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HOUSE BILL 185

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

JERRY W. SANDEL

AN ACT

RELATING TO TAXATION; AMENDING THE NATURAL GAS PROCESSORS TAX ACT TO CHANGE THE BASIS ON WHICH THE TAX IS IMPOSED; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-33-2 NMSA 1978 (being Laws 1963, Chapter 179, Section 2, as amended) is amended to read:

"7-33-2. DEFINITIONS. -- As used in the Natural Gas Processors Tax Act:

A. "average annual taxable value" means the average of the taxable value per mcf, determined pursuant to Section 7-31-5 NMSA 1978, of all natural gas produced in New Mexico for the specified calendar year as determined by the department;

[A. ~~"commission"~~] B. "department" [~~"division" or~~

Underscored material = new
[bracketed material] = delete

Underscored material = new
[bracketed material] = delete

1 ~~"oil and gas accounting division"~~] means the taxation and
2 revenue department, the secretary of taxation and revenue or
3 any employee of the department exercising authority lawfully
4 delegated to that employee by the secretary;

5 [B. ~~"processor" means a person who:~~

6 (1) ~~processes natural gas or processes~~
7 ~~hydrocarbons incidental to the processing of natural gas; or~~

8 (2) ~~extracts by products from natural gas or~~
9 ~~other hydrocarbons incidental to the processing of natural~~
10 ~~gas, individually or any combination thereof. "Processor"~~
11 ~~does not mean a person who refines or processes oil, natural~~
12 ~~gas or liquid hydrocarbons or extracts by products therefrom~~
13 ~~through a process which is commonly considered a field or~~
14 ~~lease operation, such as well-head separation, dehydration,~~
15 ~~purification, desulfurization, compression or trapping;~~

16 C. ~~"product" means natural gas or liquid~~
17 ~~hydrocarbons, individually or any combination thereof, which~~
18 ~~has been processed by the processor or any by-product which~~
19 ~~has been derived therefrom by the processor. "Product" does~~
20 ~~not include distinct petrochemicals produced from hydrocarbons~~
21 ~~by chemical conversion in a petrochemical plant;~~

22 D. ~~"value" means the actual price received for~~
23 ~~products by the processor at his plant; and]~~

24 C. "fiscal year" means the period starting July 1
25 and ending June 30 of the succeeding calendar year;

Underscored material = new
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D. "mcf" means one thousand cubic feet;

E. "mmbtu" means one million British thermal units;

F. "natural gas" means any hydrocarbon that at atmospheric conditions of temperature and pressure is in a gaseous state, and includes non-hydrocarbon gases that are in combination with hydrocarbon gases;

G. "natural gas processing plant" means a facility used to extract liquid hydrocarbons and non-hydrocarbon gaseous or liquid substances, individually or in any combination, from natural gas, but does not include a facility that refines or processes oil, natural gas or liquid hydrocarbons or that extracts substances from natural gas through a field or lease operation;

[E-] H. "person" means any individual, estate, trust, receiver, business trust, corporation, firm, copartnership, cooperative, joint venture, association or other group or combination acting as a unit;

I. "processor" means a person who operates a natural gas processing plant; and

J. "tax" means the natural gas processors tax."

Section 2. Section 7-33-4 NMSA 1978 (being Laws 1963, Chapter 179, Section 4, as amended) is amended to read:

"7-33-4. PRIVILEGE TAX LEVIED--COLLECTED BY [OIL AND GAS ACCOUNTING DIVISION OF THE TAXATION AND REVENUE] DEPARTMENT--

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[bracketed material] = delete

1 RATE. --

2 A. There is levied and shall be collected by the
3 ~~[oil and gas accounting division of the taxation and revenue]~~
4 department a privilege tax on processors for the privilege of
5 ~~[engaging in the business of processing based on the value of~~
6 ~~their products. The measure of the tax shall be forty-five~~
7 ~~one-hundredths of one percent of the value of the products.]~~

