and natural  
19 resources department pursuant to the Natural Gas and Crude Oil  
20 Production Incentive Act;

21 ~~[O.]~~ Q. "well workover project" means any procedure  
22 undertaken by the operator of a natural gas or crude oil well  
23 that is intended to increase the production from the well and  
24 that has been approved and certified by the oil conservation  
25 division of the energy, minerals and natural resources

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1 department pursuant to the Natural Gas and Crude Oil Production  
2 Incentive Act;

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

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

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

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

22 ~~[Q.]~~ S. "average annual taxable value" means as  
23 applicable:

24 (1) the average of the taxable value per one  
25 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA

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1 1978, of all natural gas produced in New Mexico for the  
2 specified calendar year as determined by the department; or

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

7 [~~R.~~] T. "tax" means the oil and gas severance tax."

8 SECTION 2. Section 7-29-4 NMSA 1978 (being Laws 1980,  
9 Chapter 62, Section 5, as amended) is amended to read:

10 "7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--COLLECTION--  
11 INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

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

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

20 (2) on oil and on other liquid hydrocarbons  
21 removed from natural gas at or near the wellhead, except as  
22 provided in Paragraphs (3), (5), (8), [~~and~~] (9) and (10) of  
23 this subsection, three and three-fourths percent of taxable  
24 value determined pursuant to Section 7-29-4.1 NMSA 1978;

25 (3) on oil and on other liquid hydrocarbons

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1 removed from natural gas at or near the wellhead produced from  
2 a qualified enhanced recovery project, one and seven-eighths  
3 percent of the taxable value determined pursuant to Section  
4 7-29-4.1 NMSA 1978, provided that the annual average price of  
5 west Texas intermediate crude oil, determined by the department  
6 by averaging the posted prices in effect on the last day of  
7 each month of the twelve-month period ending on May 31 prior to  
8 the fiscal year in which the tax rate is to be imposed, was  
9 less than twenty-eight dollars (\$28.00) per barrel;

10 (4) on the natural gas from a well workover  
11 project that is certified by the oil conservation division of  
12 the energy, minerals and natural resources department in its  
13 approval of the well workover project, two and forty-five  
14 hundredths percent of the taxable value determined pursuant to  
15 Section 7-29-4.1 NMSA 1978, provided that the annual average  
16 price of west Texas intermediate crude oil, determined by the  
17 department by averaging the posted prices in effect on the last  
18 day of each month of the twelve-month period ending on May 31  
19 prior to the fiscal year in which the tax rate is to be  
20 imposed, was less than twenty-four dollars (\$24.00) per barrel;

21 (5) on the oil and on other liquid  
22 hydrocarbons removed from natural gas at or near the wellhead  
23 from a well workover project that is certified by the oil  
24 conservation division of the energy, minerals and natural  
25 resources department in its approval of the well workover

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

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

16 (7) on the natural gas from a stripper well  
17 property, two and thirteen-sixteenths percent of the taxable  
18 value determined pursuant to Section 7-29-4.1 NMSA 1978,  
19 provided that the average annual taxable value of natural gas  
20 was greater than one dollar fifteen cents (\$1.15) per thousand  
21 cubic feet but not more than one dollar thirty-five cents  
22 (\$1.35) per thousand cubic feet in the calendar year preceding  
23 July 1 of the fiscal year in which the tax rate is to be  
24 imposed;

25 (8) on the oil and on other liquid

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1 hydrocarbons removed from natural gas at or near the wellhead  
2 from a stripper well property, one and seven-eighths percent of  
3 the taxable value determined pursuant to Section 7-29-4.1 NMSA  
4 1978, provided that the average annual taxable value of oil was  
5 equal to or less than fifteen dollars (\$15.00) per barrel in  
6 the calendar year preceding July 1 of the fiscal year in which  
7 the tax rate is to be imposed;

8 (9) on the oil and on other liquid  
9 hydrocarbons removed from natural gas at or near the wellhead  
10 from a stripper well property, two and thirteen-sixteenths  
11 percent of the taxable value determined pursuant to Section  
12 7-29-4.1 NMSA 1978, provided that the average annual taxable  
13 value of oil was greater than fifteen dollars (\$15.00) per  
14 barrel but not more than eighteen dollars (\$18.00) per barrel  
15 in the calendar year preceding July 1 of the fiscal year in  
16 which the tax rate is to be imposed; and

17 (10) on carbon dioxide, helium and non-  
18 hydrocarbon gases, three and three-fourths percent of the  
19 taxable value determined pursuant to Section 7-29-4.1 NMSA  
20 1978, except the tax on carbon dioxide shall be zero percent  
21 until December 31, 2030 for a qualified enhanced recovery  
22 project that involves the injection of captured carbon dioxide  
23 in the process of displacing oil and other liquid hydrocarbons  
24 that is demonstrated to sequester the carbon dioxide pursuant  
25 to rules promulgated by the department.

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1           B. The tax imposed in Subsection A of this section  
2 shall not be imposed on:

3                   (1) natural gas severed and sold from a  
4 production restoration project during the first ten years of  
5 production following the restoration of production, provided  
6 that the annual average price of west Texas intermediate crude  
7 oil, determined by the department by averaging the posted  
8 prices in effect on the last day of each month of the twelve-  
9 month period ending on May 31 prior to each fiscal year in  
10 which the tax exemption is to be effective, was less than  
11 twenty-four dollars (\$24.00) per barrel; and

12                   (2) oil and other liquid hydrocarbons removed  
13 from natural gas at or near the wellhead from a production  
14 restoration project during the first ten years of production  
15 following the restoration of production, provided that the  
16 annual average price of west Texas intermediate crude oil,  
17 determined by the department by averaging the posted prices in  
18 effect on the last day of each month of the twelve-month period  
19 ending on May 31 prior to each fiscal year in which the tax  
20 exemption is to be effective, was less than twenty-four dollars  
21 (\$24.00) per barrel.

22           C. Every interest owner shall be liable for the tax  
23 to the extent of ~~[his]~~ the interest owner's interest in such  
24 products. Any Indian tribe, Indian pueblo or Indian shall be  
25 liable for the tax to the extent authorized or permitted by

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1 law.

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

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