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HOUSE BILL 281

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Donald L. Whitaker

AN ACT

**RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS FOR WELL
WORKOVER PROJECTS AND THE RATE OF THE OIL AND GAS SEVERANCE
TAX APPLICABLE TO NATURAL GAS AND OIL PRODUCTION FROM SUCH
PROJECTS; AMENDING SECTIONS OF THE NMSA 1978.**

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

**Section 1. Section 7-29-4 NMSA 1978 (being Laws 1980,
Chapter 62, Section 5, as amended) is amended to read:**

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

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

. 125659. 3

underscored material = new
~~[bracketed material]~~ = delete

underscored material = new
[bracketed material] = delete

1 (1) on natural gas severed and sold, except
2 as provided in Paragraph (4) of this subsection, three and
3 three-fourths percent of the taxable value determined under
4 Section 7-29-4.1 NMSA 1978;

5 (2) on oil and on other liquid hydrocarbons
6 removed from natural gas at or near the wellhead, except as
7 provided in Paragraphs (3) and (5) of this subsection, three
8 and three-fourths percent of taxable value determined under
9 Section 7-29-4.1 NMSA 1978;

10 (3) on oil and on other liquid hydrocarbons
11 removed from natural gas at or near the wellhead produced from
12 a qualified enhanced recovery project, one and seven-eighths
13 percent of the taxable value determined under Section 7-29-4.1
14 NMSA 1978, provided that the annual average price of west
15 Texas intermediate crude oil, determined by the department by
16 averaging the posted prices in effect on the last day of each
17 month of the twelve-month period ending on May 31 prior to the
18 fiscal year in which the tax rate is to be imposed, was less
19 than twenty-eight dollars (\$28.00) per barrel;

20 (4) on the natural gas from a well workover
21 project that is [~~in excess of the production projection~~]
22 certified by the oil conservation division of the energy,
23 minerals and natural resources department in its approval of
24 the well workover project, [~~one and seven-eighths~~] two and
25 forty-five hundredths percent of the taxable value determined

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

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

22 (6) on carbon dioxide, three and
23 three-fourths percent of the taxable value determined under
24 Section 7-29-4.1 NMSA 1978.

25 B. The tax imposed in Subsection A of this section

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1 shall not be imposed on:

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

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

21 C. Every interest owner shall be liable for the
22 tax to the extent of his interest in such products. Any
23 Indian tribe, Indian pueblo or Indian shall be liable for the
24 tax to the extent authorized or permitted by law.

25 D. The tax imposed by this section may be referred

underscored material = new
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1 to as the "oil and gas severance tax". "

2 Section 2. Section 7-29B-2 NMSA 1978 (being Laws 1995,
3 Chapter 15, Section 2) is amended to read:

4 "7-29B-2. DEFINITIONS. --As used in the Natural Gas and
5 Crude Oil Production Incentive Act:

6 A. "department" means the taxation and revenue
7 department;

8 B. "division" means the oil conservation division
9 of the energy, minerals and natural resources department;

10 C. "natural gas" means any combustible vapor
11 composed chiefly of hydrocarbons occurring naturally;

12 D. "operator" means the person responsible for the
13 actual physical operation of a natural gas or oil well;

14 E. "person" means any individual or other legal
15 entity, including any group or combination of individuals or
16 other legal entities acting as a unit;

17 ~~[F. "production projection" means the estimate of~~
18 ~~the productive capacity of a natural gas or oil well that is~~
19 ~~certified by the division pursuant to the provisions of the~~
20 ~~Natural Gas and Crude Oil Production Incentive Act as the~~
21 ~~future rate of production from the well prior to the operator~~
22 ~~of the well performing a well workover project on the well;~~

23 G.] F. "production restoration incentive tax
24 exemption" means the tax exemption set forth in Subsection B
25 of Section 7-29-4 NMSA 1978 for natural gas or oil produced

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1 from a production restoration project;

2 [H-] G. "production restoration project" means the
3 use of any process for returning to production a natural gas
4 or oil well that had thirty days or less of production between
5 January 1, 1993 and December 31, 1994 as approved and
6 certified by the division;

7 [I-] H. "severance" means the taking from the soil
8 of any product in any manner whatsoever;

9 [J-] I. "well workover incentive tax rate" means
10 the tax rate set forth in Paragraphs (4) and (5) of Subsection
11 A of Section 7-29-4 NMSA 1978 on the natural gas or oil
12 produced [~~in excess of the production projection~~] from a well
13 workover project; and

14 [K-] J. "well workover project" means any
15 procedure undertaken by the operator of a natural gas or oil
16 well that is intended to increase the production from the well
17 and that has been approved and certified by the division."

18 Section 3. Section 7-29B-3 NMSA 1978 (being Laws 1995,
19 Chapter 15, Section 3) is amended to read:

20 "7-29B-3. APPROVAL OF PRODUCTION RESTORATION PROJECTS
21 AND WELL WORKOVER PROJECTS. --

22 A. A natural gas or oil well shall be approved by
23 the division as a production restoration project if:

- 24 (1) the operator of the well makes
25 application to the division in accordance with the provisions

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1 of the Natural Gas and Crude Oil Production Incentive Act and
2 rules and regulations adopted pursuant to that act for
3 approval of a production restoration project; and

4 (2) the division records show that the well
5 had thirty days or less of production between January 1, 1993
6 and December 31, 1994.