8 B. ~~This tax does not apply to the value of~~
9 ~~products:~~

10 (1) ~~used for plant fuel by the processor;~~

11 (2) ~~which are returned to the lease from~~
12 ~~which produced; or~~

13 (3) ~~sold to:~~

14 (a) ~~the government of the United~~
15 ~~States, its departments or agencies;~~

16 (b) ~~the state of New Mexico or any of~~
17 ~~its political subdivisions; or~~

18 (c) ~~nonprofit hospitals, religious or~~
19 ~~charitable organizations, when the products are used in the~~
20 ~~conduct of their regular functions.]~~

21 C. ~~Every interest owner is liable for this tax to~~
22 ~~the extent of his interest in the value of such products or to~~
23 ~~the extent of his interest as may be measured by the value of~~
24 ~~such products] operating a natural gas processing plant in New~~
25 ~~Mexico. This tax may be referred to as the "natural gas~~

. 120116. 3

Underscored material = new
[bracketed material] = delete

1 processors tax".

2 B. The tax shall be imposed on the amount of
3 mmbtus of natural gas delivered to the processor at the inlet
4 of the natural gas processing plant after subtracting the
5 mmbtu deductions authorized in Subsection E of this section.
6 The tax shall be imposed at the rate per mmbtu determined in
7 Subsection C or D of this section, as applicable.

8 C. The tax rate for the six-month period beginning
9 on January 1, 1999 shall be determined by multiplying the rate
10 of sixty-five hundredths of one cent (\$.0065) per mmbtu by a
11 fraction, the numerator of which is the annual average taxable
12 value per mcf of natural gas produced in New Mexico during the
13 1997 calendar year and the denominator of which is one dollar
14 fifty cents (\$1.50) per mcf. The resulting tax rate shall be
15 rounded to the nearest one-hundredth of one cent per mmbtu.

16 D. The tax rate for each fiscal year beginning on
17 or after July 1, 1999 shall be determined by multiplying the
18 rate of sixty-five hundredths of one cent (\$.0065) per mmbtu
19 by a fraction, the numerator of which is the annual average
20 taxable value per mcf of natural gas produced in New Mexico
21 during the preceding calendar year and the denominator of
22 which is one dollar fifty cents (\$1.50) per mcf. The
23 resulting tax rate shall be rounded to the nearest one-
24 hundredth of one cent per mmbtu.

25 E. A processor may deduct from the amount of

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[bracketed material] = delete

1 mbtus of natural gas subject to the tax the mbtus of natural
2 gas that are:

3 (1) used for natural gas processing by the
4 processor;

5 (2) returned to the lease from which it is
6 produced;

7 (3) legally flared by the processor; or

8 (4) lost as a result of natural gas
9 processing plant malfunctions or other incidences of force
10 majeur.

11 F. On or before June 15, 1999 and June 15 of each
12 succeeding year, the department shall inform each processor in
13 writing of the tax rate applicable for the succeeding fiscal
14 year.

15 G. Any Indian nation, tribe [Indian] or pueblo or
16 Indian is liable for [this] the tax to the extent authorized
17 or permitted by law. "

18 Section 3. Section 7-33-6 NMSA 1978 (being Laws 1963,
19 Chapter 179, Section 6, as amended) is amended to read:

20 "7-33-6. [~~PRICE INCREASE SUBJECT TO APPROVAL OF AGENCY~~
21 ~~OF UNITED STATES OF AMERICA, STATE OF NEW MEXICO OR COURT~~]
22 ~~REFUND. -- [When an increase in the value of any product is~~
23 ~~subject to the approval of any agency of the United States of~~
24 ~~America or the state of New Mexico or any court, the increased~~
25 ~~value is subject to this tax. In the event the increase in~~

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1 ~~value is disapproved, either in whole or in part, then the~~
2 ~~amount of tax which has been paid on the disapproved part of~~
3 ~~the value shall be considered excess tax.]~~ Any person who has
4 ~~[paid any such excess tax]~~ overpaid the tax may apply for a
5 refund of that ~~[excess tax]~~ overpayment in accordance with the
6 provisions of Section 7-1-26 NMSA 1978. "