7 B. A natural gas or oil well shall be approved by
8 the division as a well workover project if:

9 (1) the operator of the well makes
10 application to the division in accordance with the provisions
11 of the Natural Gas and Crude Oil Production Incentive Act and
12 rules and regulations adopted pursuant to that act for
13 approval of a well workover project;

14 (2) the division determines that the
15 procedure [~~proposed to be undertaken~~] performed by the
16 operator of the well is a procedure [~~intended~~] to increase the
17 production from the well, but is not routine maintenance [~~that~~
18 ~~would be~~] performed by a prudent operator to maintain the well
19 in operation. Such procedures may include, but are not
20 limited to:

21 (a) re-entry into the well to drill
22 deeper, to sidetrack to a different location or to recomplete
23 for production;

24 (b) recompletion by reperforation of a
25 zone from which natural gas or oil has been produced or by

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1 perforation of a different zone;

2 (c) repair or replacement of faulty or
3 damaged casing or related downhole equipment;

4 (d) fracturing, acidizing or installing
5 compression equipment; or

6 (e) squeezing, cementing or installing
7 equipment necessary for removal of excessive water, brine or
8 condensate from the wellbore in order to establish, continue
9 or increase production from the well; and

10 (3) the operator of the well submits to the
11 division ~~[an estimate of the productive capacity of the well
12 based on at least twelve months of established production, and
13 the division, based on its verification of that estimate,
14 determines the future rate of production from the well prior
15 to the operator of the well performing the well workover
16 project on the well and certifies that as the production
17 projection for the project]~~ evidence of a positive production
18 increase over the production rate of the well prior to the
19 workover. The operator must submit a production curve or
20 tabulation made up of at least twelve months' production prior
21 to the workover and at least three months' production
22 following the workover that reflects a positive production
23 increase from the workover. The production curve or
24 tabulation must be certified by the operator as that of the
25 well on which a workover was performed. "

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1 Section 4. Section 7-29B-4 NMSA 1978 (being Laws 1995,
2 Chapter 15, Section 4) is amended to read:

3 "7-29B-4. APPLICATION PROCEDURES--CERTIFICATION OF
4 APPROVAL--RULES AND REGULATIONS--ADMINISTRATION.--

5 A. The operator of a proposed production
6 restoration project or well workover project shall apply to
7 the division for approval of a production restoration project
8 or a well workover project in the form and manner prescribed
9 by the division and shall provide any relevant material and
10 information the division requires for that approval.

11 B. Upon a determination that the project complies
12 with the provisions of the Natural Gas and Crude Oil
13 Production Incentive Act and rules and regulations adopted
14 pursuant to that act, the division shall approve the
15 application and shall issue a certification of approval to the
16 operator and designate the natural gas or oil well as a
17 production restoration project or well workover project, as
18 applicable.

19 ~~[C. At the time of issuing a certification of~~
20 ~~approval to an operator of a natural gas or oil well for a~~
21 ~~well workover project, the division shall also certify the~~
22 ~~production projection for that project.]~~

23 D.] C. In addition to the powers enumerated in
24 Section 70-2-12 NMSA 1978, the division shall adopt,
25 promulgate and enforce rules and regulations to carry out the

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1 provisions of [~~Sections 1 through 5 of~~] the Natural Gas and
2 Crude Oil Production Incentive Act.

3 ~~[E.]~~ D. The division shall consider and approve
4 applications for approval of a production restoration project
5 or well workover project without holding hearings on the
6 applications. If the division denies approval of an
7 application pursuant to such a process, the division, upon the
8 request of the applicant, shall set a hearing of the
9 application before an examiner appointed by the division to
10 conduct the hearing. The hearing shall be conducted in
11 accordance with the provisions of the Oil and Gas Act for such
12 hearings. "

13 Section 5. Section 7-29B-6 NMSA 1978 (being Laws 1995,
14 Chapter 15, Section 6) is amended to read:

15 "7-29B-6. QUALIFICATION FOR PRODUCTION RESTORATION
16 INCENTIVE TAX EXEMPTION AND WELL WORKOVER INCENTIVE TAX
17 RATE--SECRETARY OF TAXATION AND REVENUE APPROVAL--REFUND.--

18 A. The person responsible for paying the oil and
19 gas severance tax on natural gas or oil produced from a
20 production restoration project shall qualify to receive a
21 ten-year production restoration incentive tax exemption upon:

22 (1) application to the department in the form
23 and manner prescribed by the department for approval for the
24 ten-year production restoration incentive tax exemption;

25 (2) submission of the certification of

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1 approval from the division and designation of the natural gas
2 or oil well as a production restoration project; and

3 (3) submission of any other relevant material
4 that the secretary of taxation and revenue deems necessary to
5 administer the applicable provisions of the Natural Gas and
6 Crude Oil Production Incentive Act.