7 Section 4. Section 7-33-7 NMSA 1978 (being Laws 1963,
8 Chapter 179, Section 7) is amended to read:

9 "7-33-7. [~~PRODUCTS~~] NATURAL GAS ON WHICH TAX HAS BEEN
10 LEVIED--REGULATION BY [COMMISSION] DEPARTMENT.-- [~~This~~] The tax
11 shall not be levied more than once on the same [~~product~~]
12 natural gas. Reporting of [~~products~~] natural gas on which
13 [~~this~~] the tax has been paid is subject to the regulation of
14 the [~~commission~~] department. "

15 Section 5. Section 7-33-8 NMSA 1978 (being Laws 1963,
16 Chapter 179, Section 8, as amended) is amended to read:

17 "7-33-8. TAX [~~REPORT~~] RETURN--TAX REMITTANCE--ADDITIONAL
18 INFORMATION.-- [~~Within twenty-five days following the end of~~
19 ~~each calendar month, each processor shall in the form and~~
20 ~~manner required by the commission make a return to the~~
21 ~~commission showing the value, volume and kind of products sold~~
22 ~~from each plant for the calendar month. All taxes due or to~~
23 ~~be remitted by the processor shall accompany this return. Any~~
24 ~~additional report or information the commission may deem~~
25 ~~necessary for the proper administration of the Natural Gas~~

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[bracketed material] = delete

1 ~~Processors Tax Act may be required.~~]

2 A. Each processor shall submit a return monthly to
3 the department in the form and manner required by the
4 department showing for the month the total mmbtus of natural
5 gas received by the processor at the inlet of the natural gas
6 processing plant and the total mmbtus of natural gas deducted
7 pursuant to the Natural Gas Processors Tax Act. All tax due
8 or to be remitted by the processor shall accompany the
9 return.

10 B. The return required by this section shall be
11 filed on or before the twenty-fifth day of the month after the
12 calendar month for which the return is required.

13 C. The department may require additional reports
14 or information as necessary for the proper administration of
15 the Natural Gas Processors Tax Act. "

16 Section 6. TEMPORARY PROVISION--NOTICE.--On or before
17 November 30, 1998, the taxation and revenue department shall
18 inform each processor in writing of the natural gas processors
19 tax rate applicable pursuant to the Natural Gas Processors Tax
20 Act for the six-month period beginning January 1, 1999.

21 Section 7. REPEAL.--Section 7-33-5 NMSA 1978 (being Laws
22 1963, Chapter 179, Section 5, as amended) is repealed.

23 Section 8. EFFECTIVE DATE.--The effective date of the
24 provisions of Sections 1 through 5 and 7 of this act is
25 January 1, 1999.

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 185

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

AN ACT

RELATING TO TAXATION; AMENDING THE NATURAL GAS PROCESSORS TAX
ACT TO CHANGE THE BASIS ON WHICH THE TAX IS IMPOSED; AMENDING
AND REPEALING SECTIONS OF THE NMSA 1978.

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Section 1. Section 7-33-2 NMSA 1978 (being Laws 1963,
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"7-33-2. DEFINITIONS. -- As used in the Natural Gas
Processors Tax Act:

A. "average annual taxable value" means the
average of the taxable value per mcf, determined pursuant to
Section 7-31-5 NMSA 1978, of all natural gas produced in New
Mexico for the specified calendar year as determined by the
department;

[A. ~~"commission"~~] B. "department" [~~"division" or~~

1 ~~"oil and gas accounting division"]~~ means the taxation and
2 revenue department, the secretary of taxation and revenue or
3 any employee of the department exercising authority lawfully
4 delegated to that employee by the secretary;

5 [B. ~~"processor" means a person who:~~

6 (1) ~~processes natural gas or processes~~
7 ~~hydrocarbons incidental to the processing of natural gas; or~~

8 (2) ~~extracts by products from natural gas or~~
9 ~~other hydrocarbons incidental to the processing of natural~~
10 ~~gas, individually or any combination thereof. "Processor"~~
11 ~~does not mean a person who refines or processes oil, natural~~
12 ~~gas or liquid hydrocarbons or extracts by products therefrom~~
13 ~~through a process which is commonly considered a field or~~
14 ~~lease operation, such as well-head separation, dehydration,~~
15 ~~purification, desulfurization, compression or trapping;~~

16 C. ~~"product" means natural gas or liquid~~
17 ~~hydrocarbons, individually or any combination thereof, which~~
18 ~~has been processed by the processor or any by-product which~~
19 ~~has been derived therefrom by the processor. "Product" does~~
20 ~~not include distinct petrochemicals produced from hydrocarbons~~
21 ~~by chemical conversion in a petrochemical plant;~~

22 D. ~~"value" means the actual price received for~~
23 ~~products by the processor at his plant; and]~~

24 C. "fiscal year" means the period starting July 1
25 and ending June 30 of the succeeding calendar year;

1 D. "mcf" means one thousand cubic feet;

2 E. "mmbtu" means one million British thermal units;

3 F. "natural gas" means any hydrocarbon that at
4 atmospheric conditions of temperature and pressure is in a
5 gaseous state, and includes non-hydrocarbon gases that are in
6 combination with hydrocarbon gases;

7 G. "natural gas processing plant" means a facility
8 used to extract liquid hydrocarbons and non-hydrocarbon gaseous
9 or liquid substances, individually or in any combination, from
10 natural gas, but does not include a facility that refines or
11 processes oil, natural gas or liquid hydrocarbons or that
12 extracts substances from natural gas through a field or lease
13 operation;

14 [E.] H. "person" means any individual, estate, trust,
15 receiver, business trust, corporation, firm, copartnership,
16 cooperative, joint venture, association or other group or
17 combination acting as a unit;

18 I. "processor" means a person who operates a natural
19 gas processing plant; and

20 J. "tax" means the natural gas processors tax."

21 Section 2. Section 7-33-4 NMSA 1978 (being Laws 1963,
22 Chapter 179, Section 4, as amended) is amended to read:

23 "7-33-4. PRIVILEGE TAX LEVIED--COLLECTED BY [~~OIL AND GAS~~
24 ~~ACCOUNTING DIVISION OF THE TAXATION AND REVENUE~~] DEPARTMENT--
25 RATE. --

Underscored material = new
[bracketed material] = delete

1 A. ~~There is levied and shall be collected by the [oil~~
2 ~~and gas accounting division of the taxation and revenue]~~
3 department a privilege tax on processors for the privilege of
4 ~~[engaging in the business of processing based on the value of~~
5 ~~their products. The measure of the tax shall be forty-five one-~~
6 ~~hundredths of one percent of the value of the products.~~

7 B. ~~This tax does not apply to the value of products:~~

8 (1) ~~used for plant fuel by the processor;~~

9 (2) ~~which are returned to the lease from which~~
10 ~~produced; or~~

11 (3) ~~sold to:~~

12 (a) ~~the government of the United States,~~
13 ~~its departments or agencies;~~

14 (b) ~~the state of New Mexico or any of its~~
15 ~~political subdivisions; or~~

16 (c) ~~nonprofit hospitals, religious or~~
17 ~~charitable organizations, when the products are used in the~~
18 ~~conduct of their regular functions.~~

19 C. ~~Every interest owner is liable for this tax to the~~
20 ~~extent of his interest in the value of such products or to the~~
21 ~~extent of his interest as may be measured by the value of such~~
22 ~~products] operating a natural gas processing plant in New Mexico.~~
23 ~~This tax may be referred to as the "natural gas processors tax".~~

24 B. The tax shall be imposed on the amount of mmbtus
25 of natural gas delivered to the processor at the inlet of the

1 natural gas processing plant after subtracting the mmbtu
 2 deductions authorized in Subsection E of this section. The tax
 3 shall be imposed at the rate per mmbtu determined in Subsection C
 4 or D of this section, as applicable.