7 B. The person responsible for payment of the oil
8 and gas severance tax on natural gas or oil produced from a
9 well workover project shall qualify for the well workover
10 incentive tax rate on all the natural gas or oil produced [~~in~~
11 ~~excess of the production projection for~~] by that project upon:

12 (1) application to the department in the form
13 and manner prescribed by the department for approval to apply
14 the well workover incentive tax rate to the natural gas or oil
15 produced [~~in excess of the production projection~~] from a well
16 workover project;

17 (2) submission of the certification from the
18 division of approval and designation of the natural gas or oil
19 well as a well workover project [~~and of the production~~
20 ~~projection for the well workover project~~]; and

21 (3) any other relevant material that the
22 department considers necessary to administer the applicable
23 provisions of the Natural Gas and Crude Oil Production
24 Incentive Act.

25 C. The production restoration incentive tax

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1 exemption shall apply to natural gas or oil produced from a
2 production restoration project beginning the first day of the
3 month following the date the division certifies that
4 production has been restored and ending the last day of the
5 tenth year of production following that date. The well
6 workover incentive tax rate applies to the natural gas or oil
7 produced [~~in excess of the production projection~~] from a well
8 workover project beginning the first day of the month
9 following the date the division certifies that the well
10 workover project has been completed.

11 D. The person responsible for payment of the oil
12 and gas severance tax on natural gas or oil production from an
13 approved well workover project may file a claim for credit
14 against current tax liability or for refund in accordance with
15 Section 7-1-26 NMSA 1978 for taxes paid in excess of the
16 amount due using the well workover incentive tax rate.
17 Notwithstanding the provisions of Subsection E of Section
18 7-1-26 NMSA 1978, any such refund granted shall be made in the
19 form of a credit against any future oil and gas severance tax
20 liabilities incurred by the taxpayer.

21 E. Well workover projects certified prior to July
22 1, 1999 shall be deemed to be approved and certified in
23 accordance with the provisions of this 1999 act and natural
24 gas or oil produced from those projects shall be eligible for
25 the well workover incentive tax rate effective beginning July

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1, 1999.

[~~E.~~] F. The secretary of taxation and revenue may adopt and promulgate rules and regulations to enforce the provisions of this section. "

Section 6. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 March 12, 1999

7
8 Mr. Speaker:

9
10 Your TAXATION AND REVENUE COMMITTEE, to whom has
11 been referred

12
13 HOUSE BILLS 281 & 436

14
15 has had it under consideration and reports same with
16 recommendation that they DO NOT PASS, but that

17 HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
18 HOUSE BILLS 281 & 436

19
20 DO PASS, and thence referred to the APPROPRIATIONS AND
21 FINANCE COMMITTEE.

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HTRC/HB 281 & 436

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Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Date _____

The roll call vote was 13 For 0 Against

Yes: 13

Excused: Herrera, Sandoval

Absent: None

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HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 281 & 436

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO TAXATION; PROVIDING FOR THE REDUCTION OF OIL AND GAS SEVERANCE TAX AND OIL AND GAS EMERGENCY SCHOOL TAX RATES DURING CERTAIN LOW-PRICE PERIODS FOR OIL AND NATURAL GAS PRODUCED FROM STRIPPER WELL PROPERTIES; CHANGING CERTAIN PROVISIONS FOR WELL WORKOVER PROJECTS AND THE RATE OF THE OIL AND GAS SEVERANCE TAX APPLICABLE TO NATURAL GAS AND OIL PRODUCTION FROM SUCH PROJECTS; AMENDING SECTIONS OF THE NMSA 1978.

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

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

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

A. "commission", "department", "division" or "oil and gas accounting division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully

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delegated to that employee by the secretary;

B. "production unit" means a unit of property designated by the department from which products of common ownership are severed;

C. "severance" means the taking from the soil of any product in any manner whatsoever;

D. "value" means the actual price received for products at the production unit, except as otherwise provided in the Oil and Gas Severance Tax Act;

E. "product" or "products" means oil, natural gas or liquid hydrocarbon, individually or any combination thereof, or carbon dioxide;

F. "operator" means any person:

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

(2) owning an interest in any product at the time of severance who receives a portion or all of such product for his interest;

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

H. "purchaser" means a person who is the first purchaser of a product after severance from a production unit, except as otherwise provided in the Oil and Gas Severance Tax Act;

I. "person" means any individual, estate, trust, receiver, business trust, corporation, firm, co-partnership,

1 cooperative, joint venture, association or other group or
2 combination acting as a unit, and the plural as well as the
3 singular number;

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

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

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

23 M. "qualified enhanced recovery project", on and
24 after January 1, 1994, means the use or the expanded use of
25 any process approved by the oil conservation division of the
energy, minerals and natural resources department pursuant to
the Enhanced Oil Recovery Act for the displacement of oil and
of other liquid hydrocarbons removed from natural gas at or

1 near the wellhead from an oil well or pool classified by the
 2 oil conservation division pursuant to Paragraph (11) of
 3 Subsection B of Section 70-2-12 NMSA 1978, other than a
 4 primary recovery process; the term includes but is not limited
 5 to the use of a pressure maintenance process, a water flooding
 6 process and immiscible, miscible, chemical, thermal or
 7 biological process or any other related process;