5 C. The tax rate for the six-month period beginning on
 6 January 1, 1999 shall be determined by multiplying the rate of
 7 sixty-five hundredths of one cent (\$.0065) per mmbtu by a
 8 fraction, the numerator of which is the annual average taxable
 9 value per mcf of natural gas produced in New Mexico during the
 10 1997 calendar year and the denominator of which is one dollar
 11 thirty-three cents (\$1.33) per mcf. The resulting tax rate shall
 12 be rounded to the nearest one-hundredth of one cent per mmbtu.

13 D. The tax rate for each fiscal year beginning on or
 14 after July 1, 1999 shall be determined by multiplying the rate of
 15 sixty-five hundredths of one cent (\$.0065) per mmbtu by a
 16 fraction, the numerator of which is the annual average taxable
 17 value per mcf of natural gas produced in New Mexico during the
 18 preceding calendar year and the denominator of which is one
 19 dollar thirty-three cents (\$1.33) per mcf. The resulting tax
 20 rate shall be rounded to the nearest one-hundredth of one cent
 21 per mmbtu.

22 E. A processor may deduct from the amount of mmbtus
 23 of natural gas subject to the tax the mmbtus of natural gas that
 24 are:

25 (1) used for natural gas processing by the

1 processor;

2 (2) returned to the lease from which it is
3 produced;

4 (3) legally flared by the processor; or

5 (4) lost as a result of natural gas processing
6 plant malfunctions or other incidences of force majeure.

7 F. On or before June 15, 1999 and June 15 of each
8 succeeding year, the department shall inform each processor in
9 writing of the tax rate applicable for the succeeding fiscal
10 year.

11 G. Any Indian nation, tribe [Indian] or pueblo or
12 Indian is liable for [this] the tax to the extent authorized or
13 permitted by law. "

14 Section 3. Section 7-33-6 NMSA 1978 (being Laws 1963,
15 Chapter 179, Section 6, as amended) is amended to read:

16 "7-33-6. [~~PRICE INCREASE SUBJECT TO APPROVAL OF AGENCY OF~~
17 ~~UNITED STATES OF AMERICA, STATE OF NEW MEXICO OR COURT]~~ REFUND. --
18 [~~When an increase in the value of any product is subject to the~~
19 ~~approval of any agency of the United States of America or the~~
20 ~~state of New Mexico or any court, the increased value is subject~~
21 ~~to this tax. In the event the increase in value is disapproved,~~
22 ~~either in whole or in part, then the amount of tax which has been~~
23 ~~paid on the disapproved part of the value shall be considered~~
24 ~~excess tax.] Any person who has [paid any such excess tax]
25 overpaid the tax may apply for a refund of that [excess tax]~~

1 overpayment in accordance with the provisions of Section 7-1-26
2 NMSA 1978. "

3 Section 4. Section 7-33-7 NMSA 1978 (being Laws 1963,
4 Chapter 179, Section 7) is amended to read:

5 "7-33-7. [~~PRODUCTS~~] NATURAL GAS ON WHICH TAX HAS BEEN
6 LEVIED--REGULATION BY [COMMISSION] DEPARTMENT. -- [~~This~~] The tax
7 shall not be levied more than once on the same [product] natural
8 gas. Reporting of [~~products~~] natural gas on which [~~this~~] the tax
9 has been paid is subject to the regulation of the [commission]
10 department. "