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

16 O. "well workover project" means any procedure
 17 undertaken by the operator of a natural gas or crude oil well
 18 that is intended to increase the production from the well and
 19 that has been approved and certified by the oil conservation
 20 division of the energy, minerals and natural resources
 21 department pursuant to the Natural Gas and Crude Oil
 22 Production Incentive Act; [~~and~~]

23 P. "stripper well property" means a crude oil or
 24 natural gas producing property that is assigned a single
 25 production unit number by the department and is certified by
the oil conservation division pursuant to the Natural Gas and
Crude Oil Production Incentive Act to have produced in the
preceding calendar year:

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underscored material = new
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1 (1) if a crude oil producing property, an
2 average daily production of less than ten barrels of oil per
3 eligible well per day;

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

7 (3) if a property with wells that produce
8 both crude oil and natural gas, an average daily production of
9 less than ten barrels of oil per eligible well per day, as
10 determined by converting the volume of natural gas produced by
11 the well to barrels of oil by using a ratio of six thousand
12 cubic feet to one barrel of oil;

13 Q. "average annual taxable value" means as
14 applicable:

15 (1) the average of the taxable value per one
16 thousand cubic feet, determined pursuant to Section 7-31-5
17 NMSA 1978, of all natural gas produced in New Mexico for the
18 specified calendar year as determined by the department; or

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

23 [P.] R. "tax" means the oil and gas severance
24 tax. "

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

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

1 LIABILITY. - -

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

6 (1) on natural gas severed and sold, except
 7 as provided in [~~Paragraph (4)~~] Paragraphs (4), (6) and (7) of
 8 this subsection, three and three-fourths percent of the
 9 taxable value determined [~~under~~] pursuant to Section 7-29-4.1
 NMSA 1978;

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

15 (3) on oil and on other liquid hydrocarbons
 16 removed from natural gas at or near the wellhead produced from
 17 a qualified enhanced recovery project, one and seven-eighths
 18 percent of the taxable value determined [~~under~~] pursuant to
 19 Section 7-29-4.1 NMSA 1978, provided that the annual average
 20 price of west Texas intermediate crude oil, determined by the
 21 department by averaging the posted prices in effect on the
 22 last day of each month of the twelve-month period ending on
 23 May 31 prior to the fiscal year in which the tax rate is to be
 24 imposed, was less than twenty-eight dollars (\$28.00) per
 25 barrel;

26 (4) on the natural gas from a well workover
 27 project that is [~~in excess of the production projection~~]

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underscored material = new
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1 certified by the oil conservation division of the energy,
2 minerals and natural resources department in its approval of
3 the well workover project, [~~one and seven-eighths~~] two and
4 forty-five hundredths percent of the taxable value determined
5 [~~under~~] pursuant to Section 7-29-4.1 NMSA 1978, provided that
6 the annual average price of west Texas intermediate crude oil,
7 determined by the department by averaging the posted prices in
8 effect on the last day of each month of the twelve-month
9 period ending on May 31 prior to the fiscal year in which the
10 tax rate is to be imposed, was less than twenty-four dollars
(\$24.00) per barrel;

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

24 (6) on the natural gas from a stripper well
25 property, one and seven-eighths percent of the taxable value

1 determined pursuant to Section 7-29-4.1 NMSA 1978, provided
2 the average annual taxable value of natural gas was equal to
3 or less than one dollar fifteen cents (\$1.15) per thousand
4 cubic feet in the calendar year preceding July 1 of the fiscal
5 year in which the tax rate is to be imposed;

6 (7) on the natural gas from a stripper well
7 property, two and thirteen-sixteenths percent of the taxable
8 value determined pursuant to Section 7-29-4.1 NMSA 1978,
9 provided that the average annual taxable value of natural gas
10 was greater than one dollar fifteen cents (\$1.15) per thousand
11 cubic feet but not more than one dollar thirty-five cents
12 (\$1.35) per thousand cubic feet in the calendar year preceding
13 July 1 of the fiscal year in which the tax rate is to be
14 imposed;

15 (8) on the oil and on other liquid
16 hydrocarbons removed from natural gas at or near the wellhead
17 from a stripper well property, one and seven-eighths percent
18 of the taxable value determined pursuant to Section 7-29-4.1
19 NMSA 1978, provided that the average annual taxable value of
20 oil was equal to or less than fifteen dollars (\$15.00) per
21 barrel in the calendar year preceding July 1 of the fiscal
22 year in which the tax rate is to be imposed;

23 (9) on the oil and on other liquid
24 hydrocarbons removed from natural gas at or near the wellhead
25 from a stripper well property, two and thirteen-sixteenths
percent of the taxable value determined pursuant to Section
7-29-4.1 NMSA 1978, provided that the average annual taxable
value of oil was greater than fifteen dollars (\$15.00) per

1 barrel but not more than eighteen dollars (\$18.00) per barrel
2 in the calendar year preceding July 1 of the fiscal year in
3 which the tax rate is to be imposed; and

4 [~~6~~] (10) on carbon dioxide, three and
5 three-fourths percent of the taxable value determined [~~under~~]
6 pursuant to Section 7-29-4.1 NMSA 1978.

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

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

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

C. Every interest owner shall be liable for the

1 tax to the extent of his interest in such products. Any
2 Indian tribe, Indian pueblo or Indian shall be liable for the
3 tax to the extent authorized or permitted by law.

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

6 Section 3. Section 7-29B-2 NMSA 1978 (being Laws 1995,
7 Chapter 15, Section 2, as amended) is amended to read:

8 "7-29B-2. DEFINITIONS. -- As used in the Natural Gas and
9 Crude Oil Production Incentive Act:

10 A. "average annual taxable value" means the
11 average of the taxable value per barrel, determined pursuant
12 to Section 7-31-5 NMSA 1978, of all oil produced in New Mexico
13 for the specified calendar year as determined by the
14 department;

15 B. "average daily production" means, for any crude
16 oil or natural gas property assigned a single production
17 number by the department, the number derived by dividing the
18 total volume of crude oil or natural gas production from the
19 property reported to the division during a calendar year by
20 the sum of the number of days each eligible well within the
21 property produced or injected during that calendar year;

22 ~~[A.]~~ C. "department" means the taxation and
23 revenue department;

24 ~~[B.]~~ D. "division" means the oil conservation
25 division of the energy, minerals and natural resources
26 department;

27 E. "eligible well" means a crude oil or natural
28 gas well that produces or an injection well that injects and

1 is integral to production for any period of time during the
2 preceding calendar year;

3 [E.] F. "natural gas" means any combustible vapor
4 composed chiefly of hydrocarbons occurring naturally;

5 [D.] G. "operator" means the person responsible
6 for the actual physical operation of a natural gas or oil
7 well;

8 [E.] H. "person" means any individual or other
9 legal entity, including any group or combination of
10 individuals or other legal entities acting as a unit;

11 ~~[F.] "production projection" means the estimate of~~
12 ~~the productive capacity of a natural gas or oil well that is~~
13 ~~certified by the division pursuant to the provisions of the~~
14 ~~Natural Gas and Crude Oil Production Incentive Act as the~~
15 ~~future rate of production from the well prior to the operator~~
16 ~~of the well performing a well workover project on the well;~~

17 G. I. "production restoration incentive tax
18 exemption" means the tax exemption set forth in Subsection B
19 of Section 7-29-4 NMSA 1978 for natural gas or oil produced
20 from a production restoration project;

21 [H.] J. "production restoration project" means the
22 use of any process for returning to production a natural gas
23 or oil well that had thirty days or less of production in any
24 period of twenty-four consecutive months beginning on or after
25 January 1, 1993 as approved and certified by the division;

[I.] K. "severance" means the taking from the soil
of any product in any manner whatsoever;

L. "stripper well property" means a crude oil or

1 natural gas producing property that is assigned a single
2 production unit number by the department and:

3 (1) if a crude oil producing property,
4 produced an average daily production of less than ten barrels
5 of oil per eligible well per day for the preceding calendar
6 year;

7 (2) if a natural gas producing property,
8 produced an average daily production of less than sixty
9 thousand cubic feet of natural gas per eligible well per day
10 during the preceding calendar year; or

11 (3) if a property with wells that produce
12 both crude oil and natural gas, produced an average daily
13 production of less than ten barrels of oil per eligible well
14 per day for the preceding calendar year, as determined by
15 converting the volume of natural gas produced by the well to
16 barrels of oil by using a ratio of six thousand cubic feet to
17 one barrel of oil;

18 M "stripper well incentive tax rates" means the
19 tax rates set forth in Paragraphs (6) through (9) of
20 Subsection A of Section 7-29-4 NMSA 1978 and in Paragraphs (4)
21 through (7) of Subsection A of Section 7-31-4 NMSA 1978 for
22 natural gas or oil produced from a well within a stripper well
23 property;

24 [J.] N. "well workover incentive tax rate" means
25 the tax rate set forth in Paragraphs (4) and (5) of Subsection
A of Section 7-29-4 NMSA 1978 on the natural gas or oil
produced [in excess of the production projection] from a well
workover project; and

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1 ~~[K-]~~ 0. "well workover project" means any
2 procedure undertaken by the operator of a natural gas or oil
3 well that is intended to increase the production from the well
4 and that has been approved and certified by the division."

5 Section 4. Section 7-29B-3 NMSA 1978 (being Laws 1995,
6 Chapter 15, Section 3, as amended) is amended to read:

7 "7-29B-3. APPROVAL OF PRODUCTION RESTORATION PROJECTS,
8 ~~[AND]~~ WELL WORKOVER PROJECTS AND STRIPPER WELL PROPERTIES. --

9 A. A natural gas or oil well shall be approved by
10 the division as a production restoration project if:

11 (1) the operator of the well makes
12 application to the division in accordance with the provisions
13 of the Natural Gas and Crude Oil Production Incentive Act and
14 rules ~~[and regulations]~~ adopted pursuant to that act for
15 approval of a production restoration project and the
16 application is made within twelve months of the completion of
17 the production restoration project; and

18 (2) the division records show that the well
19 had thirty days or less of production in any period of twenty-
20 four consecutive months beginning on or after January 1, 1993.