11 Section 5. Section 7-33-8 NMSA 1978 (being Laws 1963,
12 Chapter 179, Section 8, as amended) is amended to read:

13 "7-33-8. TAX [~~REPORT~~] RETURN--TAX REMITTANCE--ADDITIONAL
14 INFORMATION. -- [~~Within twenty-five days following the end of each~~
15 ~~calendar month, each processor shall in the form and manner~~
16 ~~required by the commission make a return to the commission~~
17 ~~showing the value, volume and kind of products sold from each~~
18 ~~plant for the calendar month. All taxes due or to be remitted by~~
19 ~~the processor shall accompany this return. Any additional report~~
20 ~~or information the commission may deem necessary for the proper~~
21 ~~administration of the Natural Gas Processors Tax Act may be~~
22 ~~required.]~~

23 A. Each processor shall submit a return monthly to
24 the department in the form and manner required by the department
25 showing for the month the total mmbtus of natural gas received by

Underscored material = new
[bracketed material] = delete

1 the processor at the inlet of the natural gas processing plant
2 and the total mmbtus of natural gas deducted pursuant to the
3 Natural Gas Processors Tax Act. All tax due or to be remitted by
4 the processor shall accompany the return.

5 B. The return required by this section shall be filed
6 on or before the twenty-fifth day of the month after the calendar
7 month for which the return is required.

8 C. The department may require additional reports or
9 information as necessary for the proper administration of the
10 Natural Gas Processors Tax Act. "

11 Section 6. TEMPORARY PROVISION--NOTICE.--On or before
12 November 30, 1998, the taxation and revenue department shall
13 inform each processor in writing of the natural gas processors
14 tax rate applicable pursuant to the Natural Gas Processors Tax
15 Act for the six-month period beginning January 1, 1999.

16 Section 7. REPEAL.--Section 7-33-5 NMSA 1978 (being Laws
17 1963, Chapter 179, Section 5, as amended) is repealed.

18 Section 8. EFFECTIVE DATE.--The effective date of the
19 provisions of Sections 1 through 5 and 7 of this act is January
20 1, 1999.

Underscored material = new
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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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4
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6 February 6, 1998
7

8 Mr. Speaker:
9

10 Your TAXATION AND REVENUE COMMITTEE, to whom has
11 been referred
12

13 HOUSE BILL 185
14

15 has had it under consideration and reports same with
16 recommendation that it DO NOT PASS, but that

17 HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
18 HOUSE BILL 185
19

20 DO PASS.
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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HTRC/HB 185

HTRC//HB 185

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Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Gonzales, Gubbels, Stell

Absent: None

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[bracketed material] = delete

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1 HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
2 HOUSE BILL 185
3 43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998
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9 AN ACT

10 RELATING TO TAXATION; AMENDING THE NATURAL GAS PROCESSORS TAX
11 ACT TO CHANGE THE BASIS ON WHICH THE TAX IS IMPOSED; AMENDING
12 AND REPEALING SECTIONS OF THE NMSA 1978.

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

14 Section 1. Section 7-33-2 NMSA 1978 (being Laws 1963,
15 Chapter 179, Section 2, as amended) is amended to read:

16 "7-33-2. DEFINITIONS.--As used in the Natural Gas
17 Processors Tax Act:

18 A. "average annual taxable value" means the
19 average of the taxable value per mcf, determined pursuant to
20 Section 7-31-5 NMSA 1978, of all natural gas produced in New
21 Mexico for the specified calendar year as determined by the
department;

22 [A. ~~"commission"~~] B. "department" [~~"division" or~~
23 ~~"oil and gas accounting division"~~] means the taxation and
24 revenue department, the secretary of taxation and revenue or
25 any employee of the department exercising authority lawfully

1 delegated to that employee by the secretary;

2 ~~[B. "processor" means a person who:~~

3 ~~(1) processes natural gas or processes~~
4 ~~hydrocarbons incidental to the processing of natural gas; or~~

5 ~~(2) extracts by products from natural gas or~~
6 ~~other hydrocarbons incidental to the processing of natural~~
7 ~~gas, individually or any combination thereof. "Processor"~~
8 ~~does not mean a person who refines or processes oil, natural~~
9 ~~gas or liquid hydrocarbons or extracts by products therefrom~~
10 ~~through a process which is commonly considered a field or~~
11 ~~lease operation, such as well-head separation, dehydration,~~
12 ~~purification, desulfurization, compression or trapping;~~