21 B. A natural gas or oil well shall be approved by
22 the division as a well workover project if:

23 (1) the operator of the well makes
24 application to the division in accordance with the provisions
25 of the Natural Gas and Crude Oil Production Incentive Act and
rules ~~[and regulations]~~ adopted pursuant to that act for
approval of a well workover project;

 (2) the division determines that the

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1 procedure [~~proposed to be undertaken~~] performed by the
 2 operator of the well is a procedure [~~intended~~] to increase the
 3 production from the well, but is not routine maintenance [~~that~~
 4 ~~would be~~] performed by a prudent operator to maintain the well
 5 in operation. Such procedures may include, but are not
 6 limited to:

7 (a) re-entry into the well to drill
 8 deeper, to sidetrack to a different location or to recomplete
 9 for production;

10 (b) recompletion by reperforation of a
 11 zone from which natural gas or oil has been produced or by
 12 perforation of a different zone;

13 (c) repair or replacement of faulty or
 14 damaged casing or related downhole equipment;

15 (d) fracturing, acidizing or installing
 16 compression equipment; or

17 (e) squeezing, cementing or installing
 18 equipment necessary for removal of excessive water, brine or
 19 condensate from the well bore in order to establish, continue
 20 or increase production from the well; and

21 (3) the operator of the well submits to the
 22 division [~~an estimate of the productive capacity of the well~~
 23 ~~based on at least twelve months of established production, and~~
 24 ~~the division, based on its verification of that estimate,~~
 25 ~~determines the future rate of production from the well prior~~
~~to the operator of the well performing the well workover~~
~~project on the well and certifies that as the production~~
~~projection for the project] evidence of a positive production~~

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1 increase over the production rate of the well prior to the
2 workover. The operator must submit a production curve or
3 tabulation made up of at least twelve months' production prior
4 to the workover and at least three months' production
5 following the workover that reflects a positive production
6 increase from the workover. The production curve or
7 tabulation must be certified by the operator as that of the
8 well on which a workover was performed.

9 C. A natural gas or crude oil producing property
10 shall be approved and certified by the division as a stripper
11 well property if the division records show that the property
12 is assigned a single production unit number by the department
13 and:

14 (1) if a crude oil producing property,
15 produced an average daily production of less than ten barrels
16 of oil per eligible well per day for the preceding calendar
17 year;

18 (2) if a natural gas producing property,
19 produced an average daily production of less than sixty
20 thousand cubic feet of natural gas per eligible well per day
21 during the preceding calendar year; or

22 (3) if a property with wells that produce
23 both crude oil and natural gas, produced an average daily
24 production of less than ten barrels of oil per eligible well
25 per day for the preceding calendar year, as determined by
converting the volume of natural gas produced by the well to
barrels of oil by using a ratio of six thousand cubic feet to
one barrel of oil. "

1 Section 5. Section 7-29B-4 NMSA 1978 (being Laws 1995,
2 Chapter 15, Section 4) is amended to read:

3 "7-29B-4. APPLICATION PROCEDURES--CERTIFICATION OF
4 APPROVAL--RULES [~~AND REGULATIONS~~]- - ADMINISTRATION. --

5 A. The operator of a proposed production
6 restoration project or well workover project shall apply to
7 the division for approval of a production restoration project
8 or a well workover project in the form and manner prescribed
9 by the division and shall provide any relevant material and
information the division requires for that approval.

10 B. Upon a determination that the project complies
11 with the provisions of the Natural Gas and Crude Oil
12 Production Incentive Act and rules [~~and regulations~~] adopted
13 pursuant to that act, the division shall approve the
14 application and shall issue a certification of approval to the
15 operator and designate the natural gas or oil well as a
16 production restoration project or well workover project, as
applicable.

17 [~~C. At the time of issuing a certification of~~
18 ~~approval to an operator of a natural gas or oil well for a~~
19 ~~well workover project, the division shall also certify the~~
20 ~~production projection for that project.~~

21 ~~D.] C.~~ In addition to the powers enumerated in
22 Section 70-2-12 NMSA 1978, the division shall adopt,
23 promulgate and enforce rules [~~and regulations~~] to carry out
24 the provisions of [~~Sections 1 through 5 of~~] the Natural Gas
and Crude Oil Production Incentive Act.

25 [~~E.] D.~~ The division shall consider and approve

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1 applications for approval of a production restoration project
2 or well workover project without holding hearings on the
3 applications. If the division denies approval of an
4 application pursuant to such a process, the division, upon the
5 request of the applicant, shall set a hearing of the
6 application before an examiner appointed by the division to
7 conduct the hearing. The hearing shall be conducted in
8 accordance with the provisions of the Oil and Gas Act for such
9 hearings. "

9 Section 6. Section 7-29B-5 NMSA 1978 (being Laws 1995,
10 Chapter 15, Section 5) is amended to read:

11 "7-29B-5. NOTICE TO SECRETARY OF TAXATION AND
12 REVENUE. --The division shall notify immediately the secretary
13 of taxation and revenue upon:

14 A. adoption of rules [~~and regulations~~] pursuant to
15 the provisions of the Natural Gas and Crude Oil Production
16 Incentive Act;

17 B. certification of the date that production has
18 been restored on a production restoration project; [~~and~~]

19 C. certification of the date that a well workover
20 project has been completed; and

21 D. certification of the stripper well properties
22 for the fiscal year. "

23 Section 7. Section 7-29B-6 NMSA 1978 (being Laws 1995,
24 Chapter 15, Section 6) is amended to read:

25 "7-29B-6. QUALIFICATION FOR PRODUCTION RESTORATION
INCENTIVE TAX EXEMPTION AND WELL WORKOVER AND STRIPPER WELL
PROPERTY INCENTIVE TAX RATE--SECRETARY OF TAXATION AND REVENUE

1 APPROVAL-- REFUND. --

2 A. The person responsible for paying the oil and
3 gas severance tax on natural gas or oil produced from a
4 production restoration project shall qualify to receive a
5 ten-year production restoration incentive tax exemption upon:

6 (1) application to the department in the form
7 and manner prescribed by the department for approval for the
8 ten-year production restoration incentive tax exemption;

9 (2) submission of the certification of
10 approval from the division and designation of the natural gas
11 or oil well as a production restoration project; and

12 (3) submission of any other relevant material
13 that the secretary of taxation and revenue deems necessary to
14 administer the applicable provisions of the Natural Gas and
15 Crude Oil Production Incentive Act.

16 B. The person responsible for payment of the oil
17 and gas severance tax on natural gas or oil produced from a
18 well workover project shall qualify for the well workover
19 incentive tax rate on all the natural gas or oil produced [~~in~~
20 ~~excess of the production projection for~~] by that project upon:

21 (1) application to the department in the form
22 and manner prescribed by the department for approval to apply
23 the well workover incentive tax rate to the natural gas or oil
24 produced [~~in excess of the production projection~~] from a well
25 workover project;

(2) submission of the certification from the
division of approval and designation of the natural gas or oil
well as a well workover project [~~and of the production~~

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1 ~~projection for the well workover project~~]; and

2 (3) any other relevant material that the
3 department considers necessary to administer the applicable
4 provisions of the Natural Gas and Crude Oil Production
5 Incentive Act.

6 C. The person responsible for paying the oil and
7 gas severance tax and the oil and gas emergency school tax on
8 natural gas and crude oil produced from a stripper well
9 property shall qualify to receive the stripper well property
10 incentive tax rate for the fiscal year following certification
11 by the division in the form and manner agreed to by the
12 division and the department designating the property as a
13 stripper well property. The division shall certify stripper
14 well properties for calendar year 1998 no later than June 30,
15 1999 and no later than June 1 of each succeeding year for the
16 preceding calendar year.

17 ~~[E.]~~ D. The production restoration incentive tax
18 exemption shall apply to natural gas or oil produced from a
19 production restoration project beginning the first day of the
20 month following the date the division certifies that
21 production has been restored and ending the last day of the
22 tenth year of production following that date. The well
23 workover incentive tax rate applies to the natural gas or oil
24 produced ~~[in excess of the production projection]~~ from a well
25 workover project beginning the first day of the month
following the date the division certifies that the well
workover project has been completed. The stripper well
property incentive tax rates apply to the natural gas or oil

1 produced from a stripper well property in the twelve months
 2 beginning May 1 prior to July 1 of the fiscal year to which
 3 the certification of the property as a stripper well property
 4 applies.

5 [D-] E. The person responsible for payment of the
 6 oil and gas severance tax on natural gas or oil production
 7 from an approved well workover project may file a claim for
 8 credit against current tax liability or for refund in
 9 accordance with Section 7-1-26 NMSA 1978 for taxes paid in
 10 excess of the amount due using the well workover incentive tax
 11 rate. Notwithstanding the provisions of Subsection E of
 12 Section 7-1-26 NMSA 1978, any such refund granted shall be
 13 made in the form of a credit against any future oil and gas
 14 severance tax liabilities incurred by the taxpayer.

15 F. Well workover projects certified prior to July
 16 1, 1999 shall be deemed to be approved and certified in
 17 accordance with the provisions of this 1999 act and natural
 18 gas or oil produced from those projects shall be eligible for
 19 the well workover incentive tax rate effective beginning July
 20 1, 1999.

21 [E-] G. The secretary of taxation and revenue may
 22 adopt and promulgate rules [~~and regulations~~] to enforce the
 23 provisions of this section. "

24 Section 8. Section 7-31-2 NMSA 1978 (being Laws 1959,
 25 Chapter 54, Section 2, as amended) is amended to read:

"7-31-2. DEFINITIONS. -- As used in the Oil and Gas
 Emergency School Tax Act:

A. "commission", "department" or "division" means

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1 the taxation and revenue department, the secretary of taxation
2 and revenue or any employee of the department exercising
3 authority lawfully delegated to that employee by the
4 secretary;

5 B. "production unit" means a unit of property
6 designated by the department from which products of common
7 ownership are severed;

8 C. "severance" means the taking from the soil of
9 any product in any manner whatsoever;

10 D. "value" means the actual price received from
11 products at the production unit, except as otherwise provided
12 in the Oil and Gas Emergency School Tax Act;