13 ~~C. "product" means natural gas or liquid~~
14 ~~hydrocarbons, individually or any combination thereof, which~~
15 ~~has been processed by the processor or any by-product which~~
16 ~~has been derived therefrom by the processor. "Product" does~~
17 ~~not include distinct petrochemicals produced from hydrocarbons~~
18 ~~by chemical conversion in a petrochemical plant;~~

19 ~~D. "value" means the actual price received for~~
20 ~~products by the processor at his plant; and]~~

21 C. "fiscal year" means the period starting July 1
22 and ending June 30 of the succeeding calendar year;

23 D. "mcf" means one thousand cubic feet;

24 E. "mmbtu" means one million British thermal
25 units;

F. "natural gas" means any hydrocarbon that at
atmospheric conditions of temperature and pressure is in a
gaseous state, and includes non-hydrocarbon gases that are in

1 combination with hydrocarbon gases;

2 G. "natural gas processing plant" means a facility
3 used to extract liquid hydrocarbons and non-hydrocarbon gaseous
4 or liquid substances, individually or in any combination, from
5 natural gas, but does not include a facility that refines or
6 processes oil, natural gas or liquid hydrocarbons or that
7 extracts substances from natural gas through a field or lease
8 operation;

9 ~~[E.]~~ H. "person" means any individual, estate, trust,
10 receiver, business trust, corporation, firm, copartnership,
11 cooperative, joint venture, association or other group or
12 combination acting as a unit;

13 I. "processor" means a person who operates a natural
14 gas processing plant; and

15 J. "tax" means the natural gas processors tax."

16 Section 2. Section 7-33-4 NMSA 1978 (being Laws 1963,
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18 "7-33-4. PRIVILEGE TAX LEVIED--COLLECTED BY [~~OIL AND GAS~~
19 ~~ACCOUNTING DIVISION OF THE TAXATION AND REVENUE~~] DEPARTMENT--
20 RATE. --

21 A. There is levied and shall be collected by the [~~oil~~
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23 department a privilege tax on processors for the privilege of
24 [~~engaging in the business of processing based on the value of~~
25 ~~their products. The measure of the tax shall be forty-five one-~~
26 ~~hundredths of one percent of the value of the products.~~

27 B. ~~This tax does not apply to the value of products:~~

28 (1) ~~used for plant fuel by the processor;~~

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1 be rounded to the nearest one-hundredth of one cent per mmbtu.

2 D. The tax rate for each fiscal year beginning on or
 3 after July 1, 1999 shall be determined by multiplying the rate of
 4 sixty-five hundredths of one cent (\$.0065) per mmbtu by a
 5 fraction, the numerator of which is the annual average taxable
 6 value per mcf of natural gas produced in New Mexico during the
 7 preceding calendar year and the denominator of which is one
 8 dollar thirty-three cents (\$1.33) per mcf. The resulting tax
 9 rate shall be rounded to the nearest one-hundredth of one cent
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11 E. A processor may deduct from the amount of mmbtus
 12 of natural gas subject to the tax the mmbtus of natural gas that
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14 (1) used for natural gas processing by the
 15 processor;

16 (2) returned to the lease from which it is
 17 produced;

18 (3) legally flared by the processor; or

19 (4) lost as a result of natural gas processing
 20 plant malfunctions or other incidences of force majeure.

21 F. On or before June 15, 1999 and June 15 of each
 22 succeeding year, the department shall inform each processor in
 23 writing of the tax rate applicable for the succeeding fiscal
 24 year.