13 E. "product" or "products" means oil, natural gas
14 or liquid hydrocarbon, individually or any combination
15 thereof, or carbon dioxide;

16 F. "operator" means any person:

17 (1) engaged in the severance of products from
18 a production unit; or

19 (2) owning an interest in any product at the
20 time of severance who receives a portion or all of such
21 product for his interest;

22 G. "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 Emergency
25 School Tax Act;

H. "person" means any individual, estate, trust,
receiver, business trust, corporation, firm, copartnership,
cooperative, joint venture, association, limited liability

1 company or other group or combination acting as a unit, and
2 the plural as well as the singular number;

3 I. "interest owner" means a person owning an
4 entire or fractional interest of whatsoever kind or nature in
5 the products at the time of severance from a production unit
6 or who has a right to a monetary payment which is determined
7 by the value of such products; [~~and~~]

8 J. "stripper well property" means a crude oil or
9 natural gas producing property that is assigned a single
10 production unit number by the department and is certified by
11 the oil conservation division of the energy, minerals and
12 natural resources department pursuant to the Natural Gas and
13 Crude Oil Production Incentive Act to have produced in the
14 preceding calendar year:

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

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

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

K. "average annual taxable value" means as
applicable:

1 (1) the average of the taxable value per one
2 thousand cubic feet, determined pursuant to Section 7-31-5
3 NMSA 1978, of all natural gas produced in New Mexico for the
4 specified calendar year as determined by the department; or

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

9 ~~[J.]~~ L. "tax" means the oil and gas emergency
10 school tax."

11 Section 9. Section 7-31-4 NMSA 1978 (being Laws 1959,
12 Chapter 54, Section 4, as amended) is amended to read:

13 "7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY
14 DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
15 LIABILITY.--

16 A. There is levied and shall be collected by the
17 department a privilege tax on the business of every person
18 severing products in this state. The measure of the tax shall
19 be:

20 (1) on oil and on oil and other liquid
21 hydrocarbons removed from natural gas at or near the wellhead,
22 except as provided in Paragraphs (4) and (5) of this
23 subsection, three and fifteen ~~[one-hundredths]~~ hundredths
24 percent of the taxable value determined ~~[under]~~ pursuant to
25 Section 7-31-5 NMSA 1978;

 (2) on carbon dioxide, three and fifteen
 ~~[one-hundredths]~~ hundredths percent of the taxable value
 determined ~~[under]~~ pursuant to Section 7-31-5 NMSA 1978; ~~[and]~~

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1 (3) on natural gas, except as provided in
2 Paragraphs (6) and (7) of this subsection, four percent of the
3 taxable value determined [under] pursuant to Section 7-31-5
4 NMSA 1978;

5 (4) on the oil and on other liquid
6 hydrocarbons removed from natural gas at or near the wellhead
7 from a stripper well property, one and fifty-eight hundredths
8 percent of the taxable value determined pursuant to Section
9 7-31-5 NMSA 1978, provided that the average annual taxable
10 value of oil was equal to or less than fifteen dollars
11 (\$15.00) per barrel in the calendar year preceding July 1 of
12 the fiscal year in which the tax rate is to be imposed;

13 (5) on the oil and on other liquid
14 hydrocarbons removed from natural gas at or near the wellhead
15 from a stripper well property, two and thirty-six hundredths
16 percent of the taxable value determined pursuant to Section
17 7-31-5 NMSA 1978, provided that the average annual taxable
18 value of oil was greater than fifteen dollars (\$15.00) per
19 barrel but not more than eighteen dollars (\$18.00) per barrel
20 in the calendar year preceding July 1 of the fiscal year in
21 which the tax rate is to be imposed;

22 (6) on the natural gas removed from a
23 stripper well property, two percent of the taxable value
24 determined pursuant to Section 7-31-5 NMSA 1978, provided that
25 the average annual taxable value of natural gas was equal to
or less than one dollar fifteen cents (\$1.15) per thousand
cubic feet in the calendar year preceding July 1 of the fiscal
year in which the tax rate is to be imposed; and

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1 (7) on the natural gas removed from a
2 stripper well property, three percent of the taxable value
3 determined pursuant to Section 7-31-5 NMSA 1978, provided that
4 the average annual taxable value of natural gas was greater
5 than one dollar fifteen cents (\$1.15) per thousand cubic feet
6 but not more than one dollar thirty-five cents (\$1.35) per
7 thousand cubic feet in the calendar year preceding July 1 of
8 the fiscal year in which the tax rate is to be imposed.

9 B. Every interest owner, for the purpose of
10 levying this tax, is deemed to be in the business of severing
11 products and is liable for this tax to the extent of his
12 interest in the value of [~~such~~] the products or to the extent
13 of his interest as may be measured by the value of [~~such~~] the
14 products.

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

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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

March 15, 1999

Mr. President:

Your WAYS & MEANS COMMITTEE, to whom has been referred
HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 281 & 436

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

Respectfully submitted,

Carlos R. Cisneros, Chairman

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HTRC/HB 281 & 436

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Adopted _____ Not

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Carraro

Absent: None

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