25 G. Any Indian nation, tribe [~~Indian~~] or pueblo or
Indian is liable for [~~this~~] the tax to the extent authorized or
permitted by law. "

Section 3. Section 7-33-6 NMSA 1978 (being Laws 1963,

1 Chapter 179, Section 6, as amended) is amended to read:

2 "7-33-6. [~~PRICE INCREASE SUBJECT TO APPROVAL OF AGENCY OF~~
3 ~~UNITED STATES OF AMERICA, STATE OF NEW MEXICO OR COURT~~] REFUND. --
4 [~~When an increase in the value of any product is subject to the~~
5 ~~approval of any agency of the United States of America or the~~
6 ~~state of New Mexico or any court, the increased value is subject~~
7 ~~to this tax. In the event the increase in value is disapproved,~~
8 ~~either in whole or in part, then the amount of tax which has been~~
9 ~~paid on the disapproved part of the value shall be considered~~
10 ~~excess tax.~~] Any person who has [~~paid any such excess tax~~
11 overpaid the tax] may apply for a refund of that [~~excess tax~~
12 overpayment] in accordance with the provisions of Section 7-1-26
13 NMSA 1978. "

14 Section 4. Section 7-33-7 NMSA 1978 (being Laws 1963,
15 Chapter 179, Section 7) is amended to read:

16 "7-33-7. [~~PRODUCTS~~] NATURAL GAS ON WHICH TAX HAS BEEN
17 ~~LEVIED--REGULATION BY [COMMISSION] DEPARTMENT.~~ -- [~~This~~] The tax
18 shall not be levied more than once on the same [~~product~~] natural
19 gas. Reporting of [~~products~~] natural gas on which [~~this~~] the tax
20 has been paid is subject to the regulation of the [~~commission~~]
21 department. "

22 Section 5. Section 7-33-8 NMSA 1978 (being Laws 1963,
23 Chapter 179, Section 8, as amended) is amended to read:

24 "7-33-8. TAX [~~REPORT~~] RETURN-- TAX REMITTANCE-- ADDITIONAL
25 ~~INFORMATION.~~ -- [~~Within twenty-five days following the end of each~~
26 ~~calendar month, each processor shall in the form and manner~~
27 ~~required by the commission make a return to the commission~~
28 ~~showing the value, volume and kind of products sold from each~~

1 ~~plant for the calendar month. All taxes due or to be remitted by~~
 2 ~~the processor shall accompany this return. Any additional report~~
 3 ~~or information the commission may deem necessary for the proper~~
 4 ~~administration of the Natural Gas Processors Tax Act may be~~
 5 ~~required.]~~

6 A. Each processor shall submit a return monthly to
 7 the department in the form and manner required by the department
 8 showing for the month the total mmbtus of natural gas received by
 9 the processor at the inlet of the natural gas processing plant
 10 and the total mmbtus of natural gas deducted pursuant to the
 11 Natural Gas Processors Tax Act. All tax due or to be remitted by
 12 the processor shall accompany the return.

13 B. The return required by this section shall be filed
 14 on or before the twenty-fifth day of the month after the calendar
 15 month for which the return is required.

16 C. The department may require additional reports or
 17 information as necessary for the proper administration of the
 18 Natural Gas Processors Tax Act. "

19 Section 6. TEMPORARY PROVISION--NOTICE.--On or before
 20 November 30, 1998, the taxation and revenue department shall
 21 inform each processor in writing of the natural gas processors
 22 tax rate applicable pursuant to the Natural Gas Processors Tax
 23 Act for the six-month period beginning January 1, 1999.

24 Section 7. REPEAL.--Section 7-33-5 NMSA 1978 (being Laws
 25 1963, Chapter 179, Section 5, as amended) is repealed.

Section 8. EFFECTIVE DATE.--The effective date of the
 provisions of Sections 1 through 5 and 7 of this act is January
 1, 1999.

Underscored material = new
 [bracketed material] = delete

Underscored material = new
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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 13, 1998

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been referred
HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 185

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

Respectfully submitted,

Carlos R. Cisneros, Chairman

Underscored material = new
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HTRC/HB 185

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

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Kidd, Leavell, McSorley, Nava

Absent: None

H0185WM1

Underscored material = new
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